QUARTERLY NEWSLETTER OF THE WELFARE RIGHTS CENTRE

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rights review

NEWS & COMMENT ON SOCIAL SECURITY ISSUES

Making welfare work

Welfare Rights hopes that the new Federal Government established with the support of three Independents and the Greens will work to introduce considered and beneficial welfare policies. The parliamentary reforms embraced by the major parties at the behest of Independents should allow for more informed parliamentary debate. A summit to revisit the recommendations of the Henry Review is particularly welcome.

Welfare Rights also calls for the release of more comprehensive and timely government data about the Social Security system to assist non government organisations to contribute more fully to policy development.

The federal election campaign touched on few of the real issues facing people living on low incomes. Instead the major parties competed as to who could be "toughest" on jobseekers. Compulsory income quarantining and an increased regime of penalties were essentially bipartisan positions. Both sides also supported variations of a scheme to support jobseekers who chose to relocate for work and both had harsh penalties attached for those who failed in the attempt.

Six and a half million Australians rely on Centrelink for income or family payments. Two million people get into debt each year because of complex and unfair Centrelink rules. One in 20 Australians are missing out on their legal Centrelink entitlements. Yet the major parties failed to focus on this service which is critically important to so many.

Labor's proposal to increase Family Tax Benefit A (which is targeted to people on low incomes) for families with children 16 to 18 years old was welcome. The Greens opposed income management, supported fairer indexation of Social Security payments and proposed an increase to Newstart and Youth Allowance payments. All of these policies would be beneficial.

Despite the overall strong performance of the labour market, the number of people long-term unemployed continues to rise. It currently stands at 340,000. The increase since the beginning of 2010 would fill the Sydney Football Stadium (40,000). One thousand people join the ranks of long-term unemployed each week.

Programs that invest in skills, training and paid work experience are needed to make a real difference. The best way out of poverty is a job, but many of those out of work do not have the skills and capacities that employers are seeking.

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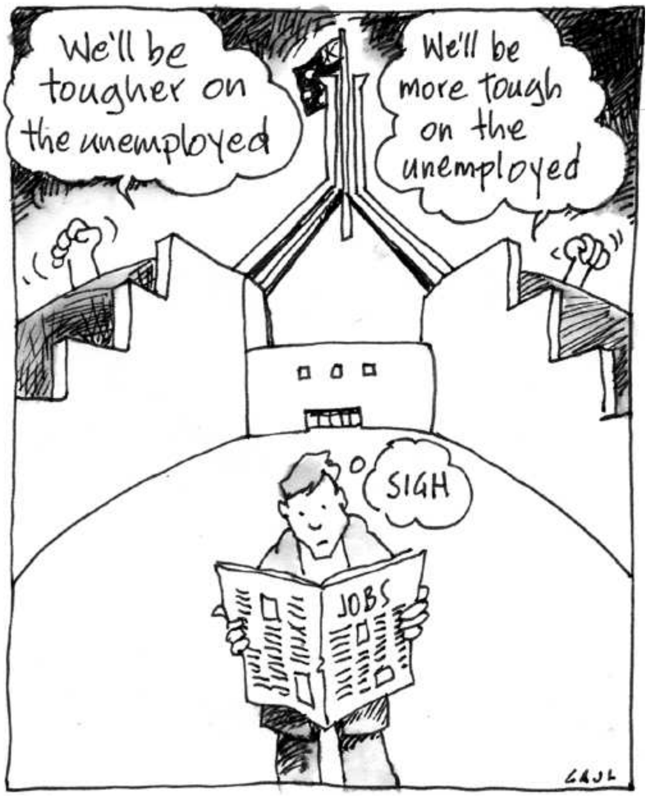

Board Member wins award

Terry Mason, Lecturer at the University of Western Sydney and a Board Member of the Welfare Rights Centre has received the 2010 ACTU Award for his outstanding individual contribution to the advancement of Aboriginal and Torres Strait Islander issues in the labour movement.

The Board and staff of the Welfare Rights Centre congratulate Terry on this great achievement. ❖

inside

Welfare Rights Centre

Welfare Rights Centre is a Community Legal Centre which specialises in Social Security law, providing advice and representation on all Social Security matters, including appeals. The Centre also provides education and training, and is active in community development, law reform and lobbying.

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The next government needs to make our income support system work by introducing the following measures:

1. Increase Newstart Allowance, Youth Allowance and student payments by $45 a week, as a first step in addressing the gap between pensions and allowances.
2. Double the maximum amount of Crisis Payment.
3. Address anomalies in Special Benefit (the Social Security payment of last resort).
4. Relax the allowance withdrawal rate to 50 cents every dollar of earnings so that jobseekers get to keep more from working.
5. Ensure that the March 2009 relaxation of the Liquid Assets Waiting Periods becomes a permanent change, beyond March 2011. This will result in unemployed people with very modest levels of savings getting earlier access to income support if they are retrenched.
6. Introduce a comprehensive program of paid work experience.
7. Extend the $20.80 per fortnight Training Supplement to all Youth Allowance recipients undertaking training.
8. Remove the "sudden death" assets test for unemployment benefits and Parenting Payment by introducing a gradual withdrawal for the allowance assets test, similar to the pension asset test taper rate.
9. Initiate a review into the fairness of all government concession programs as recommended in the recent Independent Review into Australia's Future Tax System released in May 2010. ❖

Utility costs: winners and losers

Rising utility charges are hurting the household budgets of many Australians. The latest inflation figures from the Australian Bureau of Statistics bears this out, with electricity prices having surged by 18.2 per cent in the past 12 months.

The Federal Government, through Pension Supplement, provides assistance with utility costs to recipients of most pensions. The maximum Pension Supplement is $56 a fortnight for a single person and $85.80 per fortnight for couples, combined.

Around 300,000 older people with the Commonwealth Seniors Health Care Card on incomes up to $40,000 for singles and up to $80,000 (couples) receive the Seniors Supplement, worth $795 per year for a single person and $600.60 per year for a member of a couple.

Utilities Allowance is another payment that is specifically designed to help people meet the cost of utility bills and is equal to $530 per year for a single person and $265 per year for each member of a couple. The Utilities Allowance is paid on a quarterly basis to Widow Allowance and Partner Allowance recipients under age pension age, and to a person in receipt of the Disability Support Pension aged under 21 without children.

People in receipt of Newstart and Youth Allowance, and Parenting Payment Single – the groups that missed out on any increases in the basic rates of payments in September 2009 – do not receive any financial assistance from the Commonwealth Government to meet utility costs.

