Social Security Rights Victoria Inc.
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RED TAPE SSRV NEWSLETTER

Can I travel or move overseas and keep my Disability Support Pension?

We've been receiving lots of questions about the ability of DSP recipients to travel or live overseas long-term.

There have been several changes to social security law over the past 5 years that have affected the ability of persons on Disability Support Pension (DSP) to keep their pension while travelling and moving overseas. As a result there is currently some ambiguity in relation to this issue.

It is clear that people on DSP can travel overseas for up to 4 weeks in a 12 month period without it affecting their pension. This period has been reduced a number of times in the last 5 years. But it currently sits at 4 weeks.

For travel beyond 4 weeks, the situation is trickier.

If you travel overseas for more than 4 weeks, Centrelink can either suspend or cancel your pension.

A suspension can be for up to 16 weeks, which includes the eligible 4 weeks. Ie, if you are travelling for between 4 and 16 weeks, you will not be paid for 12 of those weeks, but your pension will be reinstated on your return.

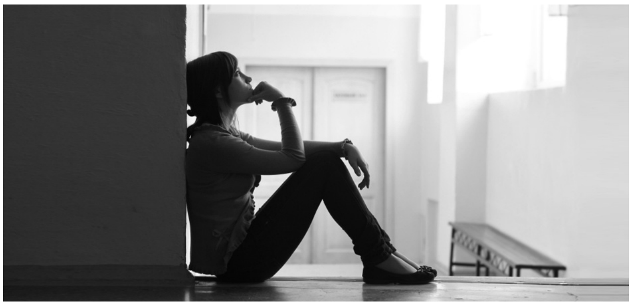
After 16 weeks, however, in most cases a person's pension is automatically cancelled.

A person who wishes to travel overseas for longer than 4 weeks, or move overseas, and wants to keep their DSP, must apply for 'unlimited portability' of their pension. To be eligible for unlimited portability, a person must have:

1. A 'severe impairment'
2. An inability to perform any work for the next five years.

Both present significant hurdles. A 'severe' impairment is defined as an impairment of 20 points or more under a single impairment table. A person may qualify for DSP by having a total of 20 points across the impairment tables. For instance, they might have moderate functional impairment of lower limb function (10 points) plus a moderate functional impact on mental health function (10 points). But in order to meet the unlimited portability requirement, a person must be assessed as having a severe or extreme functional impairment to just one area—lower limb function; upper limb function; mental health; visual function etc.As we have written about in Red Tape before, the impairment criteria for DSP were changed in 2012, and are now much more difficult to meet. Many people who qualified for DSP under the pre-2012 tables, whose impairment has been reviewed, no longer qualify for DSP.Therefore the first criterion is quite difficult to meet.

The second criterion is also a significant hurdle. To demonstrate that their severe impairment will prevent them from working (absent a program of support) for the next five years, a person needs to show that they are unable to work eight or more hours per week without a program of support.This is significantly less than the normal work capacity for DSP, which is 15 hours per week. That is: a person with a 14 hour per week work capacity can be eligible for DSP.
It is very hard to demonstrate this level of incapacity.



A further difficulty arises from the 5 year requirement. Most DSP assessments are based on a 2-year presumption – the legislative base for ‘permanent’. But the portability rules require an inability to work for 5 years. 5 years is a long time to be considered to have ‘no work capacity’, though we acknowledge we are unaware of anyone who has missed out on portability as a result of this part of the requirement whilst meeting the others.

How hard is it to get ‘unlimited portability’ in practice?
The process for applying for ‘unlimited portability’ is itself fairly simple. A person has a *Job Capacity Assessment (JCA)* and usually provides a report from their specialist. If the documents lead Centrelink to decide that they meet the criteria, they can travel/live overseas indefinitely and still receive DSP.
Based on our casework experience, however, there is a low success rate. In our estimation, based on our cases (which is fairly unscientific), only around one in five applications are successful.
Furthermore, there is a substantial risk that in having the assessment for portability purposes, you may lose your entitlement to DSP entirely. Again, based on our case work, this is a fairly common occurrence. Perhaps as many as 3 of the 4 unsuccessful applications for portability may result in a loss of DSP benefits completely.

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How will the pending changes to the assets test affect my pension?

In 2007, just before the Federal Election, the Howard Government introduced a change to the taper rate for the assets test. This taper rate only affects pensions. Those recipients on allowances (e.g. NewStart, Youth Allowance etc), whose assets exceed the cut-off point are not paid.

The taper rate was halved from $3 per fortnight for every $1,000 of assets over the threshold to $1.50. The practical effect was to allow a large number of people who were missing out on to receive a small amount of pension.

Approximately half of pensioners receive a ‘part-pension’. This means that either income or assets reduces their pension from the full-rate.

Note that the Age Pension has both an income test and an assets test. A person is eligible only if neither their income nor their assets exceed the cut off.Financial assets – eg shares and money in term deposits – count as ‘income’. While physical assets – eg houses and cars – count as ‘assets’. A person’s principal place of residence does not count for the purposes of the assets test.

In 2015 there was media coverage of the fact that a couple on the Age Pension who owned their own home could have $1 million in assets and still receive a small amount of pension. This is around twice the amount a couple could earn in income and still receive the pension.

As a result, the law was changed to revert to the $3/$1,000 taper rate, which is, in effect doubling it.

This change comes into effect on 1 January 2017, unless there are any further changes to the legislation in this year’s budget or after the election.

What we think

This change will not affect the vast majority of Age Pensioners whose eligibility is not affected by assets. It will not affect you if you are currently on a full pension, or if you are on a part pension as a result of the income test.

SSRV’s view is that the purpose of social security payments is to alleviate poverty. People who own a house and have a million dollars in other assets do not fit any definition of poverty. Therefore, we think this change is fair and sensible.

Thanks to JJ for the research on this article.

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