

Carers Australia Submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability

Institutional Economic Neglect of People with Disability March 2022

Introduction

Article 28 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD), to which Australia is a signatory, states that “Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.”¹

Unfortunately, in Australia currently, there are systemic access barriers to social security payments for people who struggle to find employment as a result of disabilities. This stands in the way of meeting this obligation.

These barriers include:

- Eligibility criteria which prevent many people with disabilities from legitimately accessing Disability Support Pension (DSP).
- Assessment processes which fail to adequately reflect the impact of a range of disabilities on employment prospects.
- The inadequacy of income support for people with disability.

It is Carers Australia’s view that these systemic access barriers constitute institutional economic neglect of people with disability.

The adequacy, accessibility and financial security offered by the Disability Support Pension (DSP) is of paramount importance to carers of people with disability for several reasons. These include, but are not limited to, the following circumstances:

- As a result of the income gap experienced by people with disability dependent on the DSP to meet their costs of living, many family and friend carers have to step in and provide additional financial support for the person they care for, even in circumstances where they themselves are in financial stress. Regular financial support may include assisting with rent, energy costs, phone and internet payments, transport, health care costs, replacement of essential household items and a range of other needs.
- Carers constantly worry about the future financial security of the person they care for if they themselves lose employment or become ill or die.

Various measures in the last decade designed to restrict the number of people on the DSP have had perverse outcomes for many people with disability and their carers which we comment on below.

¹ United Nations Convention on the Rights of People with Disabilities (CRPD), (UN 2008)

These outcomes include financial hardship and additional stressors in the lives of vulnerable people already under significant stress.

Against this background, it is important to remember that the National Disability Insurance Scheme (NDIS) does not address or directly compensate for poverty among people with disability. A great many people with disabilities preventing them from accessing the most basic employment opportunities or income support are not eligible for the NDIS because they do not meet the strict entry level criteria. In addition, the supports available to NDIS participants do not necessarily enable employment or cover the cost of the necessities of life such as food, essential utilities, safe and secure shelter and the costs associated with standard communication devices such as mobile phones. The NDIS is not intended to replace basic income support for people with disability under the social security system, but is intended to provide the reasonable and necessary supports needed to live an ordinary life.²

DSP eligibility criteria, assessment and determination

Eligibility assessment for DSP has been a matter of great concern since the introduction of a series of measures in 2012 and 2014-15 designed to produce savings to the social security budget and to “encourage” more people with disability into employment.

Changes specifically targeted to reduce dependence on the DSP include:

- Revision of the impairment tables in determining eligibility for the DSP and work capacity.
- Subsequent review of the eligibility of a large cohort of people currently on the DSP against the revised impairment tables.
- The requirement for most applicants to demonstrate that they have participated in training and job seeking in the last 18 months before applying.

An additional process change which has had an impact on claimants is the removal of the Treating Doctor’s Report (TDP) in 2015, making it more difficult for claimants and their doctors to understand the information needed to support a claim. Greater reliance is now placed on the collection of what has been described as “raw” medical evidence, placing an additional burden on often very stressed and vulnerable DSP applicants for the collection of that evidence. The effort of collecting historical medical tests and reports deter many from proceeding with an application, especially if their disability means they lack the skills to do so.

Moreover, such evidence may obscure the interaction between multiple conditions and comorbidities which do not in themselves, or when each is considered in isolation, add up to sufficient points on the impairment tables. The full impact of a range of impairments on a person’s ability to function is often greater than the sum of its parts.

The introduction in 2015 of a secondary Disability Medical Assessment (DMA) by a Government-contracted doctor has also attracted criticism, both for introducing significant delays in claims processing and for the same reasons the introduction of an Independent Medical Assessment for NDIS applicants has been questioned with respect to the ability of an assessor unfamiliar with the person with disability to build a complete and accurate understanding of their functional ability.³

² [What is the NDIS? | NDIS](#)

³National Social Security Rights Network (NSSRN), Disability Support Pension (DSP) Project: A snapshot of DSP client experiences of claims and assessments since the 2015 changes, January 2018, p.4

It should also be noted that the emphasis on the functional capacity of a person to do certain tasks in many instances is not a good indicator of their capacity to sustain employment. Psychiatric impairment is often mentioned in this context. Someone with psychosocial disability may have good days and bad days due to the episodic nature of their mental illness, and it is noted in the Guidelines that a score of 10 (against a qualification requirement of 20) might be ascribed to someone in cases where there are some impediments to work but the impairment would not prevent full-time work. (e.g., short periods of absence from work).⁴ However, the capacity a person to keep their job as these periods of difficulty or absence accumulate, particularly when the accompanying behaviours are considered disruptive to the workplace, can effectively result in that person having great difficulty in finding flexible employment opportunities, or maintaining employment at all.

A person's capacity in real life is not completely revealed by a diagnosis, a dossier of medical tests, or a single conversation with a professional. It is best determined by an appropriate health professional who has had ongoing contact with a person and, ideally, through consultation with their family/friend carers – people who have daily contact with them and understand the impact of their disability on day-to-day living.

