

Senate Community Affairs Legislation Committee

SUPPLEMENTARY BUDGET ESTIMATES – 22 OCTOBER 2015 ANSWER TO QUESTION ON NOTICE

Department of Human Services

Topic: WA Non Agency Payment Case

Question reference number: HS 166

Senator: Xenophon

Type of question: Written

Date set by the committee for the return of answer: 11 December 2015

Number of pages: 1

Question:

Noting that the judicial officer recognised that the payments were for the benefit of the children, to the extent that the father sought the payments to be recognised as non-agency payments, on what basis was payments recognition rejected?

Answer:

When the Registrar is responsible for collecting child support, the legislation provides for payments made directly to the payee or a third party to be recognised as Non-Agency Payments (NAPs) in lieu of child support in certain circumstances. NAPs are categorised as either non-prescribed or prescribed.

Prescribed NAPs only apply to a limited range of payments that are paid to a third party (e.g. school costs, child care, essential medical, specific payee expenses). A payment can only be credited if it was for one of the type of costs prescribed in the child support regulations, the paying parent has less than regular care of any children and pays 70 per cent of the liability on time.

In this case, the father had regular care of a child during the period the direct payments were made which precluded a prescribed NAP credit.

Non-prescribed NAPs can only be credited if there was a mutual intention that the payments were paid in lieu of child support.

The rejected payments noted in the judgement were disallowed as mutual intention could not be established.