

11 CENTRELINK

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introduction

There are a number of different kinds of social security payments you might be eligible to apply for from Centrelink. However, you have to fulfil certain conditions in order to qualify for a social security allowance, benefit or pension.

Sometimes Centrelink might give you a hard time in the process of applying for payment. You have rights when dealing with Centrelink. These include the rights to:

- lodge a claim for any social security payment you think you may be entitled to — sometimes you will be told that you're not entitled to something, but you should always test the correctness of the advice by lodging a claim — you can lose money if you don't;
- receive a payment if you meet the eligibility requirements;
- receive the correct amount of money under the law;
- appeal against most Centrelink decisions if you don't agree with them (for instance, if they refuse to grant you a pension, or you are breached, or you have a Centrelink debt);
- information about social security and to see whatever information they keep about you on your file;

- be treated decently when Centrelink is interviewing you;
- receive a formal letter and to have at least seven days notice if Centrelink wants you to attend an interview or provide information; and
- refuse Centrelink entry to your home.

The first thing you need to do if you want to apply for a payment is to find out where your local Centrelink office is. You can look up the phone number in the White Pages under Centrelink and ask them where your local office is. Sometimes it is possible to start the claim process for a payment over the phone (as long as you lodge a written claim within a particular time afterwards). It is a good idea to know what pension or benefit you want to apply for. Ask Centrelink to tell you about the different payments. If you do not qualify for one you may qualify for another.

Here is some information about some of the payments.

newstart allowance

To be eligible you have to be:

- unemployed;
- able and willing to work;
- actively seeking work;
- 21 years or over, but under Age Pension age (for anyone under 21 see 'Youth Allowance', below);
- an Australian resident; and
- able to provide various proofs of your identity (see 'Proof of Identity' below).

To apply you will need to register as unemployed. You will be interviewed and given forms to complete. Centrelink will make an appointment for your interview. At the interview, they will check your proofs of identity and that you are still unemployed and looking for work.

You will receive a continuation form (a 'dole' form), that you need to return in person to your local Centrelink office every fortnight. It may take up to three weeks before you receive your first payment in your bank account. This may be longer if you have to serve some waiting periods. Waiting periods and penalty periods will affect when you get your first payment. These periods include:

- *Ordinary waiting period* (one week).
- *Income maintenance period* (no maximum period) — covers payouts of annual leave, sick leave, long service leave and maternity leave. The length of the income maintenance period is based on the length of the leave paid out. If you were working part time you may be able to get a part payment during the income maintenance period.
- *Liquid assets waiting period* — includes 'realisable' assets (commonly money in the bank, e.g. termination pay, but not superannuation). This applies if:
 - single people with no dependent children have above \$2,500 in realisable assets; or

- people with partners or single people with dependent children have over \$5,000 (waiting period of up to thirteen weeks).
- *Newly arrived residents waiting period* — affects most people who come to Australia, apart from refugees or people who enter under humanitarian grounds (two years).
- *Voluntary unemployment penalty period* (reduced payment rate, see below) — this is where Centrelink alleges that you left work voluntarily ‘without reasonable excuse’. This does not apply if you left because of harassment, health reasons such as stress, or for any reason which applies to your particular situation. It may be necessary to have the support of your union in dealings with Centrelink in this area.
- *Unemployment through misconduct penalty period* (reduced payment rate, see below).

Note: Different waiting periods may sometimes be served together.

keeping your newstart allowance

Now that you’ve gone through the whole tortuous process of getting Newstart Allowance you don’t want to lose it. Here’s what you have to do.

If you move out of the area or change your postal address, tell them, or you could lose your payment. If Centrelink thinks that you have lowered your particular chances of getting work by moving they may stop your payments for up to 26 weeks. Check with them before you move.

