



public interest
ADVOCACY CENTRE

Submission to the inquiry into the purpose, intent and adequacy of the Disability Support Pension

30 July 2021

About the Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is a leading social justice law and policy centre. We are an independent, non-profit organisation that works with people and communities who are marginalised and facing disadvantage.

Established in 1982, we build a fairer, stronger society by helping to change laws, policies and practices that cause injustice and inequality. Our work combines:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change and public interest outcomes.

Our priorities include:

- Reducing homelessness, through the Homeless Persons' Legal Service
- Access for people with disability to basic services like public transport, financial services, media and digital technologies
- Justice for First Nations people
- Access to sustainable and affordable energy and water (the Energy and Water Consumers' Advocacy Program)
- Fair use of police powers
- Rights of people in detention, including equal access to health care for asylum seekers (the Asylum Seeker Health Rights Project)
- Improving outcomes for people under the National Disability Insurance Scheme
- Truth-telling and government accountability
- Climate change and social justice.

In 2004, PIAC established the Homeless Persons' Legal Service (HPLS). HPLS has provided legal assistance to more than 8,000 people who are homeless or at risk of homelessness, on over 11,000 occasions. HPLS provides free legal advice at 16 legal advice clinics in the Sydney and Hunter regions.

In 2009, PIAC established its homeless consumer advisory committee StreetCare, whose members have lived experience of homelessness. StreetCare is a diverse group, including women and men of different ages, Aboriginal people, and representatives from inner Sydney, outer suburbs and rural and regional areas. With support from PIAC, StreetCare provides direct input from people with a lived experience into government policy making and law reform initiatives, to tackle the structural determinants of homelessness.

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Summary of recommendations

Recommendation 1

Increase DSP payments so recipients can afford adequate housing, food, utilities, healthcare, transport, education, and other essential needs.

Recommendation 2

Amend DSP income rules to reduce work disincentives.

Recommendation 3

Services Australia to provide vulnerable clients, including people experiencing homelessness, with social worker support and referrals to services to assist with their social security claims.

Recommendation 4 – Review and simplify the DSP application process

Consult peak bodies including specialist welfare rights bodies such as EJA, and people with lived experience, about the best mechanisms to simplify the DSP application process.

Recommendation 5

Review and amend the Guidelines for Table 5 – Mental Health Function to facilitate access to the DSP for people with mental health conditions with limited or no capacity to work.

Recommendation 6 – Ensure DSP applicants experiencing homelessness can obtain medical evidence

The Australian Government should consider options such as a specific Medicare Benefits Schedule (MBS) item for completing DSP forms and/or the preparation of DSP evidence, specific funding made available to DSP applicants through Services Australia, or specific funding made available to specialist legal homelessness services.

Recommendation 7

Re-introduce a Treating Doctor Report (TDR) or equivalent.

Recommendation 8

Amend section 3.11.5.20 ‘Special circumstances’ in the Social Security Guide to clarify that people experiencing homelessness shall be granted mutual obligations requirements exemptions.

Recommendation 9

Develop programs and/or referral pathways to support people on community treatment orders and guardianship orders to apply for DSP.

Recommendation 10

Amend the Social Security Guide to state that community treatment orders and guardianship orders shall be considered a strong indicator of no or limited overall capacity to work.¹

¹ For example, in 3.6.3.50 Guidelines Table 5 – Mental Health Function.

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Introduction

Homelessness can happen to anyone, but people with disability are at increased risk.² This is due to a combination of factors including:

- discrimination in the labour and housing markets,
- limited capacity to work and/or sustain tenancies
- lack of adequate support services and suitable housing.

Some people with disabilities such as learning difficulties or mental illness are at even greater risk of homelessness.³ The proportion of people with disability, in particular mental health issues, is higher amongst people with chronic experiences of homelessness and/or of rough sleeping.⁴ Around 8% of Specialist Homelessness Services (SHS) clients had disability in 2018-19.⁵ Of these, one third had severe or profound disability.⁶

In 2019-20, HPLS assisted 665 people facing disadvantage in 952 legal advice sessions, with a range of legal issues including tenancy, employment, social security, and criminal matters. 68% of HPLS clients identify as having disability and/or substance use disorder.