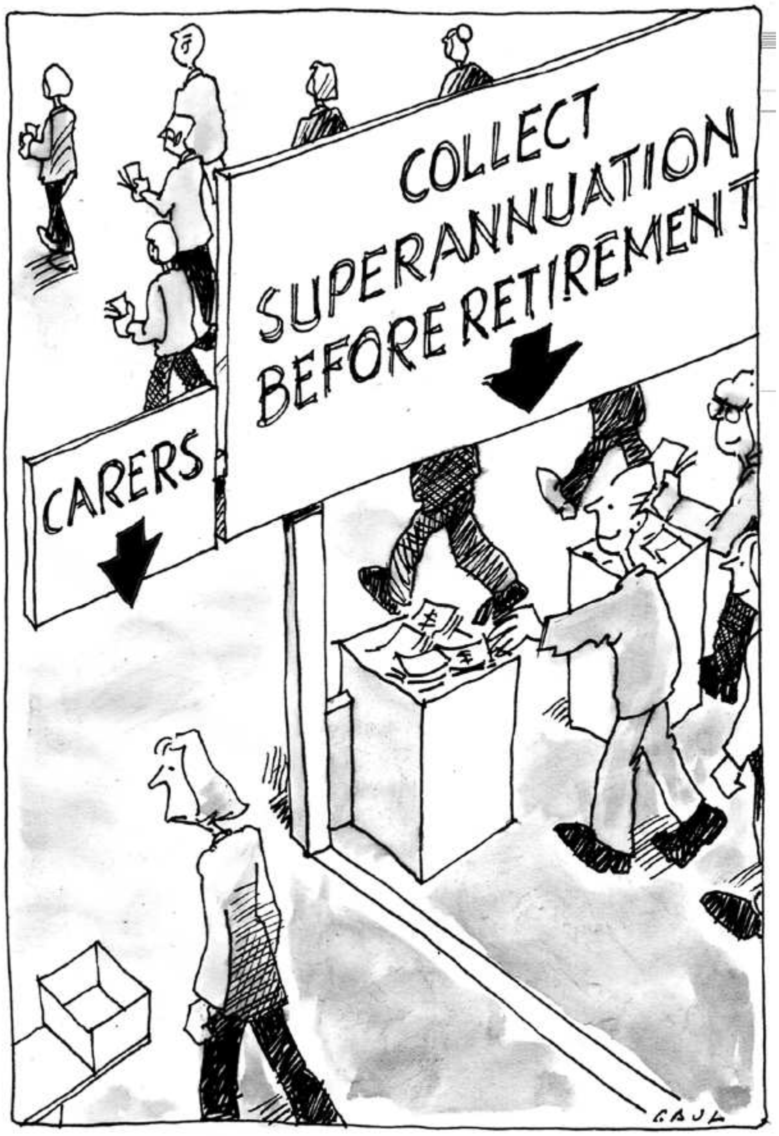
The next government should provide assistance to meet utility costs by introducing a Commonwealth utilities supplement to Newstart and Youth Allowance recipients and Parenting Payment recipients, worth $10 a week. ❖

Social Security and carers

Carers are often the forgotten people in our society even though they provide an invaluable service to the community and the people for whom they care.

Carers provide care to people with a disability, mental illness, to people who suffer from a chronic condition or who are very frail. Often the carers have resigned from employment to provide caring duties and they may encounter extremely difficult circumstances when caring. They may live in socially isolated and difficult situations. Sometimes they do not get along with the person for whom they care and many encounter extreme financial difficulties. For many carers this situation can last decades.

In the experience of Welfare Rights, carers commit to caring for friends and family due to a sense of commitment and to ensure that the caree may have relatively enjoyable life. Many people care for family and friends as they don't want to see the caree removed from their home and into a caring facility.



No superannuation

Where a carer qualifies for Social Security they will generally receive Carer Payment, which is paid at the pension rate and they may also receive Carer Allowance ($106 per fortnight). Where a person is in receipt of Carer Payment or Carer Allowance they are also entitled to an annual Carer Supplement of $600. However, there is need for greater financial support for carers and for Social Security law to show more leniency towards them.

For instance, many carers are of workforce age but unable to work due to their caring commitments. Not only do they forgo a weekly salary, they have no employer to make contributions to a superannuation scheme. This has a severe impact on the carer's financial situation when they retire from the workforce. The Federal Government should make a contribution towards a carer's superannuation scheme to assist the person in their retirement. If this seems an excessive demand it should be remembered that carers save state and federal governments significant funds by caring for people who may otherwise be placed in residential care facilities which rely on government financial support.

Help after caring

Social Security legislation needs to be more flexible where the carer stops caring for the caree. Recently the Centre was contacted by a women aged 60 who was caring for her father. When her father was placed in an aged care facility his daughter's Carer Payment was immediately cancelled (as she no longer qualified for the payment) and she was required to claim Newstart Allowance (NSA). This meant a reduction of about $170 per week in her payments.

Carers often face difficulties directly after they cease caring responsibilities and even where the caree is placed in a care institution the carer often visits daily to provide support. In such situations it would be appropriate if the carer was allowed to remain on Carer Payment for 13 weeks after the caree was placed in care, giving the carer time to adjust to a new situation which includes receiving a Social Security payment (ie NSA) that is paid at a significantly lesser rate than Carer Payment. ❖

Politicians fight to be "toughest" on job seekers

The major political parties have been in a contest over who can be "toughest" on job seekers. The Coalition indicated that it would revert to the Howard Government's "three strikes" compliance policies.

This means that where a person fails to attend three interviews with Centrelink or a job network provider they can automatically be subject to eight weeks of receiving no payment.

Not to be outdone, Labor proposed a financial penalty for job seekers who don't have a "reasonable excuse" for missing their initial appointment with their employment service provider. Under this policy, payment would be suspended if job seekers miss an appointment with Centrelink. Missing a second meeting would result in payment being cancelled with no provision for backpay.

Non-attendance at initial employment provider interviews has been an acknowledged difficulty for over a decade and is particularly problematic for young people and Indigenous job seekers, indicating underlying social reasons for the problem.

Welfare Rights is concerned that Labor has announced increased penalties for job seekers without even waiting for the report from its own Independent Review Panel (see article on page 5). The current scheme is barely a year old, and the Independent Review was due to report in September 2010 about whether any refinements were needed. The reality is that the compliance system is so complex that both Centrelink and employment providers struggle to understand it.

There are also insufficient safeguards to guarantee that quality decisions are made and that vulnerable job seekers are protected.

Both political parties have alluded to the devastating and demoralising impacts that long-term unemployment can have on individuals and families, but neither have put any significant policies in place to address the skills deficit and training needed to get people back into paid work. Currently, the most a disadvantaged job seeker is entitled to is just $500 to overcome their employment barriers.

