

# rights review

NEWS & COMMENT ON SOCIAL SECURITY ISSUES

## budget has less pain, but little gain

**S**ocial Security recipients were able to breathe a sigh of relief on Budget night this year as the Government finally, at least temporarily, stopped using them to cut expenditure and introduce harsh ideological measures. Although the Government did little to repair the damage of massive payment cuts for parents and people with disabilities in last year's Budget, we can at least be thankful for the small mercy that there were no new cuts or significant reductions in payments or conditions this year.

We should not forget, however, that whilst this Budget provides large tax relief of \$119 per week for a person earning \$2,900 per week, payments for parents and for people with disabilities who will be forced onto Newstart Allowance after 1 July 2006, will be slashed by \$29 and \$46 a week respectively. We should also recognise that the 30% of individuals who have insufficient earnings to be taxed will gain no benefit from the Budget tax cuts.

### new compliance system exposed

The Budget papers also acknowledged that up to 5,000 parents with children, and other vulnerable people will be punished under the "Welfare to Work" package by losing their Centrelink Newstart Allowance payments for up to eight weeks and will need to be "case managed" by charities and local churches. Charities will get \$650 for each person they "case manage" through this crisis. However, up to 15,000 other people who will suffer the same harsh punishment of having their payments cut off for eight weeks will not have access to any case management to help pay their bills. How could any Government with such a massive surplus leave these people with no money for eight weeks?

The National Welfare Rights Network (NWRN) applauds the Budget announcement to provide an additional 2,500 places in the Personal Support Program from 1 July 2006. This will provide valuable assistance to the most vulnerable group of unemployed people who have significant mental health and other barriers to employment. In the same vein, we also welcome the insurance for work experience trial under which the Government will pay accident and personal liability insurance

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## Welfare Rights Centre

**W**elfare 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.

[www.welfarerights.org.au](http://www.welfarerights.org.au)

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## budget has less pain, but little gain

for 70,000 disadvantaged jobseekers, and the extension of Crisis Payment to allow victims of domestic violence to remain safely at home.

### carers

The payment of yet another "one-off" bonus to carers is a totally cynical exercise as it is being paid for by the recent mean-spirited decision to cut back-payment for Carer Allowance for disabled children and adults, saving \$107 million over four years, from 1 July 2006.

The long overdue injection of resources for Centrelink's Call Centres will hopefully fix the bottlenecks in the system, and address one of the most frustrating aspects of people's experience when dealing with Centrelink. However, we have to question whether \$115 million over two years will be enough to address the current shortcomings.

A major disappointment was the failure of the Budget to take concrete steps to address barriers such as lack of skills and training that are keeping parents out of the workforce. Current requirements for Newstart Allowance make it almost impossible to engage in long-term training or further education. The

Government could have used some of the massive surplus to restore last year's cuts to the Pensioner Education Supplement of \$31 a week, but it chose not to.

### debt and fraud measures

We welcome the focus on increased data matching and compliance activities as this generally leads to early detection of overpayments and hence smaller Centrelink debts. However, the NWRN questions the additional \$12.7m for the Director of Public Prosecutions (in anticipation on an extra 1,000 cases being referred to it), the expansion of fraud investigation powers and the increase in the number of Centrelink spies and private detectives to chase alleged cheats when Social Security fraud amounts to less than half of one percent of all Social Security payments. The Government would get far better results by putting even half that amount of energy and expenditure into catching tax cheats. Instead, the ATO has developed a nasty entrenched culture whereby the big tax cheats are given de facto immunity from prosecution as a carrot to settle their cases. ▲

## social security reporter

**R**egular readers of "rights review" will be aware that the Social Security Reporter (SSR) is now back in publication. The SSR has been an essential resource for Social Security practitioners who need to know about Tribunal and Federal Court decisions in the area of Social Security law. The SSR summarises the most important recent decisions by the Administrative Appeals Tribunal and Federal Court and explains in lay

terms what those decisions were and the relevance that they may have for other clients.

The SSR is published in electronic format (e-publication and pdf versions) four times per year, at a subscription cost of \$77 per annum (GST inclusive). If you or someone you know would like to subscribe to the SSR, please complete the subscription form on the back of this edition of "rights review" and return it with payment to the address on the form. ▲

# social security clients targeted

**T**he Minister for Families, Community Services and Indigenous Affairs, Mal Brough, blew up a storm of controversy with his recent suggestion that a portion of some parent's Centrelink payments be deducted from the income of irresponsible, neglectful parents and instead spent directly on food, rent and other essential items for their children. This could be done via an electronic debit card. Major supermarkets have been asked to examine the feasibility of providing such a service.

Neglect of children is, unfortunately, a serious and significant problem in Australia today – and not one that can be or should be swept under the carpet.

Much has been made of trials in Indigenous communities where a portion of the Centrelink payment went to the school tuck shop, providing a guarantee of a certain number of meals for children. The critical factor in this trial is that it was voluntary and parents were not compelled to participate. Any mandated, top-down solutions are unlikely to be successful, and solutions emerging from within the community are likely to provide the best results. The welfare of the children – in conjunction with that of their parents, should be the priority.

The impact of Australia's comparatively low rates of Social Security payments also needs to be part of the discussion along with improved access to financial counselling, where a person would be able to work with a community expert towards becoming financially independent in the future. Improving awareness, and use of, Centrepay direct deduction services presents another opportunity to address the problem.

