



# Inquiry into the Social Services Legislation Amendment (Welfare Reform) Bill 2017

Submission to Senate Community Affairs Legislation Committee



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# CONTENTS

	Page
<b>About RDAA</b>	<b>2</b>
Contact for RDAA	2
<b>Executive Summary</b>	<b>3</b>
<b>Recommendations</b>	<b>4</b>
<b>Background</b>	<b>5</b>
<b>Key Issues</b>	<b>6</b>
<b>Endnotes</b>	<b>11</b>

# ABOUT RDAA

*RDAA is the peak national body representing the interests of doctors working in rural and remote areas and the patients and communities they serve.*

RDAA's vision for rural and remote communities is simple – excellent medical care.

This means high quality health services that are:

- patient-centred
- continuous
- comprehensive
- collaborative
- coordinated,
- cohesive, and
- accessible

and are provided by a GP-led team of doctors and other health professionals who have the necessary training and skills to meet the needs of those communities.

## CONTACT FOR RDAA

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## EXECUTIVE SUMMARY

The Australian Government first announced the establishment of a trial to test for drug use within specific groups of jobseekers in its 2017-18 Federal Budget. Following the Federal Budget announcement, RDAA raised concerns about the health impacts of such an initiative, the lack of evidence about the efficacy of the approach, and the apparent lack of consultation regarding the processes and resources that would be required.<sup>1</sup>

The initiative was included, with two other related measures, in the Social Services Legislation Amendment (Welfare Reform) Bill 2017. It was presented and read a first time in the House of Representatives on 22 June 2017.<sup>2</sup>

The Welfare Reform Bill provides for a two-year trial of mandatory drug testing for 5,000 recipients of Newstart allowance and youth allowance (other) in three selected locations (Schedule 12); removes exemptions for drug or alcohol dependence (Schedule 13); and makes changes to the reasonable excuses provisions (Schedule 14).

The Hon Christian Porter MP, Minister for Social Services also moved that the bill be read a second time.<sup>3</sup>

The Senate referred the Welfare Reform Bill to the Senate Community Affairs Legislation Committee for inquiry and report on the same day.<sup>4</sup>

The text of the Welfare Reform Bill, Explanatory Memorandum and the Minister for Social Services' second reading speech outlining the measures and associated processes do not allay the concerns voiced by RDAA and others. It is imperative that the Australian government consults with key stakeholders, including health and community service providers in rural and remote areas and consumers, to identify and address issues related to the drug testing of welfare recipients before choosing to proceed with these measures.

## RECOMMENDATIONS

RDAA believes that a thorough investigation of the validity and value of drug testing of jobseekers claiming the Newstart allowance or the youth allowance (other) is necessary before the commencement of any trial. RDAA recommends:

- reviewing existing research and evidence in relation to drug testing of welfare recipients
- consulting with key stakeholders, including health and community service providers in rural and remote areas and consumers, to identify and address issues related to drug testing of welfare recipients.

Should the trial proceed, critical elements must include:

- careful design, monitoring and documenting of processes and evaluation of outcomes to ensure efficacy
- ensuring that improving health outcomes remains a primary goal for drug testing of welfare recipients through implementing evidence-based, best practice approaches
- preventing the adoption unethical and discriminatory practices.

In rural and remote areas any such initiative must be underpinned and supported by other measures, including

- investing in proven strategies to assist people experiencing substance abuse issues with their health and other issues, including gaining or returning to work when appropriate
- improving availability of high quality health care in rural and remote areas, including drug and alcohol treatment and mental health care services, to deliver early intervention and treatment services
- providing specific support for rural GPs and their teams, including training and resources, to improve drug and alcohol treatment in rural and remote communities.
- investing in health literacy and prevention activities to reduce risky health behaviours, particularly in rural and remote areas
- providing adequate funding, training and resources to enable drug and alcohol and mental health care services to treat and support people experiencing substance abuse issues.

## BACKGROUND

RDAA acknowledges that drug testing is used in a range of settings in Australia and internationally and that the aims of drug testing, including ensuring public safety, deterrence, referral to treatment or other interventions, and maintenance of treatment regimes, differ according to context.

