

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 168

Senator: Xenophon

Type of question: Written

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

Number of pages: 5

Question:

It is noted that the father refused to pay the recorded child support debt:

- a) Please provide details of the efforts the Department went to try to convince the father to pay the debt.
- b) Please provide details as to the cost involved in that effort.

Answer:

- a) The father (payer) has been in child support arrears since 2010. The father has consistently refused to make payments to the Department of Human Services and continued to make direct payments to the children and other third parties.

There are multiple phone and written communications between 2010 and 2014 that relate to discussions about the debt, Non-Agency Payments (NAPs) and review options. These occurred on the following dates:

- 05/07/2010: discussed payments prior to the case becoming collectable, Change of Assessment (COA) and objection rights.
- 06/07/2010: complaint call - discussed care and payments made prior to case becoming collectable. Explained these payments could not be credited. Discussed debt and objection rights. Father stated he would not make payments to the Department.
- 19/07/2010: discussed payments and objection rights.
- 19/07/2010: complaint call – father did not want to pay the Department. COA rights discussed.
- 26/07/2010: discussed payments.
- 27/07/2010: complaint call – refused to pay the Department. Discussed care and objection process.
- 28/07/2010: complaint call – did not want to pay the Department. Care discussed and payments made prior to case becoming collectable.
- 02/11/2010: discussed payments made prior to case becoming collectable – two calls made.
- 02/11/2010: complaint about not crediting payments made prior to case becoming collectable.

- 03/11/2010: complaint about not crediting payments made prior to case becoming collectable.
- 21/12/2010: discussed debt, refused to make payments directly and change of assessment (COA) option.
- 20/01/2011: discussed debt and NAPs.
- 20/01/2011: complaint about s72A garnishee action. Father stated he was in hardship and advised he had purchased horses for the children. Discussed care and NAPs.
- 21/01/2011: discussed debt and NAPs and requirement to be in lieu of child support.
- 21/01/2011: discussed debt.
- 03/02/2011: discussed debt, payment arrangement, care.
- 04/02/2011: sent objection form to the payer.
- 07/02/2011: discussed objection rights, debt, and payment arrangement.
- 06/05/2011: discussed NAPs.
- 09/05/2011: discussed debt, NAPs and requirement for mutual intent, objection and COA options provided.
- 09/08/2011: discussed COA.
- 13/09/2011: discussed debt and payment arrangement, NAPs and COA.
- 30/09/2011: discussed debt, NAPs and requirement to pay to the Department.
- 28/02/2012: discussed NAPs, debt, care and COA.
- 29/02/2012: discussed NAPs and COA; sent COA form.
- 09/03/2012: discussed NAPs, requirement for mutual intent and COA.
- 09/03/2012: discussed NAPs, requirement for mutual intent and debt.
- 09/03/2012: discussed NAPs, debt and possible enforcement action and COA forms previously sent.
- 12/03/2012: discussed NAPs and advised to pay to the Department and not the children. Father stated he would not pay to the Department.
- 13/03/2012: discussed NAPs and requirement to pay the department, debt and COA.
- 15/03/2012: discussed employer withholding (deductions from salary/wages), debt, NAPs, COA and objection rights.
- 26/03/2012: discussed employer withholding, NAPs and objection rights.
- 27/03/2012: father advised he had left his job, discussed debt and COA.
- 27/03/2012: discussed NAPs and objection rights.
- 02/04/2012: discussed debt, objection rights, mediation options, NAPs and COA.
- 02/05/2012: discussed NAPs and COA.
- 27/05/2013: discussed NAPs, mutual intent and objection process.
- 28/05/2012: discussed debt and NAPs.
- 12/06/2012: discussed debt, NAPs and objection process.
- 12/06/2012: complaint about NAPs being refused. Objection process discussed.
- 13/06/2012: letter issued in response to complaint explaining reasons NAPs were not credited. Objection information provided.
- 20/06/2012: discussion re letter of 13/6/12. NAPs and mutual intent discussed.
- 25/06/2012: multiple calls – NAPs, mutual intent and debt discussed. Suggestion made to confirm intent prior to making payment/purchase. Objection process discussed.