## paternalistic

The plan has been labelled by some of its detractors as "paternalistic". Others have suggested that if implemented, it could signal the beginning of widespread trafficking of an electronic debit card. However, it is in the practical implementation of the proposal where most problems are likely to emerge. The practical difficulties of putting in place a system where a set amount of a person's income was quarantined



for a prescribed list of items at the supermarket need to be honestly addressed.

The Minister has talked about 30% being quarantined for children's needs – such as rent and food, but public housing rents are currently 25% of a person's income and, given that many Social Security recipients pay up to half of their income in rent, it is hard to see what practical benefits might come from such a compulsory scheme. Last year 40,000 children and their parents had to rely on services for the homeless. An assault on one of the major causes of school absenteeism and poor health amongst young people – homelessness – should be at the centre of any plan to address

family dysfunction.

## impractical

In any case, it is a bit rich for the Government to raise the issue of lack of financial support for children, when its own policies for single parents from 1 July 2006 will see many placed on the lower rate of Newstart Allowance.

Neglect of children is a serious issue, which deserves serious community debate – as opposed to knee jerk reactions and glib posturing. The temptation to "blame the victim" should be resisted at all costs, and more help is needed to assist families in crisis. Helping a person to better manage their spending could be a small part of the solution, but alone it is not the comprehensive response that is needed. ▲

# government takes money away from carers

**T**he Federal Government has recently passed legislation that in some cases will more than halve the amount of Carer Allowance back-payment that a carer will be entitled to.

Carer Allowance is an income supplement that is paid to a person who provides daily care to a person with a disability or significant medical condition. It is non-means tested and paid at the rate of \$94.70 per fortnight.

Currently, where a person claims Carer Allowance for a child under 16, payment can be backdated for up to 52 weeks. Where a person claims Carer Allowance for an adult, payment can be backdated for up to 26 weeks if the disability is due to the sudden onset of an illness.

The Government's new legislation reduces the backdating provisions for claiming Carer Allowance by limiting back-pay to just 12 weeks prior to the date of claim. These changes take effect from 1 July 2006.

The special backdating provisions for Carer Allowance were designed to take account of the fact that Carer Allowance has a low profile in the community and many carers lack awareness of it. In the experience of Welfare Rights workers, the last thing on the mind of a person who finds themselves in the situation of having to provide care is to contact Centrelink to see if there is a supplementary payment available. It is also in the nature of Carer Allowance claims that it can take a considerable time, sometimes up to and even beyond 12 months, for a family to actually obtain a diagnosis or ascertain the actual nature of the condition.

The current backdating provisions are also an acknowledgment of the valuable contribution that carers make to our community and that caring is often a costly exercise. In

some cases, should the care not be provided at home, the caree may be forced into an institution, which is much more expensive for governments.

In the National Welfare Rights Network's view, this recent change to the legislation, especially in a year of large budget surplus is both unnecessary and mean-spirited.▲

## changes to family tax benefit

**I**n the recent 2006-2007 Budget, the Government announced that from 1 July 2006, most families earning up to \$40,000 per year will be entitled to receive the maximum rate of Family Tax Benefit Part A for their children.

This \$40,000 threshold is a considerable increase from the current \$33,361 threshold. Families earning more than \$40,000 per year will have their Family Tax Benefit Part A reduced by 20 cents for each dollar above the threshold.

At present, the maximum fortnightly amount of FTBA payable is:

- ◆ \$137.06 for children under 13;
- ◆ \$173.74 for children aged between 13 and 15;
- ◆ \$44.10 for children aged between 16 and 17; and
- ◆ \$59.36 for dependent students aged 18 to 24.

### new provisions for estimating income

There will also be changes to the administration of FTB payments. The process of estimating income

will be altered by the introduction of "automatic updating" of estimates from 1 July 2006. Centrelink will be given the power to use "default estimates" to work out a customer's fortnightly rate of Family Tax Benefit where Centrelink decides that the annual income estimate given by the person is unreasonable.

Where Centrelink has decided to use a "default estimate", a person should be notified and should be given the opportunity to revise their initial estimate. Where a person is paid Family Tax Benefit based on a default estimate which turns out to have been too high, the person will receive a top up when they lodge their tax return at the end of the financial year. A person at all times retains the right to appeal to an Authorised Review Officer about the decision to impose a default estimate. ▲

# new compliance measures

**I**n the 2006-2007 Budget, the Federal Government announced a series of measures aimed at preventing Social Security debts being incurred by individuals as well as measures designed to detect situations where people may have been incorrectly paid.

The Government is to provide \$282m over five years to implement these measures.

The proposed measures include:

- ✦ targeting the cash economy (for example taxi drivers);
- ✦ reviewing real estate assets owned by 120,000 pension recipients. The Social Security Act will be amended to enable Centrelink to conduct data matching with State and Territory Government land titles offices to detect undeclared real estate;
- ✦ allocating \$76m to undertake investigations into alleged fraud;
- ✦ increasing Youth Allowance reviews from 35,000 to 75,000 per year and Austudy Payment reviews from 5,000 to 10,000 per year;
- ✦ reviewing the circumstances of over 10,000 Social Security recipients who reside in Greece, Italy, Malta, Turkey and the UK;
- ✦ introducing data matching between Centrelink and the Department of Health to identify cases where people are receiving Carer Payment and the caree has been placed in institutionalised care;
- ✦ increasing by 10,000 per year the number of random sample surveys of people in receipt of working age payments; and
- ✦ introducing a pilot program to investigate 1,000 cases where people in receipt of Social Security may also have undisclosed business income or assets.

