

The Senate

---

Community Affairs Legislation  
Committee

---

Social Security Amendment (Improved  
Child to Adult Transfer for Carer Payment  
and Carer Allowance) Bill 2022

March 2022

© Commonwealth of Australia 2022

ISBN 978-1-76093-385-2

This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 4.0 International License.



The details of this licence are available on the Creative Commons website:  
<https://creativecommons.org/licenses/by-nc-nd/4.0/>.

Printed by the Senate Printing Unit, Parliament House, Canberra

# Members

## Chair

Senator Wendy Askew

LP, TAS

## Deputy Chair

Senator Janet Rice

AG, VIC

## Members

Senator Nita Green

ALP, QLD

Senator Andrew McLachlan CSC

LP, SA

Senator Helen Polley

ALP, TAS

Senator Dean Smith

LP, WA

## Secretariat

Pothida Youhorn, Committee Secretary

James Strickland, Principal Research Officer

Christopher Dyer, Senior Research Officer

Claire Holden, Administrative Officer

PO Box 6100

Parliament House

Canberra ACT 2600

Phone: 02 6277 3515

Fax: 02 6277 5829

E-mail: [community.affairs.sen@aph.gov.au](mailto:community.affairs.sen@aph.gov.au)

Internet: [www.aph.gov.au/senate\\_ca](http://www.aph.gov.au/senate_ca)



# Contents

<b>Members .....</b>	<b>iii</b>
<b>List of Recommendations .....</b>	<b>vii</b>
<b>Chapter 1 – Report .....</b>	<b>1</b>
Purpose .....	1
Conduct of the inquiry .....	1
Financial implications.....	1
Consideration by other committees .....	1
Background.....	2
Key provisions.....	3
Comments from submitters.....	4
Committee view .....	5
<b>Appendix 1 – Submissions.....</b>	<b>7</b>



# **List of Recommendations**

## **Recommendation 1**

**1.31 The committee recommends that the bill be passed.**





# Chapter 1

## Report

- 1.1 The Social Security Amendment (Improved Child to Adult Transfer for Carer Payment and Carer Allowance) Bill 2022 (the bill) was introduced in the House of Representatives on 10 February 2022.<sup>1</sup> On the same day, the Senate referred the provisions of the bill to the Community Affairs Legislation Committee (the committee) for inquiry and report by 24 March 2022.<sup>2</sup>

### Purpose

- 1.2 The bill amends the *Social Security Act 1991* (the Act) to ensure continuity of payment for all carers of a child with disability until the child turns 16 years and 3 months.<sup>3</sup> The bill also extends carer payments in respect of a child with a terminal condition.<sup>4</sup>

### Conduct of the inquiry

- 1.3 In accordance with usual practice, the inquiry was advertised on the committee's webpage. The committee called for submissions by 4 March 2022 and wrote to a range of stakeholders inviting them to make submissions.
- 1.4 The committee received seven submissions, listed at Appendix 1.
- 1.5 The committee thanks all individuals and organisations who assisted with the inquiry, especially those who made written submissions.

### Financial implications

- 1.6 The explanatory memorandum states that the cost of the changes proposed by the bill is \$7.6 million over the forward estimates and \$2.0 million per year ongoing.<sup>5</sup>

### Consideration by other committees

- 1.7 The Senate Standing Committee for the Scrutiny of Bills made no comment on the bill.<sup>6</sup>

---

<sup>1</sup> *Votes and Proceedings*, No. 163, 10 February 2022, p. 2466.

<sup>2</sup> *Journals of the Senate*, No. 136, 10 February 2022, pp. 4528–4529.

<sup>3</sup> Explanatory memorandum to the Social Security Amendment (Improved Child to Adult Transfer for Carer Payment and Carer Allowance) Bill 2022 (explanatory memorandum), [p. 2].

<sup>4</sup> Explanatory memorandum, [pp. 2–3].

<sup>5</sup> Explanatory memorandum, [p. 2].

<sup>6</sup> Senate Standing Committee for the Scrutiny of Bills, *Index of bills considered by the committee*, 18 March 2022.

