



Australian Federation of Disability Organisations

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Senator Gary Humphries
Chair
Senate Community Affairs
Legislation Committee
Via email to: community.affairs.sen@aph.gov.au

Dear Senator Humphries

***Inquiry into the Employment And Workplace Relations
Legislation Amendment (Welfare To Work And Other
Measures) Bill 2005 and the Family And Community Services
Legislation Amendment (Welfare To Work) Bill 2005***

The Australian Federation of Disability Organisations (AFDO) is the peak body of organisations of people with disability in Australia. Our mission is to champion the rights of people with disability.

We thank the Committee for this opportunity to make a submission to the Inquiry. Our submission (attached) is primarily concerned with the *Welfare to Work Bill*.

Unfortunately, the short time frame between the Bill's introduction and the close of submissions for this Inquiry, the length of the Bill and its publication in formats that were not easily read by people with disability, has meant that our submission is necessarily brief.

We would welcome the opportunity to discuss our submission with the Committee. To arrange this, please contact Collette O'Neill on 03 9662 3324.

Yours sincerely

Maurice Corcoran
President

Summary of Recommendations

The proposed changes to the eligibility criteria for the Disability Support Pension should be deleted.

The seasonal work preclusion period and the income maintenance period for redundancy payments should not be extended to people with disability.

The Government should develop a national employment strategy aimed primarily at addressing the issue of employment retention.

The Government should immediately move to introduce an Access to Premises Standard that provides full access to buildings for people with disability.

The availability of employment, education, training and rehabilitation places, particularly for people who are in receipt of the Disability Support Pension should be increased.

Disability employment assistance places for people on the Disability Support Pension should be uncapped.

There should be clear limits in legislation placed around what can be considered 'suitable' activity to be included in an activity agreement. Suitable activity should relate clearly and directly to a person obtaining employment. This should preclude the inclusion of medical treatment to which an individual has not consented.

People's activity and job search requirements should reflect their work capacity as assessed by the Comprehensive Work Capacity Assessment and any additional limits caused by other factors such as caring responsibilities.

The maximum penalty for non compliance with activity requirements should be two weeks.

Additional protections for people with disability should be built into the system.

Protections should be included in the legislation to ensure that people with disability are not forced into employment that will leave them worse off financially, taking into account their disability related expenses, or that offers unsuitable conditions having regard to the person's impairment.

Introduction

The Australian Federation of Disability Organisations (AFDO) is the peak body of organisations of people with disability in Australia. Our mission is to champion the rights of people with disability.

Overview

People with disability have been calling for improvements to Australia's income support and employment assistance systems for many years. In particular, we have sought improved programs and services to address discrimination, assist people with disability to retain employment and improve the living standards of people with disability by compensating people for the non-discretionary costs of disability.

The McClure report also provided direction for reform to the Government, calling for individualised assistance, a commitment to leaving no one worse off and the introduction of a cost of disability allowance.

We are deeply disappointed that the Government has not taken this opportunity to introduce reforms to address these urgent needs, but has instead proposed changes that will exacerbate these problems and further entrench the disadvantaged position of people with disability.

Assumptions

The following assumptions underlie this submission:

- Welfare reform should be focussed on improving employment opportunities for Australians with disability.
- Individual and systemic discrimination are the primary barriers to people with disability finding and keeping work.
- Cutting payments does nothing to help people with disability overcome these barriers. In fact, reduced payments will make it harder for people to find work because they have less income to meet the costs of their disability, like transport and specialist equipment.

Improvements for People with Disability

The Bill contains a number of measures that have the potential to improve income and labour market assistance for people with disability. These are:

- the removal of the 90 minute rule for travel in relation to both Youth Allowance and Newstart;
- the increase in the rate of Mobility Allowance; and,
- the right of return to the Disability Support Pension (DSP) for any reason within 2 years of a person moving off the Pension into employment.

Key Concerns for People with Disability

AFDO has several key concerns in relation to the Bill. These are:

1. The development of the Bill without due consultation with people with disability.
2. The reduction in the rate of payment to people with disability.
3. The lack of employment, education, training and rehabilitation assistance.
4. The degree of discretion provided for in relation to activity agreements.
5. The interaction of the Bill with the proposed industrial relations changes.

These are addressed in more detail below.

1. Consultation

We are disappointed that the consultation process has not benefited from the breadth of responses it would have received if it had fostered the participation of people with disability having a say in their future. People with disability have been excluded from contributing as a result of:

- the extremely short time frame for the Inquiry, which excluded people with intellectual disability and those with cognitive impairments as they could not read and comprehend the material in the available time;
- the short time frame also precluded people submitting responses in written (hard) copy, excluding those who do not have access to the internet and email; and,
- the failure to publish the Bill and associated documents in accessible formats at the same time as they were published in PDF format.