- 26/06/2012: multiple calls - discussed obligation of Department to collect. Discussed NAPs, incomes and requirement to pay to the Department.
- 26/06/2012: letter issued confirming discussion re NAPs, mutual intent, COA and possible legal action.
- 03/07/2012: discussed objection process, mutual intent and COA.
- 10/07/2012: discussed NAPs, mutual intent.
- 11/07/2012: discussed NAPs, enforcement action, possible s72A.
- 17/07/2012: discussed NAPs and debt.
- 01/08/2012: multiple calls - discussed debt and need to pay to the Department.
- 10/09/2012: discussed s72A issued, incomes and tax, NAPs, need to pay to the Department and COA, father advised it was difficult to refuse the children.
- 25/10/2012: multiple calls – discussed debt, financial hardship, understanding of notices, NAPs, mutual intent, objection process, enforcement action and possible legal action.
- 30/10/2012: discussed debt, NAPs and mutual intent, incomes and COA, possible discharge of arrears and process required.
- 26/11/2012: discussed debt and NAPs.
- 06/12/2012: discussed debt, COA, mutual intent, objection process.
- 12/12/2012: discussed NAPs, incomes, COA and objection process. Advised legal action as last resort and preference to work with him, refused to pay to the Department.
- 21/12/2012: discussed NAPs – father advised he had evidence of mutual intent re payment for operation.
- 24/12/2012: discussed debt, NAP process, and enforcement action.
- 22/01/2013: discussed debt and NAPs.
- 19/02/2013: discussed NAPs, mutual intent, COA and enforcement action.
- 22/02/2013: discussed NAPs and requirement to pay to the Department.
- 08/03/2013: discussed NAPs, mutual intent and requirement to pay to the Department
- 11/03/2013: multiple calls - discussed NAPs and mutual intent and objection rights, advised the father that possible legal action was being considered as he continued to refuse to pay the Department, discussed options to pay the Department and meet his liability while still being able to respond to other needs of the children that are not considered in lieu of child support. The father indicated he would not consider this.
- 12/03/2013: multiple calls - discussed NAPs, mutual intent and objection rights.
- 15/03/2013: discussed debt, NAPs and possible legal action.
- 26/03/2013: discussed NAP and mutual intent.
- 27/03/2013: multiple calls - discussed NAP for child over 18.
- 03/04/2013: advised case was being prepared for legal action.
- 02/05/2013: discussed NAPs and mutual intent, objections and Social Security Appeals Tribunal. Discussed debt – refusal to pay.
- 07/05/2013: discussed NAPs and legal action.
- 13/05/2013: discussed NAP decision letter.
- 23/05/2013: discussed NAPs and objection process.
- 27/05/2013: discussed objection process and mutual intent.
- 30/05/2013: discussed NAPs and objection process.
- 11/06/2013: discussed debt and requirement to pay to the Department. Attempted to negotiate payment. The father refused to pay to the Department and he was advised of possible legal action.

- 14/06/2013: discussed NAPs, mutual intent and objection rights. Refused to pay.
- 14/06/2013: letter issued asking payer to treat staff with courtesy. Explained his options about COA and objections. Discussed him continuing to make payments to a third party despite the Department not being able to credit these payments. Discussed possible restrictions if multiple calls and abusive language continued.
- 27/06/2013: discussed NAPs and mutual intent. Refused to pay to the Department.
- 28/06/2013: discussed NAPs and objection rights.
- 01/07/2013: discussed debt, NAPs and mutual intent, discussed possible legal action.
- 01/07/2013: discussed COA and objection rights.
- 08/07/2013: father stated he would not complete objection or COA forms, NAPs discussed.
- 29/07/2013: multiple calls - discussed debt, NAPs and mutual intent.
- 08/08/2013: discussed NAPs and objection process.
- 08/08/2013: multiple calls - complaint about NAPs. Objection rights explained.
- 09/08/2013: discussed NAPs and objection process.
- 12/08/2013: disputed the debt, discussed meaning of mutual intention and objection rights.
- 12/08/2013: three further calls from the father regarding the debt and NAPs.
- 13/08/2013: discussed NAPs and complaint.
- 16/08/2013: discussed debt.
- 20/08/2013: discussed debt, NAPs, mutual intent, objection process, COA and refusal to pay the Department.
- 21/08/2013: discussed NAPs, objection and Ombudsman rights, suggested legal advice and mediation.
- 21/08/2013: letter of demand issued.
- 23/08/2013: discussed NAPs and debt. Advised that a letter of demand had been issued. Advised of legal action that may be taken.
- 26/08/2013: multiple calls - discussed NAPs and letter of demand.
- 27/08/2013: discussed Letter of demand issued, enforcement, NAPs and objection and SSAT process.
- 05/09/2013: discussed NAPs, mutual intent and COA.
- 12/09/2013: complaint about debt and NAPs.
- 12/09/2013: letter sent advising that service options were restricted. Referred again to COA and objection rights and NAPs.
- 12/09/2013: multiple calls - disputed debt, discussed legal action and ombudsman options.
- 13/09/2013: multiple calls - disputed NAPs, concerned he was not being listened to
- 18/09/2013: attempted to discuss legal action, discussed possible action that may be taken.
- 19/09/2013: discussed legal action and NAPs.
- 24/09/2013: complaint about legal action, NAPs and ombudsman options.
- 03/10/2013: discussed NAPs.
- 18/02/2014: payer called the customer fraud line and discussed NAPs being disallowed due to no mutual intent. Discussed requirements about NAPs and objection rights.

- 13/03/2014: complaint outcome letter sent. Discussed appeal and objection options, service restrictions and legal action.
- 23/04/2014: discussed NAPs, objection rights and complaints process.
- 24/04/2014: Ministerial complaint outcome letter sent. Discussed NAPs, mutual intention, objections and COA.
- 01/07/2014: Ministerial complaint outcome letter sent. Discussed enforcement and authorised representative.

In these discussions, the Department explained to the father that he needed to make payments directly to the department and that payments made to the mother/children or third parties required mutual intent.

The father was informed of options including objection rights to the Department's various decisions to disallow claimed NAPs. The father did not pursue these options and the debt continued to accrue.

During these discussions, the Department has made numerous attempts to negotiate a suitable arrangement. The father was also informed that investigations into his capacity would continue and that legal enforcement may be taken if a suitable arrangement could not be negotiated.

On 12 September 2013, a letter was sent to the father advising him that his access was restricted to written communication only. At this time, the father was making multiple calls on a daily basis about the same issues and was often very abusive towards staff. The father refused to make payments to the Department and would not negotiate an arrangement, insisting that he would continue to make payments directly to the children and third parties and believed they should be credited despite being advised that they would not be credited if mutual intent could not be established.

Before initiating legal enforcement, the Department again attempted to negotiate payment of the debt. The father continued to refuse to pay.

- b) The cost of the activities outlined in the answer to question (a) are departmental costs that are funded through normal business as usual activities as part of budget allocations.