- 1.8 At the time of tabling this report, the Parliamentary Joint Committee on Human Rights had not reported on the bill.<sup>7</sup>
- 1.9 The statement of compatibility with human rights, contained within the explanatory memorandum to the bill, notes that the bill engages with the right to social security and the right to privacy and reputation. The statement of compatibility with human rights states that the bill:
- ... ensures fairness for a person accessing social security in the form of the Carer Payment and Carer Allowance and provides the appropriate protection to a person's privacy with the collection of information.<sup>8</sup>

## Background

- 1.10 The Government provides financial support to people who provide care to another person (the care receiver).
- 1.11 Carers can apply to receive a Carer Payment (available to people who give constant care) or a Carer Allowance (available to people who give additional daily care) in respect of a care receiver with a disability, medical condition, or who is frail aged.<sup>9</sup> Where the care receiver is a child, the carer may receive Carer Payment; Carer Allowance and a Health Care Card for the child; or a Health Care Card only, depending on the level of care required.<sup>10</sup>
- 1.12 To determine whether a person is eligible to receive carer benefits, Services Australia assesses the circumstances of both the carer and the care receiver. Care receivers under 16 years of age are assessed under the Disability Care Load Assessment (Child) Determination 2020.<sup>11</sup> Care receivers aged 16 and over are assessed under the Adult Disability Assessment Determination 2018 (ADAT).<sup>12</sup>
- 1.13 This means that even where there is no other material change in circumstances, the care receiver must be assessed under the ADAT for their carer to remain eligible for carer benefits after their 16<sup>th</sup> birthday. The age of the care receiver does not affect the rate of financial support.

---

<sup>7</sup> Parliamentary Joint Committee on Human Rights, *Index of bills considered by the committee*, 9 February 2022.

<sup>8</sup> Explanatory memorandum, [pp. 10-11.]

<sup>9</sup> Services Australia, *Carer Payment*, 10 December 2021, <https://www.servicesaustralia.gov.au/carers-payment> (accessed 17 February 2022); Services Australia, *Carer Allowance*, 10 December 2021, <https://www.servicesaustralia.gov.au/carers-allowance> (accessed 17 February 2022).

<sup>10</sup> Services Australia, *Carer Allowance: How much you can get*, 10 December 2021, <https://www.servicesaustralia.gov.au/how-much-carer-allowance-you-can-get> (accessed 17 February 2022).

<sup>11</sup> Disability Care Load Assessment (Child) Determination 2020, ss. 4, 6.

<sup>12</sup> Adult Disability Assessment Determination 2018, ss. 1.4, 2.1.

- 1.14 An exception applies where the Carer Payment is received in respect of a child who has a terminal illness. In these circumstances, provided the carer does not otherwise become ineligible, they will continue to receive Carer Payment until the child turns 18.<sup>13</sup>
- 1.15 Under the current provisions of the Act, carers of children turning 16 are treated differently depending on whether an application to transfer to adult carer benefits is made before the care receiver's 16<sup>th</sup> birthday.
- 1.16 This differential treatment disadvantages those who apply to transfer to adult carer benefits before the care receiver's 16<sup>th</sup> birthday but are assessed as ineligible. People in this category may lose access to carer benefits when the care receiver turns 16, or soon after, depending on when the assessment is completed.<sup>14</sup>
- 1.17 In comparison, carers receiving the Carer Payment or the Carer Allowance who do not make an application continue to receive support until the care receiver turns 16 years and 3 months.<sup>15</sup>
- 1.18 The bill proposes to extend continuity of benefits until either the child reaches 16 years and 3 months or the assessment for adult carer benefits is complete, whichever occurs last. This would ensure all recipients of carer benefits are treated the same way and are not disadvantaged because of their timely application to transfer to adult carer payments.<sup>16</sup>
- 1.19 The bill would also ensure carers do not experience a gap in payments due to the assessment of eligibility for adult carer benefits not being completed before the child is 16 years and 3 months old.<sup>17</sup>

## Key provisions

- 1.20 The bill contains a single schedule, in three parts, to amend the Act.
- 1.21 Part 1 extends continuity of the Carer Payment until the child turns 16 years and 3 months or has been assessed as an adult under the ADAT, whichever occurs last. Part 1 also extends continuity of benefits for carers of children with

---

<sup>13</sup> *Social Security Act 1991*, s. 197E(2).

<sup>14</sup> Explanatory memorandum, [p. 2].

<sup>15</sup> *Social Security Act 1991*, s. 197K (in respect of Carer Payment) and s. 953A (in respect of Carer Allowance).

<sup>16</sup> Carol Ey, Social Security Amendment (Improved Child to Adult Transfer for Carer Payment and Carer Allowance) Bill 2022, *Bills Digest No. 48*, 2021–22, Parliamentary Library, Canberra, 2022, p. 2.