Increasing penalties as a method of engagement is flawed policy. Both parties need to rethink their approach in this difficult policy area. ❖

Parties over the top on income management

As Centrelink began rolling out welfare quarantining to non-Indigenous income support recipients in the Barkly region of the Northern Territory (NT), the Coalition announced its support for extending income management to long term Newstart Allowance recipients across Australia after 1 July 2012.

The Coalition has also indicated that it may apply income management to parents receiving the maximum amount of Centrelink benefits. Labor may also extend income management to other locations, pending a review in 2011.

No evidence has been presented that quarantining half of a person's income support reduces unemployment or long term reliance on Social Security payments.

While Mr Abbott endorsed the extension across Australia to all long-term unemployed people, he failed to cost the policy. There are 341,000 Australians in this situation. The administrative cost of income management, based on the Northern Territory experience, is about $45 a week per person.

At a cost of $410 million over five years for the NT alone, income management represents a massive waste of finite resources. Instead of resourcing programs that have been shown to work in improving the lives of people facing disadvantage, income management will fund a mini-bureaucracy to micro-manage people's daily spending.

Blanket quarantining of welfare payments is counterproductive, demeaning and wasteful of resources. ❖

Centrelink staff point to compliance problems

Twenty three submissions were made to the Independent Compliance Review, which is due to be tabled in Federal Parliament by 30 September 2010. The purpose of the review is to examine the effectiveness and impact of the current compliance system.

Centrelink's submission has not been released due to the current "caretaker government" provisions. However, the union which represents Centrelink employees, the Community and Public Sector Union (CPSU) provided a submission, which detailed the feedback from Centrelink staff who enforce the penalty rules.

Centrelink staff said poor and inadequate training contributed to poor decision-making. There was also no training for staff who were unable to attend the initial training session and consequently staff understanding of the 1 July 2009 compliance framework continues to be an issue. Under-resourcing and excessive paperwork were also major problems resulting in less time available for building relationships and working with people seeking employment.

Some Centrelink staff expressed concerns about both the complexity and lack of clarity around the application of the penalty system as well as the safety of those enforcing it.

No positive impact

Most Centrelink staff members did not believe the new arrangements had a positive impact on long-term employed people. The increased enforcement regime had no impact on job outcomes for this group and did not overcome barriers encountered by unemployed people. Specific mention was made about the negative impact of the penalty system on Indigenous jobseekers.

Echoing a long-standing concern held by many community organisation stakeholders, the CPSU raised concerns that those involved in enforcing compliance did not have input into the development of the new compliance framework and urged a closer link between policy development and service delivery.

The CPSU submission makes many relevant practical points and it is hoped that issues raised in its submission will be addressed in any future compliance regime.

Submissions to the Compliance Review were made by the Welfare Rights Centres in Brisbane and Sydney. ❖

Help for private renters

Housing affordability is a significant issue but it hardly rated a mention in the recent election. Many unemployed people pay more than 30% of their income in rent and are considered to be facing extreme "housing stress". Some 60% of single Newstart Allowance recipients and 44% of couples are renting privately, compared with 18% of Age Pensioner singles and 8% of couples.

Low income tenants are increasingly finding it difficult to keep a roof over their head. Median rents in capital cities have increased by 41 per cent between 1995 and 2009 and Rent Assistance rates have failed to keep pace with increasing rental costs. Over the last three years rents have risen by an average of 10 per cent per annum while the maximum rates of Rent Assistance have increased by only 2.7 per cent per annum.

Rent Assistance is currently indexed according to the CPI which is very unfair. Rent comprises only six per cent of the CPI basket whereas is represents around 35 per cent of income for Rent Assistance recipients.

A much fairer approach would be to index Rent Assistance by increases in national rents paid by income support recipients.

Some tenants receiving Social Security payments are also disadvantaged by arbitrary and discriminatory regulations that have an impact on the level of Rent Assistance paid to individuals. Unfair rules for age pensioners and unemployed people sharing were introduced in 1997. The rules cut the amount of Rent Assistance by a third if a person is sharing with another person receiving a Social Security payment. These rules are counterproductive and undermine the benefit of any increase in Rent Assistance rates for those who need it most. The maximum rate of Rent Assistance is $57 a week. The "sharers" rule reduces the amount of Rent Assistance by $19 a week.

The next government should increase the maximum rate of Rent Assistance by 30 per cent and remove the rules for renters sharing accommodation. The level of Rent Assistance should be indexed to a national rental index. ❖

Living costs hit young hardest

New figures from the Australian Bureau of Statistics show that the costs of living for many people is rising higher than the official rate of inflation, but those on the lowest rates of Social Security payments are the most disadvantaged when it comes to cost of living increases.

The annual rate of inflation is three per cent. Over the past 12 months Newstart Allowance recipients experienced a 4.2 per cent hike in living costs, compared to just 3.1 per cent for age pensioners. Self-funded retirees were the least affected by higher prices, experiencing a three per cent increase to their living costs.

Electricity, water and gas prices jumped in price by 18, 14 and 10 per cent respectively in the last 12 months with indications that electricity costs will continue to surge. These items are much more important to the budgets of low income households as they comprise a higher proportion of their income.

Inflation: poorest hardest hit
Newstart and Youth Allowance: 4.2%
Age pensioners: 3.3%
Self-funded retirees: 3.0%
Consumer Price Index: 3.0%

Economic commentators point out that Age Pensioners are partially protected from cost of living increases as their pensions are increased in March and September each year, in line with increases in the official inflation rate or their own cost of living index, or increases in male average wages, whichever is the greatest.

The Pensioner and Beneficiary Living Cost Index measures the impact of changes in the price of out-of-pocket expenses incurred by particular household types. The irony is that costs of living for a person who is unemployed or a student is captured in the new Cost of Living Index and is used to favourably adjust Age Pensions, but not used to increase the rate of Newstart or Youth Allowance.

A person in receipt of Youth Allowance or Austudy or Abstudy Payment receives an even worse deal than unemployed people, because these payments are only adjusted for inflation in January each year. Not only are young people expected to live on payments that are $42 a week less than Newstart Allowance, they are also left having to absorb higher living costs for more than 12 months before their Social Security payments are adjusted for inflation.

The current indexation arrangements need to be fixed. The Henry Review recognised this problem and recommended in effect a $45 per week increase in the allowances which would be an initial step towards addressing the significant differences between pensions and allowances. The gap between pensions and allowances will be close to $125 per week as of 20 September 2010. ❖

Relocation incentive or disincentive?

During the recent election Labor promised to introduce a trial policy where 2,000 unemployed people could be paid up to $6,000 to relocate to a regional area to take up employment. The Coalition offered similar assistance, limiting its policy to people aged under 30. Both parties' policies included additional funds of up to $3000 where entire families relocated for work.

Both parties also proposed a penalty system in relation to this scheme. Where a person relocated and did not maintain employment for six months the person would be denied access to income support for 12 weeks under the ALP proposals and 26 weeks under the Coalition proposals.