PIAC welcomes the opportunity to comment on the purpose, intent and adequacy of the Disability Support Pension (DSP). Our submission reflects our experience advocating for people at risk of or experiencing homelessness. It includes contributions by PIAC's lived experience advice committee, StreetCare. In preparation for this submission we also consulted with support workers and clients at The Shed, a service agency that hosts HPLS legal advice clinics, and NEAMI National, a leading agency supporting people experiencing homelessness.

We have changed the names used in this submission to protect privacy.

1. Homelessness and people currently receiving DSP

Our submission will focus on issues raised by the terms of reference that are relevant to clients we assist through the Homeless Persons' Legal Service (HPLS).

1.1 Objective of the DSP

A clearly defined objective is vital to the process of designing social policy including setting payment levels and evaluation. Currently, the Social Security Guide defines the 'objective of the DSP' as 'an income support payment for people who are unable to work due to permanent

² Chamberlain C & Johnson G, 'Pathways into adult homelessness' (2011), 49 (1), *Journal of Sociology*.

³ Beer A, Baker E, Lester L, and Daniel L, 'The Relative Risk of Homelessness among Persons with a Disability: New Methods and Policy Insights' (2019) 16 (22) *International Journal of Environmental research and Public Health*, 4304.

⁴ Australian Institute of Health and Welfare. *Specialist Homelessness Services annual report 2018–19*. (Report, 2019).

⁵ Australian Institute of Health and Welfare. *People with disability in Australia 2019: in brief*. (Report, 2019).

⁶ Ibid.

physical, intellectual or psychiatric impairment'.⁷ This narrow view of the purpose of the DSP does not reflect a social and human rights approach to disability. The United Nations Convention on the Rights of Persons with Disabilities defines its purpose as:

to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

PIAC recommends defining the objective of the DSP as: 'an income support payment that enables people with disability with no or limited overall capacity to work, to live with dignity and supports their full and effective participation in society'. Living with dignity includes access to adequate housing, food, utilities, healthcare, transport, education, and other essential needs.

This aligns with recommendations by Economic Justice Australia (EJA) and the Australian Council of Social Services (ACOSS) that a fair social security system is one that would allow people to live with dignity and free of poverty regardless of their individual circumstances.⁸

1.2 Inadequate payment levels contribute to homelessness and financial hardship

Around 25% of HPLS clients rely on the DSP as their main income. The maximum rate of the DSP, for people over the age of 21, is \$952.70 per fortnight for a single person, and \$718.10 each for a couple.⁹ This includes the maximum pension supplement and the energy supplement.¹⁰ Due to inadequate payment rates recipients of the DSP are unlikely to be able to afford a private rental and are at serious risk of homelessness and/or severe and permanent financial hardship. DSP payment levels should be raised to allow people with disability with no or limited overall capacity to work to live with dignity.

Data from the December 2020 Rental Affordability Index shows that for a person with a yearly income of \$30,000 rents are severely unaffordable to extremely unaffordable across the country. Median rent for a one bedroom dwelling represents 79% of income in Greater Sydney and 41% in the rest of NSW.¹¹ The yearly income of a single person on DSP is around \$25,000. People on the DSP often have additional expenses due to their disability because of their need for medical treatment and medications, specialised transport, and accessible, newer housing. After housing costs, they live in poverty.¹²

⁷ Australian Government, *Social Security Guide version 1.282*, 1.2.5.10 Disability Support Pension (DSP) Description (Guidelines, 2021)

⁸ Economic Justice Australia, 'About Us' (Website, Tuesday 27 July 2021) <<https://www.ejaustralia.org.au/wp/about/>>, ACOSS, *Next steps for Income Support* (Briefing note, 2020).

⁹ Not all DSP recipients receive the maximum rate because personal and partner's income and assets affect payment rates.

¹⁰ Services Australia, 'Payment rates', *Services Australia website, Disability Support Pension, How much you can get, payment rates* (Website, Tuesday 15 June 2021) <<https://www.servicesaustralia.gov.au/individuals/services/centrelink/disability-support-pension/how-much-you-can-get/payment-rates>>

¹¹ SGS Economics & Planning, *Rental Affordability Index December 2020 Key Findings*, (Report, 2020), p14-18.

¹² Davidson, P., Saunders, P., Bradbury, B. and Wong, M. (2020), *Poverty in Australia 2020: Part 1, Overview*. ACOSS/UNSW Poverty and Inequality Partnership Report No. 3, Sydney: ACOSS.