<sup>17</sup> Carol Ey, Social Security Amendment (Improved Child to Adult Transfer for Carer Payment and Carer Allowance) Bill 2022, *Bills Digest No. 48*, 2021–22, Parliamentary Library, Canberra, 2022, p. 2.

a terminal condition until the child turns 18 or has been assessed under the ADAT, whichever occurs last.

- 1.22 Part 2 extends continuity of the Carer Allowance until the child turns 16 years and 3 months or has been assessed as an adult under the ADAT, whichever occurs last.
- 1.23 Part 3 aligns access to the Carer Allowance—Health Care Card only with equivalent Carer Payment and Carer Allowance provisions, where access to benefits continues until the child turns 16 years and 3 months. At present, entitlement to receive a Health Care Card ends on the child's 16<sup>th</sup> birthday.

### **Comments from submitters**

- 1.24 Submitters have welcomed the changes proposed in the bill. For example, the Disability Council NSW stated that it 'generally supports the proposed changes to ensure all eligible carers have a smooth transition from the child to adult carer payment'.<sup>18</sup> Economic Justice Australia submitted that the 'amendments proposed via the Bill are beneficial' and supports the bill being passed without amendment.<sup>19</sup>
- 1.25 Submissions often remarked upon the difficult, but crucially important, role of carers and their reliance on Commonwealth financial support.<sup>20</sup> Carers NSW noted the transition from child to adult carer payments 'can be confusing and challenging, with some carers experiencing gaps in payments through the process'.<sup>21</sup> Carers Australia noted that achieving an uninterrupted transition from child to adult support payments can be 'daunting, time consuming and costly'.<sup>22</sup>
- 1.26 The Disability Council NSW suggested that the plans for implementation should include 'targeted, accessible communication to ensure all recipients are adequately informed of changes, and understand the assessment process, required documentation and key timeframes'.<sup>23</sup>
- 1.27 Several submitters suggested that there would be benefit in further review of carers' access to Commonwealth support, including the interaction of

---

<sup>18</sup> Disability Council NSW, *Submission 1*, p. 1.

<sup>19</sup> Economic Justice Australia, *Submission 6*, [pp. 1-2].

<sup>20</sup> See Disability Council NSW, *Submission 1*, p. 1; Benjamin Crenshaw, *Submission 2*, p. 1; Carers Australia, *Submission 4*, p. 1; Legal Aid Queensland, *Submission 5*, p. 1; Shop, Distributive and Allied Employees' Association, *Submission 7*, p. 1.

<sup>21</sup> Carers NSW, *Submission 3*, p. 1.

<sup>22</sup> Carers Australia, *Submission 4*, p. 1.

<sup>23</sup> Disability Council of NSW, *Submission 1*, p. 1.

Commonwealth support for carer payments with other government payments.<sup>24</sup>

- 1.28 Carers Australia and Economic Justice Australia also suggested further extension of the exemption from ADAT requirements for young people with a terminal illness who turn 18 and are expected to die within a year.<sup>25</sup>

### **Committee view**

- 1.29 The committee supports the bill's aim of amending the Act to help reduce gaps in financial support for carers. Specifically, these reforms will ensure that all recipients of carer benefits are treated the same way, and that they are not disadvantaged because of their timely application to transfer to adult carer payments.
- 1.30 The committee also considers that these changes will support fairer outcomes for carers as the people they care for transition from one method of needs assessment to another.

### **Recommendation 1**

- 1.31 The committee recommends that the bill be passed.**

**Senator Wendy Askew**  
**Chair**

---

<sup>24</sup> Carers NSW, *Submission 3*, p. 2; Carers Australia, *Submission 4*, p. 2; Economic Justice Australia, *Submission 6*, [p. 3]; Shop, Distributive and Allied Employees' Association, *Submission 7*, p. 1.

<sup>25</sup> Carers Australia, *Submission 4*, p. 2; Economic Justice Australia, *Submission 6*, [p. 2].



# Appendix 1

## Submissions

### *Submissions*

- 1 Disability Council NSW
- 2 Mr Benjamin Cronshaw
- 3 Carers NSW
- 4 Carers Australia
- 5 Legal Aid Queensland
- 6 Economic Justice Australia
- 7 Shop, Distributive and Allied Employees' Association