

Submission to the “Purpose, Intent and Adequacy of the Disability Support Pension” Discussion Paper by the Rights Information and Advocacy Centre Inc.

The Rights Information and Advocacy Centre Inc. (RIAC) welcomes the opportunity to contribute a submission in response to the “Purpose, intent and adequacy of the Disability Support Pension” Discussion Paper.

About RIAC

RIAC is a not-for-profit organisation empowering communities across 22 local government areas operating throughout central and north-western Victoria, Geelong, and southern NSW, providing information and advocacy support to individuals, families, carers, and communities.

RIAC is funded by the Commonwealth and Victorian Governments to provide issue based individual and systemic advocacy assistance to people living with a disability.

Reference Items - Summary

We will address the following topics relating to the following Terms of Reference:

- b. the DSP eligibility criteria, assessment and determination, including the need for health assessments and medical evidence and the right to review and appeal;
- c. the impact of geography, age and other characteristics on the number of people receiving the DSP; and
- k. any related matters.

Recommendations:

1. Exemptions from participation in a Program of Support (POS) to be more freely granted to applicants with severe Impairments.
2. Targeted training for medical professionals on the DSP eligibility criteria.
3. Specialists and GP’s to be informed of the obligation that they have to provide supporting evidence and letters of support.
4. Introduction of government subsidies for the costs of specialist medical reports.

5. That the DSP process be facilitated and tailored to address the additional challenges faced for applicants in rural and remote regions.
6. Centrelink to contact treating doctors for applicants who are experiencing difficulty with the collection of medical evidence.
7. Centrelink to provide full disclosure of reasons for an initial DSP rejection in their decision letter to applicants.
8. Single point of contact to assist with the process from start to finish.
9. Education for Disability Employment Service (DES) Providers about the POS and the DSP

Reference Items - Detail

b. the DSP eligibility criteria, assessment and determination, including the need for health assessments and medical evidence and the right to review and appeal;

RIAC would like to highlight the difficulty a vast majority of applicants have with gathering the appropriate medical evidence to support their application. These difficulties arise from two main factors. First and foremost is the cost associated with reports. Some clients have reported that their treating doctors have requested \$500-600 for a report to support their DSP application. These clients are usually on a Centrelink payment such as Jobseeker and have disabilities which prevent them from working 15 hours or more per week. It can therefore be safely assumed that these clients cannot afford to fund the cost of these reports. This is therefore discriminatory, as they are unable to accurately support their application with the relevant evidence required for them to be deemed eligible for the DSP. This is not in alignment with Article 5.1 of the UN Convention on the rights of persons with Disabilities, which states that “States Parties recognise that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law”. Under the current system, these applicants are not receiving the equal benefit of the law – that is, genuine candidates for the DSP are missing out on support payments that they are entitled to, because of their disability, and inability to afford the cost of medical reports regarding their own medical information. This is an issue that needs to be addressed, as many applicants are being severely disadvantaged due to the attitude of their treating medical doctors. Some applicants, however, have doctors who are more than happy to support their patients by providing medical reports for them, free of charge. This inconsistency therefore needs to be addressed and a uniform approach to the supply of medical reports needs to be enforced. The most disadvantaged members of our community should definitely not be put into a position where they are forced to choose between paying for groceries, rent, electricity or their specialist medical report.

The second issue faced by applicants who are seeking medical evidence from their treating doctor, is the flat refusal of some medical practitioners to provide any supporting evidence at all. Feedback received from clients is that some doctors have stated that this is “not their job” or that they ‘flatly refuse’ to fill out paperwork. This again leaves our clients in a difficult situation. Their treating doctors are often their long-standing family doctor, with whom they have developed a relationship of trust and confidence. These doctors are in the best position to provide the most accurate evidence, but their lack of time and/or willingness to write reports or complete paperwork has become a real and highly challenging obstacle for many DSP applicants. Often, it is in these situations that disability advocates become crucial in supporting applicants. We are often required to communicate with treating doctors to explain the eligibility criteria of the DSP and reiterate the importance of their co-operation and assistance, and the fact that providing support for their patients is part of their duty of care to their patients. Again, this inconsistency and lack of a defined structure or procedure is leaving some applicants in a real position of disadvantage. Clients have reported that in some instances, when trying to make an appointment with a new doctor, in the hope of obtaining medical evidence regarding their medical conditions, they are told at the outset by medical clinic administration staff, that their doctors “do not provide letters or reports for insurance claims or DSP applications”. This point highlights the conundrum faced by applicants, many of whom are genuine cases that meet the eligibility criteria for the DSP. We therefore recommend that the current requirements for medical evidence be reformed to provide a more fair, consistent, and affordable process of information transfer.