You have to be able to prove to Centrelink that you are actively seeking work all the time. This is called the ‘Activity Test’. Every time you put in your dole form, you have to list the jobs that you have applied for that fortnight. When you first start receiving Newstart Allowance, if you are a job seeker you will be issued with a Job Seeker Diary. This requires up to 12 prospective employers to be listed. Generally, this will need to be completed for the first 12 weeks of payment. If job seeking efforts are satisfactory, you will not be issued with another one. In some instances Employer Contact Certificates will be issued. They usually require the signatures of two prospective employers or Job Network Members who have assisted you with an application.

Activity Test suspensions

If you don’t complete this ‘Activity Test’ Centrelink can ‘suspend’ you and give you a penalty. However, you should not be suspended if a requirement is unreasonable for you, or if you have ‘reasonable excuse’ for not complying.

An Activity Test suspension can be imposed, if you don’t have a ‘reasonable excuse’, for:

- becoming ‘voluntarily unemployed’ (resigning from your job) or being sacked due to misconduct;
- not signing a Preparing For Work Agreement or not meeting the terms of the Agreement;
- not taking reasonable steps to find work;
- not attending a job interview or a suitable course;

- rejecting a suitable job offer; or
- not declaring earnings correctly.

If you are a student, you can also be suspended if you don't attend classes or if you aren't making 'satisfactory progress'.

First and second failures in a 12-month period mean that a person's payment can be suspended until they 'rectify' that 'failure'. For example, if you miss a 'Job Capacity Assessment' you will not be paid until you have undertaken that assessment. A third failure in a 12-month period can result in an eight-week (four fortnights) non-payment period.

You can appeal against an incorrect waiting or suspension period, or if you think a suspension is unreasonable. You can also ask to have waiting periods waived. Get independent advice about how waiting periods and penalty periods apply to your particular circumstances.

problems you may run into with your newstart allowance

You have to actively look for work or you may be hassled by Centrelink.

It is possible to get a temporary exemption from the Activity Test if you are unwell and unable to work. You would need to lodge a medical certificate showing the dates you are unwell. Centrelink may still expect you to meet some requirements while you are ill, so check to see what you need to do.

If you are unable to seek work for a longer period of time, e.g more than two years, you may need to apply for another payment, such as Disability Support Pension or Special Benefit.

If you are involved in any groups or activities that take up a lot of your time (e.g. rehabilitation or detoxification centres) it may be difficult to meet Centrelink's requirements about looking for work. You can be cut off or suspended unless you get an exemption from some of those requirements. You should advise Centrelink if you are not able to actively seek work, or meet any particular requirements. You may also need to get your Preparing for Work Agreement changed if you can't meet some of the requirements.

You have to take your dole form to the Centrelink office every fortnight in person. If you're a day or two late, your benefit could be stopped, unless you have an acceptable reason such as illness, or doing casual work on the due date. You should advise Centrelink if you are not able to lodge forms yourself due to illness.

If you don't go along to an interview that Centrelink tells you about, your payment could be cut off and you may be suspended. (See 'Interviews and visits from Centrelink officers', below).

sickness allowance

To be eligible you must be at least 21 years and under Age Pension age, have a job or be in full-time study, become temporarily unable to work or study due to illness or an accident, and have a job or course of study to return to when you are better.

To apply you have to get your doctor to fill out a form from Centrelink, saying you are unable to work for a period of more than seven days. The maximum time a medical certificate can cover you for is three months (13 weeks). Centrelink will want another medical form from your doctor if you are still unable to work after that time.

Note: If you are unemployed and become sick, or lose your job due to illness, Centrelink can keep paying you Newstart Allowance without the Activity Test, or with less requirements. This payment is called 'Newstart (Incapacitated)'.

problems you may run into with your sickness allowance

- You have to keep getting medical forms from your doctor.
- You have to pay for the cost of getting these (if your doctor bulk bills, it shouldn't cost you anything).
- If your illness is not considered 'temporary', which means that it is likely to last for longer than two years, you will not be eligible for Sickness Allowance, or your payment will be stopped.

special benefit

To be eligible you must:

- be unable to receive any other Social Security pension or benefit; and
- be in financial hardship and unable to obtain or earn a sufficient livelihood for yourself and any dependants; and
- be in Australia throughout the period for which payment is sought,

and be one of the following:

- an Australian resident; or
- the holder of a visa outlined in the legislation (mainly refugee or humanitarian visas).