Welfare Rights believes the proposed financial penalties are extreme and counterproductive, and they may discourage many from taking up the relocation assistance. Either policy could result in jobseekers and their families being stranded. Disadvantaged jobseekers are taking a significant risk in moving away from family, friends and other supports. Generally, the move will be to a place where housing costs are much higher, so financial assistance for the move, accommodation and other supports at the new location are vital.

Should either of these polices be implemented it will be necessary to ensure that where a person fails to be employed for the relevant period, a "reasonable excuse" test is applied. This "reasonable excuse" test must be flexible to take into account the myriad of situations that will no doubt arise under either policy. ❖

"Reforms" hurt one-parent families

A ground-breaking study by academics from Murdoch University in Perth has found that the majority of sole parents are considerably worse off as a result of the "welfare to work" changes brought in by the Government from 2006 to 2008.

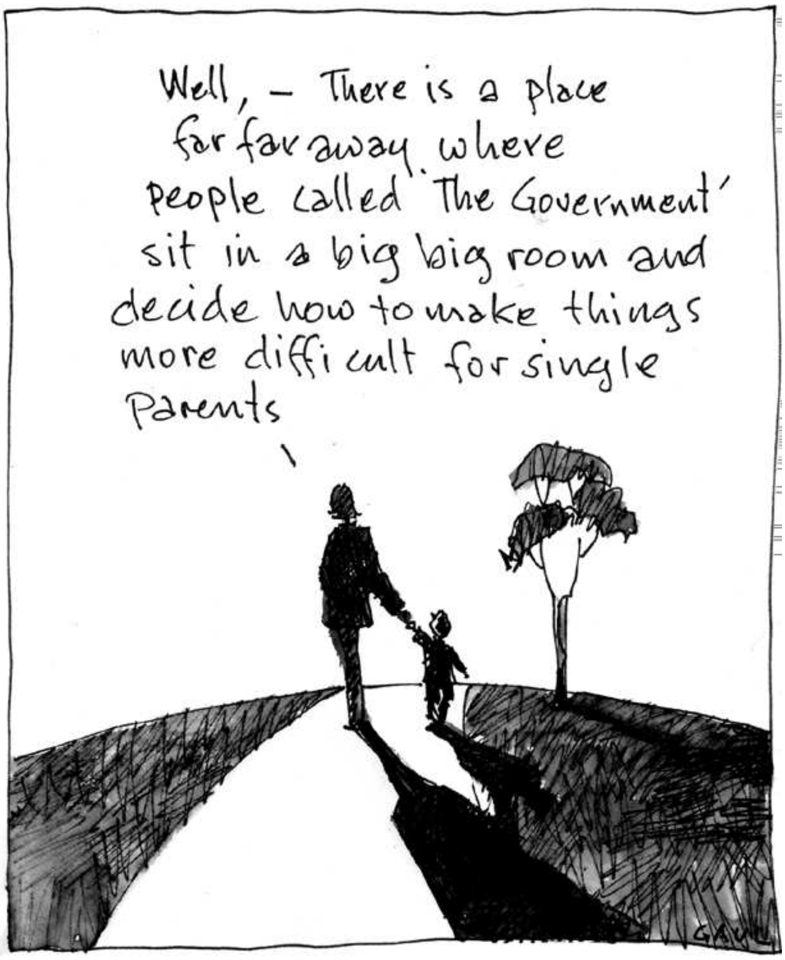
The study found that 50% of sole parent families were financially disadvantaged after the controversial "welfare to work" changes were introduced. The "welfare to work" changes forced thousands of sole parents onto Newstart Allowance which is paid at a lower rate than Parenting Payment. The July 2008 child support reforms also financially disadvantaged people.

The study found that a sole parent needed a full-time job paying at least $45,000 to be better of. This was an unlikely scenario for most.

The new research follows the release of a recent evaluation by the Department of Education, Employment and Workplace Relations into the 2006 "welfare to work" changes which suggested that single parents' employment prospects improved under the policy. However, the Government study failed to explore whether parents were better off financially under the changes. The Government report also failed to investigate whether the jobs that parents moved to were sustainable on a longer term or whether people were moving in and out of low paying jobs.

Critics of the 2006 changes argued that the policy was less about improving family incomes and more about moving parents onto lower paying Social Security payments when their youngest child turned six or eight. The Murdoch University study confirms this criticism, showing that if a parent receives Newstart Allowance (NSA) or works part-time while receiving some of the Allowance, they are much more likely to be worse off and experience poverty than before the reforms.

In December 2009 there were 338,756 parents receiving Parenting Payment, down from 422,730 in July 2006, before the reforms.



Since the study the Rudd Government overhauled the pension system and in September 2009 it broke the long-standing link between the amounts paid to age, carer and disability pensioners, and the amounts paid to single parents receiving Parenting Payment (single).

The single rate of pension was increased by $30 a week, but despite major criticism from church and welfare organisations, this extra benefit for pensioners was not paid to single parents.

This difference, which grows each six months because of different indexation amounts, has seen the amount paid to single parent pensioners and single parents on NSA (principal carers rate) increase by an extra $50 a week. This means that the successive changes of Coalition and Labor administrations have seen some single parent families lose around $10,000 a year.

The situation of parents has been made worse still because they have missed out on the Utilities Allowance, currently worth around $550 a year, which is paid to pensioners in the new Pension Supplement. ❖

Debt decision overturned

Richard is a widowed father of two boys aged four and 16. Richard suffers from major depression and he has been diagnosed with severe gastrointestinal disorders which on occasion require hospitalisation. He receives Parenting Payment and Family Tax Benefit (FTB) in respect of his children.

Due to his illnesses Richard recently attended his local community health service for assistance. During the visit, Richard expressed views about ending his life. The local mental health team was contacted for emergency assessment and Richard was involuntarily placed into psychiatric confinement. His youngest son was placed in temporary foster care, and the state welfare authority lodged an urgent application at the Children's Court for an interim care plan.

Richard was discharged from hospital about a month after his admission. He immediately sought to have his son returned to him. He engaged lawyers, attended all access visits and began marshalling evidence about being a fit parent. He took all steps necessary in the legal process to have his son restored to him. Seven months after his involuntary admission the Children's Court decided that his son should be returned to his care.

Richard thought the trauma was over. However, nine months later Centrelink raised debts totalling $14,000 on the basis that he had not had his son in his care for the relevant period.

An appeal was lodged to the Social Security Appeals Tribunal (SSAT) and Welfare Rights represented our client. We successfully argued that Centrelink failed to take into proper consideration the circumstances in which these debts arose and that Family Assistance law provides that FTB can be paid for 14 weeks where a dependent child ceases to be in a person's care without the person's consent and that person takes reasonable steps to have the child returned to their care.