Another hurdle which has been imposed upon people seeking access to DSP is the requirement to complete a program of support involving work, education or training for 18 months within a three-year period as an eligibility requirement for accessing the DSP.

The somewhat eclectic range of medical conditions which constitute exemption from these requirements⁵ seems to us to be over-selective and random. The only other exemption is for a potential applicant to score an impairment rating of 20 points or more on a single table. The combined impact of multiple disabilities across tables is not adequately taken into account. The program of support requirements can impose unacceptable levels of stress from a physical and psychosocial perspective and condemn people who cannot proceed with the program of support to a life lived under the poverty line.⁶

The combined impact of this range of policy changes on access to the DSP has been marked. It has been reflected in the decline of DSP recipients who have been found eligible for the payment, in the decline in the number of people with particular kinds of disability who receive DSP payments, and in the growing number of people with disability who rely on JobSeeker Payment but who have been judged as only having a partial capacity to work.

This does not mean there are fewer people with disability, just that this punitive measure has forced more people with disability into finding alternative financial supports to stay alive, to afford medications, and to meet basic living standards.

An in-depth analysis of changes in access to DSP between 2012 and June 2018 conducted by Collie, Sheehan and Lane, demonstrated a large and statistically significant decline in both the number of people accessing DSP and successful grant application approvals, and an accompanying growth in the percentage of people on Newstart Allowance/JobSeeker Payment with only a partial capacity to work due to disability. Trends against different conditions show declining numbers of people with mental health conditions on DSP and rising levels of people with mental health conditions on Newstart/JobSeeker with partial capacity to work. The same trends hold in relation to conditions of

⁴ A guide to the Tables for the Assessment of Work-Related Impairment for Disability Support Pension, p.38 [\[accessed online\]](#)

⁵ Manifest medical conditions are: permanent blindness, nursing home level care, terminal illness with less than 2 years life expectancy, IQ less than 70, category 4 HIV/AIDS Veterans Affairs TPI Compensation Payment

⁶ National Social Security Rights Network (NSSRN), Disability Support Pension (DSP) Project: A snapshot of DSP client experiences of claims and assessments since the 2015 changes, January 2018

the circulatory system, conditions of the nervous system, intellectual disability and, markedly, musculoskeletal conditions.⁷ As at March 2021, a third (32%) of people on JobSeeker Payment were designated as having only a partial capacity to work.

The growth of people on JobSeeker Payment with partial capacity to work for extended periods of time suggest that changes to DSP eligibility criteria have become too rigid and restrictive and should be revisited. We are aware of the current review of impairment tables, but concerned that a focus of this review will be to further to restrict DSP eligibility in yet another cost cutting exercise.

Recommendation 1: Treating Doctor Reports should be restored, with a report pro-forma issued to Disability Support Pension claimants when they claim. It should have a focus on the holistic impact of a person's disability over and above points scored for individual conditions, many of which are narrowly task based. It should be separately billable to Medicare at a rate which reflects the time and effort involved.

Recommendation 2: The eligibility criteria for the Disability Support Pension must be brought in line with the social model of disability that underpins the Convention of the Rights of People with Disability (CRPD); that is, the criteria must account for disabling barriers in society, not merely medical assessments of the impact of impairments on functional capacity.

The adequacy of income support for people with disability

In a report commissioned by the Australian Federation of Disability Organisations (AFDO), NATSEM explored income inequalities in standards of living between people with disabilities and those without, including people relying on the DSP and those on JobSeeker Payment with partial capacity to work due to disability.⁸ NATSEM drew on financial hardship and insecurity data from the Australian Bureau of Statistics (ABS) 2015-16 Household Expenditure Survey. They found that people relying on the DSP for income were two times more likely to experience financial hardship and insecurity than people in standard households against nine of the top 16 indicators, and were three times more likely than people in standard households against three of these indicators. Among these indicators were: not being able to afford new clothes most of the time; being unable to pay fuel and phone bills on time; being unable to afford car registration or insurance on time; going without meals; and having to ask family or friends for financial assistance.

A 2020 report on *Poverty in Australia* found that more than two-fifths of people in households whose reference person receives a Disability Support Pension are living in poverty.⁹

None of this is surprising against a background where people with disability face additional costs as identified elsewhere in this submission.

DSP recipients must rely on families and friends to step in, often on a regular basis, to help meet basic funding shortfalls. Many adults with disability find this financial dependency humiliating. It can make them feel infantilised with very negative, lasting effects on their sense of agency and self-esteem.