To apply, go to your local Centrelink office. If Centrelink says that you are not eligible for any other payment and you are in financial hardship, you should insist on lodging a claim for Special Benefit.

carer payment and carer allowance

To be eligible you must provide constant care to someone in that person's home (it doesn't matter whether they're a relative or not). Constant care means regular and frequent care, but not 24-hour, non-stop care. It also includes supervision (especially for people with intellectual or psychiatric disabilities).

The person being cared for must be an adult who:

- requires constant care permanently or for an extended time; and

- has been assessed and given a score of at least 25 under a questionnaire called the Adult Disability Assessment Tool (ADAT).

If a disabled adult receives an ADAT score of at least 80 then two people may receive Carer Payment.

Carer Payment may also be paid for a child, if the child is a 'profoundly disabled child' as described in the Social Security Act. Payment may also be made for two children who together meet the profoundly disabled criteria.

If you are caring for a person (child or adult) who is not on a Social Security or Veteran's Affairs payment, they have to meet a special income and assets test. You also have to meet the income and assets test.

If you meet the care requirements for the payment, you can work for up to 20 hours per week and still get the payment (subject to the income and assets tests). You are also allowed up to 63 days per calendar year each for respite and hospitalisation.

As a carer, you may also be eligible for an extra Carer Allowance, as well as Carer Payment, another social security payment, or wages. There is no income and assets test for Carer Allowance.

The person you are caring for will have to have a 'recognised disability' or a score under the CDAT (for children) or the ADAT.

To receive Carer Allowance, you must live with the person you are caring for. To apply just ask at your local Centrelink office.

problems you may run into with your carer payment

- Getting a high enough score for the person to qualify for a Carer Payment.
- Getting Centrelink to accept that someone doesn't need to be extremely ill before they need full-time care.

parenting payment (single)

This payment used to be called the Sole Parent Pension. To be eligible you must:

- be a single person (i.e. unmarried and not in a marriage-like relationship (see 'Marriage-like relationships', below); and
- have the care and control of at least one child under 16 who is either your natural child, your adopted child or in your legal custody.

Under changes to the Parenting Payment, depending on when you went onto they payment and the age of your youngest child, there may be activity requirements for your payment. These will range from an 'annual interview' when your youngest child is quite young, to 'partial capacity' (part-time work for example) for parents of older children. It is important to carefully check information sent to you by Centrelink, as they often send letters to parents 'inviting' them to undertake activities, however some of these are not required by law.

To apply, ask about the payment at your local Centrelink office. For the first 12 weeks on the Parenting Payment (Single) you may be reviewed frequently by Centrelink to find out whether anything in your situation has changed. After that you will be asked to complete a review form periodically to find out if anything has changed.

problems you may run into with parenting payment (single)

If you are living in a communal house with a person of the opposite sex, Centrelink may accuse you of being in a marriage-like relationship and threaten to stop your payment.

disability support pension

To be eligible you must be between the ages of 16 years and Age Pension age, and able to prove to Centrelink that you have:

- an intellectual, physical or psychiatric disability; and
- because of that disability or disabilities have an impairment rating of 20 points or more according to the Impairment Tables in the Social Security Act; and
- a continuing inability to work (for at least two years) or be participating in the Supported Wage System. Work means any type of work (not just the work you are trained for or have done in the past) that you are capable of undertaking for more than 15 hours per week. Also, you must be unable to be retrained for some other type of work that you can do for more than 15 hours per week, or unable to work for more than 15 hours per week with rehabilitation, within two years,

OR

- be permanently blind. If you are assessed as permanently blind, you don't have to meet the income or assets test for the Disability Support Pension (or Age Pension).