The SSAT waived the debt it its entirety, due to Richard's special circumstances, requiring Centrelink to repay all monies it had recovered from Richard. Centrelink had referred the matter to the Director of Public Prosecutions (DPP) but that office decided that it would not pursue prosecution in this matter, given the circumstances of the case. The SSAT decision helped influence the DPP to drop the case. ❖

Age Pensioner wins single rate

Peter recently applied for Age Pension and his claim was rejected by Centrelink on the basis that he was a member of a couple. When Peter, who is in his mid 60s, contacted the Welfare Rights Centre he had $200 left in his bank account. Peter lodged an appeal against Centrelink's decision to the Social Security Appeals Tribunal (SSAT).

Peter told the Welfare Rights Centre that he and his ex-partner separated in 2002 and after a short period apart decided to reside in the same house, effectively as flatmates. At the time of their separation they had a property settlement which resulted in both of their names being retained on the title of the house. Centrelink incorrectly advised Peter that he and Julie would have to sell the house to show that they had separated.

Peter and Julie live completely separate lives. Until retiring Peter worked during the day and Julie worked night shift. They were not often in the house at the same time and had divided the living spaces, sharing only the kitchen and bathroom, usually at different times. They have separate bank accounts. There were some shared activities but these were of a practical nature, such as sharing bills and maintenance of the property. They did have two friends in common and once a year they shared the costs of a holiday with them, but not as a couple.

As is often the case when people separate, only their close friends and direct family members knew of the separation and their living circumstances.

Peter and Julie attended the SSAT and explained their relationship to the Tribunal. The Tribunal found that they were not in a marriage-like relationship and ordered Centrelink to reverse their decision.

Peter received the Age Pension which was back-paid to the date of his application.

This case highlights a common situation among elderly people where they reside together as flatmates, often for security, but Centrelink determine that they are residing together as a member of a couple. Fortunately for Peter, he exercised his right of appeal. ❖

Centrelink to hassle people with debt

Centrelink will get tougher on people who have incurred a debt because of a harsh, miserly measure in the Federal Budget this year.

The standard rate of debt recovery is 15% of a person's Social security payment. Where a person is in financial hardship, as is the case with many people in receipt of Social Security, the standard recovery rate can be reduced. It is therefore not surprising that about 70 percent of people who have incurred a debt to Centrelink currently pay less than the standard 15% rate per fortnight. The entire debt is still paid back but at a slower rate.

The Budget changes mean that Centrelink will contact each person who has a lower than standard rate of recovery every three months in order to assess whether the rate of recovery can be increased. In other words people living on very low incomes will be hassled so that Centrelink can recover the money more quickly to meet its "key performance indicators".

The convention has been that the recovery of debts should not place Centrelink recipients in financial hardship – but this is exactly what this change may be doing.

The change should not go ahead on its scheduled commencement date of 1 January 2011, because Government and hence Centrelink staff do not have a clear understanding of the nature of indebtedness amongst those on welfare payments.

Not enough is known about the bigger picture. Some households may also have debts to the Australian Taxation Office, child support, state recovery, utilities or credit card providers. The Government needs to explore how Australian households experience debt and financial hardship and what it can do to reduce administrative error contributing towards people having debts to Centrelink.❖

Indigenous people robbed of appeal rights

The Commonwealth Ombudsman has found that people subject to income management as part of the Federal Government's intervention in the Northern Territory have not been able to properly access rights of review. This is despite special laws passed in 2009 that were meant to restore rights removed by the controversial and racially discriminatory Northern Territory Emergency Intervention in 2007.

The Commonwealth Ombudsman has unleashed a blistering attack upon Centrelink and the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA). It labelled the handling of the issue as "administratively deficient".

The Income Management (IM) scheme, introduced in 2007 as part of the Northern Territory Emergency Response (NTER), allows Centrelink to withhold 50% of a person's income support and family assistance payments to cover certain expenses such as rent, utilities and food.

This legislation was amended in 2009 to provide external review rights to the SSAT, and at this time about 17,000 people were subject to the scheme.

In one case a couple repeatedly approached Centrelink and FaHCSIA seeking an exemption. In August 2009, a Centrelink Authorised Review Officer notified them that their request for exemption had been refused but, in accordance with the 2009 amendments, they had a right to seek review by the Social Security Appeals Tribunal (SSAT).

In January 2010, the SSAT decided that it did not have the jurisdiction to review a case. The Ombudsman was critical that neither agency (Centrelink or FaHCSIA) took steps to fix the problem when it was first identified in January 2010 with the Acting Ombudsman saying:

"Neither Centrelink nor FaHCSIA appropriately addressed the issues created by the SSAT's decision."

The Ombudsman indicated serious concerns about the following administrative matters:

- the difference between public statements advertising the introduction of the full range of external review rights for IM customers and the reality that the SSAT had warned, and then formally concluded, that it does not have jurisdiction to conduct such reviews; and,
- even though the SSAT provided a copy of its decision to Centrelink when it was handed down and the Ombudsman office raised the matter with Centrelink and FaHCSIA in February, there was little evidence that the issue was considered comprehensively until a draft of this report was provided to the agencies.

Both Centrelink and FaHCSIA have agreed to review their operation procedures and to seek to identify Indigenous income support recipients who were denied their appeal rights before 1 July 2010 when the problem was fixed.

It is not known whether the couple have since successfully obtained and exemption, but from 1 July 2010 all income management decisions are subject to the normal Centrelink appeals process.❖

social security changes

what's happening when

FAMILY ASSISTANCE CHANGES

Family Tax Benefit – two new exemptions from a non-lodger prohibition on fortnightly payments

Family Tax Benefit recipients who have not lodged tax returns for more than 12 months ordinarily have their fortnightly payments stopped until they have lodged tax returns.

From 1 July 2010 fortnightly payments will be able to continue even where a person hasn't lodged their tax return in two new circumstances:

- where a person does not have any Family Tax Benefit debt, or
- where there are special circumstances.

Date of effect: 1 July 2010

Percentage of care determinations

From 1 July 2010 disputes about shared care of a child will be determined once by either the Family Assistance Office or the Child Support Agency, and not both.

The new rules provide an assessment of shared care that is determined by either the Family Assistance Office for Family Tax Benefit or the Child Support Agency for child support which will have effect for the other agency. Each agency must then inform the other once a determination is made.

Carers in dispute about the percentage of care of a child will be asked to provide additional evidence to support what they say in order for a decision to be made, regardless of whether any formal care arrangement is in place.

Further review of the same decision about percentage of care is not possible from the Family Assistance Office across to the Child Support Agency.

Both agencies' decisions are reviewable, however, to the Social Security Appeals Tribunal and the Administrative Appeals Tribunal.

