

Disability Support Pension

If you have an ongoing physical, intellectual or psychiatric condition which prevents you from working or restricts the amount of work you can do, you may be eligible for Disability Support Pension.

◆ Who is eligible for Disability Support Pension?

To be eligible for Disability Support Pension you must be 16 or over and:

- meet the **residence** criteria; and
- have a medical condition which:
 - has been **fully diagnosed, treated and stabilised**; and
 - is **unlikely to significantly improve** with or without reasonable treatment within the next two years; and
- be unable to **work more than 15 hours per week** for the next two years; and
- be unable to **undertake a training activity** to prepare for work within the next two years, independently of a program of support; and
- score at least 20 points for your impairment under the “impairment tables”.

Since 3 September 2011 your application could be rejected if you haven't already participated in a program of support for 18 months. Instead, you'll be expected to rely on Newstart Allowance as a person with a “partial capacity to work” while undertaking such a program. However this requirement won't apply if you have a **severe disability or illness** which has given you a score of 20 points under a single “impairment table”.

A separate set of conditions applies for people who satisfy the criteria for “permanent blindness”. Contact Centrelink for details.

◆ What are the impairment tables?

The **impairment tables** are used to decide your impairment rating.

There are currently 15 separate tables that each outline how many points are awarded according to what kind of level of impairment a person has.

You have the right to ask your Job Capacity Assessor which tables they consider to be the most relevant tables to your condition. The current tables are available publicly on the internet at:

<http://www.comlaw.gov.au/Series/F2011L02716>

You should take a copy of the most relevant tables to your condition to your doctor for an opinion about how many points your doctor would award you in relation to your condition. A sample letter asking your doctor to do this is attached.

◆ How do I apply for Disability Support Pension?

Generally you must personally lodge your claim for Disability Support Pension at a Centrelink office. If you cannot attend a Centrelink office personally, someone from Centrelink can visit you, or a friend can hand in your claim form.

You can organise for a claim form to be sent to you and register your claim by telephoning Centrelink on 131021.

Generally payment cannot be backdated to before the date you lodge your claim. However, if you claim within 14 days of contacting Centrelink your payment can be backdated to the date of contact.

There are only limited situations in which payment may be back-dated prior to the date of registration or claim. For example, if you became incapacitated for work as a result of a medical condition and you claim a pension or allowance within five weeks from the date of incapacity, your claim may be backdated up to five weeks. Where you claim a pension or allowance after five weeks from the date of incapacity, your claim may be backdated up to four weeks.

To support your claim for Disability Support Pension, you will usually be required to submit a treating doctor's report and a detailed form about your condition. You may also provide additional evidence including, specialist reports, hospital records and x-rays.

◆ Do I need to have been with a program of support before I claim?

Unless your disability is "severe" and you have scored 20 points under a single impairment table, you will need to show that you have tried to get help to find work or tried to get skills for work before your claim will be considered.

If you have been on Newstart Allowance or another activity tested payment for 18 months trying to find work with the help of a program of support you'll have met the requirement and your claim will proceed.

If you apply for payment and can't demonstrate that you've been participating in a program of support for 18 months, your claim will be rejected.

If your medical condition prevents you from participating in a program you can ask that the requirement not apply to you, but only once you have started with a program. If you weren't with a program on the day you claimed Disability Support Pension, you should lodge a second claim as soon as possible on a day that you're registered with a program. If at any stage you are forced to terminate a program because of your medical condition, you should lodge a further claim for Disability Support Pension immediately and ask to be exempt from the program of support requirement.

◆ What is a program of support?

A **program of support** means a program designed to assist in preparation for, finding and maintaining employment. It includes using a Job Services Australia provider, taking part in mainstream educational and vocational programs, or a program specifically for people with a disability, eg, Disability Employment Network and Vocational Rehabilitation programs. Centrelink can tell you the types of programs of support available.

◆ **What is a continuing inability to work?**

Unless your "inability to work" is "manifest", a Job Capacity Assessment will be undertaken to determine if you have a "continuing inability to work".

