



Disability Support Pension

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

Who is eligible for Disability Support Pension?

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

- meet the residence criteria; and
- the income and assets criteria; and
- have a permanent medical condition which impacts on your ability to work more than 15 hours per week; and
- score at least 20 points for the functional impact that your medical conditions have on you under the *Tables for the Assessment of Work-related Impairment for DSP* (Impairment Tables); and
- have a continuing inability to work; and
- have actively participated in a Program of Support (POS), unless exempt from this requirement.

A separate set of conditions applies for people who satisfy the criteria for “permanent blindness”. For information about this contact Centrelink or your local Welfare Rights Centre whose contact details are at www.welfarerights.org.au.

What are the Residence Requirements for DSP?

You must have:

- been an Australian permanent resident at the time when the medical condition occurred and there was a functional impact on your ability to work or retrain (for people with severe congenital abnormalities this was at birth); or
- 10 years of qualifying residence in Australia if the condition occurred prior to you becoming an Australian permanent resident; or
- a Qualifying Residence Exemption (i.e. reside in Australia and are either a refugee or a former refugee); or
- been born outside Australia and be a dependent child of an Australian resident at the time when the continuing inability to work or permanent blindness occurred, and have become an Australian resident while still a dependent child of an Australian resident.

For those born overseas there may be capacity to receive DSP if medically qualified under an International Agreement between Australia and an Agreement country.

What are Permanent Medical Conditions?

The medical conditions may be physical, psychological or intellectual. To be considered permanent the medical condition must also be fully diagnosed, treated and stabilised and unlikely to improve within the next 2 years.

In deciding whether a condition has been fully treated and stabilised, Centrelink will consider the following factors:

- the date of diagnosis and who made the diagnosis;
- the nature and effectiveness of past treatment;
- the expected outcome of current treatment;
- any plans for further treatment;
- whether past, current or future treatment can be considered reasonable; and
- whether it is considered that even with further reasonable treatment it is unlikely to result in significant functional improvement in the next 2 years e.g. the person will not be able to undertake training or work for more than 14 hours per week.

Further information about this issue is contained in the *Guidelines to the Tables for the Assessment of Work-related Impairment for DSP* in The Guide to Social Security Law which is an interpretation of the law. These Guidelines can be found on the Department of Social Services website at: http://guides.dss.gov.au/sites/default/files/files/3_6_3_impairment.pdf

What are the Impairment Tables?

The Impairment Tables are used to decide your impairment rating. They look at the functional impact your medical conditions have on your ability to do certain things. You need 20 impairment points or more in either one table or across a number of the tables.

If you have more than one medical condition, each condition is assessed separately under the appropriate table and awarded its own impairment rating. The total of all the points gives the overall impairment rating.

There are currently 15 separate tables and a person may be given points under one or more tables.

The Impairment Tables are contained in the legislative instrument - Social Security (Tables for the Assessment of Work-related Impairment for Disability Support Pension) Determination 2011 and can be downloaded from the Department of Social Services website at: <http://www.dss.gov.au/our-responsibilities/disability-and-carers/benefits-payments/disability-support-pension-dsp-better-and-fairer-assessments/review-of-the-tables-for-the-assessment-of-work-related-impairment-for-disability-support-pension/social-security-tables-for-the>

The Impairment Tables can also be accessed through the Comlaw website at: <http://www.comlaw.gov.au/Series/F2011L02716>

What is a Continuing Inability to Work (CITW)?

The permanent medical conditions must have a functional impact on you that prevents you from:

- undertaking work for at least 15 hours per week; and
- being retrained for alternative work within the next two years.

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

Even if your medical conditions may cause problems in a work situation, you could still be considered to be able to work 15 hours per week if reasonable adjustments could be made in a workplace e.g. modifications, aides etc. Employers cannot discriminate against a person with a disability.

What if you are currently studying?

If you have been participating in a mainstream training course for at least 15 hours per week and you intend to continue your course without modification, it is unlikely that you would be considered to have a continuing inability to work regardless of what your disability is and so you would not qualify for DSP.

If you are undertaking a modified course of study, the following factors will be considered in determining whether you have a continuing inability to work 15 hours per week:

- your study-load (including the number of contact hours to attend lectures, practicals and tutorials and the number of hours of private study);
- the method of study e.g. on-campus, via correspondence or on the internet;
- whether you have been given extra time because of your disability to complete your course or assignments;
- whether you have an aide or tutor because of your disability; and
- whether you could participate in alternative training activities if your current course of study is unlikely to enable you to work within the next 2 years.