'Being on the DSP and being homeless is impossible'

Members of StreetCare, PIAC's consumer advocacy group, told us surviving on the DSP while experiencing homelessness is extremely difficult, in part due to the increased costs associated with homelessness.

'Being homeless or having unstable housing is expensive. Moving houses all the time costs money.'

'Being on the DSP is absolutely horrendous. I literally had to decide: "Will I feed my cat? Will I eat? Or will I take my cat to the vet?"'

Not only are people receiving the DSP forced to live in poverty, they are also likely to remain on this payment for prolonged periods of time due to their low prospects of securing employment. 82% of DSP recipients have been receiving the payment for over 5 years.¹³ The most common exits off the DSP are the age pension or death, with only 4% of those receiving the DSP in 2009 not on income support by 2018.¹⁴

Recommendation 1

Increase DSP payments so recipients can afford adequate housing, food, utilities, healthcare, transport, education, and other essential needs.

1.3 Disincentives to work

Income support payments should enable people to take up work opportunities. DSP income rules create disincentives to work. DSP rates reduce by 50c for every dollar of income above \$178 per fortnight for singles and \$316 for couples. DSP recipients contemplating paid work must consider costs associated with employment such as transport, potential implications on income tax, and for social housing tenants, on payable rent.

High effective marginal tax rates (EMTR) create a work disincentive, particularly in circumstances where work is insecure or low paid. In the case of the DSP, EMTR is at least 50% because of the reduced rate. This is very high for people with limited capacity to work, who may experience potential negative impacts on health and wellbeing, and/or have competing priorities such as undergoing medical treatment.

Support services including NEAMI National report that their clients receiving the DSP are wary to attempt to work. This is because it is likely it will be used as evidence against their claim should they try to re-apply for the DSP. StreetCare members also told us rules around assets, income and social security entitlements can be a 'poverty trap' and cause distress.

¹³ Australian Institute of Health and Welfare. *People with disability in Australia 2020* (Report, 2020). This contrasts with JobSeeker recipients, where only 22% of recipients have been receiving the payment for at least 5 years and 4.3% for ten years or more.

¹⁴ Ibid.

'How are you supposed to start feeling good about having a job and working and earning more when you have all these issues with Centrelink?'

'For me to work, I need a lot more treatment, which cost a lot more money. \$100 monthly. At the stage when I was working, they were taking 60c for every dollar [off the DSP payment]. It's not worth it.'

'You live in fear you will do something wrong and they [Centrelink] are going to come after you. If you do tell them anything, they turn it against you and make it into something complex and stressful. You can't save because it affects your entitlements. You're not allowed to save, and you're not allowed to earn, so you can't actually get to a healthy place where you are doing ok.'

StreetCare members also noted rent increases when earning additional income are a disincentive to work for social housing tenants.

'If you live in department of housing, rent is a big stress. People feel exploited because whenever you earn a little money; rent goes up. Not possible to have part time work and earn a bit of money. I just wish it was easier.'

Recommendation 2

Amend DSP income rules to reduce work disincentives.

2. People experiencing homelessness and DSP eligibility

The most significant barriers to people experiencing homelessness applying for the DSP are:

- the complexity of DSP eligibility criteria
- the complexity and rigidity of the assessment process
- issues with obtaining medical evidence

These barriers contribute to longer periods of homelessness and more severe forms of homelessness such as rough sleeping.

2.1 Barriers to access and homelessness

2.1.1 Complex eligibility criteria

People experiencing homelessness often struggle to meet their basic needs and have complex lives with competing priorities. They are often unable to engage with a complex assessment process because of their disability and housing situation.

NEAMI National and the Shed¹⁵ provide support services to people with psycho-social disability who are also experiencing homelessness. Many of their clients have experienced severe, complex trauma, and continue to suffer from its impact, which can lead to a reluctance to engage

¹⁵ The Shed is a suicide prevention drop in centre for men experiencing disadvantage, predominantly servicing Aboriginal and Torres Strait Islander men, where HPLS runs an outreach service. Many of the clients of the Shed are experiencing homelessness or have in the past.

with government and other administrative services, that are often insufficiently trauma-informed. This is an issue particularly for Aboriginal and Torres Strait Islander people. They report that it can be difficult for some clients to engage with social workers, let alone complete complex application forms and obtain supporting evidence. They report that without the support of lawyers and/or community service case workers, a large majority of clients would be unable to complete DSP applications.¹⁶

