



AUSTRALIAN MEDICAL
ASSOCIATION

ABN 37 008 426 793

T | 61 2 6270 5400

F | 61 2 6270 5499

E | info@ama.com.au

W | www.ama.com.au

42 Macquarie St Barton ACT 2600

PO Box 6090 Kingston ACT 2604

AMA submission to Senate Standing Committees on Community Affairs Inquiry into *Social Services Legislation Amendment (Welfare Reform) Bill 2017*

Committee Secretary
Senate Standing Committees on Community Affairs
PO Box 6100
Parliament House
Canberra ACT 2600
community.affairs.sen@aph.gov.au

This submission primarily refers to the following Schedules of the *Social Services Legislation Amendment (Welfare Reform) Bill 2017*:

- Schedule 12 – Establishment of a drug testing trial
- Schedule 13 – Removal of exemptions for drug or alcohol dependence
- Schedule 14 – Changes to reasonable excuses
- Schedule 15 – Targeted compliance framework

As the peak professional organisation representing medical practitioners in Australia, the Australian Medical Association (AMA) welcomes the opportunity to provide a brief submission on aspects of the *Social Services Legislation Amendment (Welfare Reform) Bill 2017*.

The AMA has previously written to the Minister for Social Services voicing concern about the proposal to introduce random drug testing for 5,000 Newstart Allowance and Youth Allowance recipients in three trial sites from 1 January 2018. The AMA also expressed its concerns about the removal of exemptions for drug and alcohol dependence [Schedule 14], and changes to reasonable excuses [Schedule 15].

The AMA considers substance dependence to be primarily a health problem, and those affected should be treated in the same way as other patients with serious health conditions. This approach includes access to treatment and supports to recovery. Currently, services for people with substance dependence are severely under-resourced in terms of equitable and sustainable funding, and personnel and geographical reach.

Australian Medical Association

The Explanatory Memorandum to this Bill posits that it is contrary to community expectations that people who ‘abuse’ substances receive welfare payments. This overlooks the health implications, and approaches substance dependence from a moral standpoint.

It is important to emphasise that the drug test proposed in this legislation will not provide any distinction between people with substance dependence and those who are occasional or one-off drug users. This means that welfare recipients who return a positive test will be subject to exactly the same response – income management, subsequent drug testing, mandatory treatment and ultimately cancellation of their payment – despite having very different needs. The AMA believes this approach will contribute to increased demand for treatment. Demand for treatment in Australia already outweighs availability of services.

Ideally, this proposal should have been complemented by additional funding commitments for drug and alcohol interventions for occasional and one-off users who are identified during the trial, as well as funding for treatment services for those welfare recipients who are found to have more serious substance dependence.

An outcome of the *National Ice Action Strategy* was to task Primary Health Networks (PHNs) with commissioning local responses to drug and alcohol treatment. This approach is in its infancy, and there is a very real risk that the trial sites will be overwhelmed. At best, this measure will increase the demand for treatment on an already overstretched sector; and at worst, it will divert opportunities for treatment away from those who are actively seeking it (to those who may engage in one-off or occasional use and who may only be seeking treatment to ensure continued access to welfare payments).

It will be important that any trial of random drug testing of welfare recipients also closely investigates the impact such a trial will have on policing and incarceration in the trial sites. It is feasible that physical withdrawal symptoms, and a lack of access to discretionary funds, may result in some people engaging in criminal activity. This could see an increase in criminal activity within the community. Another related concern is that individuals who need access to drug and alcohol treatment may be diverted into custodial settings. Such outcomes will not benefit anyone.

The draft *National Drug Strategy 2016 - 2025* affirms the need to divert people away from the criminal justice system and into appropriate treatment. While no one supports the idea that welfare funds should be spent on illicit substances, it is important for the Committee to recognise substance dependence as a serious health condition. Regardless of whether the proposal to drug test welfare recipients is consistent with public opinion, it is inconsistent with the draft *National Drug Strategy 2016 – 2025*. This proposed legislation contains punitive measures for people affected by a serious illness, and the risk of unintended consequences, such as increasing incarceration rates among people with substance dependence, is high.

It is problematic that no costing has been provided for these drug testing measures. For fully informed consideration of potential merits and likely problems, indications of the likely costs should be publicly available. Given that recipients are being made to pay for any secondary drug tests, or any subsequent testing when disputing results, it is vital that the cost of the drug test is made transparent, and also that the price of the test is achievable for a person receiving welfare payments.

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The AMA is also concerned about the changes contained in Schedule 13 and 14, which effectively dismiss serious health implications of substance dependence. These proposed changes appear to put in place an approach that will, in effect, dismiss a treating medical practitioner's diagnosis and advice. While it is unfortunate that substance dependence may be detrimental to the point of a welfare recipient being unable to undertake mutual obligation responsibilities, such as searching for employment, in some instances this health problem will be sufficiently serious for this to occur. It is not acceptable that a medical practitioner's diagnosis can be disregarded by medically unqualified people or agencies.

Under the process set out in the Bill, a person who tests positive to a prescribed drug will be subject to income management for a period of at least two years, and they will also be subject to ongoing random drug tests. If a person tests positive for a second time they will be referred to a 'medical professional' for assessment and treatment. The term 'medical professional' is ambiguous. The Government must confirm that this work will be undertaken by medical practitioners, given their expertise in diagnosis and referral for treatment.

In correspondence between the AMA and the Minister for Health, the Hon Greg Hunt MP, the Minister recognised the importance of consulting with medical bodies, including the AMA, about how this measure will impact on medical practitioners and the health system more broadly. The Minister suggested that this consultation would be undertaken by the Department of Social Services prior to the implementation of the trial. However, as yet, the AMA has not been directly consulted.

Finally, this measure will essentially mandate drug treatment for some individuals. The efficacy of mandatory drug treatment in the medium and longer term has not yet been established. If the trial is to proceed, it must include some form of evaluation. With little accountability around the costs of the measure it is important that there is at least some accountability in terms of its effectiveness.

In summary, the AMA considers these measures to be mean and stigmatising. The AMA considers substance dependence to be a serious health problem, one that is associated with high rates of disability and mortality. The AMA firmly believes that those affected should be treated in the same way as other patients with serious health conditions, including access to treatment and supports to recovery. Treatment and support services for people with substance dependence are already under pressure; this Bill will inevitably result in increased demand.

The AMA is concerned that the approach could inadvertently result in increased incarceration for welfare recipients with a substance dependence. Moves to disregard or discount medical advice about the capacity of those with substance dependence is also problematic. In order to minimise the risk of unintended consequences associated with the Bill, thorough consultation and refinement of the Bill is recommended.

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Contact

Simon Tatz
Director, Public Health
Australian Medical Association