Most academic institutions have a Disability or Equity Officer who may be able to provide you with information for Centrelink if you claim DSP.

What is a Program of Support (POS)?

A Program of Support (POS) means a program set up to assist you with preparation for job seeking, as well as finding and maintaining employment. To be eligible for DSP there is a requirement that you have:

- actively participated in a program of support for at least 18 months in the preceding 3 years;
- completed a program of support; or
- been with a program of support which had to be terminated because your medical conditions alone meant that continuing would not improve your capacity to work;
- been undertaking a program of support at the time of your claim for DSP but continuing it would not improve your chances of obtaining and maintaining employment.

If you are 'severely disabled' you will not be required to have met the participation in a program of support criterion. You are considered to be severely disabled if you have a rating of at least 20 points on a single impairment table and you have been assessed as only being able to work for 0 -7 hours per week for the next five years.

If you have been registered as a jobseeker and trying to find work with the assistance of a Job Active provider, Disability Employment Service (DES) provider or Remote Jobs and Communities Program for 18 months prior to your claim for DSP it may be considered that you have already met the program of support participation requirement for DSP. Working in Australian Disability Enterprises is also considered to be participation in a Program of Support.

Are there Income and Asset Tests for DSP?

Even if you meet all the qualifications for DSP you will only be able to be paid if you meet the Income and Asset Tests criteria.

How to Claim Disability Support Pension?

What do I do first?

Intention to Claim

To claim DSP you need to lodge an Intention to Claim Disability Support Pension. You can either go into a Centrelink Office or ring the Disability, Sickness and Carers Line on 132 717. The date you lodge the claim or contact the Centrelink office and tell them you intend to lodge a claim is usually the earliest date that you can be paid Disability Support Pension if you are qualified.

You will be required to lodge paperwork in support of the application and it is important to do that within the time frame specified. If you are not able to do it within the time frame you need to contact Centrelink to ask for an extension of time to lodge the information/paperwork.

If you are not already receiving a payment from Centrelink you may be paid Newstart Allowance provisional whilst you are awaiting the outcome of your DSP claim. Eligibility for Newstart Allowance is subject to the relevant income and assets test.

What information will be needed for my DSP claim?

When lodging a claim for DSP you will need to fill in a claim form and provide Centrelink with medical evidence about all of your medical conditions and evidence that you have participated in a Program of Support.

The relevant forms can be downloaded from the Department of Human Services website at <https://www.humanservices.gov.au/customer/enablers/claiming-disability-support-pension>

Medical Evidence

You may not be required to provide a Treating Doctor Report as part of your DSP claim and will need to provide existing medical evidence which can include:

- compensation reports;
- details of any current or planned treatment from your treating health professional;
- hospital or outpatient records;
- medical history report;
- medical imaging reports;
- reports from any operations;
- physical examination report;
- rehabilitation reports;
- specialist medical reports;
- report from your ophthalmologist or ophthalmic surgeon if you have eyesight problems;
- report from either a clinical psychologist or psychiatrist confirming that you have been diagnosed with a mental health condition;
- report or evidence from an audiologist or an Ear, Nose and Throat specialist that you have been diagnosed as having hearing loss.

You should take a copy of the most relevant impairment tables relating 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.

You can ask your nearest Welfare Rights Agency to provide you with copies of the Impairment Tables if you are unable to access them via the internet.

Evidence that you have participated in a Program of Support

You will need to get information about your current and previous participation with a Job Active provider, Disability Employment Service (DES) provider or Remote Jobs and Communities Program within the 3 years prior to you lodging your claim for DSP. You can use the sample letter attached to this factsheet: “dear provider / former provider.”

You can also use the Centrelink form *Information about participation in a program of support* available on the Department of Human Services website at:

<http://www.humanservices.gov.au/spw/customer/forms/resources/sa437-1403en.pdf>

If you have been working in an Australian Disability Enterprises program you will also need to provide evidence of how long you worked there within the 3 years prior to lodging your claim for DSP.

What is a Job Capacity Assessment (JCA)?

After you have supplied all of your evidence you will be referred for a Job Capacity Assessment (JCA), unless you do not meet the non-medical eligibility requirements for DSP such as residency or the income and assets tests or have been assessed as being manifestly eligible.