The National Welfare Rights Network (NWRN) generally supports measures that detect Social Security fraud and ensure

that people are paid the correct rate of Social Security. However, it should be noted that Social Security fraud is very minor in Australia and that most Social Security debts occur as a result of

a combination of reasons, such as the complexity of the Social Security system and Centrelink errors in processing information given to it by their clients about their income and assets.▲

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## “one-off” bonus to carers - again

**I**n the recent 2006-2007 Budget, the Government announced that carers are to once again receive a one-off bonus of \$1,000 or \$600 – for the third year in a row. The bonus is to be paid in recognition of the contribution made by Carer Payment and Carer Allowance recipients towards caring for people with disabilities and the aged.

People in receipt of Carer Allowance will receive \$1,000 and people receiving Carer Allowance will receive \$600. These payments are to be made as one-off lump sum payments again this year and are to be paid by 30 June 2006 – which will help the Government reduce some of its embarrassing surplus before the end of the financial year. People receiving both Carer Payment and Carer Allowance will receive both one-off bonus payments.

In addition, where a person is

eligible for both the Carer Allowance and either the Wife Pension or Department of Veterans' Affairs Partner Service Pension on Budget night 2006, they will receive both bonus payments.

A small number of people are expected to become eligible for the one-off lump sum payment in 2006-07 where they are assessed as eligible for the benefit after 1 July 2006 and have their eligibility for the payment backdated to before Budget night. ▲

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the back of “rights review” (the subscription form is also on our website [www.welfarerights.org.au](http://www.welfarerights.org.au)) and fax it to the Welfare Rights Centre (02) 9211 5268 or send it to:

Welfare Rights Centre  
Level 5, 414 Elizabeth St  
Surry Hills NSW 2010 ▲

# let the government do its own dirty work

**T**here are many aspects of the new compliance regime that, depending on how Centrelink and the Department of Employment and Workplace Relations (DEWR) implement the changes, could mean it's a lot better than the current breaches system.

But at the core of the regime is a vicious, unjustified, illogical and counterproductive eight week no-payment provision. It will be applied not only for a third offence, but also as an immediate cut in payments for more "serious offences", including:

- ✦ refusing an offer of a suitable job (without a reasonable excuse);
- ✦ resigning a job without good reason;
- ✦ failing to participate in full-time "Work for The Dole"; and
- ✦ being dismissed from employment due to misconduct.

We estimate that in the first year of the new system between 16,000 and 20,000 people will be hit with an eight week no-payment period. These figures have been confirmed by Centrelink. The 2006 -2007 Budget makes provision for about 5,000 of these to receive "case management" during this period at a cost of about \$4 million each year.

We oppose this eight week no-payment penalty strongly, and the National Welfare Rights Network and the sector generally should continue to campaign against it because:

- ✦ it is contrary to even the Government's own "philosophy" about encouraging engagement and participation;
- ✦ a person cannot be required to undertake activities or look for work while not on payment and will therefore become extremely isolated; and
- ✦ it is so harsh that it will even apply to families with children which, the Government acknowledges to be so extreme



that it has been forced to announce a practically difficult and ethically challenging "case management" system.

## damage

These are the major reasons why the NWRN has called on the sector to boycott the proposed case management system - because of the existence of the eight week no-payment system that it was designed to alleviate.

It is our view that:

- ✦ the Federal Government should do its own dirty work, and not call on the sector to do it once again;
- ✦ well-intentioned community welfare agencies will become complicit partners in administering a deeply flawed compliance regime; and

- ✦ Centrelink should be required to implement the complex and impractical case management system.

Nevertheless, NWRN has no doubt that a number of well-intentioned organisations in the sector will place their name on the case management registry for this work - both because of the financial opportunity and the opportunity to help extremely vulnerable people who are in the serious predicament of receiving no payment. We have no doubt that most will do a good and committed job in helping these people. Where no local organisation is offering the service, or a dispute emerges between a person and the agency, Centrelink will be required to take on the role of case management.

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# need for youth reference group

**C**entrelink has formed a number of community reference groups to provide feedback to it about client experiences with Centrelink practices and procedures. Current reference groups include the "Participation Reference Group" in relation to "welfare reform" as well as reference groups for older people, for people with disabilities, for carers and for multicultural community issues.

A glaring omission, however, is that there is no reference group for young people. The National Welfare Rights Network (NWRN) had been given assurances by Centrelink that one would be formed, however that assurance has since been withdrawn.

The NWRN recently wrote to Centrelink outlining the reasons why Centrelink should establish a specific Youth Reference Group.

These reasons are that young people:

- ♦ are among the most disadvantaged in the Social Security system and struggle to understand and negotiate a highly complex system. Youth Allowance has four streams and sixteen sub categories making it one of the most complicated payments;
- ♦ are particularly vulnerable to

being excluded from payment or being on the incorrect payment;

- ♦ have the highest breach rates. In September 2004, 53% of all administrative and 47% of all activity test breaches were imposed on young people under 25;
- ♦ have disproportionate levels of Centrelink debt;
- ♦ have extremely low appeal rates, a fact readily acknowledged by Centrelink. Of 16,000 rejections of "unreasonable to live at home" claims in 2004/2005, only 155 were appealed to the Original Decision Maker, 43 to the Authorised Review Officer and only two were appealed to the Social Security Appeals Tribunal;
- ♦ experience significant problems with assessment of "unreasonable to live at home" claims;
- ♦ face difficulties in obtaining adequate Proof of Identity or accessing alternative POI provisions;
- ♦ often lack the skills and confidence to negotiate the contents of Preparing For Work Agreements, often agreeing to activities they are not capable of undertaking leading, in the worst case scenario, to non payment breaches of eight weeks.