A continuing inability work means that:

- you **can't work** 15 hours or more per week for the next two years; and that
- you **can't do a training activity** within the next two years that would prepare you to work independently of a program of support.

Some people who were on payments as at 11 May 2005 have a different definition of "continuing inability work" that means they need to be unable to work **30** hours per week within two years.

"Work" means any type of work. It does not mean work in the type of job you previously did.

◆ **What happens at a Job Capacity Assessment?**

Your impairment assessment is generally undertaken as part of a Centrelink "Job Capacity Assessment" by a "Job Capacity Assessor". The Job Capacity Assessor should consider all your medical evidence including reports from your treating doctor(s) and specialist. If you already have medical reports, X-rays and letters from your doctors, you should bring them along to your appointment with a Job Capacity Assessor, no matter how old they are. You will be referred for a Job Capacity Assessment unless the severity of your condition makes your eligibility for Disability Support Pension obvious (this is sometimes referred to as "manifest" eligibility).

It is important that you provide the person undertaking your Job Capacity Assessment with information about all your health problems, not just your main physical, intellectual or psychiatric disability or condition. You may be given an impairment rating for each condition. These ratings will then be combined to calculate your total impairment rating.

◆ **What is a manifest impairment?**

Centrelink may consider you have a manifest impairment where it is considered that your qualification for payment is manifestly evident. Some impairments that Centrelink will accept as being manifest are:

- Terminal illness with a life expectancy of less than two years;
- Intellectual disability with IQ of less than 70;
- Category IV HIV/AIDS;
- Where a person requires nursing home level care; and
- Those getting a Veterans Affairs Pension as totally and permanently incapacitated.

◆ **What if there are delays in processing my claim or my pension is cancelled?**

It can take Centrelink a long time to decide whether you are eligible for Disability Support Pension. If you are receiving no other Social Security payments when you claim Disability Support Pension, you may be entitled to Newstart Allowance while your claim is assessed. Enquire about this at Centrelink.

If Centrelink stops your Disability Support Pension, you may be told that you need to claim Newstart Allowance. However, you may appeal the decision to stop your pension and request that your pension continue until the appeal is finalised (this is called “payment pending review”). Alternatively, if you claim Newstart Allowance, you should ask that you be exempted from the activity test until your Disability Support Pension appeal is decided.

◆ **What if my impairment rating is less than 20 points**

If you are assessed as having an impairment rating of less than 20 points, your claim for Disability Support Pension will be rejected. If you think the decision is wrong, you can appeal. It is a good idea to provide a letter from your own doctor about how many points they think you should have received, as part of your appeal.

◆ **What if my claim is refused?**

You have 13 weeks in which to appeal. You need to check which part of the qualification criteria you did not satisfy to see what your treating doctor may need to write a letter of support in relation to. If you are not sure, you can use the sample letter attached to address all aspects of qualification.

The decision maker looking at your appeal **can only look at your medical condition from the time you claimed and for the 13 weeks after your claim**. If there has been any change in your medical condition, if there might be a problem getting a doctor to say what your condition was during this timeframe, or where Centrelink have raised any issue about whether your condition is fully treated, diagnosed or stabilised, you may need to **lodge a further claim** to preserve your rights to payment.

◆ **Suspension of Disability Support Pension while working**

If you lose eligibility for Disability Support Pension due to working, your pension may be suspended rather than cancelled, for up to two years. This means that your Disability Support Pension will be reinstated if you reclaim within two years and 14 days of the suspension, without the need for another medical assessment.

◆ **Appeal rights**

If you disagree with a Centrelink decision you have the right to appeal against it. Appealing is easy and free. To appeal you should simply tell Centrelink that you are not happy with its decision and that you would like to appeal to an Authorised Review Officer (ARO). It is best to lodge an appeal in writing and you should keep a copy of your appeal letter. You can, however, lodge an appeal over the telephone.

The ARO is a senior officer in Centrelink who has the power to change the original decision. Many people are successful at this level. If you are not satisfied with an ARO decision you can appeal to the Social Security Appeals Tribunal (SSAT), which is independent of Centrelink.

