

Guidance Note

Seeking Centrelink clearance for lump sum payments

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State Insurance
Regulatory Authority

This guidance note provides information for insurers on seeking Centrelink clearance before paying damages or a series of periodic payments made wholly or partly for lost earnings or lost capacity to earn resulting from personal injury¹ in motor accident claims. The content is provided for information purposes only and should be read together with the *Motor Accident Injuries Act 2017* (the Act), the *Motor Accident Injuries Regulation 2017* (the Regulation), and the Motor Accident Guidelines (the Guidelines) and other relevant legislation.² While reasonable care is taken to ensure the information is current, SIRA makes no warranties about its accuracy, currency, or suitability for any particular purpose. See SIRA's full disclaimer for more information.

Injured people receiving Centrelink payments

Services Australia is an executive agency of the Australian Government responsible for delivering a range of welfare, health, child support payments and other services to eligible Australian citizens and permanent residents. This includes delivery of Centrelink social security payments and services.

If an injured person makes a claim under the Act in respect of a motor vehicle accident and they have received or are receiving Centrelink payments since the motor accident, they are required to tell Services Australia of their claim within **7 days**.

The injured person is also required to inform Services Australia within **14 days** if their weekly compensation rate changes i.e. changes to weekly payments for lost earnings.³

For further information, see [Services Australia: Centrelink Compensation Recovery – What you need to know](#).

The insurer should proactively advise every injured person who makes a claim for either statutory benefits or damages to notify Services Australia of their claim if they have received or are receiving Centrelink payments from the date of the accident.

It's important for insurers to provide this advice to the injured person early to enable prompt, and accurate payment of damages and to ensure that the injured person does not incur a Centrelink debt.

Insurers are required to deal with claims in a manner consistent with:

- the objects of the Act
- general duties under Division 6.2 of the Act
- principles outlined under [Part 4 of the Guidelines](#)⁴
- Customer Service Conduct principles.

It is a condition of an insurer's license under the Act to comply with a duty under s 6.3 of the Act (to act with good faith).

¹ Section 17 (2) *Social Security Act 1991* (Cth)

² *Motor Accidents Compensation Act 1999*

³ Section 1061ZZBV *Social Security Act 1991* (Cth)

⁴ Clause 4.5 to 4.8 of the Motor Accident Guidelines, Version 8.1

When the insurer receives a preliminary notice

If an injured person in receipt of 'compensation affected payments' (as defined in section 17 (1) the Social Security Act 1991), notifies Services Australia of their claim, Services Australia will issue a preliminary notice to the relevant insurer under [section 1182 of the Social Security Act 1991](#) (Cth) stating that they may wish to recover an amount paid to the injured person.

Under [Section 1183 of the Social Security Act 1991](#), if the insurer receives a preliminary notice or becomes liable to pay damages and/or statutory benefits of weekly earnings, they must notify Services Australia of any liability to pay, within 7 days of receiving the preliminary notice or after they become liable, whichever happens later, before releasing a lump sum settlement payment.

A preliminary notice continues to have effect until the insurer's full liability is disclosed. For further information, see [Services Australia: Centrelink compensation information for lawyers and compensation payers](#).

Under *Section 1184D of the Social Security Act 1991*, the insurer must not make any payment unless Services Australia has advised that the preliminary notice is revoked or has given written permission to pay the compensation.

When the insurer has not received a preliminary notice

Insurers are not required to notify Services Australia of lump sum settlements if Services Australia has not issued a preliminary notice.

If the insurer has not received a preliminary notice and makes a settlement payment to an injured person who has been receiving Centrelink payments, then the injured person may be liable to repay any amounts that are owing to Services Australia.

Services Australia will issue a customer debt/recovery notice to the injured person in those circumstances. The insurer is not required to pay the amount owing after the settlement has been paid.

Example 1 – Injured person notifies Services Australia

Jiyeon is 25 and is in receipt of Centrelink payments. Jiyeon is involved in a motor accident and makes a claim to the insurer. She sustained a non-threshold injury, was not at fault, and is entitled to receive weekly benefits as well as treatment and care benefits. The insurer of the at fault vehicle pays Jiyeon weekly statutory benefits and treatment and care benefits.

The insurer informs Jiyeon that if she has received Centrelink payments since the accident, she should notify Services Australia of her claim.

Jiyeon notifies Services Australia that she has made a claim on the CTP insurer for damages and weekly benefits in respect of the injuries she received in the motor accident. Because Jiyeon is receiving weekly statutory benefits from the CTP insurer, Centrelink may adjust her Centrelink payments.

Jiyeon, with the assistance of her solicitor, reaches agreement with the insurer to settle her claim for damages. The insurer notifies Services Australia of the settlement amount **within 7 days** of the settlement date.

Services Australia issues a preliminary notice to the CTP insurer.

Services Australia reviews Jiyeon's past payments and determines if a payback is required from the settlement. Services Australia then provides the insurer with clearance to pay the settlement amount minus any deduction payable to Services Australia.

Example 2 – Injured person does not notify Services Australia

David is 18, studying part time and looking for work. He receives \$313.80 a fortnight in Youth Allowance.

David is involved in a motor accident and makes a claim to the insurer. He sustained a non-threshold injury, was not at fault and is entitled to receive weekly benefits as well as treatment and care benefits. The insurer of the at fault vehicle pays David weekly statutory benefits and treatment and care benefits.

The insurer advises David that if he has received Centrelink payments since the accident, he should notify Services Australia of his claim.

David does not notify Services Australia that he has received Youth Allowance and had notified a claim in respect of a motor accident. David receives both Youth Allowance and weekly statutory benefits from the insurer.

David makes a damages claim and does not notify Services Australia.

The insurer settles David's claim for damages and pays him the settlement.

Services Australia's investigation shows David has received a settlement from his damages claim through the NSW CTP scheme. Services Australia issues a customer debt/recovery notice to David. David must pay the amount owing to Services Australia.

Example 3 – Insurer notifies Services Australia without receiving a preliminary notice

Zeljko does not receive Centrelink payments. Zeljko is involved in a motor accident and makes a claim to the insurer. He sustained a non-threshold injury, was not at fault and is entitled to receive weekly benefits as well as treatment and care benefits. The insurer of the at fault driver pays Zeljko's income support and treatment and care benefits.

The insurer advises Zelkjo that if he has received Centrelink payments since the accident, he should notify Services Australia of his claim. Zelkjo confirms that he does not receive Centrelink payments.

Zeljko makes a damages claim. The insurer and Zeljko reach a settlement agreement.

The insurer incorrectly tells Zeljko that before they can pay the settlement, they must request clearance from Services Australia.

The reasons this was incorrect and unnecessary is that Services Australia has not sent the insurer a preliminary notice of potential payback of Centrelink benefits (nor would it, as Zeljko is not receiving Centrelink payments). The result is a delay with the settlement payment.

This publication may contain information that relates to the regulation of workers compensation insurance, motor accident compulsory third party (CTP) insurance and home building compensation in NSW. This publication does not represent a comprehensive statement of the law as it applies to particular problems or to individuals, or as a substitute for legal advice.

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