The NWRN raised this issue with the Minister for Human Services, Joe Hockey in a recent meeting. Mr Hockey advised the NWRN that he would raise the issue with the CEO of Centrelink who recently advised the NWRN that he thought a Student Reference Group would be sufficient. ▲

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## issues to confront

However, there are some real issues that some organisations will have to confront if they place their name on the Centrelink registry. These include:

- ♦ the making of moral and value judgements where a person seeks funds to purchase items such as tobacco or contraceptives;
- ♦ dealing with the very limited ability under the rules to give case managed people any cash to pay for transport or make any purchase of their own; and
- ♦ staff and volunteers having to deal with increased client anger stemming from the impractical and frustrating case management process.

One of the major concerns is around the potential for conflicts of interest to arise where an agency which has a Job Network "arm" gets a slice of the \$4 million set aside each year for case management and then feels compelled to

recommend that Centrelink impose a "participation failure" penalty on an "exceptionally vulnerable" person.

## harsh penalty

There is no place for an eight week no-payment penalty in our income support system and we must remain vigilant in continuing to oppose and expose this totally unacceptable feature. We must also remember that the Government has defined "exceptionally vulnerable" people in such a way as to ensure that only one in every four that it expects will suffer an eight week no-payment period will be eligible for the benefit of the case management system – as complex, impractical and difficult as it is.

Our attention should therefore remain focussed on the 11,000 to 15,000 who won't be eligible for the benefit of the case management system, and on the hideous notion of an eight week penalty in the first place. ▲

# WELFARE TO WORK CHANGES

The following changes were introduced by the Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005 and the Family and Community Services Legislation Amendment (Welfare to Work) Act 2005.

This list is not exhaustive. For more details on the "Welfare to Work" changes, refer to the December 2005 edition of "rights review" or the Welfare Rights website ([www.welfarerights.org.au](http://www.welfarerights.org.au))

## Disability Support Pension (DSP)

### New DSP claimants

From July 2006, to qualify for DSP a person must be unable to work for 15 hours per week (reduced from 30 hours) at award wages within two years. People who were receiving DSP on 10 May 2005 will not be affected by the changes and may continue to qualify under the current rules. People who qualified for DSP between 11 May 2005 and 30 June 2006 are to be assessed under the new rules at their first review after 1 July 2006.

Date of effect: 1 July 2006

## Parenting Payment

### Parenting Payment

Parents who claim Parenting Payment after 1 July 2006 are to qualify only if their youngest child is under eight (single parents) or under six (partnered parents). People who were receiving or had been granted Parenting Payment as at 30 June 2005 are to retain qualification until their youngest

child turns 16, as long as they continue to have "transitional status" (i.e. a person must not change their relationship status or have their payment cancelled for more than 12 weeks).

Date of effect: 1 July 2006

## Allowances

### Parents

Single parents on Newstart Allowance (NSA) or Youth Allowance who are the "principal carer" of at least one child may also qualify for a Pensioner Concession Card.

Date of effect: 1 July 2006

### People with disabilities

A person who does not qualify for the DSP under the new rules, but who has a "partial capacity for work", may qualify for NSA and receive a Pensioner Concession Card. A person will have a "partial capacity for work" if, because of a physical, intellectual or psychiatric impairment, they are unable within two years to work 30 hours of work per week independently of a program of support. The person's incapacity must be such that there is no "training activity" which is likely to increase the person's capacity to undertake 30 hours of work in the next two years.

Date of effect: 1 July 2006

## Activity requirements

### Parents receiving Parenting Payment

Sole parents with children between six and eight and partnered parents whose youngest child has turned seven (or who are covered by transitional arrangements after July 2007) are to be required to meet "participation requirements", unless an exemption applies.

Date of effect: 1 July 2006

### Parents and people with disabilities

Parents who are "principal carers" and people with a "partial capacity for work" due to disability are to be required to seek part-time work that Centrelink regards as "suitable".

Date of effect: 1 July 2006

### Activity testing

The current list of terms which may be included in an activity agreement is to be removed. Instead, Centrelink will impose activities it considers "suitable". Activities will generally relate to jobseeking.

Long term unemployed people who are considered not "genuine" in their job search efforts are to undertake full-time "Work for the Dole" equal to 50 hours per fortnight for 10

months of the year, as well as job search activities.

**Date of effect:** 1 July 2006

## Compliance

The existing breaching and penalty regime is to be revoked. The new regime is to apply to all the payments that the old regime applied to and is also to apply to those parents with activity requirements under the Bill (see above) and to people receiving Austudy Payment. The new compliance regime provides for suspension of payments until compliance, and non-payment periods of eight weeks for a third or subsequent "participation failure" in a 12 month period, and immediately for a number of defined "participation failures" such as refusal of a suitable job offer.

**Date of effect:** 1 July 2006

## Payment pending review

The provisions allowing for "automatic" payment pending the outcome of a review are to be removed.

**Date of effect:** 1 July 2006

## Waiting periods

The Income Maintenance Period which currently applies to NSA, YA, Parenting Payment (partnered) and Sickness Allowance (SA) is to be extended to DSP, Carer Payment (CP), PP (single) and Austudy Payment and its calculation will now also include redundancy payments.