However, as the Australian National Council on Drugs (ANCD) pointed out *undergoing a drug test can be invasive; it can violate individuals' bodily and information privacy; and many people experience it as humiliating or dehumanising. There is little to no evidence from controlled investigations that it is effective in meeting its aims in many of the settings in which it is used*<sup>5</sup> and that *there is limited evidence available on the effectiveness of drug testing welfare recipients for deterrence of drug use, increasing employment participation, or reducing welfare spending.*<sup>6</sup>

RDAA believes that there are a number of health and other issues related to Schedule 12, Schedule 13 and Schedule 14 of the Social Services Legislation Amendment (Welfare Reform) Bill 2017 which must be identified and addressed before the Bill is passed. The Australia Government must consult with all relevant stakeholders – including consumers and those providing rural and remote health and community services – to assess the possible health, social and economic impacts of the proposed measures on individuals, their families and carers, and their communities before choosing to implement jobseeker drug testing.

Should the Australian Government choose to proceed with the drug testing of jobseeker allowance claimants and the related measures, the key issues identified below must be addressed.

## KEY ISSUES

### *The rationale for the proposed drug testing of jobseekers claiming allowances appears to be based on unsupported assumptions.*

The drug testing of welfare beneficiaries has previously been proposed in Australia and elsewhere with similar rationales and processes to those encapsulated in the Welfare Reform Bill Explanatory Memorandum and the Minister for Social Services' second reading speech: *Drug testing of welfare beneficiaries has been proposed in a number of countries, including Australia ... The aim of drug testing welfare beneficiaries is most often stated to be to identify people who use drugs in order to refer them to treatment, with the longer-term aim of increasing their capacity to find and maintain work. This can be regarded as part of broader trends in employment participation policies towards promoting the 'active participation' of welfare beneficiaries in seeking work. Some of the proposed programs make such treatment either mandatory or coerced, denying or limiting benefits for those who do not take up or complete treatment. Other programs simply remove benefits from people who test positive or refuse to be tested. As such, another aim of drug testing welfare recipients is deterrence. In addition, such programs are sometimes proposed with the aim of protecting state funds from being used to finance drug use or maintain drug dependency, and reducing overall welfare spending*<sup>7</sup>

The Welfare Reform Bill Explanatory Memorandum states that *Substance abuse is a major barrier to social and economic participation and is not consistent with community expectations around receiving taxpayer funded welfare payments. The aim of the trial is to improve a recipient's capacity to find employment or participate in education or training by identifying people with drug use issues and assisting them to undertake treatment. The trial will test the effectiveness of decreasing substance abuse through random drug testing, in an effort to improve employment outcomes for trial participants.*<sup>8</sup>

The Minister for Social Services in his second reading speech asserted that *... this bill introduces three measures designed to strengthen requirements for jobseekers who may have substance abuse issues and to provide improved pathways for them to pursue appropriate treatment, and that the community has a right to expect that taxpayer-funded welfare payments are not being used to fund drug and alcohol addiction and that jobseekers do all that they can reasonably do to find a job, including addressing any barriers which have prevented them from doing so.*<sup>9</sup>

The rationale and aim of the initiative and the associated processes as described appear to be based on assumptions about the value of drug testing as a means to assess drug use behaviours and institute behaviour change, and on urban-centric assumptions about access to government agencies and health professionals, including drug and alcohol treatment services. There is little, if any, evidence to suggest that this approach will have the desired effects.

While the Minister for Social Services suggested an additional aspect: *to build that [Australian] evidence base*<sup>10</sup> the ANCD conclusions about the flaws in the rationale for instituting drug testing of welfare recipients, the incorrect assumptions about drug users, the nature of drug dependency, the effects of drug testing and the legal and ethical considerations<sup>11</sup> are still pertinent. Furthermore, there appears to be no provision for monitoring and evaluation of the “trial”. Unless the trial is properly designed, monitored, documented and evaluated it will have limited value in contributing to the evidence base.

