

social security payments for new residents

The two-year newly arrived resident's waiting period has been in place for over three years, so it is not surprising that most community organisations and newly arrived residents are aware of it.

Many agencies also understand that there are exemptions from the waiting period and that some temporary visas attract payment, but these rules are complex and difficult to understand. This means that many new migrants struggling to settle in Australia can miss out on entitlements.

This practitioners' guide is a brief outline of the main exemptions from the two-year waiting period and other residency rules, and sets out the payments for which holders of particular temporary visas may be eligible.

two-year waiting period

A two-year waiting period generally applies to permanent visa holders claiming Newstart, Sickness, Youth, Mature Age, Partner, Widow, and Mobility Allowance, and Carer Payment. The Health Care Card and the Commonwealth Seniors Health Card are also subject to a two-year waiting period.

Special Benefit can be paid to holders of specified temporary visas as well as to permanent visa holders. Although Special Benefit is subject to a two-year waiting period, the waiting period can be waived if Centrelink accepts that the claimant "has suffered a substantial change of circumstances beyond their control".

waiting period exemptions

The two-year waiting period does not apply if the person:

- migrated to Australia before 4 March 1997;
- is the holder of a refugee or special humanitarian visa, or their "family member" is a holder of one of these visas;
- is a "family member" of an Australian citizen or of a long-term resident (Special Benefit only);
- entered Australia as a "special need relative" (Carer Payment only);
- is an "innocent illegal"

The waiting period usually commences from the date the person entered Australia or the date the permanent visa was granted, whichever is the later, but people who previously held a visa of a specified type before their permanent visa was granted serve the waiting period from the date they applied for the temporary visa. The specified types of visa are currently class 309, 310, 781, 784, 820, and 826.

The fundamental problem for Centrelink in administering these exemptions is that unless they have been made aware of the basis on which a person was granted a permanent visa, or of the class of temporary visa that a person holds, people who are exempt from the waiting period may be deterred from claiming despite the fact that they are exempt. It is useful for advisers to establish whether the person is exempt by checking their passport and DIMA documentation. If they are apparently exempt, a letter of introduction to Centrelink for the person to take with them when they are claiming can ensure that your client is not inappropriately deterred from claiming.

temporary visas and social security

Family Tax Benefit and Special Benefit are the only payments for which temporary visa holders can qualify.

Family Tax Benefit can be paid to people who hold a temporary visa type 437, 781, 783 or 784.

Special Benefit can be paid to holders of temporary visas class 309, 310, 781, 784, 785, 820 or 826.

rate of payment

Where one member of a couple is entitled to Social Security but the other has either a two-year waiting period or a qualifying residence period, the eligible partner's rate is generally paid at the "married rate" – ie, at a lower rate than that for a single person. This means that their rate will reduce when they marry or commence a defacto relationship, even where their partner has no means of support or is still overseas.

Apart from ensuring that the partner is, in fact, ineligible for Social Security, the only means of alleviating the hardship caused by this rule is to ask Centrelink to pay the eligible member of the couple at the single rate under section 24 of the Social Security Act.

As with the exemptions, applying s24 can be overlooked by Centrelink unless an application is made, making specific reference to s24.

families where parents are not qualified

It is easy to forget that Special Benefit is not age limited; a one-day-old baby who is a citizen by virtue of one of their parent's citizenship, can qualify. This means that where a citizen child is without adequate means of support (because their parent/guardian is not residentially qualified to receive Special Benefit) their parent/guardian should claim Special Benefit on their behalf, ie, in the baby or child's name.

confused?

Of course! Please call the Welfare Rights Centre on telephone 9211 5300 or 1800 226 028 (for those calling from outside of Sydney) for assistance and advice. ▲