Applying for the DSP should be a straightforward and streamlined process. Overly complex assessment processes result in increased pressure on the community services system including legal specialist homelessness services and in vulnerable people being unable to access their entitlements.¹⁷

Prompt approval of DSP following HPLS support

Patrick is a man experiencing homelessness with severe neurological impairments. After paying his rent, Patrick only had \$200 left a fortnight to live from his NewStart payment. Because of his disability, he found the application process for the DSP very difficult to navigate. He was also unable to contact a neurologist to obtain medical evidence to support his application.

After HPLS lawyers assisted with his application, Patrick was granted DSP. He was clearly eligible for the DSP but was unable to apply without support due to his disability and the complexity of the process.

In our experience, applicants who are eligible often have their applications rejected on a technicality.¹⁸ This incurs unnecessary additional costs when appeals are pursued for legal services, Services Australia, and the legal system. People with disability are more likely to be able to engage with their community, the labour market and wider society when their immediate needs, including housing, are met. Overwhelmingly, people applying for the DSP, especially those experiencing homelessness, have limited capacity to work and face a highly competitive job market, including potential discrimination. The assessment process should be client centered and provide support to vulnerable applicants to ensure their claims are properly assessed and not dismissed on a technicality.

HPLS has concerns that some DSP refusals are not clearly explained and are difficult to understand for claimants experiencing homelessness. This can lead to people experiencing homelessness disengaging with government and other services.

¹⁶ This is consistent with broader findings from a recent NCOSS report: Social Equity Works for NCOSS and the Reading & Writing Hotline, *Helping clients fill in forms*, (Report, 2020)

¹⁷ Ibid. Helping clients fill forms takes up significant amounts of resources from the community services sector. This is increasing due to increasing form complexity and digitalisation.

¹⁸ Service providers working with HPLS report similar issues.

Some DSP decisions are not clearly explained and fail to consider cumulative impact of multiple conditions and life circumstances

Michael is in his late forties and has been rough sleeping on and off since 2016. Michael suffers from complex PTSD, schizophrenia and depression, and poly substance use disorder. Michael is very vulnerable and has multiple, complex needs. Because of his conditions and his homelessness, he has no capacity to work for the foreseeable future and is unable to comply with JobSeeker mutual obligations.

His neuropsychological assessment notes that *'Michael's complex PTSD is increasingly resistant to treatment. The patient has experienced symptoms for decades, and his moderate to severe condition is permanent. Cognitive impairments are best explained by the cumulative effects of moderate to severe psycho pathology and chronic poly substance use. Applications for DSP and NDIS are recommended.'*

Michael's application for the DSP was rejected in April 2021. The rejection note said he did not qualify for enough points under the relevant impairment tables, with no further explanation. Michael's caseworker is unable to know the detailed reason for the rejection. They believe the decision might be linked to a failure to recognise the cumulative impact of Michael's multiple conditions and life circumstances.

It took a lot of time and effort for Michael to apply for DSP while rough sleeping and managing his mental health conditions. He is now very disheartened, unmotivated to appeal, and reluctant to engage with his caseworker.

HPLS agrees with EJA that the removal of Treating Doctor Reports (TDR) has made it more difficult for claimants and doctors to understand the evidence required to support DSP claims.¹⁹ Reliance on raw medical evidence is leading to unfair DSP refusals. We support the re-introduction of TDR or of similar mechanisms to ensure the DSP application process is streamlined and straightforward.

Recommendation 3

Services Australia to provide vulnerable clients, including people experiencing homelessness, with social worker support and referrals to services to assist with their social security claims.

Recommendation 4 – Review and simplify the DSP application process

Consult peak bodies including specialist welfare rights bodies such as EJA, and people with lived experience, about the best mechanisms to simplify the DSP application process.

2.1.2 Rigidity of the assessment process

Under the current eligibility guidelines, a medical condition must be 'fully diagnosed, treated and stabilised' (FDTs) to meet the DSP general medical rules. As noted in the Social Security Guide;

¹⁹ National Social Security Rights Network (now EJA), *Disability Support Pension (DSP) Project: A snapshot of DSP client experiences of claims and assessments since the 2015 changes* (Report, January 2018).