This approach to consultation reflects the approach that has been taken by the Government throughout the development of its Welfare to Work package.

2. Cuts to Payments

AFDO is highly concerned about the reduction in income for people with disability that will result from the proposed tightening of the eligibility criteria for the Disability Support Pension.

People with disability face higher costs of living and of looking for work as a result of their disability. Paying people \$40 per week less to live on will not lead to employment, it will simply leave people with disability further entrenched in poverty.

The following table illustrates the devastating effect that the proposed changes will have on the living standards of Australians with disability.

Reductions in disposable income for a single adult with disabilities affected by the changes (in 2006)

	Income on DSP (\$ per week)	Income on NSA/Austudy (\$ per week)	Loss of income (\$ per week)
Jobless	\$254	\$208	-\$46
Works 15 hours pw at min. wage	\$387	\$288	-\$99
Studying fulltime (not renting)	\$285	\$170	-\$115
Studying fulltime (renting)	\$336	\$170	-\$166

Note: Includes wages (after tax) where relevant. Minimum wage for 15 hours is approx \$190-\$200pw before tax. (ACOSS, NATSEM 2005)

As the table indicates, the combination of decreased base payment, harsher taper rates and reduced income free areas will leave people with disability who have a reduced work capacity working for less than \$3 per hour.

Such extreme effective marginal tax rates are a poverty trap and act as a disincentive to working for people with disability who are on Newstart.

These figures are especially concerning when it is remembered that 15 hours at minimum wages is the most that many people with disability will be able to work. People in this group will not be physically capable of working more hours and thus improving their income.

The situation of people with disability who undertake full time study is even harsher. People assessed as being able to work more than 15 hours per week will not only lose the higher pension payment, but will not be eligible for the Pensioner Education Supplement, Rent Assistance, Pensioner Concession Card, Telephone Allowance or the Pharmaceutical Allowance.

This represents a substantial disincentive to undertake fulltime study and will fall hard on people with disability who have a limited

ability to undertake paid work in addition to their study and thus supplement their Austudy income.

The Bill also proposes to extend the seasonal work preclusion period and the income maintenance period for redundancy payments to people in receipt of the Disability Support Pension. The extension of this latter waiting period to people with disability will particularly result in disadvantage as people are unable to use their redundancy payments to pay for essential disability related modifications and equipment.

Recommendations

The proposed changes to the eligibility criteria for the Disability Support Pension should be deleted.

The seasonal work preclusion period and the income maintenance period for redundancy payments should not be extended to people with disability.

3. Employment, Training and Rehabilitation Assistance

People with disability have identified discrimination, inaccessible environments and the lack of investment in employment, training, education and rehabilitation assistance as major barriers to employment.

Unfortunately, rather than address these, the package has ignored people with disability and left them to stagnate.

The demand side elements of the Welfare to Work package are primarily aimed at encouraging employers to hire people with disability – the crucial issue of retention is ignored.

The Government has announced no measures to address systemic discrimination in the public environment, such as inaccessible buildings and streetscapes.

While the Welfare to Work package contains increased places in employment, education, training and rehabilitation, these are aimed at people who are assessed as having a partial capacity to participate. While employment assistance places are uncapped for

people in the 15-29 hours work capacity group, places for people who are currently on the Disability Support Pension in the disability specialist sector remain capped. This group will be the last priority for all services and will struggle to obtain adequate assistance to look for work.

Other problems include:

- The lack of investment in pre-employment services

Inadequate funding levels and the limited number of new places, as well as the already high unmet demand for PSP and other prevocational programs means that these services are overstretched and unable to service those job seekers who are most in need.

- The inaccessibility of employment and other services

Unlike Disability Open Employment Services, Job Network agencies are not required to meet the Disability Service Standards and have little experience dealing with job seekers who have complex needs related to disability. The DSP Pilot project in 2004 identified substantial gaps in the capacity of the Job Network to meet the needs of people with disability which are yet to be addressed.

Additionally, few education and training providers are able to properly accommodate the needs of people with disability.

Recommendations

The Government should develop a national employment strategy aimed primarily at addressing the issue of employment retention.

The Government should immediately move to introduce an Access to Premises Standard that provides full access to buildings for people with disability. The Government should review progress towards the implementation of the Disability Standards for Accessible Public Transport. In addition, the Government should commence development of a Disability Standard for Employment.