The Seasonal Work Preclusion Period, which currently applies to NSA, YA and PP (partnered), is to be extended to DSP, CP, PP (single), Austudy Payment and SA. The definition of "seasonal work" is to be broadened.

**Date of effect:** 20 September 2006

## Pensioner Concession Card

Qualification for a Pensioner Concession Card is to be extended to certain people receiving NSA and YA (except full-time students and "new apprentices").

**Date of effect:** 1 July 2006

## 10% interest penalty for debts

A 10% penalty is to be applied to Social Security debts caused by a person's refusal or failure to provide information in relation to "income from personal exertion" or knowingly or recklessly providing false or misleading information in relation to income. This penalty will not apply to Age Pension, Carer Payment or Family Assistance debts.

**Date of effect:** 1 July 2006

## Supplementary payments

A second, higher rate of Mobility Allowance is to be introduced. To obtain the higher rate of payment, recipients of DSP, NSA or YA (unemployed) must be looking for work or working for 15 hours or more per week.

Employment Entry Payment (EEP) of \$312 is to be payable to certain people with a "partial capacity to work" who were receiving NSA or YA immediately prior to obtaining work. Sole parents who are the "principal carer" of at least one child and receiving NSA or YA immediately prior to obtaining work may be able to qualify for EEP of \$104. Certain parents receiving PP (single) and PP (partnered) may also be able to qualify for EEP of \$104.

Qualification for Pharmaceutical Allowance and Telephone Allowance is to be extended to certain NSA and YA recipients who have a "partial capacity to work" or who are the single (un-partnered)

"principal carer" of at least one child.

**Date of effect:** 1 July 2006

## Rates

The income test for NSA, YA, Austudy, and Parenting Payment is to change so that the rate at which a person's payment reduces due to income will be slightly lower (60c rather than the current 70c). This lower rate of reduction will also apply to other payments such as Widow Allowance, Partner Allowance and Mature Age Allowance.

**Date of effect:** 1 July 2006

## Child Care Benefit (CCB)

The maximum number of hours of child care that a person can be paid CCB (without satisfying the "work test") is to increase from 20 to 24 hours per week.

The maximum number of hours of child care that a person can be paid CCB (if they satisfy the "work test") is to be 50 hours per week. To satisfy the CCB "work test" a person will need to undertake certain activities for at least 15 hours per week (although hours may be averaged over a fortnight if they amount to at least 30 hours).

**Proposed date of effect:** 1 July 2006

## Exchange of personal information

There is to be an easier exchange of information between Centrelink and its contracted agencies, such as Job Network members or services conducting Comprehensive Work Capacity Assessments.

**Proposed date of effect:** Royal Assent ▲

# social security changes what's happening when

## automatic updating of family tax benefit estimates

Centrelink is able to substitute its own higher estimate of a family's income (known as a "default estimate") where it considers that the estimate is not "reasonable". This does not remove the requirement that a person provide estimates or that a person notify Centrelink of any changes to their circumstances within 14 days.

A person should be notified of the proposed "default estimate" and should be given an opportunity to provide a reasonable estimate.

The "default estimate" system has been introduced to try to limit the incidence of end of year debts caused by underestimation of income.

**Date of effect:** 31 May 2006

## recovery of child care benefit debts from tax refunds

From 1 July 2006 Centrelink will be able to recover Child Support debts from the debtor's tax refund. Centrelink will also be able to recover the debt from a consenting partner's tax refund.

**Date of effect:** 1 July 2006

## backdating of carer allowance reduced to 12 weeks

From 1 July 2006 successful claims for both Carer Allowance (adult) and Carer Allowance (child) can only be backdated for a maximum of 12 weeks prior to the claim lodgement date. Previously, Carer Allowance could be backdated for a maximum of 26 weeks (adult) or 52 weeks (child).

**Date of effect:** 1 July 2006

## extension of portability for certain medical treatment overseas

From 3 May 2006 Centrelink has a

discretion to extend a person's portability in circumstances where the person is seeking life-saving medical treatment overseas. An extension can also be granted to a person who is required to accompany a person seeking life-saving medical treatment overseas. The extension will only apply if financial assistance is payable for the treatment under the Medical Treatment Overseas Program.

**Date of effect:** 3 May 2006

## proposed extension of pharmaceutical allowance

A Bill before Parliament proposes to extend Pharmaceutical Allowance to Parenting Payment (partnered) parents who have a temporary incapacity exemption from the activity test.

**Proposed date of effect:** 1 July 2006

## proposed extension of bereavement payment to certain parents

This change is in addition to existing "Welfare to Work" changes which created a new category of Newstart Allowance and Youth Allowance recipient from 1 July 2006 to be known as "principal carer" single parents. (See December 2005 edition of "rights review"). From 1 July 2006 it is proposed that a "principal carer" single parent whose child dies will continue to receive "principal carer" related payments, benefits and concessions for a period of 14 weeks after the child's death. This extension will not apply to parents who are new apprentices or parents who are full-time Youth Allowance students.

**Proposed date of effect:** 1 July 2006

## proposed exemption from the newly arrived residents waiting period for certain parents

"Principal carers" who qualify for

Youth Allowance or Newstart Allowance will be exempt from the Newly Arrived Residents Waiting Period of 104 weeks if they are an Australian resident and become single, as long as they were not a member of a couple with a dependent child at the start of their current period as an Australian resident. This exemption will not apply to parents who are New Apprentices or full-time Youth Allowance students.