*There is a lack of information about processes that will be instituted.*

There is a lack of information about the initiative. A number of issues appear to have not been considered, including the ethical considerations, the possibility of increased poverty and homelessness, impact on rates of crime, as well as possible social and health costs and whether the process will be counterproductive. Concerns about profiling and discrimination have also been raised.<sup>12</sup>

The complexities associated with co-morbid and multi-morbid conditions are also not recognised. The process for people already in treatment who test positive has also not been described.

In addition, there is a lack of acknowledgement that an individual’s drug use may not be problematic with respect to their capacity to function in society and that job seeking is impacted by a range of other factors. The unique circumstances of rural and remote communities, including the vagaries of climate or global factors impacting on the mining sector, and the higher costs associated with transport can make it more difficult to find and retain employment. Programs and processes that negate the impact of the social determinants of health and wellbeing and the disadvantage being experienced by many people in rural and remote areas on job seeking and employment are fundamentally flawed.



It is widely recognised that people in rural and remote areas have higher rates of risk in relation to many health and wellbeing indicators, including smoking and alcohol abuse, and poorer physical and mental health outcomes. Rates of suicide in these areas are alarming:

- the rate of suicide among men aged 15-29 who live outside major cities is twice as high as the general population
- the rate of suicide among young Aboriginal and Torres Strait Islander people (aged 15-24) is five times higher than that for non-Indigenous people
- the rate of suicide is 66% higher in the country than in major cities.<sup>13</sup>

Investing in proven strategies to assist people experiencing substance abuse issues or comorbidities or multi-morbidities, providing access to high quality health care in rural and remote areas to deliver early intervention and treatment services, including in drug and alcohol services and mental health care, and in health literacy and prevention activities to reduce risk is more likely to result in increased workforce participation than funding measures that have been unsuccessful elsewhere.

*There is little evidence to support that drug testing of welfare recipients leads to positive individual or societal change.*

Given that drug testing imposes a significant burden on those tested, it is imperative that any testing and compliance processes can be justified by outcomes that outweigh the burden on individuals, their families and carers, and their communities.

In 2013, the ANCD found that: *There is no evidence that drug testing welfare beneficiaries will have any positive effects for those individuals or for society, and some evidence indicating such a practice could have high social and economic costs. In addition, there would be serious ethical and legal problems in implementing such a program in Australia<sup>14</sup>; noted that "there is no clear evidence that drug use in and of itself is a barrier to employment for a significant proportion of people – nor that it is a more significant barrier than other factors, such as transport problems, mental or physical health problems, or discrimination<sup>15</sup>; and recommended that Drug testing of welfare beneficiaries ought not be considered<sup>16</sup> and that Programs of drug testing welfare beneficiaries for the purposes of referral to treatment, deterrence, or reducing welfare spending, should not be implemented.<sup>17</sup>*

*The application of punitive consequences prior to determining the accuracy of tests is problematic.*

A separate legislative instrument will set out the detailed scope and rules for the proposed drug testing. It may involve testing of a person's saliva, hair or urine. Jobseekers who test positive in an initial drug test will be subject to a second drug test within 25 days and to an unspecified number of further random drug tests.

Income management for 24 months is an immediate, and arguably punitive, consequence after an initial positive result that may have serious unintended consequences for individuals and their families. This raises a number of ethical and legal issues, including in relation to an individual's right to bodily and information privacy.

That such a measure will be instituted before test results are confirmed as accurate is concerning. Although tests and associated technology has improved over recent years false positives and false negatives are still possible. Given that many people find drug testing degrading and dehumanising the impact on mental health must be a consideration. The process may also be counterproductive to treatment and employment aims.<sup>18</sup>

Furthermore, one positive drug test cannot, in itself, provide sufficient information to infer patterns of use or dependency on drugs, nor give an indication of levels of mental and/or physical impairment.<sup>19</sup>

*Access to qualified medical professionals and drug and alcohol treatment services is limited in rural and remote areas.*

The process as described entails referral to a Department of Human Services medical professional with experience in drug and alcohol treatment for assessment of circumstances and treatment or support options if a person tests positive for drug use a second time. Exactly how the medical professional will be selected and contracted and what level of qualification and experience will be required is not specified. If treatment is recommended the jobseeker will be required to participate in one or more treatment activities as part of their job plan.