Following a JCA, you may be referred for a face-to-face Disability Medical Assessment with a government-contracted doctor. The doctor will review your medical evidence to confirm:

- your diagnosis is supported by the evidence;
- your condition is fully diagnosed, treated and stabilised;
- your condition is permanent for the purpose of DSP qualification; and
- the impairment rating assigned by the JCA using the Impairment Tables is supported by the evidence.

They will then provide the assessment to Centrelink and Centrelink will decide if you are eligible for DSP.

What is a manifest impairment?

Centrelink may accept you have a manifest impairment if your qualification for payment is manifestly evident. Some examples of 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; and
- Where a person requires nursing home level care.

What are my Appeal Rights?

You can appeal a decision to reject your claim for DSP. You must lodge a request for a review within 13 weeks of receiving the letter from the original decision maker rejecting your DSP claim if you want to be back paid to the date of your claim. If you lodge your appeal outside the 13 weeks you can only be paid from the date you lodged your appeal if you are successful.

When you appeal, Centrelink will first refer your case to another Centrelink officer called a subject matter expert (SME). The SME must either make a decision completely in your favour or pass your case on to an Authorised Review Officer (ARO). Sometimes the SME will call you to ask if you have more evidence or talk about the decision with you. It is important to remember that if the SME is not going to make a fully favourable decision and you still do not think the Centrelink decision is correct, you are entitled to have your appeal looked at by an ARO.

If you are unsuccessful at the ARO level you have further appeal rights to the Social Security Appeals Tribunal (SSAT) which is an independent Tribunal of review (outside Centrelink). Again you have 13 weeks to lodge your appeal at the SSAT to be back paid to the date you lodged your claim. If you lodge your appeal to the SSAT outside the 13 weeks you can only be paid from the date you lodged your appeal if you are successful.

When the SSAT hears DSP appeals there will be 1 or 2 members making up the tribunal. Currently there is usually one member and they are a doctor. Centrelink will not be present at the SSAT hearing. You will have an opportunity to explain why you think the Centrelink decision is wrong.

SSAT decisions are usually made within 14 days of the hearing. The decision may take longer if the Tribunal needs more information to make its decision. Decisions are usually in writing.

Either disappointed party (you or Centrelink) has the right to appeal to the Administrative Appeal Tribunal (AAT) which is the next level of appeal. Appeals to the AAT must be lodged within 28 days of receiving the SSAT decision.

New information supporting the claim can be provided at any stage of the appeals process but will only be considered as relevant to an appeal if it relates to the period starting from the date of the claim and for the next 13 weeks from the date of the claim.

Other Resources

There are a number of resources that are available on the internet about DSP.

The Department of Human Services website has information about Disability Support Pension at: <http://www.humanservices.gov.au/customer/services/centrelink/disability-support-pension>

The Guide to Social Security Law (The Guide) is an interpretation of Social Security Law and is used by Centrelink. It is useful to look at section 3.6.1 DSP - Qualification & Payability in the Guide which can be found the Department of Social Services website at: <http://guides.dss.gov.au/guide-social-security-law/3/6/1>

Where can I get assistance?

If you have any questions about applying for DSP or appealing you should contact your local Welfare Rights Centre (contact details at www.welfarerights.org.au)

Please note: This information contains general information only and is accurate at February 2016. It does not constitute legal advice. If you need legal advice about social security entitlements, 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. Contact Welfare Rights & Advocacy Service on (08) 93281751 or by email at welfare@wraswa.org.au

Sample letter to a doctor

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].

[date].

Sample letter to a JSA /DES provider or former provider

Dear provider / former provider,

I would like you to give me a letter that gives Centrelink information about my participation with your program.

Please could you set out in writing:

1. Details of your program of support;
2. The dates I am / have been registered with your program – when I started and when I finished;
3. If I finished or was terminated: the reason why – in particular:
 - a. did I complete the program?
 - b. was it because my state of health meant that continuing with your program would not improve my capacity to find, get or stay in work?
4. If I am currently still registered with your program: whether you think that continuing would not improve my capacity to find, get or stay in work because of my state of health;
5. Any periods I was not able to participate in your program including exemptions, reliefs of suspensions, and the reason for these periods;
6. The terms of the program that were tailored to address my level of impairment, individual needs, barriers to employment and capacity to work;
7. The terms I had to comply with to satisfy those program requirements and my level of compliance with those terms;
8. The vocational, rehabilitation or employment activities I participated in as part of the program; and
9. The frequency of contact that I had with you as my provider during the times I was with your program.

Thank you for your help.

Yours faithfully,

[signature and name]

[date].