



WELFARE RIGHTS & ADVOCACY SERVICE

Appealing Decisions - Child Care Payments

This fact sheet provides general information about appealing decisions about Child Care Payments. These decisions are made by the Family Assistance Office (FAO).

For information about appealing Centrelink decisions see the factsheet - **Appealing Decisions - Centrelink**.

The law is complex and FAO staff can sometimes make incorrect decisions. Often a decision made about your entitlement to Family Tax Benefit Part A will affect your entitlement to Child Care Payments and you will need to appeal the decision about your Family Tax Benefit Part A entitlements at the same time as you are appealing the decision about your Child Care Payments.

For information about appealing FAO decisions see the factsheet - **Appealing Decisions – Family Tax Benefit Payments**.

You have the right to appeal most FAO decisions about Child Care Payments if you think they are wrong using the Centrelink appeals process.

Child Care Payments

There are a number of Child Care Payments and each payment has different qualifications. The payments are:

- Child Care Benefit (CCB);
- Grandparent Child Care Benefit (GCCB);
- Special Child Care Benefit (SCCB);
- Jobs, Education and Training Child Care Fee Assistance (JETCCFA); and
- Child Care Rebate (CCR).

Decisions that can be appealed

The types of decisions that can be appealed include:

- Decisions about your entitlement to a payment;
- Changes in the payment rates;
- Cancellation or rejection of your claim for Child Care payments; and
- Debts.

Decisions that cannot be appealed

The following decisions cannot be appealed through the Centrelink appeals process:

- Decisions made by your Child Care Service in regard to a family's entitlement to 13 weeks of SCCB; and
- Decisions made by your Child Care Service about their fees.

When to request a review?

The time limit for appealing a decision about Child Care Benefit (CCB), Grandparent Child Care Benefit (GCCB), Child Care Rebate (CCR) or Special Child Care Benefit (SCCB), is usually 30 June in the income year following the income year in which you received the FAO decision.

Example: In August 2014 FAO made an unfavourable decision about Jane's Child Care Payments. Jane has until 30 June 2016 to appeal this decision.

There are some other time limits.

The time limit for appealing a decision about your eligibility for Jobs, Education and Training Child Care Fee Assistance (JETCCFA) is 28 days from when you received the FAO decision.

You cannot request a review of a decision made on the basis of an income estimate that you provided until either after the end of the current financial year or until after the ATO has made an assessment of your and /or your partner's taxable income for that year. So if your family income has decreased don't request a review; instead you should provide a revised estimate of income. If FAO consider the revised estimate of your income is reasonable, they can increase your rate of payment from the date you provided the revised estimate of income.

Debts

Currently there is no time limit to appeal a Child Care Benefit (CCB), Grandparent Child Care Benefit (GCCB), Child Care Rebate (CCR), Special Child Care Benefit (SCCB) or Jobs, Education and Training Child Care Fee Assistance (JETCCFA) debt.

You will usually have to repay a Child Care Payment debt if your Child Care Service was paid an amount:

- to which you were not entitled; or
- that was more than the amount of assistance that you should have been paid.

If you appeal a decision about your rate of CCB, SCCB or JETCCFA and you are successful and receive arrears then you may incur a CCR debt. Usually the CCR debt will be taken out of the arrears payment prior to you receiving it.

Warning: If you are appealing a debt there is a risk that the amount of the debt could increase if there is a finding that it was incorrectly calculated in the first place. You should get advice from a Welfare Rights Centre about your matter before lodging an appeal. To find your closest Welfare Rights Centre go to www.welfarerights.org.au.

How do I appeal a Child Care Benefit (CCB), Child Care Rebate (CCR) and Special Child Care Benefit (SCCB) decision?

The first stage of the appeal process is to request a review by a Centrelink Authorised Review Officer (ARO) who is a senior Centrelink officer with experience in reviewing decisions who has the power to change them.

If you are unsuccessful at the ARO level you have further appeal rights to the Social Services Child Support (SSCS) Division of the Administrative Appeals Tribunal (AAT) which is an independent Tribunal of review outside Centrelink. You need to appeal to the SSCS within 13 weeks of receiving the ARO decision.

If you do not agree with the first review decision there is a further right to review to a second review by the General Division of the AAT. You need to appeal to the General Division within 28 days of receiving the SSCS decision.

For more detail about both stages of the AAT review process see:

- Our factsheet - **Appealing Decisions - Centrelink** which can be downloaded at <http://www.wraswa.org.au/resources/> ; and
- The **Guide to Social Services and Related Jurisdiction** – a guide which provides assistance on first and second reviews of Centrelink decisions can be downloaded at <http://www.aat.gov.au/resources/practice-directions-guides-and-guidelines>.

Appealing Centrelink decisions is free at all stages of the appeal process up to and including both divisions of the AAT.

How do I appeal a decision about my eligibility for Jobs, Education and Training Child Care Fee Assistance (JETCCFA)?

If you do not agree with a decision made in relation to your eligibility for JETCCFA then you only have 28 days to appeal this decision to the ARO from when you receive the letter advising you of the decision.

The types of decisions that can be appealed are:

- Rejection of application for JETCCFA;
- Cancellation of JETCCFA; and
- The number of hours that you are eligible for JETCCFA.

During the review process, you will receive the same rate of JETCCFA that you were receiving prior to the adverse decision being made.

If the ARO finds in your favour, your JETCCFA payments will be backdated to the time of the original decision.

The decision made by the ARO is final and there is no right of review to the AAT.

Note: If your JETCCFA has been cancelled or reduced you may be entitled to a higher rate of Child Care Rebate (CCR) which may offset any debt incurred.

Where can I get assistance?

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

If you need legal advice in relation to Centrelink in Western Australia please contact:

- Welfare Rights & Advocacy Service on 08 9328 1751; or
- Sussex Street Community Legal Centre on 08 6253 9500; or
- Fremantle Community Legal Centre on 08 9432 9790.

Fact Sheets

There are a range of fact sheets available from the National Welfare Rights Network and Welfare Rights Centres across Australia. Visit <http://www.welfarerights.org.au/factsheets> to see if any of the fact sheets can assist you.

Administrative Appeal Tribunal (AAT)

AAT First stage review application:

- <http://www.aat.gov.au/social-services-child-support-division/applying-for-a-review/how-to-apply>

AAT Second stage review application:

- <http://www.aat.gov.au/applying-for-a-review>

Department of Human Services

- The Department of Human Services Centrelink website has a range of information. <https://www.humanservices.gov.au/customer/dhs/centrelink>.
- Information about Reviews and Appeal for Centrelink and Child Support can be found at: <https://www.humanservices.gov.au/customer/enablers/reviews-and-appeals>

Please note: This information contains general information only and is accurate at July 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