As there are likely to be fewer available qualified medical professionals and options for treatment and support in rural and remote areas consideration must be given to how these can be provided. Specific support for rural GPs and their teams, including for training and resources, is critical to improving drug and alcohol treatment in rural and remote communities. The provision of advanced training pathways for those GPs who have the motivation, interest in and commitment to addiction medicine and drug and alcohol treatment and is also needed.

*The lack of information and lack of consultation with key stakeholders reinforces existing systemic problems and inequities.*

Other than the opportunity afforded by this Inquiry, RDAA is unaware of any consultation regarding the processes and resources required for the drug testing of jobseekers initiative. Lack of consultation with key stakeholders can only serve to continue the tradition of silo-ing and fragmentation of policy and programs that has plagued the Australian health system for many years.

There has been no indication of the estimated overall cost of the jobseeker drug testing initiative. In addition to the cost of the unspecified number of commercially available tests necessary for random drug testing, the contracting of third party testers and medical professionals to assess cases, and the \$28.8m<sup>20</sup> to be provided to employment service providers, there will be a cost to the broader health sector.

Rural and remote health is already beset by inadequate investment. High levels of unmet needs persist in rural and remote Australia. Referring an individual to treatment only to have them registered on a long waiting list places the person in limbo and may have unintended adverse consequences for their health.

Increasing the demands placed on medical professionals and drug and alcohol treatment services through the establishment of new drug testing regimes and referral pathways without additional investment would further exacerbate existing inequities. Drug and alcohol treatment programs must be adequately resourced to ensure access.

## ENDNOTES

<sup>1</sup> RDAA Media release. Drug testing welfare recipients an unproven policy. 12 May 2017.

<http://www.rdaa.com.au/sites/default/files/public/Drug%20testing%20welfare%20recipients%20an%20unproven%20policy%20--%20May%202017.pdf>

<sup>2</sup> The Text of the Bill and Explanatory Memorandum can be accessed at

[http://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/Bills\\_Search\\_Results/Result?bld=r5927](http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r5927)

<sup>3</sup> Commonwealth Parliamentary Debates. House of Representatives. 22 July 2017.

<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F7940dba6-3d49-4d38-811f-42e1e50c1e3c%2F0007%22>

<sup>4</sup>[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Community\\_Affairs/WelfareReform](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/WelfareReform)

<sup>5</sup> ANCD Position Paper: Drug Testing, August 2013 p. 3 <http://www.atoda.org.au/wp-content/uploads/DrugTesting2.pdf>

<sup>6</sup> *Ibid*, p.13

<sup>7</sup> *Ibid*, pp12-13

<sup>8</sup> The Parliament of the Commonwealth of Australia, House of Representatives. Social Services Legislation Amendment (Welfare Reform) Bill 2017: Explanatory Memorandum, p. 62

[http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r5927\\_ems\\_6a8e8ca6-07d3-4e2c-ba3d-4b694158c1c1/upload\\_pdf/636754a.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r5927_ems_6a8e8ca6-07d3-4e2c-ba3d-4b694158c1c1/upload_pdf/636754a.pdf;fileType=application%2Fpdf)

<sup>9</sup> Commonwealth Parliamentary Debates. *op cit*.

<sup>10</sup> *Ibid*.

<sup>11</sup> ANCD. *op cit*, p 14.

<sup>12</sup> <https://theconversation.com/drug-testing-welfare-recipients-raises-questions-about-data-profiling-and-discrimination-77471>

<sup>13</sup> <https://www.garvan.org.au/foundation/our-work/rural-health/national-health-priority-areas/>

<sup>14</sup> ANCD. *op cit*, p2

<sup>15</sup> *Ibid*, p.13

<sup>16</sup> *Ibid*, p.2

<sup>17</sup> *Ibid*, p.21

<sup>18</sup> *Ibid*, p.14

<sup>19</sup> Council on Scientific Affairs (1987). Scientific Issues in Drug Testing. Journal of the American Medical Association 257(22): 3110-3114. cited by ANCD, 2013. p 5

<sup>20</sup> Commonwealth Parliamentary Debates. *op cit*.