To apply go to your local Centrelink office. You will usually have to attend an appointment with a doctor employed by Centrelink as well as supply information from your own doctor (called the 'treating doctor').

problems you can run into with disability support pension

It may be difficult to prove you have a 20 point impairment rating and a continuing inability to work.

The process of getting the disability support pension can take months. Make sure you are on another social security payment while you are waiting. This may be Newstart or Youth Allowance, but you won't have to look for work.

youth allowance

To be eligible you must be:

- aged 18 to 21 years;
- unemployed;
- able and willing to work full-time; and
- actively seeking work,

OR

- aged 15 to 21 years;
- unemployed; and
- have an exemption from the Activity Test (e.g. temporarily sick, or with a disability),

OR

- aged 15 to 25 years; and
- in full-time education.

While you are on Youth Allowance, you can be suspended if you don't meet Centrelink requirements (See 'Newstart Allowance', above).

To apply, go to your local Centrelink office. You will be paid at either the dependent rate or independent rate (a higher rate). You will be regarded as 'independent' from your parents/guardians if one of the following applies to you:

- you are unable to live at home (see below for more details);
- you have established a work history;
- you are either married, have a child or have been a member of a couple for 12 months;
- you have or previously had a natural or adopted child who was wholly or substantially dependent on you;
- both your parents are dead;
- your parent(s) are in prison or remanded in custody;
- your parent(s) are in a nursing home, or they have a disability that affects their ability to exercise their responsibilities as your parent/guardian for an indefinite period;
- your parents/guardians are missing;
- you are a refugee without a parent living in Australia or, if you have no parents in Australia, you are not substantially dependent on another person on a long term basis; or
- you are in the legal guardianship of a state or territory (i.e. you are a ward of the state) and not living with your parents or receiving a payment from them for your upkeep.

what does 'unable to live at home' mean?

Centrelink will accept you are unable to live at home where:

- there is 'extreme family breakdown' or other exceptional circumstances; or
- it would be unreasonable to expect you to stay at home because there would be a serious risk to your physical or mental health due to violence, sexual abuse or other unreasonable circumstances; or
- your parents cannot provide you with a suitable home because they lack stable accommodation.

In addition you would need to show that you are not receiving:

- continuous support from a parent or a guardian; or
- any other income from either the State or Commonwealth Government.

Extreme family breakdown can include problems with your parents, brother, sister or any person that lives or regularly visits your home. Abuse at home does not have to be against you personally.

Centrelink may want to contact your family/guardian/counsellor to get their views.

Young people under the age of 18 who are applying for Youth Allowance and unable to live at home are required to meet with a Centrelink social worker.

problems you may run into with youth allowance

You may have a problem proving you are independent, particularly with establishing your work history or extreme family breakdown. You may also encounter problems with work, study, training, or meeting the Activity Test.

crisis payment

A Crisis Payment can be made to people who face severe financial hardship through being forced to leave their home and establish a new home due to 'extreme circumstances' such as domestic or family violence. It is also available for people leaving prison. Prisoners may claim before release through Centrelink visiting officers, or make claims at any Centrelink office.

On the day that you lodge a claim, you must be entitled to a Social Security Pension or Benefit, and you must be an Australian resident.

Crisis Payment can only be paid a maximum of four times in a 12-month period.

common problem areas with Centrelink

proving your identity

To qualify for any Centrelink pension or benefit you have to provide Centrelink with three proofs of identity. One must come from the group of primary documents and the others can come from the secondary group.

The primary group includes things like:

- Australian passport or current overseas passport;
- a birth certificate that is more than five years old; or
- a birth extract certificate more than five years old.

