



Report

Date: 31 August 2016

Security Level: IN CONFIDENCE

To: Hon Anne Tolley, Minister for Social Development

Alignment Project: Including New Zealand Superannuation and Veteran's Pension as income for Special Needs Grants

*This document may contain legal advice and be legally privileged.
It should not be disclosed on an information request, without further legal advice.*

Purpose Recommended actions

- 1 This report seeks your agreement to amend the *Special Needs Grants Welfare Programme* so that New Zealand Superannuation and Veteran's Pension are included as income when assessing eligibility for Special Needs Grants.

Recommended actions

It is recommended that you:

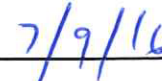
- 1 **Note** that on 24 July 2014, we discovered that the longstanding practice of including New Zealand Superannuation and Veteran's Pension in the income assessment for Special Needs Grants was not consistent with legislation
Yes / No
- 2 **Agree** that New Zealand Superannuation and Veteran's Pension payments must be included as income when assessing eligibility for Special Needs Grants so that people with similar incomes receive similar hardship assistance
Agree / Disagree
- 3 **Agree** to sign the attached amendment to the Special Needs Grants Welfare Programme
Agree / Disagree
- 4 **Note** that if the amended Welfare Programme is signed, officials will gazette it at the first opportunity and your Office can arrange for it to be tabled in Parliament
Yes / No
- 5 **Note** that we will review around 1,572 Special Needs Grant records declined since 24 July 2014 where the income limit was exceeded due to New Zealand Superannuation and Veteran's Pension, based on current information held, and make payments accordingly if all other eligibility criteria are met
Yes / No

6 **Note** that we will not retrospectively review cases prior to 24 July 2014 but, if a client seeks a review of decision, we will review their entitlements and make payments accordingly if all other eligibility criteria are met.

Yes / No



Ruth Bound
Deputy Chief Executive, Service Delivery



Date

Hon Anne Tolley
Minister for Social Development

Date

The Ministry's current practice is not supported by legislation

- 2 On 24 July 2014, the Ministry of Social Development (MSD) discovered that the provisions in the Special Needs Grants (SNGs) Welfare Programme excluded New Zealand Superannuation and Veteran's Pension (NZS/VP) as income when assessing applications for SNGs. This is not our current practice.

Operational policy and practice

- 3 Our operational policy and practice, since at least May 2000¹, has been to include NZS/VP payments as income when assessing SNG applications. This practice means that the same level of assistance is available to people regardless of whether they are working, receiving an income-tested benefit or receiving NZS/VP. People with weekly income over the threshold of \$801.31 (at 1 April 2016) are not able to access an SNG.
- 4 The scenarios below show how income received from NZS/VP can impact on entitlement to an SNG under current legislation and current practice – for a couple who receive NZS/VP and also receive additional income of \$800.00 a week.
- Scenario 1 shows that if NZS/VP payments are not treated as income - a superannuitant couple could earn up to, or the equivalent of, the SNG income limit, on top of their NZS/VP (a total of \$1,452.60 a week) without losing any entitlement to hardship assistance.
 - Scenario 2 shows that if the NZS/VP payments are treated as assessable income – the couple can earn an additional \$148.71 a week on top of their NZS/VP (a total of \$801.31 a week) before they lose entitlement to an SNG.

Table: Impact of NZS/VP payments on SNG eligibility (using 1 April 2016 rates)

EXAMPLE	Scenario 1 – as per legislation <i>(NZS/VP are excluded as SNG income)</i>	Scenario 2 – as per our practice <i>(NZS/VP included as SNG income)</i>
<i>NZS/VP payment</i>	\$652.60	\$652.60
<i>Income from other sources</i>	\$800.00	\$800.00
TOTAL income	\$1452.60	\$1452.60
SNG 'assessable' income	\$800.00 <i>(NZS/VP is excluded)</i>	\$1452.60 <i>(NZS/VP is included)</i>
<i>SNG income limit</i>	\$801.31	\$801.31
Decision	Grant SNG <i>('assessed' income < \$801.31)</i>	Decline SNG <i>('assessed' income > \$801.31)</i>

Legislative practice

- 5 SNGs are provided through a Welfare Programme, under section 124(1)(d) of the Act, which uses the income definition in section 3(1) of the Act. The income definition in section 3(1) of the Act excludes all benefits from being counted as income, and NZS/VP payments are considered to be 'benefits' for the purpose of section 3(1).