'The term 'stability' as used for DSP purposes has a specific meaning. In this context 'stabilised' does not mean stable in the usual sense of the word.'²⁰ A fluctuating condition may be considered FDTs for DSP purposes.

Serious mental health conditions are often episodic and/or fluctuating, treatment resistant, or make it difficult for people living with the condition to comply with treatment. These conditions also make it difficult for people to engage with a complex and lengthy application process, especially for people experiencing homelessness.

There appears to be little consistency when it comes to the way DSP claims by people with mental health conditions and/or psycho-social disabilities are assessed. Some applications are approved quickly and easily while others are rejected despite medical evidence disclosing a severe psychiatric condition. One of our clients, Jeff, had his DSP application repeatedly rejected over a five-year period. This was despite a diagnosis of schizophrenia, including evidence he experienced serious frequent disturbance to his thoughts and behaviours, leading to difficulties in maintaining housing and multiple hospital admissions. He also had severe physical disabilities, and yet he had his application for the DSP rejected because he was assessed as having a capacity to work. These refusals had financial and personal consequences for Jeff's family members who had to care for him while they themselves were facing financial hardship and disadvantage.

HPLS is concerned that in some cases, even when supporting evidence is submitted showing that a medical condition is FDTs, some assessors (who are not always appropriately qualified) will reject this evidence.

Clinical evidence for severe depression challenged by exercise physiologist

Sam lives in Sydney and is experiencing homelessness. He suffers from multiple health conditions, including anxiety and severe depression which affects his day-to-day functioning. Sam has to regularly apply for NewStart mutual obligations exemptions because of his conditions. He has been advised by lawyers and healthcare professionals that he should apply for the DSP as his condition is permanent, stabilised, and unlikely to improve. In his report, Sam's psychiatrist concluded: *'I do not think [Sam] is able to work at present and do not think he will be able to work again in the foreseeable future'*.

Centrelink initially rejected Sam's DSP application, arguing clinical advice related to Sam's depression was not sufficiently motivated and evidenced. The assessor's qualification was in exercise physiology. In our view, exercise physiologists are not qualified to dispute medical evidence prepared by psychiatrists or GPs. Delays in assessing medical evidence should not lead to financial hardship for vulnerable DSP applicants such as people experiencing homelessness.

²⁰ Australian Government, *Social Security Guide version 1.282*, 3.6.3.05 Guidelines to the Rules for Applying the Impairment Tables. (Guidelines, 2021)

We believe that the requirement that a medical condition be FDTS fails to recognise that by its very nature serious mental illness is episodic. Often serious mental illness is also treatment resistant and/or the patient may not always be compliant with their medication which can also cause fluctuations in the severity and frequency of symptoms.²¹

We recommend that:

- Assessors undergo further training in how to assess the functional impact of mental health conditions in accordance with the Social Security Guide, in particular 3.6.3.50 'Guidelines to Table 5 – Mental Health Function'²².
- The guidelines to Table 5 – Mental Health Function be reviewed in consultation with medical peak bodies and organisations representing people living with mental health conditions to ensure they provide adequate guidance to assessors in assessing the level of impairment for mental health function.

Failure to consider the cumulative impact of multiple conditions, as demonstrated by Michael's case, is a broader issue. DSP eligibility criteria should be based on the overall capacity of a person with disability to work rather than on arbitrary rules related to impact levels of individual conditions. HPLS supports ACOSS recommendations to ensure people with multiple disabilities or illnesses with no or limited capacity to work can access the DSP, including:

- the abolition of the Program of Support
- that people meeting the 20-points impairment threshold have access to the DSP whether they meet the threshold under one impairment table or across tables
- the removal of the word 'fully' from 'fully diagnosed, treated and stabilised'.

Recommendation 5

Review and amend the Guidelines for Table 5 – Mental Health Function to facilitate access to the DSP for people with mental health conditions with limited or no capacity to work.