Often encountered is the issue that reports provided by doctors do not address all of Centrelink’s DSP eligibility criteria. This is usually because medical/allied health professionals are not aware of the eligibility criteria for the DSP. This often causes a great deal of confusion and delays for applicants seeking to apply. In addition to this, applicants requiring reports from their specialists are waiting for months and sometimes years to see a specialist due to the long wait lists. Covid-19 restrictions have exacerbated this problem, delaying appointments even further. Once the report is finally obtained, the frustration for the applicant of it not being adequate in terms of addressing Centrelink’s eligibility requirements, contributes to the frustration experienced by applicants.

Another difficulty faced by applicants is the issue of General Practitioners not actively referring their patients to specialist doctors. The feedback we have received behind the reasons for this is that many clients does not have the means to travel to the city where most specialists are located. Their ability to

travel to the city may be hampered either due to financial constraints, by their patient's health or a lack of support to attend an appointment within an unfamiliar city environment.

c. the impact of geography, age and other characteristics on the number of people receiving the DSP;

We would like to address the impact that Geographical location has on DSP applicants living in rural and remote regions. The substantial disadvantage experienced by these applicants must be acknowledged and addressed so that the application process can be reformed towards a fairer and more equitable system for these residents. Currently, these applicants are disadvantaged in numerous ways. Firstly, is the issue of collecting supporting medical evidence. In order to obtain specialist reports, patients need to schedule appointments with a specialist. In rural regions, access to specialists is almost unheard of. In cases where specialists actually roster a small remote town into their schedule, the lengthy wait time for appointments is completely impractical, particularly given the timely requirements of medical evidence for eligibility purposes. Or, when travel to a larger town or city is required, the ordeal of catching public transport, or sitting for prolonged periods can be overwhelming for those with physical and/or mental health conditions. In many remote areas, the timetable for a bus trip into the city can be as seldom as 1 bus leaving per week, at a particular time and day. The impracticality of this does not warrant further explanation. The cost of travel and accommodation must also be considered, given that the majority of these applicants are living on minimal income.

The effect of this process on an applicant's mental health and sense of self-worth can be dramatic, when they feel they are needing to 'jump through hoops' to justify the existence and severity of a disability that they struggle to live with on a daily basis. In addition, for applicants that are able, the lack of employment opportunities in rural and remote areas for people with a disability, again impacts detrimentally on their sense of independence and dignity. We therefore recommend that the application process be facilitated and tailored to address these issues, for applicants living in regions classified as rural or remote.

k. any related matters.

1. Lost documentation and Incorrect / Inconsistent information provided by Centrelink

We would like to highlight the overwhelming feedback we receive from clients regarding the misinformation they receive from Centrelink customer service staff when attending their local Centrelink

branch. Clients report that they can ask the same question to different staff on different days, and that they can receive two completely different responses. In addition, and perhaps more problematic, is the constant reports that Centrelink have 'lost' entire DSP applications, medical evidence, medical certificates, etc. This overwhelming feedback leads us to always remind clients to make copies of any documents submitted to Centrelink and to ensure that receipt numbers are requested when any documents are lodged. It is completely unacceptable that the most vulnerable and disadvantaged members of our community are being subjected to what can only be described as Centrelink 'incompetence'. We therefore recommend that Centrelink introduce different measures and processes to ensure that documents be securely uploaded onto their customer databases, and that staff be more adequately trained in their area of specialty.

2. The complex application process for the DSP.

a) The evidence requirements and application process for the DSP is too complex for many people with disabilities to navigate – especially people with cognitive and mental health impairments. People can face many barriers during the application process and without support, many people would find the process too overwhelming, and would abstain from applying. There is not enough funding to keep up with the demand for requests to support with the DSP application process and technically this does not fall into the scope of our core business. Our service however is usually inundated with requests for assistance, and we respond because the client is otherwise left with no other available support. Unfortunately, it is not unusual that we are forced to add clients to a waiting list which can compound the anxiety that they experience with the process.

b) The application process is not consistent with the Convention on the Rights of Persons with Disabilities - the complex process is inaccessible (Article 9), and it does not afford people equal recognition before the law (Article 12). Article 12(3) requires our government to take appropriate measures to provide persons with disabilities with the support they may require in exercising their legal capacity. The current level of support offered for applying for the DSP does not meet this. Centrelink staff offer no support to applicants, many of whom are illiterate, or have no computer skills.

3. Lack of reasons provided in Centrelink Decision Letters

We would like to discuss the need for improvement in the correspondence provided by Centrelink when communicating a declined outcome for an application for the DSP.