**Proposed date of effect:** 1 July 2006

## extension of employment entry payment

Employment Entry Payment is to be extended so that a person who is serving an eight week non-payment penalty period may qualify for the payment (subject to satisfying other qualification criteria). Employment Entry Payment is also to be accessible to "principal carers" during a period while they are receiving a 14 week bereavement payment (see above).

**Proposed date of effect:** 1 July 2006

## proposed increase in maximum special benefit rate

The maximum rate of Special Benefit payable is to include an amount equivalent to Pharmaceutical Allowance where the Newstart Allowance or Youth Allowance rate that would otherwise be payable would include Pharmaceutical Allowance.

**Date of effect subject to passage of legislation**

## proposed extension of crisis payment

Crisis Payment currently cannot be paid to Special Benefit recipients who hold a temporary visa. Crisis Payment to be extended to Special Benefit recipients who hold a temporary visa.

**Date of effect subject to passage of legislation** ▲

# budget changes at a glance

The following is an outline of major 2006-2007 Commonwealth Budget announcements affecting Social Security and Family Assistance legislation. The proposed date of effect of each change is noted where known.

## Employment Entry Payment

Employment Entry Payment to be payable to people who secure employment while serving an eight-week non-payment period under the new penalty regime.

**Date of effect: 1 July 2006**

## Pharmaceutical Allowance

Pharmaceutical Allowance to be payable to recipients of Parenting Payment Partnered who claim before 1 July 2006, and who have a temporary incapacity for work.

**Date of effect: 1 July 2006**

## Utilities Allowance

Utilities Allowance to be extended to recipients of Mature Age Allowance, Partner Allowance and Widow Allowance.

One-off "bonus" payment equivalent to the maximum rate of Utilities Allowance (\$102.80) to be paid to each household or person eligible for Utilities Allowance on Budget night (9 May 2006). The bonus will be payable to households that include a recipient of Age Pension, Service Pension (Age Pension age), Mature Age Allowance, Partner Allowance or Widow Allowance. The bonus will also be paid to self-funded retirees eligible for Seniors Concession Allowance.

**Date of effect: 1 July 2006**

## Bereaved single parents

The higher "with child" rate of Newstart Allowance and Youth Allowance (unemployed) to continue to be payable to single parents in the event that their child dies, for up to 14 weeks.

**Date of effect: 1 July 2006**

## Carer bonuses

Lump sum "bonus" to be paid to Carer Payment and Carer Allowance recipients. The payments will be made before 30 June 2006.

Carer Payment recipients to receive \$1,000. Carer Allowance recipients to receive \$600 in respect of each person in their care who attracts Carer Allowance. People eligible for both Carer Payment and Carer Allowance on Budget night (9 May 2006) will be entitled to both lump sum payments.

People eligible for Carer Allowance and either Wife Pension or Dept of Veterans' Affairs Service Pension on Budget night will also be entitled to both bonus payments.

**Date of effect: June 2006**

## Carer Allowance

Diabetes Melitis to be included in the list of "recognised disabilities" attracting Carer Allowance.

**Date of effect: 1 October 2006**

## Crisis Payment

Crisis Payment to be payable to victims of domestic violence, whether or not they have left their home as a result of the violence.

**Date of effect: 1 July 2007**

## Large Family Supplement

Large Family Supplement, currently paid with FTB Part A to families with four or more children, to be payable to families with three or more children.

**Date of effect: 1 July 2006**

## Family Tax Benefit

Income test threshold at which income affects FTB Part A entitlement is to be increased to \$40,000.

**Date of effect: 1 July 2006**

## International Social Security Agreement with Japan

Social Security Agreement with Japan to be introduced. The Agreement will provide access to Age Pension for people who have lived in both Japan and Australia as adults.

**Agreement expected to commence from 1 January 2009**

## Pension Assets Test

The maximum amount of land adjacent to a person's principal home that is exempt from assessment under the assets test is currently two hectares, unless the Hardship Provisions apply.

The two hectare limit for the assets test principal home exemption will not apply for certain Age Pensioners and Carer Pensioners of Age Pension age who live on a farm or a large rural block to which they have a long-term (more than twenty-year) attachment. The land must be all on the same title and must be used primarily for domestic purposes.

**Date of effect: 1 January 2007**

## ABSTUDY

The ABSTUDY School Term Allowance payable for students under 16 to be paid in arrears, and only where there is evidence of attendance on 85% of school days. ABSTUDY Pensioner Education Supplement, and Living Allowance, to be restricted to four years for Australian Qualifications Framework Certificate I and II (vocational study) courses.

**Date of effect: 1 January 2007 ▲**

# centrelink investigations under scrutiny

**T**he Welfare Rights Centre has been concerned for some time about the intimidation and harassment of people being investigated by Centrelink. Of particular concern are the investigations into whether or not a person is in a “marriage-like relationship”. Of further concern is that when Centrelink has made an adverse decision, the person affected is often not correctly advised of their appeal rights.

If Centrelink determines that a person is in a marriage-like relationship (MLR) they are not entitled to the higher single rate of payment, and depending on the “alleged” partner’s earnings may not be entitled to any payments at all. Obviously a determination that a person is in an MLR can have a significantly detrimental impact on them, especially if they are a sole parent caring for young children.

## incorrect information on appeals

Of particular concern is that the Centre has noticed a pattern in some Centrelink investigation officers giving people they are investigating incorrect or misleading information about their appeal rights.

