

8 May 2015



Victorian Institute of  
Forensic Mental Health

1000 Orra Bend Road, Fairfield  
Victoria Australia 3078

Locked Bag 10, Fairfield  
Victoria Australia 3078

DX 212119

Telephone +61 3 9495 9206  
Facsimile +61 3 9495 9199

[www.forensicare.vic.gov.au](http://www.forensicare.vic.gov.au)

The Senator Members  
c/ Committee Secretary  
Senate Standing Committees on Community Affairs  
PO Box 6100  
Parliament House  
Canberra ACT 2600

## **SOCIAL SERVICES LEGISLATION AMENDMENT BILL 2015**

Dear Senators,

We are writing to you in relation to the proposed ceasing of social security benefits for psychiatric patients who have been charged with a serious criminal offence but have been found not guilty by reason of mental impairment as stipulated in the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*. The proposed cuts do not consider critical recovery-based ethics, basic human rights or related social and fiscal consequences.

As Consumer Consultants, we play a pivotal role in facilitating consumer leadership and engagement across Forensicare. We encourage consumers to participate in their recovery and focus on systemic issues in the hospital that promote effective service delivery. As part of our role in protecting the rights of consumers we are deeply concerned at the proposed social security changes which will potentially impact 71 consumers at Thomas Embling Hospital. The heart of Consumer Consultancy is to ensure the consumer voice is heard and that optimal conditions for personal recovery are embedded within all levels of service delivery at Forensicare. This proposal is a backwards step in achieving personal recovery at Thomas Embling Hospital, Forensicare.

The concept of personal recovery is defined and embedded in the Commonwealth Department of Health policy guidelines as identified in 'A National Framework for Recovery-orientated Mental Health Services: Guide for Practitioners and Providers'. This document defines personal recovery as 'being able to create and live a meaningful and contributing life in a community of choice with or without the presence of mental health

issues'. It is an absolute hypocrisy for the Commonwealth Department of Social Services to contradict recovery principles outlined by the Commonwealth Department of Health inferring that Forensicare consumers do not have a mental illness by ceasing social security payments which is an international right as a person with a disability.

This proposed change is a violation of human rights as stated in the **United Nations Convention on the Rights of Persons with a Disability**:

Article 28 – Adequate standard of living and social protection

*2. 'State parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right'*

The government is actively disregarding consumers, who have a mental impairment, the right to social protection. Discriminating on the basis of having committed a 'serious criminal offence' even though being found not guilty due to mental impairment, denies that the impairment is recognized as a disability, and as such is a violation of human rights as recognized internationally at law. 'As consumers rightly state: "We are not in jail, we are in a hospital because of mental health issues, so should be eligible (for social security payments) as got a disability...not in a prison." Lack of culpability must be acknowledged to recognize the rights and entitlements of consumers who have a disability at Thomas Embling Hospital. The pervasive impact of this policy proposal will structurally stigmatize consumers and their sense of self, many of whom feel a deep sense of guilt, shame, and remorse as a consequence of their offence and present societal stigma.

The consumers at Thomas Embling Hospital have identified the following consequences of ceasing social security benefits:

- A) Consumers have expressed deep concern at the inability to be discharged due to not being able to fund basic needs such as food, clothing and toiletries: "how will we be able to purchase food, clothing, and toiletries and pay basic medical costs?" The achievement of basic needs fosters a sense of safety and security forming the building blocks of recovery: "I have podiatry and dental costs that I will not be able to afford". Many of our patients have poor teeth which they wish to improve in appearance in order to be more presentable not just in general society but also essentially to gain access to employment opportunities in the public area. Ceasing social security also means ceasing concessions associated

with a disability status further marginalizing and creating increased expenses for forensic patients.

