MLC TechConnect

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Social security assessment of compensation and insurance

Centrelink benefits can be impacted by compensation payments. How benefits are impacted depends on the type of compensation payment and how it is received.

Background

Most Centrelink benefits are impacted by compensation payments. Impacted entitlements include JobSeeker Payment, Age Pension, Disability Support Pension and Carer Payment. One notable payment that is not impacted by compensation is the Carer Allowance.

A compensation payment may

- result in a preclusion period
- be assessed as ordinary income
- result in a dollar-for-dollar reduction
- be exempt.

In this article, we identify common compensation payments and how they are generally assessed by Centrelink. The assessment of compensation on Centrelink entitlements can be complex and will need to be examined on a case-by-case basis by Centrelink.

Compensation payments

Social security recipients and applicants who receive compensation payments may have their entitlements reduced or stopped for a period. In some circumstances, past social security payments paid may be re-couped by Centrelink.

The assessment of compensation depends on whether it is paid for economic or non-economic loss.

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If any part of the compensation payment is for economic loss, the effect on social security entitlements depends on whether it is paid as a lump sum or periodically and on whether the individual is now applying for or was already receiving a Compensation Affected Payment (CAP) at the time of the compensatory event.

Lump sum personal injury award or settlement for damages

Where a court awards a lump sum for damages or your client settles on damages, the lump sum will ordinarily give rise to a 'preclusion period'. As the name suggests, clients are 'precluded' from receiving a benefit during this period, be it a period in the future or in the past. If your client has received a Centrelink benefit for a period for which they are precluded, the benefit received may need to be repaid. If your client is serving a preclusion period, they may still be able to access the Low Income Health Care Card or Commonwealth Seniors Health Card.

The formula for calculating the length of this preclusion period varies depending on whether the amount of damages for economic loss can be identified. For example, a compensation claim contested through a court, tribunal or arbitrator will ordinarily identify the specific amount awarded for economic loss. For Centrelink purposes, economic loss includes lost wages, lost capacity to earn and lost superannuation contributions. Alternatively, an agreed lump sum through settlement will not typically identify how much relates to economic loss.

The partner of a lump sum compensation payment recipient is not subject to a preclusion period, see **Social Security Guide 4.13.2.60.**

Lump sum compensation for personal injury relating to non-economic loss may be assessed as ordinary income in the fortnight received but ignored for pensions see **Social Security Guide 4.13.1.30.**

Compensation economic loss amount specified

Where damages are awarded via a court judgement, tribunal, or arbitrator, the amount awarded for economic loss may be specified. Where the amount awarded for economic loss is known, the formula for calculating the preclusion period is:

Amount awarded for economic loss
Single income test cut off amount for pensions

The single fortnightly income test cut-out amount for pensions is $2,500.80 and the weekly amount is $1,250.40 at 20 September 2024. The income cut-out amount used is the figure that applied at the time the lump sum is received. The single rate is used, regardless of marital status.

Example – Court judgement

If a court judgement specified $200,000 be paid for pain and suffering and $300,000 for loss of earnings, the preclusion period is 239 weeks or a little over 4.5 years. The period for complete weeks and is rounded down to the nearest whole week. This is calculated as follows:

$300,000
$1,250.40

= 239 weeks (rounded down to nearest whole week)

This means the client is not eligible to claim benefits such as JobSeeker, Disability Support Pension or Age Pension until after the preclusion period ends.

50% rule - compensation via settlement and economic loss not specified

If the compensation is by way of settlement, the amount relating to economic loss is unlikely to be specified and the 50% rule would apply. Under the 50% rule, it is assumed that half the compensation payment relates to economic loss.

Settlement amount x 50%
Single income test cut off amount for pensions

Example – Settlement payment

If a client accepts a settlement payment of $500,000 for injuries and no amount is specified for economic loss, an amount of $250,000 is treated as compensation for economic loss. In this instance, the preclusion period is 199 weeks or almost 4 years, calculated as follow:

$250,000
$1,250.40

= 199 weeks (rounded down)

Centrelink's **compensation estimator** can assist to calculate the preclusion period for compensation settlement payments.

Exempt lump sum

Some lump sums compensation payments are specifically exempt from assessment, including:

- a criminal injury, such as a victims of crime payment
- non-economic loss under the Fair Work Act 2009 (this excludes compensation for being unfairly dismissed)
- loss as a result of negligent provision of professional services
- a personal injury, disease, or condition
- death benefits
- insurance in respect of a specified medical trauma or event, and
- death and permanent impairment under the Safety, Rehabilitation and Compensation Act 1988 or the Military Rehabilitation and Compensation Act 2004.

A more comprehensive list of exempt lump sums can be found in the **Guide to Social Security Law - 4.3.2.35**.

Workers compensation paid periodically (relating to economic loss)

A dollar-for-dollar reduction of Centrelink entitlements applies for workers compensation payments received periodically in relation to loss of income if the client was not already receiving a Centrelink benefit at the time of the compensation event. Otherwise, the workers compensation payments is assessed as ordinary income.