The secondary group includes things like:

- mortgage papers;
- divorce papers;
- a rates notice;
- a taxation assessment notice;
- apprenticeship papers;
- a bank book;
- the rental lease for your current address;
- an electricity or gas bill; or
- your driver's licence.

If you can only provide two proofs of identity, you can qualify for the Two-pay Review, which means you can receive two fortnightly payments while you're finding the other proof of identity.

If you haven't got any proofs of identity or only one proof of identity, get a letter from a community worker, social worker or Justice of the Peace saying that you are who you say you are and that they can vouch for your identity.

You may also wish to see a Centrelink social worker. You should not be denied a payment on the basis that you can't prove your identity.

Centrelink can also gather documents and information to prove your identity. Centrelink has senior officers called 'Proof of Identity' (POI) officers (not to be confused with Freedom of Information (FOI) officers). They are usually attached to area offices, but you should request assistance from one at your local Centrelink office if you are having trouble proving your identity. This is their role.

marriage-like relationships

If Centrelink decides that you are living in a ‘marriage-like relationship’, they will consider your ‘partner’s’ income and assets, and may reduce or cut off your payment. For someone to be a ‘member of a couple’, they need to be of the opposite sex (same sex relationships do not count), not physically related to you, and over the legal age of consent.

Under the law, Centrelink must consider the following five factors when assessing whether your relationship is ‘marriage-like’:

- financial aspects of the relationship;
- nature of the household;
- the social aspect of the relationship;
- the sexual aspect of the relationship; and
- the nature of the commitment to each other.

Marriage-like relationships are hard to describe. Centrelink should look at the relationship as a whole, and not just rely on one factor, such as the sexual aspect. Indicators of a marriage-like relationship may include the following (however, these shouldn’t be seen in isolation, but rather in terms of the overall picture):

- living at the same address;
- sharing joint bank accounts;
- providing or receiving financial support from the other person;
- paying bills together;
- cooking, cleaning, taking care of each other etc.;
- your family and friends relating to you as though you’re married or a permanent couple;
- your children calling your boyfriend/girlfriend ‘dad’ or ‘mum’;
- having a sexual relationship;
- having long-term joint financial assets or debts;
- having children in the relationship; or
- being committed to the relationship.

Because these laws are vague, Centrelink can decide that you are in a marriage-like relationship when you are just living in a shared house set-up, or when your relationship with your boyfriend or girlfriend doesn’t have the characteristics mentioned above. If this happens to you and you think Centrelink is wrong, appeal against the decision immediately and ask for your payment to continue until your appeal is decided.

Note: If you were married to someone or lived in a marriage-like relationship but you are now separated on a ‘permanent or indefinite basis’, you should be treated as single. Centrelink will consider the five ‘marriage-like relationship factors’ mentioned above in deciding whether you are separated. You can be considered as single, even when you are living with your ex-partner — this is called ‘separated under the one roof’. Centrelink may

advise that this can only be temporary, but this is not necessarily the case. Get independent advice from a lawyer or community legal centre.

interviews and visits from Centrelink officers

When an officer from Centrelink turns up on your doorstep, you don't have to let them into your house, and you probably shouldn't do so, even if you think you have nothing to hide, or you feel threatened by the officer. It is usually better to ask for a formal letter, and get independent advice when you get the letter, before you reply or attend an interview.

Also, keep in mind that:

- You don't have to have the interview then and there if you don't want to; it is usually better to take time to think about how you want to answer the questions. A Centrelink officer can't demand that you have an interview at your home.
- You can ask to have the interview at another time at your local Centrelink office.
- If an officer comes into your house, they have no right to look around your rooms or poke into your cupboards.
- Centrelink must give you advance formal notice in writing that they want you to attend an office interview.
- Officers cannot intimidate you into answering questions. However, they can suspend payments until you provide them with necessary information, which will be done via a formal letter if information is not provided at interview.
- Officers must show you proof of identity before starting the interview. They are also required to explain why they are there and what your rights are.
- You can have a friend, relative or community worker with you during the interview.
- Officers can't force you to sign a statement. You should get independent advice before signing a statement. If you agree to sign a statement, make sure you read it properly first, and obtain a copy.

how to appeal against a Centrelink decision

You can appeal if you are unhappy with any Centrelink decision, for example if they refuse to grant you Newstart Allowance, or cancel your Parenting Payment (single) because they claim you're in a marriage-like relationship, or if they say you owe them money.