The availability of employment, education, training and rehabilitation places, particularly for people who are in receipt of the Disability Support Pension should be increased.

Disability employment assistance places for people on the Disability Support Pension should be uncapped.

4. Activity Requirements

The proposal to apply activity requirements to people with disability raises many challenges for a system that has not in the past had to accommodate people with highly complex disability related needs.

Key questions remain unanswered in the Bill and are instead either left for guidelines or left entirely to the discretion of the Secretary, such as:

- What can be reasonably asked of a person with disability?
- In what circumstances is it reasonable for a person with disability to refuse a job?
- How should the impact of factors that are not related to a person's disability, such as caring responsibilities, be taken into account when determining their work capacity?

AFDO is strongly opposed to the provisions of the Bill that would allow the Secretary to require people to undertake medical treatment as a part of their activity agreement, at the risk of losing their income support. This is not only unethical, it also raises serious issues related to duty of care for Centrelink.

People should only be required to undertake activity that is directly and demonstrably related to their obtaining employment.

The Bill seeks to change the process for granting exemptions from activity agreements for people who are temporarily incapacitated, and empowers the Secretary to direct people to undertake 'suitable activity' (not further defined) which could include medical treatment or counselling. Further, the repeal of s606(1) would remove all limits to what can be included in an activity agreement and would remove the only reference in the Bill to agreements being negotiated.

We are also concerned that the Bill provides the Secretary with the authority to require a person to undertake work or an activity at a level that is greater than that specified in the Activity Agreement [refer to s541(2A) and s601(1A)].

Further, there are no protections for people who have deteriorating or fluctuating conditions in relation to activity agreements. There

appears to be little flexibility in the number of positions that a person must apply for, irrespective of their health at the time.

Other problems include:

- There is little in the Bill that requires the Secretary to be sensitive to the costs of participation in the labour market for people with disability, the particular barriers they face, and the circumstances of people with episodic or deteriorating conditions.
- There is no mention of people having part time activity test and job search obligations [refer to s607B and s625].
- The protections from exploitation through “self-employment” have been removed, left to guidelines [refer to repeal of s541D(1)(d) and s601(2A)(d)]
- The protection of the 10% limit on travel costs, announced by the Government, is not included in the Bill.

Recommendations

There should be clear limits in legislation placed around what can be considered ‘suitable’ activity to be included in an activity agreement. Suitable activity should relate clearly and directly to a person obtaining employment. This should preclude the inclusion of medical treatment to which an individual has not consented.

People’s activity and job search requirements should reflect their work capacity as assessed by the Comprehensive Work Capacity Assessment and any additional limits caused by other factors such as caring responsibilities.

5. Compliance

The proposed compliance system is unfair and unjust. Reducing the incomes of people who are already highly disadvantaged and poor will not encourage engagement, but will simply see more people with disability fall through the cracks of the income support system.

The experience of the current breaching regime has been that people with acquired brain injury and other cognitive impairments, drug and alcohol dependency, mental illness and intellectual

disability have been disproportionately affected because of their disability.

The proposed system does not address the discriminatory features of the current system. For example, it is proposed to apply an eight week non-payment period as punishment for failing to complete an employment diary correctly – an activity that many people with disability will find inherently difficult.

The carry-over of breaches from the current system into the new will also disadvantage people with intellectual and cognitive disability, people with drug & alcohol dependency and some people with mental illness who may not be able to comprehend the change and therefore the magnitude of the impact of another compliance failure.

Review and appeal rights are also unclear in the new system and difficult to apply in a timely fashion.

Recommendations

The maximum penalty for non compliance with activity requirements should be two weeks.

Additional protections for people with disability should be built into the system.

6. Interactions With The Industrial Relations Changes

The expected negative impact of the Bill will be worse because of its interaction with the Government's *Work Choices* package.

An example is the effect on people who are in receipt of Newstart. Currently, a person in receipt of Newstart may refuse a job offer if it offers below Award conditions. However, it is not considered reasonable for a person to refuse a job because they do not want to sign an AWA.

AFDO is highly concerned about what will happen to people with disability who are on Newstart, are offered employment, but are offered an AWA that offers below-standard pay and conditions.

We can foresee a situation where a person with disability is forced to choose between accepting a job at a rate of pay so low that the person loses money by working, especially once their disability related expenses are taken into account, or refusing the job, and having their income support payment cut for a period of eight weeks.

Recommendation

Protections should be included in the legislation to ensure that people with disability are not forced into employment that will leave them worse off financially, taking into account their disability related expenses, or that offers unsuitable conditions having regard to the person's impairment.