Impact on partner of workers compensation recipient paid periodically

The partner of a workers compensation recipient may have their Centrelink entitlements reduced under the income test depending on whether the compensation recipient qualifies for a Centrelink entitlement and whether it has been reduced to nil because of the periodic compensation.

Impact on partner where compensation recipient receives a Centrelink benefit

Compensation recipient's Centrelink entitlement is	Periodic compensation
Not reduced to nil	Does not impact partner's Centrelink entitlement
Is reduced to nil but there is no 'excess compensation'	Does not impact partner's Centrelink entitlement
Reduced to nil and there is 'excess compensation'^	Excess compensation is assessed as partner's own ordinary income

^ Compensation exceeds the amount necessary to reduce entitlement to nil.

If the compensation recipient does not qualify for a Centrelink entitlement, there is no excess and compensation is treated as ordinary income. For additional information, see **Guide to Social Security Law 4.13.3.30.**

Example – Periodic compensation – effect on partner

Tom and Sue are both applying for the Age Pension and would, apart from a periodic compensation payment ($250 per fortnight) received by Tom, be entitled to an Age Pension payment of $400 pf each. Tom was not receiving a CAP at the time of the injury. As a result, his Age Pension entitlement reduces on a dollar-for-dollar basis to $150 pf. Sue's Age Pension entitlement is not affected because the amount of Tom's compensation payment ($250 pf) is below his rate of Age Pension ($400 pf).

If the compensation payment received by Tom was $500 per fortnight, Tom's Age Pension entitlement is reduced to nil. The excess compensation amount of $100 per fortnight then counts as income for Sue. Assuming she has already used her income free threshold, the 50% taper rate would apply to her entitlement under the income test on the amount of compensation exceeding $400 pf. This would reduce her entitlement by $50 (ie $100 x $0.50) to $350 pf (i.e $400 - $50) assuming she is income tested and not asset tested.

Notification period and overpayments

The social security notification period for compensation payments is 7 days after the day on which the person becomes aware that they have received or will receive the payment. This is different to the usual social security notification period, which is 14 days. In situations where a CAP is being claimed while waiting for compensation, the amount must be repaid when the compensation is received.

Concession cards

A person who has been precluded from a CAP due to a compensation payment may still qualify for certain social security concession cards, including the Low Income Health Care Card (LIHCC) and the Commonwealth Seniors Health Card (CSHC).

Low Income Health Care Card

The LIHCC is issued to people who meet an income test based on their average gross ordinary income in the 8 weeks immediately before they make a claim for the card (assuming all other requirements are met).

When a lump sum compensation payment is received, the gross amount of the lump sum is apportioned over a period of 52 weeks from the day the person becomes entitled to receive the amount, to determine the weekly income for LIHCC purposes. Where any part of the period over which the income is apportioned falls within the 8 week income assessment period, the relevant income is included in the income test assessment.

Similarly, if periodic compensation payments are being received, the gross weekly amount of these payments is included in the assessment of income if the payment falls within the 8 week period immediately before making a claim.

Commonwealth Seniors Health Card

The CSHC income test is based on **adjusted taxable income** plus deemed income from certain account based pensions. When the compensation is received, any taxable portion of the payment is included in the assessment of income to determine if the income is within the relevant income test threshold for CSHC. This applies to both lump sum and periodic compensation payments.

Centrelink Compensation Recovery Team

Compensation related rules, how clients are affected and whether there is a debt owed to Centrelink are complex. Centrelink have a dedicated team who look after compensation related issues. The Centrelink Compensation Recovery Team can help clients understand:

- how a proposed lump sum or periodical compensation payment may affect their Centrelink entitlements, and
- whether any money needs to be repaid to Centrelink from an overpayment after receiving a compensation payment.

Assessment of insurance payments

Income protection insurance

Benefits from an income protection (also known as salary continuance) policy are generally assessed as ordinary income. This is the case where your client has paid the policy premiums and the policy does not include a social security offset clause or if one does exist, is not invoked.

More information can be found in **Social Security Guide 4.13.1.20**.

Trauma and death payments

Trauma and death payments made as a lump sum are not assessed as ordinary income. The assessment depends on how the lump sum is used. For example, if the lump sum is deposited into a bank account, the amount is assets tested and deemed for the income test.

If the trauma and death payments are made as periodic payments, these amounts are assessed as ordinary income.

Example – Trauma payments

Bill is single and has claimed disability support pension (DSP). He is entitled to a trauma payment of $95,000 due to a heart attack. If the payment is made as a lump sum and deposited into his bank account, the $95,000 is an asset and deemed for the income test. However, if Bill receives the trauma payment as monthly payments over the next three years, Bill is assessed as receiving $1,218 pf ($95,000/78) of ordinary income.

Total and Permanent Disability insurance (held within super)

Lump sum payment

Lump sum withdrawals from super relating to TPD are not assessed. How these withdrawals are invested may have Centrelink implications.

Income stream

Where TPD proceeds in super are used to start a super disability pension, the income stream is assets tested and deemed under the income test. Any amount remaining in accumulation phase is not means tested until the client has attained Age Pension age.

Important information and disclaimer