¹ The incorrect information has been present in MSD's current 'MAP' guidance since at least May 2000, but was not present circa 1999 in MAP's predecessor, 'ROAD'.

It is inequitable for Special Needs Grants to exclude New Zealand Superannuation and Veteran's Pension as income

- 6 SNGs provide targeted one-off financial assistance (recoverable and non-recoverable) to help low-income people meet their essential and immediate needs. A person is required to show they cannot meet the need from their own resources or through other sources, and are subject to an income test (and a cash asset test).
- 7 The Welfare Programme's current wording would allow a non-income-tested NZS/VP couple to earn nearly \$34,000 a year more than working or income-tested beneficiary families - and still be able to access an SNG.² This means that people in similar situations (in terms of income levels) receive different levels of hardship assistance.
- 8 In line with treatment elsewhere in the welfare system, we conclude that it is not the intent that NZS/VP clients be advantaged over others. People in similar situations (in terms of income levels) should receive similar hardship assistance.

Things to consider about current and future practice

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Section 9(2)(h) Legal professional privilege
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- 10 In the 2015 calendar year, 484,571 SNGs were granted totalling over \$65 million. This includes 19,154 NZS/VP clients being granted totalling over \$3.2 million.
- 11 There were also 500 NZS/VP clients declined SNGs for a range of reasons.

Proposed action

- 12 We propose that the SNG Welfare Programme be amended immediately to include NZS/VP as income, rather than make an interim practice change and then amend the Welfare Programme. A change to the SNG Welfare Programme will be quick (even taking into consideration the rule that instruments not come into force until at least 28 days after they have been notified in the Gazette).
- 13 If you are satisfied that people with similar income should receive similar hardship assistance, you can sign the attached amendment to approve the inclusion of NZS/VP payments as income under the SNG Welfare Programme. Alternatively, MSD can provide you with further, separate advice on this issue.

Things to consider about previous practice

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Section 9(2)(h) Legal professional privilege
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² The other benefits included in the s3(1) definition are income-tested and the abatement rates applied to beneficiaries' additional income already mean that people exit from benefit before they earn a total income that is over the SNG income limit. NZS/VP are not income tested benefits.

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16 Estimates show that around:

- 1,572 NZS/VP clients have been declined SNGs since July 2014
- 8,950 NZS/VP clients have been declined SNGs between May 2000 and July 2014.

17 Note that it is not always clear why the application was declined as the same code is used to record both income or cash assets being exceeded. Clients could have been declined for other reasons³ (and this data may not be recorded).

Issue response: SNGs since July 2014

18 We will review around 1,572 SNG records declined since 24 July 2014 where income limits were exceeded due to NZS/VP. This involves correcting errors based on current information held and making payments accordingly if all other eligibility criteria are met. The reassessment of each record requires a manual income calculation to assess whether the SNG application had been incorrectly declined.

19 Clients identified as having an SNG declined incorrectly will be contacted (further work is being undertaken on how we will inform clients and make any required retrospective payments).

Issue response: SNGs prior to July 2014

20 MSD does not intend to retrospectively review cases prior to July 2014 given the administrative costs and challenges involved. This would take approximately 9 full-time dedicated staff 12 months to do, and would cost in the region of \$706k to retrospectively review the 8,950 cases from May 2000 to July 2014.

21 We note that given the SNG relates to immediate and emergency needs, the utility of a review for older cases is questionable given the circumstances are likely to have changed. As these applications are historic, changes in client circumstances will be problematic (e.g. a client could be deceased, no longer in receipt of NZS/VP or residing overseas), and there may be insufficient detail to carry out a review.

22 MSD will, where requested by a client, review any previous decision to decline an SNG where income limits were exceeded due to NZS/VP.

Next steps

23 If you sign the attached amended Welfare Programme, officials will gazette it at the first opportunity and your Office can arrange for it to be tabled in Parliament.

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³ For example, could meet the need through other sources, did not meet their hardship obligations, and may have caused or contributed to the immediate need or the situation that has given rise to the immediate need.

Section 9(2)(h) Legal professional privilege

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