Places you can go for assistance with your appeal include community legal centres (ph: 9654 2204 or go to <www.communitylaw.org.au> for details of the centre nearest you) or the Welfare Rights Unit, an independent legal service that provides advice on settling welfare matters (see their contact details at the end of the chapter).

If you are appealing a decision to cancel or reduce your payment, you can ask Centrelink to continue your payment until your appeal is decided. You should do this within 14 days of receiving the decision. However, Centrelink does not have to agree to do this, except where you are appealing the terms of an agreement such as a Preparing for Work Agreement (see 'Newstart Allowance', above).

What to do

The first official step is to go to the Authorised Review Officer (ARO). Contact them through your local Centrelink office to see if they will change the decision. Centrelink may send the appeal to the original decision maker before sending it to the ARO. The original decision maker or the ARO may not change the decision, as they have to follow Centrelink's policies and rules when deciding matters. However, you should continue with your appeal unless you've had independent advice to stop.

Next, you can appeal to the Social Security Appeals Tribunal (SSAT). This Tribunal is independent of Centrelink. You can ring them or write them a letter stating what decision you're appealing against and why you think it's wrong. You can ask for an urgent hearing if you do not have enough money to live on.

Social Security Appeals Tribunal (SSAT)

GPO Box 9943, Melbourne 3001

Ph: 9954 0700; or 1800 011 140 (toll free)

They will send you a letter asking you to make an appointment for your hearing. Before the hearing they will send you a copy of the papers they have received from Centrelink.

In preparing your case, you may want to have a more thorough look at your Centrelink file. Fill in the 'I want to see my file and personal documents' form, available from your local Centrelink office. Note that this will probably delay your hearing, and you will have to weigh up whether it is worthwhile.

Prepare clear and well-thought-out arguments about why you think the Centrelink decision is wrong. Get independent advice (from Welfare Rights or a community legal centre, for example) on how to prepare for the hearing, particularly if you don't understand how the law has been applied in your case. Think about who you can bring to the hearing to support your case.

At your hearing there will be up to three people, who may include a lawyer, a community representative, a doctor, or someone with a public administration background (usually someone who used to work for Centrelink). The Tribunal will listen to your reasons as to why you think the Centrelink decision is wrong. The hearing takes about 30 to 40 minutes and is very informal. You won't know the result for about three weeks after the hearing.

Unless Centrelink appeals, it must act on the SSAT's decision.

The next level of appeal is the Administrative Appeals Tribunal (AAT). Because the AAT is a more formal tribunal, it is a good idea to get a community lawyer or community worker to assist you in making your appeal. You can also apply for legal aid to help pay the legal costs of your appeal. Unless there is a higher appeal, any decision the AAT makes has to be accepted by Centrelink.

you want to make a complaint?

If you are unhappy with the way the Centrelink staff have treated you, you can do something about it! (See Chapter 14, *Making A Complaint*.)

further information

Centrelink

Check the telephone directory for the address of the nearest office, or call the 13 number listed for the payment type you want information about. You can also check the Centrelink website at <www.centrelink.gov.au>.

Welfare Rights Unit

An independent legal service that provides advice on settling welfare matters.

Advice: Ph: 9416 1111 or toll free 1800 094 164 (Mon–Fri 9.30am–12.30pm)

Fax: 9419 3552

Email: wru@welfarerights.org.au

Web: www.welfarerights.org.au