Date of effect: 1 July 2010

Family Assistance Office moves

On 9 July 2010 responsibility for the Family Assistance Office was transferred from the Department of Families, Housing, Community Services and Indigenous Affairs to the Department of Human Services.

Date of effect: 9 July 2010

Paid parental leave

A national government-funded paid parental leave scheme commences 1 January 2011, administered through the Family Assistance Office.

Under the scheme, 18 weeks at the national minimum wage can be paid to eligible carers who have or adopt a child after 1 January 2011. This amount is currently $589.90 per week, or $10,618.20 in total. The amount of paid leave does not vary based on how many days a person worked previously, or a person's level of income, but qualification is based on working 10 of the 13 months prior to the birth or adoption of their child, in employment of an average of one day of paid work each week. A person's taxable income also needs to be below $150,000 for the financial year prior to the birth or adoption.

In relation to social security, leave payments paid under the new scheme:

- are not income for the Centrelink income test;
- are income for the Family Assistance Office;
- are income for the low-income health care card income test;
- are not leave payments for the income maintenance period.

Anyone receiving parental leave pay under the scheme will be prevented from also receiving:

- Family Tax Benefit B for the 18 week period to which the leave payment relates; or
- The Baby Bonus ($5,294.00 over 13 fortnights).

For more information, see the article "Parental leave" on page 15.

Date of effect: 1 January 2011 (through the Family Assistance Office and optionally through employers), 1 July 2011 (compulsorily through employers)

SOCIAL SECURITY CHANGES

New Zealanders in Australia for 10 years since 26 February 2001

From 26 February 2011 a one-off payment period of six months of either Newstart Allowance, Youth Allowance or Sickness Allowance becomes available to some New Zealanders who have been in Australia for 10 years.

To be eligible, a person needs to be a New Zealand citizen who arrived in Australia on a New Zealand passport on or after 26 February 2001, and also to have been in Australia continuously for 10 years (temporary absences from Australia are acceptable where the person continues to be residing in Australia).

Date of effect: 26 February 2011

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Disability Support Pension – manifest grants

Two lists of conditions are now available in relation to "manifest" eligibility for DSP on the grounds of terminal illness, nursing home level care requirements and / or intellectual disability. List 1 catalogues conditions which are accepted as manifest on diagnosis alone, and List 2 catalogues conditions which, upon further investigation, may be manifest. A full list of conditions is available publicly in the Guide to Social Security Law.

Date of effect: 1 July 2010

Pension supplement

From 1 July 2010 Pensioners can elect to receive their pension supplement on a quarterly instead of fortnightly basis.

Anyone choosing this option will receive a reduced amount of the supplement each fortnight, with the remainder paid to them on 20 September, December, March and June of each year.

Date of effect: 1 July 2010

Income management

From 1 July 2010 income management has been expanded, removing the category of people living or staying in designated areas in the Northern Territory. Three new categories of people in declared income management areas are now subject to income management:

- people aged 15 to 24 who have been in receipt of Youth Allowance, Newstart Allowance, Special Benefit or Parenting Payment for more than 13 weeks in the last 26 weeks ("disengaged youth");
- people aged 25 and above (and younger than age pension age) who have been in receipt of Youth Allowance, Newstart Allowance, Special Benefit or Parenting Payment for more than one year in the last two years ("long-term welfare payment recipients"); and
- people assessed by a Centrelink social worker as vulnerable.

The new categories now apply to people whose usual place of residence is in a "declared income management area". On 1 July 2010 the new scheme and new categories commenced across the Northern Territory, with a future roll out across Australia possible following an evaluation in 2011/12.

Income management remains unchanged for child protection, school enrolment, school attendance categories as well as voluntary income management, income management through the Queensland Commission, and where a person's nominee is subject to income management.

New exemptions now exist so that a person can cease to be subject to income management through full-time study or work, or through their children's pattern of attendance over two school terms.

Financial incentives are provided to those who voluntarily enter into an income management agreement, and also for those who complete an approved course relating to money management skills and maintain a pattern of savings over a 13 week period after starting the course.

Date of effect: 1 July 2010 (Northern Territory only) 2011/12 (across Australia following evaluation)

Carer Allowance (child) qualification changes

The Disability Care Load Assessment (Child) Determination has now replaced the Child Disability Assessment Tool (CDAT) to determine qualification for Carer Allowance (child).

In changes passed in 2009, the Disability Care Load Assessment (Child) Determination became the new way of assessing qualification for Carer Payment (child). The Disability Care Load Assessment (Child) Determination assessed the level of care required and provided, rather than just the child's medical condition.

Under changes which came into effect 1 July 2010, any carer not qualifying for Carer Allowance (child) automatically on the basis of their qualification for Carer Payment (child), will be assessed under the more generous criteria in the Disability Care Load Assessment (Child) Determination.

Date of effect: 1 July 2010

Activity testing flexibility for principal carers

Principal carers of children can now meet their 15 hour per week participation requirements by combining part-time study, voluntary work, and part-time paid work.

Exemptions from activity requirements are more flexible for principal carers of children including for kinship care, foster carers between placements, larger families, carers of home schooled or distance education children, and victims of domestic violence.

Exemptions are also now more beneficial while caring for children during school holidays and periods of leave from employment.

Date of effect: 1 July 2010 ❖

Age Pension

The purpose of this practitioner's guide is to explain who can receive Age Pension payments, and provide answers to the common questions people ask about this payment.

Age criteria

The qualifying age for Age Pension depends on what year a person was born, and for people born before 1 July 1952, whether they are male or female. Men born before 1 July 1952 are eligible at 65. Women born before 31 December 1945 have now reached the qualifying age for Age Pension. Women born between 1 January 1946 and 1 July 1952 are eligible according to the table below:

Women born between:	Become eligible when they turn:
1 January 1946 and 30 June 1947	64
1 July 1947 and 31 December 1948	64 ½
1 January 1949 and 30 June 1952	65

Men and women born on or after 1 July 1952 are eligible according to the table below:

People born between:	Become eligible when they turn:
1 July 1952 and 31 December 1953	65 ½
1 January 1954 and 30 June 1955	66
1 July 1955 and 31 December 1956	66 ½
1 January 1957 and after	67

Residence

The residence requirements for Age Pension are different to many other Social Security payments. A person must have been an "Australian resident" for a total of at least 10 years, at least five of these in one continuous period, in order to qualify for payment. A person must also be an "Australian resident" and in Australia on the day their claim is lodged, unless claiming under an International Agreement.

Where a person has spent a significant amount of time in another country, or has significant ties to another country prior to claiming Age Pension, Centrelink may make the decision that the person no longer regards Australia as their permanent home and therefore the person is not an "Australian resident" on the day claimed. In deciding whether a person regards Australia as their permanent home, Centrelink will look at the person's intentions, and their established links with Australia, for example property, bank accounts and family ties.