2.1.3 Barriers to access to medical evidence

There are two main barriers that prevent people experiencing homelessness from obtaining the medical evidence they need to support their DSP claims. They are:

- Cost
- Availability/willingness of medical professionals to provide evidence

A significant barrier for people seeking to apply for the DSP is cost. Reports prepared by bulk billing GPs are often not considered to meet the evidentiary requirements.²³ Applicants have little choice but to pay for specialist reports. HPLS is only aware of two bulk billing psychiatrists in Sydney, and their availability is limited. This means applicants either decide not to proceed with their application because they cannot afford to pay for a medical report, or they pay the cost of

²¹ Economic Justice Australia, *Psychiatric impairments and the Disability Support Pension* (Webpage, 18 February 2021) <<https://www.ejaustralia.org.au/wp/social-security-rights-review/psychiatric-impairments-and-the-disability-support-pension/>>

²² Australian Government, *Social Security Guide version 1.282*, 3.6.3.50 Guidelines Table 5 – Mental Health Function. (Guidelines, 2021)

²³ For example, assessments related to functional impact of a mental health condition must be conducted by a psychiatrist or an appropriately qualified medical practitioner with evidence from a clinical psychologist. In the experience of HPLS and The Shed, it is preferable to obtain evidence from specialists to avoid an initial DSP refusal. Because of cost, this is unfortunately not always an option for our clients.

obtaining the evidence at the expense of other living expenses such as food, transport or healthcare.

Some healthcare professionals are unable and/or unwilling to prepare evidence for DSP applications. In our experience, some healthcare professionals, particularly specialists, often have limited time to prepare reports with the level of detail required to support an application for the DSP. This can cause delays and prolong hardship for people already struggling to secure housing. Other healthcare professionals can be reluctant to prepare evidence for social security purposes and/or consider it outside of the scope of their profession. This is an issue for people experiencing homelessness who often have little choice in the healthcare professionals they can access.

‘Bottom of the pile’: Martin was unable to get a psychiatric report for 18 months

Martin lives with severe physical and mental health impairments as a result of war injuries. He suffers from moderate to severe impact on his lower limbs function after multiple reconstructive leg surgery. Medical specialists have assessed Martin is permanently unable to do either manual or clerical work because of his spine and leg problems. Martin also suffers from severe trauma, chronic PTSD, anxiety and depression. Martin does not speak any English, which makes it difficult for him to find work, but also to deal with administrative processes, including obtaining medical evidence.

Martin’s initial application for the DSP was rejected in 2014. In 2016, he sought assistance from HPLS to make a new application. Martin’s treating psychiatrist’s invoice for the preparation of a medical report for the DSP application was over \$1,800. HPLS attempts to reach out to the psychiatrist to explain Martin’s circumstances were unsuccessful. We were eventually advised that ‘non-paying jobs’ were at the ‘bottom of the pile’. Martin never received the report he needed from his psychiatrist.

Because of the risk other documents might become out of date, HPLS searched for another psychiatrist who might be able to prepare a report at a cost affordable to Martin. This was difficult and took significant time because of the need to find a psychiatrist who could communicate with Martin and had affordable fees. Martin was receiving NewStart and not the DSP for over 18 months because he could not access a psychiatrist report, causing him distress and severe financial hardship.

Recommendation 6 – Ensure DSP applicants experiencing homelessness can obtain medical evidence

The Australian Government should consider options such as a specific Medicare Benefits Schedule (MBS) item for completing DSP forms and/or the preparation of DSP evidence, specific funding made available to DSP applicants through Services Australia, or specific funding made available to specialist legal homelessness services.

Recommendation 7

Re-introduce a Treating Doctor Report (TDR) or equivalent.

2.2 Consequences of eligibility issues

2.2.1 People receiving JobSeeker

Most people unable to access the DSP will instead receive the JobSeeker (JS) payment. With a payment level set well below the poverty line,²⁴ JS inadequate payment levels can lead directly to financial hardship and/or homelessness. On top of this, JS recipients must comply with mutual obligations requirements (MOR), such as attending appointments with Services Australia or job services providers, searching for and applying for jobs, Work for the Dole and other approved activities.

JS recipients who have a disability but for the reasons outlined above, struggle to qualify for the DSP are often unable to comply with MOR because of their disability. This often results in:

- JS payments being suspended due to non-compliance
- Recipients seeking exemptions from the mutual obligation requirements

JS payment suspensions have severe consequences for people experiencing homelessness or at risk; a suspension may lead to rent arrears, eviction, and/or severe hardship. For people experiencing secondary or tertiary homelessness, it can result in rough sleeping.