In general, when an application is rejected by Centrelink, a generic letter is sent to the applicant, advising that their application has not been successful as they did not meet the 20-point eligibility criteria. They

do not provide any further details to enlighten the applicant on the specific areas of their application that did not meet the requirements. This does not provide the applicant with any insight into what further evidence to support the applicant's claim. They do, however, fulfill the legislative requirement of informing applicants of their right to appeal the decision. Unfortunately, the reality is that the vast majority of applicants simply submit a request for review, but do not submit any further evidence to substantiate the review. The outcome for almost all these applicants is another rejection. This issue could be substantially ameliorated if Centrelink provided a more comprehensive response when advising an applicant of a declined application. An example would be to define why a particular medical condition had not been allocated any points under an Impairment Table – For example, that the applicant had not submitted sufficient evidence to demonstrate that the condition had been fully treated. This additional information would greatly facilitate and guide the applicant on what further evidence was required. If this step was introduced early, many eligible applicants would have their application accepted at the initial Authorised Review Officer (ARO) stage, rather than further down the appeals process, such as the Administrative Appeals Tribunal (AAT) stage. This would therefore be a beneficial cost saving measure and would significantly alleviate the detrimental effect on the mental health of applicants that a prolonged appeal process inherently causes.

4. Participation in a Program of Support (POS)

One of the pathways in which applicants can become eligible for the DSP is if they meet all the medical and non-medical criteria, but do not have a severe impairment which attracts a rating of 20 points under a single Impairment Table. We would like to highlight that completion of this program can be very problematic to applicants who otherwise meet both the medical and non-medical rules for eligibility.

There are several issues which contribute to this difficulty. The first being that participants are often too unwell to 'actively' participate in the program. They then seek medical exemptions through their treating doctor, and subsequently are never able to complete the 18 months required for most programs. This issue is then exacerbated by the fact that the case managers involved from the Disability Employment Service (DES) networks do not fully inform applicants that medical exemption periods do not contribute towards their active participation period. Furthermore, we are often advised by our clients that the DES providers are actively encouraging participants to submit medical exemptions during their times of severe ill-health. Often, we as advocates, inform applicants of this and they are disappointed and distressed at the information. They advise us that they were not informed of this by the DES agencies that

are supposedly supporting them. This then delays their applications for the DSP and essentially renders them ineligible to apply as they have (unknowingly) not completed their POS requirements.

Another issue that contributes to the difficulty of the POS is that the provisions under the Social Security Guidelines allows for participants to be exempt from the program under certain circumstances. The guidelines allow for exemptions in cases where “the person was unable, solely because of his or her impairment, to improve their capacity to prepare for, find or maintain work through continued participation in the program.” In practice however, this is rarely, if ever, seen.

In numerous instances, enquiries have been made to DES providers on behalf of clients, requesting an exemption from the POS due to the client’s severe physical and/or mental health issues. The response consistently received is that the provider “does not do this” and that the client needs to continue in the program. This creates a vicious cycle for the client, as they are not immediately eligible for the DSP under the ‘severe’ impairment pathway but are too unwell to participate in their POS and are unable to be exempted from the program. We therefore strongly recommend that current DES provider policies be altered to take this into account, and that exemptions be more freely granted to applicants in these instances.

RIAC has also received numerous reports from clients who have experienced other difficulties with DES providers. Below is a recent example:

Case Study 1

A client approached our service for assistance with her DSP application. She suffered from numerous physical and mental health conditions. She described her experience with a local Disability Employment Service (DES) Provider as “hell” and “the worst time of my life”. This client is an educated, articulate, and professional person who worked for over 20 years as a Division 1 Nurse in numerous major Melbourne Hospitals. She approached the DES provider in June of 2019 shortly after being unable to work full time due to a severe decline in her health. She was advised that she was able to be enrolled in their DES program, and that an assessment would soon be organised for her. Unfortunately, her calls were then often unanswered, and then numerous scheduled appointments were cancelled by the provider.

When, by March of the following year, she had still not received any assistance from the provider, she enquired whether she had officially been registered on their ‘system’. She was told that she was not, due to the provider being at a “reduced capacity”. The applicant was therefore extremely frustrated and angry, and her mental health deteriorated severely. Her application for the DSP was therefore delayed by almost a year, and she was experiencing severe financial hardship. She was unable to pay her rent and was provided with food from the Food Bank. She was eventually made aware of our service.

Following our assistance, she was granted the DSP. She suggested that a Centrelink referral to an advocacy service should become a compulsory step for DSP applicants who are experiencing severe physical and mental health challenges.

In closing the key suggestions to address the issues outlined above are:

Education, training and support for medical professionals, Disability Employment Service providers, and Centrelink staff to ensure that information provided and requested is consistent, clear, meets the criteria required, and that all parties understand their responsibilities and obligations.

Information provided to applicants needs to be consistent, simple, transparent, and unambiguous with an appropriate level of detail and clear reasons provided for decisions.

Support for DSP applicants including addressing challenges faced by rural and remote applicants, introduction of subsidies for necessary medical reports, assisting with contacting treating medical professionals, and providing a single point of contact to assist applicants to navigate the process.

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