

## Lump sum compensation and Centrelink

This factsheet is about how receiving lump sum compensation for personal injury affects social security payments. It provides general information only. It is not legal advice. If you need legal advice, you can contact your local social security rights service, which you can find from our website at [www.nssrn.org.au](http://www.nssrn.org.au).

## Compensation for personal injury

If you receive lump sum compensation for personal injury, you may not be eligible for a social security payment for a period of time, known as a lump sum preclusion period. It applies to almost all social security payments. You may also have repay money from your compensation to Centrelink, if you received a social security payment after you were injured.

Family assistance payments, such as family tax benefit, may also be affected by receiving lump sum compensation.

It is important to understand this before you settle a compensation claim and you should discuss it with your lawyer, if you have one.

A lump sum preclusion period applies if you receive lump sum compensation for personal injury and it includes compensation for financial loss because of the injury, including lost income in the past or being unable to work in the future.

A lump sum preclusion period does not apply if the compensation does not include any amount for financial loss (eg for lost wages or lost capacity to earn). It also does not apply to lump sum payments which are made up solely of arrears of past periodic compensation payments (such as weekly workers compensation payments).

If you think you should not have a lump sum preclusion period because of the type of compensation you received, you can get legal advice about this from one of our member services.

## The length of the lump sum preclusion period

There are complicated rules for calculating the length of the lump sum preclusion period.

**In the majority of cases**, lump sum compensation is paid after you settle your personal injury claim. In these cases, the length of the preclusion period in weeks is calculated by taking half your total lump sum and dividing it by a number called the “income cut-out amount”, which changes over time. Centrelink has an online calculator for estimating the length of the preclusion period and any compensation charge (discussed below), at <https://www.humanservices.gov.au/customer/enablers/compensation-estimator>.

Your total lump sum is used, even if you did not receive all of it. For example, even if you paid some of it directly to your lawyers for their fees, the total amount you settled for including this amount is used for the calculation.

The preclusion period usually starts from the date of your injury or, if you received periodic compensation (such as weekly workers compensation payments), the date your periodic payments stopped.

The rules about calculating the length and start of the preclusion period are complicated and if you think Centrelink has made a mistake, you can get legal advice about this from one of our member organisations.

## The Centrelink compensation charge

When you become eligible for compensation, such as when you settle your personal injury claim, the person paying you compensation (often an insurance company) has to tell Centrelink and get approval to pay you the compensation.

Centrelink works out first if you owe it any money, called a compensation charge. This can happen because you received a social security payment after your injury, which is now covered by the lump sum preclusion period.

If you do owe Centrelink money, Centrelink will require the person paying compensation to pay them this money, before paying the rest of your compensation to you.

In rare cases, it may be possible to appeal and have some or all of this money paid back to you by Centrelink if there are special circumstances about your case.

## Shortening (“waiving”) the lump sum preclusion period

In most cases, you are unable to receive a social security payment during the lump sum preclusion period. It is possible to have the lump sum preclusion period shortened or “waived” if there are special circumstances in your case. Normally this happens only if you are in severe financial hardship, but even then it may not be waived as the law is very strict.

The law is very strict and waiver is rare, so it is important to think about how to make your compensation money last if you think you might not be able to go back to work or support yourself in some other way.

A lump sum preclusion period will rarely be waived if you bought a home or paid off your mortgage with the compensation.

### Steps you will need to take

If you want to have your case considered by Centrelink, you should lodge a claim for a social security payment and if it is rejected, lodge an appeal to an Authorised Review Officer. These are very difficult appeals to win, so it is a good idea to get legal advice from one of our member organisations if thinking about an appeal. There is a factsheet about appeals on our website.

It is important to collect evidence to help support your application, including:

1. Evidence about the compensation payment you received.

For example, if you paid your lawyers and received less than the total amount, the bill or trust account statement from your lawyers.

2. Evidence about how you spent the money.

Although it may not be possible to show how you spent all the money, it is important to provide as much evidence as possible about the main things you spent it on.

For example, if you had all the money in a bank account, getting the statements for that account is a good idea. You may also have some receipts from big purchases like a washing machine.

3. Evidence about other circumstances or events which help explain why you are in hardship.

Sometimes there is a particular event or circumstance which explains why you got into financial trouble. For example, you may have started a business that did not go well, had a family law property settlement or have spent money on disability modifications to your home or car.

It may also be important to explain if you had an addiction such as to gambling during the period. If you saw a counsellor, it is really important to get a letter from them confirming that you were or are now getting treatment for the addiction.

4. Evidence about your current situation.

You need to provide evidence about your current situation, especially your financial situation. This could include:

- Your current bank account
- An overdue notice for a bill, a credit card or your rent
- A letter from your doctor about any health problems

If you have any major assets, you need to provide evidence about them. It is often important to explain what impact selling those assets would have on you, otherwise your preclusion period may not be waived because you could sell the asset. For example, if you have a car it may be important to explain why you need it (for example, there is limited public transport in your area, you are a carer or parent etc.),

If you bought a house or paid off a mortgage with the compensation, it is very difficult to get your preclusion period waived. It is a good idea to get legal advice from one of our member organisations about appealing in this situation.

## Can I get a health care card?

You may be eligible for a health care card even if still in a lump sum preclusion period. Normally you will be eligible after 52 weeks from the date you became entitled to the compensation.