

# Aide-mémoire



**MINISTRY OF SOCIAL  
DEVELOPMENT**  
TE MANATŪ WHAKAHIATO ORA

## Cabinet paper

**Date:** 6 September 2019      **Security Level:** Cabinet Sensitive

**For:** Hon Carmel Sepuloni, Minister for Social Development

**File Reference:** REP/19/8/824

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## Exempting MSD lump-sum payments from income and cash assets tests to ensure client access to full and correct entitlements

**Cabinet Committee** Cabinet Social Wellbeing Committee (SWC)

**Date of meeting** 11 September 2019

**Minister** Hon Carmel Sepuloni, Minister for Social Development

**Proposal** You are presenting this Cabinet paper to SWC to ensure that MSD lump-sum payments are exempt from income and cash assets tests for social assistance. This is to ensure all clients receive their full and correct entitlements. As the proposed regulations are straightforward and only deliver positive impacts, the SWC process includes the policy decisions and approval of regulations so that the paper can proceed directly to Cabinet.

**Talking points**

- I have had a strong focus on ensuring MSD clients receive their full and correct entitlements. This sometimes results in clients receiving lump-sum payments.
- Lump-sum payments can impact people's access to other financial assistance because of income and cash assets testing that helps to make sure assistance is targeted.
- I consider it would be unfair if a client was disadvantaged from receiving an MSD lump-sum payment they are lawfully entitled to.
- So, I propose that income and cash assets tests are amended to future-proof clients' lawful access to social assistance.
- Currently, most lump-sum payments made by MSD are below the lowest income and cash assets threshold (\$1,095) This means that while the exemption would be applicable to

all MSD lump-sum payments, in practice it is only likely to be applied to the small number of payments over the threshold.

- Applying the exemption to all payments will treat all clients equitably and enable consistent administration. You also won't have to consider a new regulation each time a different MSD lump-sum payment occurs.
- The exemption will apply for a 12-month period which is consistent with similar exemptions in the welfare system.
- To ensure the exemption applies from the earliest date available, I seek SWC's approval to submit the Amendment Regulations to Cabinet on 16 September 2019 and I propose that the 28-day rule is waived.

## Our advice

### **MSD makes lump-sum payments to clients for many different reasons**

MSD makes lump-sum payments to its clients for different reasons apart from scheduled or emergency financial assistance payments. The reasons include payments to correct MSD system errors, because a client may not have provided all the right information at the time their benefit was assessed or because of the way the benefit system is administered, for example benefit payments are made in arrears.

### **Income and cash assets tests help target financial assistance while all MSD lump-sum payments ensure full and correct entitlements**

MSD must consider a client's income and cash assets when determining eligibility for financial assistance, to make sure clients use their own resources first. MSD lump-sum payments made to clients can impact their access to financial assistance such as Accommodation Supplement and Temporary Additional Support, if a lump-sum payment is over the income and cash assets thresholds.

However, given MSD lump-sum payments ensure every client's full and correct entitlement, it would be unreasonable for MSD to provide the payment and then immediately prevent or stop access to additional financial assistance the client would otherwise be eligible for.

### **It is proposed that income and cash assets regulations are amended so that no MSD client is disadvantaged from receiving MSD lump-sum payments they are lawfully entitled to**

We propose it is fair and reasonable to preserve client financial assistance entitlements by exempting the MSD lump-sum payments they receive, from the income and cash assets tests.

### *The exemptions are made through Amendment Regulations*

The Amendment Regulations that will ensure people do not have their financial assistance negatively impacted are:

- the Social Security (Income and Cash Assets Exemptions – MSD Lump-sum payments) Amendment Regulations 2019
- the Residential Care and Disability Support Services (MSD Lump-sum Payments) Amendment Regulations 2019

If agreed by Cabinet, the regulations will come into force on 20 September 2019.

We recommend waiving the 28-day rule for notifying the regulations in the New Zealand Gazette before they come into force. The regulations have no effect on the public and do not require public compliance. This will enable the earliest possible application of the exemption **s 9(2)(f)(iv)**

The Cabinet paper also proposes that you amend the Ministerial Direction on Special Benefit to ensure that MSD lump-sum payments are not considered chargeable income for Special Benefit purposes. We will provide you with more information on this matter in REP/19/8/823 once SWC considers this paper.

### *Retaining the 12-month time limit on the exemption is fair and is consistent with most other exemptions*

It is fair and reasonable to allow clients time (12-months) to decide how they use their payments although we note that generally clients spend their money immediately.

Retaining a 12-month time limit on the exemption is consistent with most other exemptions for payments of these levels. It balances allowing people time to decide on the best way to spend their payments with the legislative requirement that people use the resources available to them before seeking financial assistance.

### **Implementation**

Each day a report will be automatically generated from MSD system data showing lump-sum payments made by MSD. Client records will be updated to record that the value of the lump-sum is excluded from any cash assets declared by the client. Initially, MSD will manually update a client's record until an automated solution is implemented. Any required funding to implement this system will come from existing baselines.

If a client applies for a means-tested benefit in the 12 months since the lump-sum payment is made, a case manager will have

that information on the client's file to make sure the client's full and correct entitlements are preserved.

### *Fiscal implications*

The financial impact of the exemption will be minimal and absorbed within the existing demand driven forecasts. Most lump-sum payments (90 percent) that MSD makes are below the income and cash assets and thresholds and so the exemption will not be actively applicable. All payments to clients represent a client's full and correct entitlement, forecasted as part of MSD's delivery of the welfare system. Having the exemption in place will ensure consistency in the application and administration of the exemption and access to full and correct entitlement.

### **Reporting**

MSD is currently working through the reporting capability process to report quarterly on the use of the proposed MSD lump-sum payments exemption. We intend the reporting to include the number of lump-sum payments made and the number of times the exemption is actively applied. The data collected will assist in determining any changes in the existing estimates of clients receiving lump-sum payments over MSD income and cash assets thresholds, that need the exemption actively applied.

### **The technical review of exemptions is considering whether we can streamline the exemptions process**

As agreed, we are undertaking a technical review of the exemptions process in the context of the welfare overhaul.

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[REDACTED] 9(2)  
[REDACTED] (f)  
[REDACTED] (iv)

We are considering other options for streamlining the exemptions process and will report back to you by 30 September 2019.

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