You may appeal to an ARO or to the SSAT at any time. However, to receive back pay from the date you were affected by the original decision, you must appeal to an ARO within 13 weeks of receiving written notice of the original decision and then, if necessary, appeal to the SSAT within 13 weeks of receiving notice of the ARO decision. If you appeal more than 13 weeks after receiving the notice and you are successful, you will only receive back pay from the date you appealed.

If you are appealing to an ARO or to the SSAT about a debt only, no time limits apply. This means that if your appeal is successful, and your debt is cancelled or recovery waived, you

may be entitled to a refund of the amount you have paid back to Centrelink.

If you are not satisfied with the SSAT decision you can appeal to the Administrative Appeals Tribunal (AAT). Centrelink can also appeal against the SSAT decision to the AAT. You need to appeal to the AAT within 28 days of receiving the SSAT decision in writing. This time limit can be extended in limited circumstances by order of the AAT.

For more information on appealing see the Factsheet “Appeals – how to appeal against a Centrelink decision”, the form “Request for a review by an Authorised Review Officer” and the booklets, “how to appeal to the social security appeals tribunal” and the “Administrative Appeals Tribunal Social Security Self Advocacy kit”.

◆ Interpreters

If you think you need an interpreter, or if you feel more confident with an interpreter, you should use one of the three **free** available interpreter services.

- Most Centrelink offices have interpreters available at regular times each week. Your local Centrelink office can tell you whether there is an interpreter available who speaks your language, and at what times they are in the office.
- You can telephone the Multilingual Telephone Information Service (MTI), which is part of Centrelink. MTI is staffed by Centrelink officers who are bilingual. You can ring them directly on 131 202 and they can answer your questions for you.
- You can also call the Telephone Interpreter Service (TIS) on 131 450 and ask for an interpreter. This is a **free** service.

Please note: This Factsheet contains general information only. It does not constitute legal advice. If you need legal advice about your Social Security entitlement, please contact your local Welfare Rights Centre/Advocate.

Welfare Rights Centres are community legal centres, which specialise in Social Security law, administration and policy. They are entirely independent of Centrelink. All assistance is free.

This Factsheet was updated in February 2012.

www.welfarerights.org.au

Sample letter to a doctor

[Date]

Dear Doctor

I need to get a Disability Support Pension.

To be qualified for Disability Support Pension, I must:

- have a physical, intellectual or psychiatric condition that has a rating of at least 20 points under the impairment tables; and
- be fully diagnosed, treated and stabilised, and my condition must be unlikely to significantly improve, with or without reasonable treatment, within the next two years; and
- be prevented, because of my impairment, from working more than 15 hours per week for the next two years; and
- be prevented, because of my impairment, from undertaking a training activity that would equip me to work 15 hours per week within two years, independently of a program of support.

Unless I score 20 points under a single impairment table, I will be required to go onto Newstart Allowance and try to find work or do a training activity with the help of a program of support for a reasonable period.

It would be helpful if you could write a brief letter that addressed my situation in relation to the above criteria, namely:

- Whether you think I am able to participate in a program to help me prepare for, find and maintain employment;
- How many points, in your opinion, I should receive according to the enclosed impairment table(s).
- Whether my condition has been fully diagnosed. Please specify what treatment you are giving me for each of my conditions.
- Whether you think my condition is likely to get better, stay the same or get worse in the next two years;
- Whether there are any other treatments reasonably available to me that would make a big difference to my condition;
- Whether you think I am unable to do any type of work for 15 hours a week or more over the next two years;
- Whether you think my medical condition affects my ability to study or learn new skills;
- Whether you think I am unable to do any type of training activity that would enable me to work 15 hours a week or more over the next two years.

Please address the letter “to whom it may concern” as I will likely be forwarding this letter to Centrelink and / or the Social Security Appeals Tribunal.

I thank you sincerely for your time and assistance in this matter.

Yours faithfully,

[signature and name].