Some JS recipients unable to comply with MOR will seek temporary exemptions, under allowable circumstances such as sickness or injury, a disaster, a personal crisis (this includes being homeless but does not automatically apply), or short-term care duties. People receiving the JS payment who are struggling to meet their mutual obligations requirements and who are attempting to move onto the DSP find themselves in a 'catch 22'. On the one hand, recipients of JS must submit medical evidence showing they are *temporarily* unable to work. On the other hand, if they are simultaneously trying to get onto the DSP, they must submit medical evidence showing their condition is *permanently* limiting their capacity to work. It is possible that the evidence a person submits to satisfy the MOR exemptions might be relied upon in a subsequent DSP application to justify that the medical condition is not permanently limiting their work capacity. Centrelink should consider developing internal policies ensuring JS recipients regularly seeking MOR exemptions for health reasons are informed of the possibility of applying for the DSP if their work capacity is permanently limited by a disability or a medical condition.

According to the Social Security Guide, in determining whether to grant an exemption for homelessness the primary consideration:

should be whether a person's living circumstances are stable enough to allow them to meet their mutual obligation requirements. A person may not be able to do this if they have just started living on the street, in a hostel or refuge or moving from house to house every few days. On the other hand, a person who is living or residing temporarily with relatives or friends may be able to meet their requirements.²⁵

²⁴ Davidson, P., Saunders, P., Bradbury, B. and Wong, M. (2020), Poverty in Australia 2020: Part 1, Overview. ACOSS/UNSW Poverty and Inequality Partnership Report No. 3, Sydney: ACOSS.

²⁵ Australian Government, *Social Security Guide version 1.282*, 3.11.5.20 Special Circumstances, Homelessness, 1-3. (Guidelines, 2021)

The circumstances of people experiencing homelessness fluctuate significantly. On top of trying to find stable accommodation, people are often struggling with substance use, trauma and/or severe medical conditions. They have to manage multiple priorities to meet their basic needs; such as attending food vans, engaging with government departments, dealing with legal issues, and receiving health care. This requires significant amounts of time and energy every day; with little time left to engage with job service providers to search and apply for jobs. People living on the street, in a refuge or moving houses every few days struggle to meet MOR, regardless of whether they are recently homeless or in long term homelessness. People experiencing homelessness requesting MOR exemptions should be granted them so they can focus on securing safe, adequate accommodation from which they can re-engage with employment or training.

Recommendation 8

Amend section 3.11.5.20 'Special circumstances' in the Social Security Guide to clarify that people experiencing homelessness shall be granted MOR exemptions.

2.2.2 People who do not receive any social security income

Some people experiencing homelessness will abandon their DSP application altogether or, if they are reliant on the JS payment, they will not comply with MOR. As a result, many people who are homeless will have their payments suspended. This is often an issue for people with severe mental health conditions. Many people rough sleeping may be eligible for the DSP, but the severity of their mental health condition prevents them from engaging with services, and applying for, and maintaining income support. People experiencing homelessness with no income tend to experience more severe homelessness and for longer periods of time, with serious consequences to their mental and physical health that can lead to chronic homelessness. In turn, this creates additional pressure on the SHS system, and leads to additional costs for government and communities in the form of healthcare and law enforcement costs.

2.2.3 Specific issues for people on Community Treatment Orders (CTOs)

HPLS partner agency The Shed reports that JobSeeker payment suspensions can impact negatively on people with severe mental health conditions on CTOs who are unable to access the DSP.

People on CTOs with severe psychiatric conditions are sometimes unable to access the DSP because:

- they are not assessed as having an impairment rating of at least 20 points and/or
- they are assessed as having capacity to work, or
- Centrelink determines they have not provided sufficient medical evidence.

However, because of their condition, they struggle to comply with MOR and have their payments suspended. Without income, people's priorities change to focus on finding food and shelter rather than on complying with CTO conditions such as receiving depot injections. This sometimes results in involuntary admission to a mental health facility. These negative spirals come at a high cost to individuals, community services, the health system, police and the community. Vulnerable

people experiencing homelessness such as people on CTOs and people on guardianship orders should be supported to access the DSP.

Recommendation 9

Develop programs and/or referral pathways to support people on community treatment orders and guardianship orders to apply for DSP.

Recommendation 10

Amend the Social Security Guide to state that community treatment orders and guardianship orders shall be considered a strong indicator of no or limited overall capacity to work.²⁶

²⁶ For example, in 3.6.3.50 Guidelines Table 5 – Mental Health Function.