- B) In terms of rehabilitation, consumers have reported not being able to work on meaningful goals in the hope of discharge. These goals involve access to education, employment, housing, family, community supports, leisure and recreational pursuits which aid personal recovery for each consumer at Thomas Embling Hospital. Consumers have stated they will not be able to engage in achieving these goals to rehabilitate without money: "In order to be discharged we need to have housing, many of us rent houses prior to discharge and would not be able to fund renting a home without the pension". Some consumers have identified paying rates on a current house and paying a mortgage which would not be achievable without social security resulting in no discharge destination and increased dependence on the hospital for assistance. In order to achieve extended leave and any overnight leave at all, to build up to the governments indication of a minimum of 3 overnight leaves a week to requalify for social security benefits, consumers need to have accommodation already in place. How can they possibly achieve this requirement of the Forensic Leave Panel with no income?
- C) Education and employment have been identified by consumers as adversely impacted by loss of social security payments. Many consumers will not be able to afford continuing educational pursuits, defaulting to dependence on hospital services to educate consumers: "If you want an education outside, it [having no social security] takes away the capacity to do so creating dependence on the hospital furthering institutionalization". Employment will become more difficult to attain without developing the skills, knowledge and independence necessary to be employed: "We are being kept here by the hospital, and the government is not allowing us to rehabilitate. Due to taking medication we are unable to work, therefore the system is working against us". Consumers identified having no money will limit opportunity for employment by reducing capacity to seek employment and aesthetically present at job interviews.
- D) Consumers mentioned community leave would be meaningless without money as they would not be able to afford transport to commute to their community links: "We will depend on the hospital to transport us around and this will further stigmatize patients creating an unnecessary level of dependence on the hospital and exhaust resources". Furthermore, consumers will not have money to spend at community links, which provides choice and autonomy in recovery: "What will be the point in going on leave? We will have nothing to do". Consumer dependence on the hospital for financing and resourcing leaves will further

institutionalize consumers who already experience an average length of stay of 8-10 years at Thomas Embling Hospital: "We won't be able to cook, clean or budget without money and therefore not rehabilitate and recover to enter the community resulting in being institutionalized". Institutionalization results in public health and mental health costs increasing as demand for forensic beds increase.

- E) Consumers expressed concern about the impact on families and carers: "How will we be able to afford phone calls to our family?" Informal supports act as a significant protective factor in rehabilitation and some consumers believe families and carers will be deterred from involvement due to the stress of consumers seeking additional money. There is a possibility families will disengage due to the additional financial pressure on significant relationships. Many patients already have compromised relationships with family members which will have an impact on essential support structures being in place for rehabilitation back into the community.
- F) Consumer physical and mental health deterioration has been identified by clinical staff at Thomas Embling Hospital and as a result of anticipatory anxiety created by the pending decision on consumer recovery: "These changes leave us feeling helpless and hopeless, depressed and low in morale" which could increase risk of reoffending both in the hospital and community due a loss of rights, hope and independence: "How will patients with increased anxiety and paranoia be able to manage symptoms in the community on leave with the stress of no money?" Consumers have highlighted that stress, anxiety and unstable mental states can create social isolation and result in segregation within the hospital depending on income entitlements. "Even security patients (patients transferred from prison who have been convicted of a crime) get an allowance". Why should Forensic Patients be punished when they have not even been convicted of a crime and deemed to have no criminal intent? In contrast many of our patients have a certain vulnerability needing to be supported and protected, why add to this by denying their citizenship?

The proposed policy creates structural change that will financially cost the Federal and State government more to implement. Due to consumer concerns about loss of rights, recovery and hope there will be deteriorating health and mental health impacting Forensicare and the broader community and welfare systems. There will be further bed blockages in an already over-stretched system, due to an inability for consumers to rehabilitate and secure stable accommodation in the community sector. This will result in vulnerable forensic mental health consumers not gaining access to services at Thomas Embling Hospital, placing pressure on other community government funded systems: "We will need to build more forensic mental health facilities, hospitals, kitchens, soup vans and community services". The hospital will have to change its structure and current

treatment regime in order to provide services, thus creating consumer dependence and a power imbalance between consumer and clinician/service provider counter intuitive to the dominant recovery paradigm espoused by Federal and State governments.

We believe forensic patients at Thomas Embling Hospital should be free from discrimination and have the same access to social security benefits as other mental health consumers, which uphold human rights, facilitate personal recovery and enable rehabilitation as part of the *Mental Health Act 2014* and *United Nations Rights of Persons with a Disability*.

It is not only a basic human right and expectation to have unfettered access to a secure source of income in a first world country but a matter of dignity and respect.

"The pension is meant to see us through, it is already not enough in itself, and it is the string that binds everything together."

Yours Sincerely,

Julie Dempsey

Consumer Consultant

Matt Jackman

Consumer Consultant Assistant

Consumer Consultant Team on behalf of Forensicare patients:

Victorian Institute of Forensic Mental Health