⁷ Alex Collie, Luke R. Sheehan and Tyler J. Lane, Changes in Access to Australian Disability Support Benefits During a Period of Social Welfare Reform, *Journal of Social Policy* (2021), pp. 1-23

⁸ Li, J., Brown, L., La. H.N., Miranti, R., and Vidyattama, Y. (2019). *Inequalities In Standards of Living: Evidence for Improved Income Support for People with Disability*. NATSEM, Institute for Governance and Policy Analysis, University of Canberra. Report commissioned by the Australia Federation of Disability Organisations. September 2019, p. 22

⁹ Australian Council of Social Services (ACOSS)/University of New South Wales (UNSW), *Poverty in Australia 2020*

People on the much lower JobSeeker Payment whose disabilities present major barriers to employment and, in many cases, meeting mutual obligation requirements allowing them to remain on JobSeeker, are even worse off financially. The NATSEM analysis indicated people relying on Newstart for income support were three times as likely to suffer financial hardship and insecurity as people in standard households against 12 of the 16 indicators and twice as likely against three of the indicators.¹⁰ This is hardly surprising given that they are expected to survive on an income of between \$565.40 and \$667.50 a fortnight and that many also have to cover the additional regular costs of purchasing items and services which arise as a result of their disability or chronic illness. These include those costs that are not subsidised or adequately subsidised by Medicare or Pharmaceutical Benefits, transport subsidies or energy and rental allowances.

Government often justifies the meagre amount of financial support available to people on JobSeeker on the grounds that it is a short-term payment. Aside from the very damaging effects on a person's mental and physical health of living below the poverty line, there is nothing short-term about spending even a year on JobSeeker, let alone for longer than that.

Data provided by the Department of Social Services indicate worrying trends in the amount of time people with a partial capacity to work have been reliant on the Newstart Allowance/JobSeeker Payment. In December 2021, 39% of people on JobSeeker were deemed to have only a partial capacity to work, overwhelmingly due to disability. In March 2021, 20% relied on the Payment for between one and two years, 29% for between two and five years, and 24% for between five and ten years.¹¹ This data provides an indication of the impact of disability on a person's capacity to find sustainable employment, or indeed any employment. It is one thing to determine that someone is capable working for over 15 hours a week; it is another thing for them to actually get a job, especially when they are competing with other jobseekers without disability and who have more options in finding suitable, sustainable employment.

Those relying on Disability Employment Services (DES), either to fulfil their Program of Support eligibility to qualify for DES or as part of mutual obligation requirements under JobSeeker, still struggle to find sustainable employment. As was noted in Boston Consulting's *Mid-Term Review of the Disability Employment Services (DES) Program*, there is a high churn rate for DES participants who do manage to find employment, with about one third having participated in the program multiple times up to the March quarter 2020. Fifty two percent of re-entries took place in less than three months, and only 21% occurred after an interval of longer than 12 months.¹²

It was also noted that, as of March 2020, 85% of DES participants were on unemployment support for more than 12 months, 20% for between two and three years, and 51% for three years or more.

Recommendation 3: The DSP should be increased to enable people to maintain an acceptable standard of living without having to rely on family and friends or charities for additional funds.

Recommendation 4: People in receipt of JobSeeker Payment deemed to have only a partial capacity to work due to psychosocial, intellectual and/or physical disability who have been on JobSeeker for an extended period of time (not more than one year) should be referred or re-referred for a Disability Support Pension assessment and their reasons for not being able to access work or undertake mutual obligations requirements while on JobSeeker should count

¹⁰ DSS Payment Demographic Data, December 2021

¹¹ Karen Soldactic, Dina Bowman, Maria Mupanemunda and Patrick McGee, *Dead Ends*, 2021

¹¹ Boston Consulting, *Mid-Term Review of the Disability Employment Services (DES) Program*, August 2020, p. 52

• ¹² Ibid. p.24

toward evidence that they are unable to work due to an ongoing physical, intellectual or psychiatric impairment (or a combination thereof).

About Carers Australia

Carers Australia is the national peak body representing the diversity of the 2.65 million Australians who provide unpaid care and support to family members and friends with a disability, chronic condition, mental illness or disorder, drug or alcohol problem, terminal illness, or who are frail aged.

In collaboration with our members, the peak carer organisations in each state and territory, we collectively form the National Carer Network and are an established infrastructure that represent the views of carers at the national level.

Our vision is an Australia that values and supports all carers, where all carers should have the same rights, choices, and opportunities as other Australians to enjoy optimum health, social and economic wellbeing and participate in family, social and community life, employment, and education.

This includes carers:

- Who have their own care needs
- Who are in multiple care relationships
- Who have employment and/or education commitments
- Aged under 25 years (young carers)
- Aged over 65 years, including 'grandparent carers'
- From culturally and linguistically diverse backgrounds
- Who identify as Aboriginal and Torres Strait Islander
- Who identify as lesbian, gay, bisexual, transgender, intersex (LGBTI+)
- Who are living in rural and remote Australia, and
- Who are no longer in a caring role (former carers).

Carers Australia acknowledges Aboriginal and/or Torres Strait Islander peoples and communities as the traditional custodians of the land we work on and pay our respects to Elders past, present and emerging. As an inclusive organisation we celebrate people of all backgrounds, genders, sexualities, cultures, bodies, and abilities.

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