Going overseas

Once residency is accepted and the Age Pension is granted, the pension can be paid overseas indefinitely for any absence, (including living overseas permanently) subject to proportional portability and the restriction rule for former residents. "Proportional portability" means that if a person has spent less than 25 years in Australia between age 16 and Age Pension age, they can only receive a proportion of their normal amount of payment overseas.

Where a former resident has been living overseas, returns to Australia and then claims the Age Pension, the "restriction for former residents" means that they need to remain in Australia for two years before they can leave and be paid overseas.

Assets and income

The rate of a person's payment (including whether that rate will be zero and that they will therefore receive no payments) is calculated under both an income and an assets test. The test that results in the lower rate is the test that applies. For more details about common problems experienced by Age Pensioners restructuring their assets, see the article "Asset issues for Age Pensioners".

Other benefits

A Pensioner Concession Card and the Pension Supplement is issued automatically to anyone qualifying for the Age Pension. People of Age Pension age who do not qualify for the Age Pension based on their assets or income levels, and do not receive a Department of Veterans' Affairs service pension should apply for the Commonwealth Seniors Health Card which has no assets test, but is income tested. Holders of the Commonwealth Seniors Health Card then qualify automatically for the Seniors Supplement.

Obtain advice!

If you are assisting a person with a Social Security Age Pension matter and would like to discuss it with us, please call the Centre on 9211 5300 or 1800 226 028 for advice. ❖

Asset issues for Age Pensioners

Many people in retirement consider releasing the capital they hold in their principal home. This article is about the impact of this type of transaction on a person's Age Pension.

Downsizing the home

If a person sells their home to buy another smaller home, the money from the sale of the original home won't count as an asset for up to 12 months from the date of sale. This can be extended for up to 24 months if it's clear that reasonable attempts to buy or build a new home are being made. During the period that a person is waiting to buy a new place, Centrelink will assess that the person is earning "deemed income" on the proceeds of sale at a rate of interest determined by Centrelink. If this deemed income is over the allowable income test limit, a person's pension could be reduced or stopped. After a new home is purchased, the difference between the value of the old home and the new home that hasn't been spent becomes an assessable asset.

Reverse mortgages

A reverse mortgage, or home equity conversion agreement, is where a person borrows money against the value of their home, meaning that they are essentially signing over a percentage of the proceeds of a future sale to a third party. Most reverse mortgages don't require repayments until a person moves to aged care, sells their home, or passes away. Interest compounds and by not making any repayments, the amount of equity held in a person's home falls over time.

Equity withdrawn from the principal home under a reverse mortgage is generally not counted for the income test, other than deemed income from interest earned while it's held in the bank. However any amount over $40,000 will be assessed under the assets test until it is spent. Any amount below $40,000 will be assessed under the assets test if it has not been spent within 90 days of withdrawal. Any money obtained through a reverse mortgage and given to children to help with their housing or business is subject to the rules about gifting (see below).

Helping children out financially through gifts or loans

Many pensioners seek to help out their children who may be struggling financially, for example by giving or loaning them a lump sum or periodical payments of money. The rules about "gifting" mean that a person can only give away $10,000 each financial year and $30,000 over any rolling 5 financial year period without it affecting their payments. Amounts given away over these limits continue to count as part of a person's assets for 5 years and could result in their pension stopping or being substantially reduced over that time.

Money lent to a family member may be treated as an assessable asset until it is repaid.

Loans against the principal home or other property

Some pensioners seek to help their children out by taking out a mortgage against their home. Any money effectively "given" to their children as a result of this mortgage is subject to the gifting rules and can be assessed as an asset, regardless of whether all parties actually intend for the child to pay off the mortgage. Mortgages against the principal home can't be deducted from the value of any asset bought with that money.

Loans across family members and involving multiple properties can become very risky (and complicated) because of the operation of the rules about when the value of an asset can be reduced by the amount of mortgages or loans held against that or other assets.

For example, ordinarily if a person has a second property worth $400,000 with a mortgage of $390,000, the net value of the property for Centrelink would only be $10,000. However, if a pensioner takes out a mortgage for the benefit of anyone other than themselves or their partner, this mortgage can't be deducted from the value of their investment property. So if a person has no mortgage on that investment property but their daughter borrowed $390,000 for her business, secured against the investment property, then the person will be assessed as having an asset worth $400,000, regardless of the property's "net" worth of $10,000.

Transferring the title of the home

Some pensioners transfer the title in their home to their children either outright in order to reduce the need for a will, or in order for their children to use the property as security for a loan. If a person transfers the legal title of their home to a family member, its value becomes an assessable asset under the gifting rules, and is no longer exempt as a principal home. Sales of property between family members need to involve adequate consideration, and legally binding contracts to change Centrelink's assessment about ownership of the property.

Getting help

Where a person has already transferred or given away assets without realising the implication for their pension, they may need help in applying to have the value of an asset exempted under the hardship rules. If a debt is raised, they could need help in applying to have the debt waived because of their special circumstances. People in these situations may wish to contact a Welfare Rights Centre/Advocate for advice. Anyone anticipating a restructure of their financial resources and wanting advice about the potential impact on their Age Pension can contact a Welfare Rights Service/Advocate, but would usually benefit from first contacting Centrelink's Financial Information Service for specialised advice about retirement planning. ❖

Same Sex Law Reform Update

Recognition of same sex couples under the *Social Security Act 1991* came into effect on and from 1 July 2009. Centrelink established a reference group with representation from community organisations to ensure that the implementation of the same sex law reform was as smooth as possible.

The reference group was not able to rectify problems in the legislation itself; however, it was able to emphasise the need for Centrelink staff training and raise difficult case studies as they arose.

The final Centrelink reference group meeting was held on 22 April this year and the Centrelink hotline about the issue closed on 30 June 2010. As at the end of March 2010, Centrelink had linked 8,000 individuals as members of a same sex couple. Centrelink reported to the final reference group meeting that the number of complaints received by Centrelink about this issue was very small in comparison to the 64,000 complaints it receives each year. Of the complaints that were received about the same sex law reform, 37% were about the policy or legislation and 63% about staff attitudes.

FaHCSIA's "compassionate approach" policy

Some people have incurred a debt to Centrelink because they have not notified Centrelink about their relationship status and have continued to receive their Social Security payment at the single rate post 1 July 2009. There are a myriad of reasons a person may have for not declaring their same sex relationship, including lack of knowledge about the law and fear.