The Centre is aware of numerous examples where a Centrelink officer has determined that the person is in an MLR with another person and cancels their Parenting Payment Single. They then tell the person that the **only** way to get any income is to claim the partnered rate of Parenting Payment. This is completely incorrect. Firstly, Centrelink should be advising people of their appeal rights. A person whose payment has been cancelled because Centrelink determines they are in an MLR has the right to appeal against the decision to cancel their Parenting Payment Single, and a further right to seek payment at the single rate pending the outcome of the review. It is completely incorrect for Centrelink to force a person to concede that they are partnered as the only way to receive payment. Many of our clients have reported feeling pressured and intimidated into conceding they are partnered,



even when they are single. They feel they have no choice or they and their children will be left in poverty.

## failure in duty

The Centre has noted a number of times where Centrelink officers advise a person that they **cannot** appeal unless they have two supporting statements from professional people (e.g. doctors, solicitors). Whilst Centrelink officers may want a person to have two supporting statements from professional people confirming the person is single, the law does not require these statements to be provided in order for the person to appeal. In one case the Centre

even found this incorrect advice in a file note written by a Centrelink officer on one of our client's Centrelink files.

The Centre is extremely concerned that Centrelink officers are failing in their duty to correctly advise extremely vulnerable groups in our community about their appeal rights.

The Commonwealth Ombudsman is currently examining Centrelink practices with regard to how it conducts investigations into MLR. Centrelink is also reviewing its procedures and hopefully the issues identified by the Centre will be addressed. ▲

# handbook online now available free in Queensland!

**T**he Independent Social Security Handbook ONLINE is now available free to community workers in Queensland as a result of the Welfare Rights Centre and the Queensland Government's Department of Communities entering into a partnership to ensure that this important resource is available to community and welfare workers in that state. Queensland state government employees can also access the Handbook ONLINE.

The Handbook ONLINE contains 47 chapters, including information on the eligibility criteria for Social Security payments, income and assets tests plus detailed information about a person's appeal and legal rights. If your job requires you to know about Social Security and to help people with their Social Security problems the Handbook ONLINE is the resource you need to have. The Handbook ONLINE is updated each quarter to take into account changes to Social Security law and its administration. The Handbook ONLINE is currently going through a major update for the "welfare to work" changes which are to be implemented from July 2006.

## how to access

If you are a community worker in Queensland or a state government employee in Queensland it is easy to access the Handbook ONLINE. Simply go to the website [www.welfarerights.org.au](http://www.welfarerights.org.au) and register and you will then have access to the Handbook ONLINE. After you have registered simply click on the "Independent Social Security Handbook" and go to the chapter you want. The Handbook ONLINE also contains self help forms, such as "appealing to an Authorised Review Officer" which will help you to help your clients.

## access for other states

If you are in NSW you can access the Handbook ONLINE through the HSNET website ([www.hsnet.nsw.gov.au](http://www.hsnet.nsw.gov.au))

If you are in South Australia, Western Australia or Tasmania you can access the Handbook ONLINE through registering at the National Welfare Rights Network's website ([www.welfarerights.org.au](http://www.welfarerights.org.au)).

## victoria

For a number of years the Handbook ONLINE has been available to most state government employees in NSW, Tasmania, South Australia and Western Australia and to most community workers in those states. The Centre is currently seeking to extend this arrangement to Victoria which is currently the only state

which has not agreed to enter into a subscription arrangement with the Welfare Rights Centre to make the Handbook ONLINE available free to community workers and state government employees in that state. Should community and welfare agencies in Victoria want access to the Handbook ONLINE they are currently required to take out individual subscriptions with the Welfare Rights Centre. ▲

## DSP granted

**E**ric was found "not guilty" of a criminal offence he had been charged with "by reason of mental illness". He was undergoing psychiatric confinement as a forensic patient when he claimed Disability Support Pension (DSP). His DSP claim was rejected on the ground that he was over Age Pension age. More than six months later, Eric contacted the Welfare Rights Centre for advice. We advocated on his behalf arguing that a number of beneficial provisions in the Social Security Act should be invoked on his behalf.

The first was the provision in the Act which allows Centrelink to treat a claim for one kind of payment as being a claim for another type of payment. In Eric's case, this meant treating his claim for DSP as having been a claim for the Age Pension. Centrelink agreed to do so.

The second was the set of provisions which permit a person to be paid certain types of payment where they have been incarcerated or are in psychiatric confinement having been charged with an offence but found not fit to stand trial or not guilty by reason of mental illness. Age Pension is one such payment, although

interestingly few of the people at Centrelink with whom we spoke about this case actually realised that this provision applied to the Age Pension (although many were aware it applied to the DSP).

In the end, Eric was granted Age Pension and payments were backdated to the date that he first claimed DSP. This now means that if his release is conditional upon entering into another appropriate institution or care situation, he will have the money required to meet the costs applied by the relevant institution. ▲

## weekly payment trial a success

**A** strong campaign by community agencies on behalf of vulnerable clients, support from local MP's across Australia, and finally, the intervention of the Prime Minister, has seen the Department of Employment and Workplace Relations reverse a previous decision to end a Centrelink trial of weekly payments.

Fifty percent of the 1,700 trial participants were on Disability Support Pension and the overwhelming majority of trial participants suffered from a mental health problem or some form of addiction.

The National Welfare Rights Network (NWRN) wrote to the Minister for Human Services, Joe

Hockey, and the Minister for Workforce Participation, Dr Sharmane Stone, urging the Government to maintain the trial until it had been formally evaluated.

