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Policy, Reform and Legislation  
NSW Department of Communities and Justice

By email: [policy@justice.nsw.gov.au](mailto:policy@justice.nsw.gov.au)

### **Submission to the Statutory Review of the *Victims Rights and Support Act 2013***

The Welfare Rights Centre is a community legal centre specialising in social security law and family assistance law and its administration by Centrelink. We provide free legal information, advice and representation to thousands of NSW residents every year who are adversely affected by Centrelink decisions. Many people dealing with Centrelink have complex, intersecting issues in their lives that cause deep distress, including health, housing, safety, and financial pressures. Many of our clients are also victims of domestic violence.

We would like to make the following submission to the review of the *Victims Rights and Support Act 2013*.

The Detailed Guide to the Victims Support Scheme states on page 13 that “Your Centrelink payments should not be affected” by a payment under the Scheme. While this is true for most Centrelink payments, people who are receiving Special Benefit are likely to have their Centrelink payment cancelled if they receive a payment under the Scheme.

Special Benefit is a discretionary payment of last resort, payable to people who are not entitled to any other income support payment, and who are in financial hardship and unable to earn a sufficient livelihood for themselves and their dependents. Sometimes Special Benefit is paid to Australian citizen or permanent resident infants and children when the child’s parent is not eligible for any Centrelink payment, including Special Benefit.

In our experience Special Benefit is a vital payment for many victims of domestic violence who are new migrants to Australia, and who separate from a violent partner when they are still on a temporary partner visa, or are still within the newly arrived resident’s waiting period (NARWP). The NARWP prevents newly arrived migrants from accessing standard Centrelink payments for a period of time, commonly four years, after being granted a permanent resident visa. Special Benefit may also be paid to people on temporary protection and humanitarian visas.

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Here is a case study about one of our recent Special Benefit clients:

*Yan contacted us after her partner was arrested and imprisoned for his violence against her. Although her former partner is an Australian citizen, as is her three year old child, Yan was on a temporary visa and not eligible for any Centrelink benefits. She had no income and no savings. We advised her and connected her with a Centrelink social worker, and her child was granted Special Benefit.*

*Yan was recently granted permanent residence. As a result Centrelink cancelled her daughter's Special Benefit, as Yan had to test her own eligibility for payment.*

*Yan applied for Parenting Payment Single as she was the sole carer for her young daughter. Her claim was rejected due to the newly arrived residents waiting period. No other advice or guidance was forthcoming from Centrelink.*

*Yan contacted us and we advised her to make a claim for Special Benefit in her own name. We prepared submissions for the officer determining her Special Benefit claim pointing out that she should be exempt from the newly arrived resident's waiting period as she had experienced a substantial change in circumstances beyond her control since arriving in Australia. Yan's claim for Special Benefit was approved, however, she had no income for several weeks.*

As can be seen from this case study, people receiving Special Benefit are among the most disadvantaged in the community, and a significant proportion of them are victims of domestic violence.

The [Social Security Guide](#) is the policy document used by Centrelink staff when determining claims and conducting reviews of entitlement. It guides the exercise of any discretion conferred by the *Social Security Act*. The Guide states at 3.7.1.70 that unless the person has exceptional or unforeseen expenses Special Benefit is not payable if the person has available funds of more than \$5000.

The consequence of this policy about available funds means that a victim of domestic violence who receives payments under the Scheme for immediate needs, economic loss and/or recognition payment could have her Special Benefit payments immediately cancelled, and will not be able to get Special Benefit payments again until the funds in her bank account fall below \$5000 as a result of paying for necessary living expenses. It may be possible to get the cancellation of Special Benefit reviewed, and submit that the person had exceptional expenses as a result of domestic violence, but that would require a vulnerable newly arrived migrant to have knowledge of social security law and policy or access to a specialist service such as ours.

Our submission is that Victims Services should advocate to the Commonwealth Department of Social Services to amend the Social Security Guide so that receipt of a payment under the Scheme of \$5000 or more will not lead to immediate cancellation of Special Benefit payments. We submit that people receiving Special Benefit who are the victim of a crime, and particularly victims of domestic violence,

should be able to get the full benefit of payments under the Scheme, and not lose their access to Centrelink income support payments for a period of time.

Yours sincerely



Principal Solicitor

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