In a letter from November 2009, the Minister for Families, Housing, Community Services and Indigenous Affairs wrote that the following matter must be considered by Centrelink as a reason for debt waiver: "Did the customer's legitimate fear that they or their partner will be discriminated against if they declare their relationship status prevent them from advising Centrelink of their relationship?". It remains to be seen how this statement will be viewed in the future by Tribunals. This issue was raised by the Commonwealth Ombudsman at its community consultation session on 18 July 2010.

Legal advice and support

If you are in a same sex relationship and need legal advice about how it may impact on your entitlement to Social Security, or simply need legal advice about any Social Security matter, please call the Welfare Rights Centre on 1800 226 028. This is a free call for anyone in Australia (except for the Sydney area). For those in Sydney please call 9211 5300. ❖

Anti-Poverty Week is October 17- 23

Anti-Poverty Week in 2010 starts on Sunday 17 October and ends on Sunday 23 October. The United Nations has designated 17 October as International Anti-Poverty Day.

The Week focuses on poverty around the world, especially in the poorest countries but also in wealthier countries like Australia. Poverty and severe hardship affect more than a million Australians. Around the world more than a billion people are desperately poor. Last year at least 1,000 organisations across Australia were involved in the week. Everyone who wants to reduce poverty and hardship is encouraged to raise awareness of the Week throughout their organisation and in the community. Official opening activities will be organised on Sunday 17 October and Monday 18 October. Activities initiated by your organisation can be large or small and they can be on whatever topics, and can be held on either day which suits the organisers.

More information is available at www.antipovertyweek.org.au You can also email the NSW Anti-Poverty Week Co-Chairs, Bernard Boerma from Catholic Care or Maree O'Halloran form the Welfare Rights Centre at nsw@antipovertyweek.org.au to request Anti-Poverty Week leaflets, posters or postcards. ❖

Parental leave

A national, government-funded paid parental leave scheme will commence on 1 January 2011. Under the scheme, 18 weeks of the national minimum wage can be paid to eligible parents/carers who have or adopt a child after 1 January 2011.

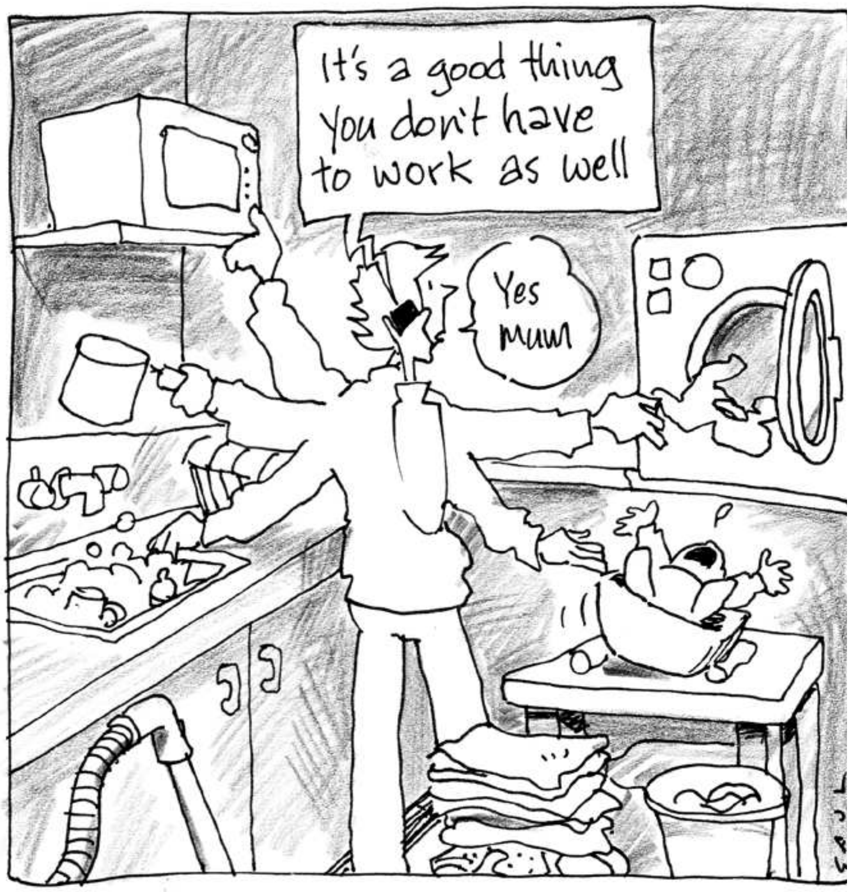
"Parental leave pay" means money paid by the government, through either the employer or the Family Assistance Office, under the new paid parental leave scheme. It is not the same as any maternity, paternity, parental leave or "employer-provided leave" paid by a person's employer.

Parental leave under the scheme is being phased in under two stages:

- From 1 January 2011 employers can choose to provide parental leave pay (paid by the government). Where an employer elects not to, a person can receive parental leave pay directly from the Family Assistance Office;
- From 1 July 2011 employers are required to provide the option of parental leave pay.

Parental leave is available to full-time, part-time or casual workers, contractors and the self-employed who have worked at least one day per week for 10 of the 13 months prior to the birth or adoption of their child. People working at an Australian Disability Enterprise, under the New Enterprise Incentive Scheme, or work for Community Development Employment Projects can qualify. A person's taxable income needs to be below $150,000 for the financial year before the birth or adoption. Families planning to take parental leave for subsequent siblings should be aware that to qualify, the mother needs to have returned to work for 10 months at one day a week in between leave taken for each child.

Parental leave is paid in one continuous 18 week block. It must be claimed within 33 weeks of the birth of the child, and taken within 12 months of the birth of the child. It can be paid before, during or after any employer-provided leave. Where a person returns to work during the period of their leave, payment stops, but may be transferred to another primary carer.



Impact on Social Security

"Parental leave pay":

- Does not count as income for Social Security payments.
- Does count as income for the family assistance and for the low-income health care card income test.

Baby Bonus or parental leave pay?

A person needs to make a choice between receiving parental leave pay OR the Baby Bonus as it is not possible to receive both (except for where a person has twins or a multiple birth).

Parental leave pay, based on current rates of payment will generally be more beneficial than the Baby Bonus. The amount of parental leave pay under the scheme is 18 weeks of the national minimum wage, currently $589.90 a week or $10,618.20 in total. The current amount of the Baby Bonus is $5,294.00 in total over 13 fortnights. Added to the Baby Bonus should be the amount of Family Tax Benefit B a person would receive over the 18 weeks of around $1,227.24, giving a person a total amount of $6,521.24.

From 1 October 2010 claims for parental leave pay can be submitted to the Family Assistance Office up to three months in advance of the expected date of birth or adoption. An online rate estimator will also be available at www.familyassist.gov.au from 1 October 2010 to help people make the choice between parental leave pay or the Baby Bonus based on their circumstances. ❖

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