Community agencies on the ground report that a number of their very vulnerable clients who were part of the trial had improved health and personal outcomes, more stable

accommodation and reduced costs in terms of demands on the health and legal systems.

The NWRN will await with interest the results of the evaluation and expects that there will be significant support for a more formal policy that allows access to weekly payment of Centrelink payments. ▲

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## duty of care neglected

**L**inda registered for the Age Pension Bonus Scheme (APBS) in 1999. She continued to work for a number of years after reaching Age Pension age. When she retired she lodged a claim for the Age Pension at her local Centrelink office. On the Age Pension claim form Linda advised that she had previously registered for the APBS. The Age Pension claim was lodged but no claim for the APBS was lodged at the same time. Linda was granted the Age Pension but was subsequently refused the APBS on the grounds that she had not lodged the claim for the APBS simultaneously with the Age Pension claim.

The Centrelink decision was correct as Social Security law requires that where a person lodges a claim for Age Pension and the claim form advises the person to notify if they have registered for the APBS, then the claim for the APBS must be lodged with the Age Pension claim

form if it is to be paid.

An appeal to the Social Security Appeals Tribunal was unsuccessful. Linda then lodged an appeal to the Administrative Appeals Tribunal. Centrelink acknowledged that it had failed in its duty of care as the officer who accepted Linda's Age

Pension claim form should have notified her that it was necessary for her to lodge a claim for APBS at the same time. Centrelink settled the matter and paid Linda 50% of her entitlement to the APBS.

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## exemption from activity test: AAT case

**C**entrelink had raised a \$7,000 Youth Allowance debt against Sam as he had ceased to be a full-time student. Sam had been unable to continue studying as he had provided substantial support and care for his younger brother during the debt period.

Sam's brother had left his mother's home when he was 13. He was using drugs and got in with the wrong crowd. He was charged with committing a number of violent criminal offences. The brother was expelled from school. He had no parental supervision.

The brother moved in with his uncle who suffers from schizophrenia, and his father who was a drunk and chronic gambler. Our client decided to move into the flat in order to care for his delinquent brother, even though he was only 19 years old. As well as practical

support such as cooking and cleaning, Sam counselled his brother and tried to control his behaviour. His brother's parole officer recognised Sam as the primary carer. Prior to the debt period Sam had advised Centrelink that he was moving in with his brother to provide care and support, as well as trying to attend TAFE.

Unfortunately Sam had to stop his studies because of his responsibilities to his brother. Centrelink eventually raised a debt for the period when he was unable to study.

The Welfare Rights Centre represented Sam at the Administrative Appeals Tribunal. We were successful in arguing that our client should not owe a Youth Allowance debt because there were special circumstances that meant it was unreasonable to expect him to undertake study or do any job search activities during the debt period. The Tribunal accepted that Sam should retrospectively be exempt from the Youth Allowance activity test due to "special circumstances". ▲

# more sense needed to sell smart card

**B**y 2010, millions of Australians could essentially be required to have a Smart Card, if the Federal Government has its way. It was announced in the recent Federal Budget that \$1.1m is to be provided for the first phase of implementation of the Smart Card, which the Government claims would reduce welfare and health fraud by \$3 billion over a 10 year period.

The Smart Card would be compulsory for any person seeking a Centrelink or Medicare payment from the Federal Government. One of the major selling points of the proposed card is that it would replace the 17 current cards that are used to access a wide range of health and welfare services. Medicare and Centrelink payments could also be automatically credited to the card, which could also be switched off, so that a person would not be able to obtain concessional rate medicines under the Pharmaceutical Benefits Scheme.

## dodgy maths

The view of the National Welfare Rights Network (NWRN) is that the Smart Card makes a lot of sense in rationalising 17 cards into one, but we have been critical of the Government for relying on dodgy maths and false claims about Social Security fraud and the capacity of the "Smart Card" to significantly reduce this.

In a recent meeting with Joe Hockey, Minister for Human Services, who is responsible for the implementation of the Smart Card, the NWRN disputed his claim that it is easier for a person to obtain Social Security than to hire a video, a claim which the NWRN views as not only absolutely false, but extremely irresponsible.

The Government has massively exaggerated the extent of savings that are likely to be achieved from the introduction of the Smart Card. It claims that the Smart Card will lead to \$3 billion in savings over a 10 year period. This would be average savings of \$300 million each year. However, data on Centrelink's "Fraud Statistics" web



page reveal that in 2004-05 convictions for welfare fraud involved \$41.2 million.

As the Government's own advertisements say, most people (in fact 99.5%) do the right thing. Social Security fraud in Australia is actually minuscule at less than 0.5% (half of one percent) of the 6.5 million recipients. Most Social Security fraud relates to reckless or intentional failure to correctly declare income – very little relates to identify fraud.

The Government must produce clear and coherent reasons for the introduction of a Smart Card and should not rely on dodgy maths about the extent of Social Security fraud to convince the Australian public.

## misrepresented

To the extent that it does so, in the

face of all the evidence, the Government tarnishes the reputation of every person on Social Security, including Age Pensioners and Family Tax Benefit recipients, carers and unemployed people. In order to sell the benefits of the Smart Card, the Government has either erred or misrepresented the real extent of Social Security welfare fraud in Australia.

Critics of the Smart Card proposal also raise privacy concerns, and suggest that the scope and ultimate function of the card is unclear. Critics also bemoan the lack of public consultation so far and the potential for cards to be hacked. These issues must also be addressed in a clear and transparent process before the Government takes this proposal any further. ▲

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