

16 August 2022

Ministry of Social Development  
AISA Amendment  
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## Waiving the notice period for charging child support as income

Thank you for the opportunity to comment on the consultation document (the document).

From 1 July 2023 child support is going to be passed on directly to sole parent beneficiaries. Consequently, child support will be included as income for the purposes of calculating a person's benefit. Inland Revenue provides child support information to the Ministry of Social Development (MSD) under an approved information sharing agreement (AISA).

Currently, the AISA requires MSD to provide 10 working days' notice when an adverse action (such as a person's benefit being reduced or stopped) is being taken based on the shared information. This allows the person time to dispute the accuracy of the personal information.

The document proposes the 10-day notice period be removed to allow MSD to charge the child support payment as income as close as possible to when it is received. The objective is to avoid benefits being overpaid and reduce the possibility of a person ending up with a debt.

The proposed wording of new sub-clause 6(ca) states:

- a. The Parties agree that MSD will dispense with the notice requirement under section 96Q where the sharing of Personal Information under this Agreement is used to:*
- i. charge child support payments as income for benefit purposes, that result in a reduction or suspension of benefit.*

***MSD must, immediately after the decision to reduce or suspend the Specified Payment, take steps that are reasonable in the circumstances to notify the individual:***

- ii. Provide details of benefit change.*
- iii. Notify the individual that the Specified Payment has changed.*
- iv. Advise the individual of their right to review and appeal the Ministry's decision.*
- b. The Adverse Actions that the Parties may take under this Agreement are specified at Schedule 2.*
- c. Notwithstanding sub-clauses 6(a)- 6(d)above, the Parties may not take any Adverse Action as a result of the sharing of Information for the purpose set out in sub-clause 2(e) (regarding policy proposals).*

***(emphasis added).***

The objective of the proposal is well intentioned. However, we are concerned about the risks of error which may result in a sole parent beneficiary being underpaid<sup>1</sup>. The need to carry out a data cleansing exercise prior to going live to help support higher data matching rates<sup>2</sup> suggests there is a real possibility of child support payments being allocated to the wrong beneficiary. Sole parent beneficiaries are some

<sup>1</sup> <https://www.ird.govt.nz/updates/news-folder/have-your-say-ir-and-msd-child-support-information-sharing-change>

<sup>2</sup> Approved Information Sharing Agreement Guidance Document – July 2022 page 15

of society's most vulnerable and least able to afford a reduction in their benefit even for a temporary period.

We acknowledge that the proposed legislation has tried to mitigate the risk of error from information matching by requiring that MSD *“immediately after the decision to reduce or suspend the Specified Payment, take steps that are reasonable in the circumstances to notify the individual”* of the details of the change.

The document also states:

*MSD and Inland Revenue will introduce a simple process to allow clients to query a change in their benefit payment as a result of a child support payment. This will enable agencies to urgently work together to rectify errors.*

*MSD clients will be able to contact MSD through multiple channels to query their benefit payment. **If an error has occurred, it will be identified and rectified as soon as reasonably possible.** If any benefit payment is owed to the client, it will be paid within the next working day after the error has been resolved.*

*MSD clients will have the right to review any decision made about their financial assistance through the usual Review of Decision process*

*If needed, all MSD clients also have access to one off non-recoverable assistance through the MSD Contact Centre or in a Service Centre<sup>3</sup>.*

*(emphasis added)*

To mitigate the risk of errors and a sole parent beneficiary being underpaid we believe the wording of proposed sub-clause 6(ca) should be more prescriptive. The words *“immediately after the decision.....take*

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<sup>3</sup> Approved Information Sharing Agreement Guidance Document – July 2022 page 14

*steps that are reasonable in the circumstances*” are subjective and open to interpretation. We recommend MSD be required to notify the individual on the day the decision is made to reduce or suspend the specified payment.

We also recommend:

- 1 subclause 6(ca) should specify how the client is to be notified. It should not be taken for granted clients have access to MyMSD. It is vitally important that MSD contact the client before payment is made. Accordingly, there should be multiple options as to how a client is notified. e.g., text, telephone call (cell and landline), email, postal mail, or another suitable method; It is not appropriate to just use MyMSD, at least one other viable option should also be used;
- 2 the simple process, methods and mechanisms, that will allow clients to query a change should be specified in the AISA. When determining “what is simple”, regard should be had to the party corresponding with MSD;
- 3 the AISA should specify that MSD is required to rectify an error within 2 working days of it being identified;
- 4 a review of the processes that will allow individuals to query a change in their benefit be carried out within six months of implementation to confirm that the processes are effective. Key performance indicators should be set to measure the number of errors that are being identified and the time taken to rectify. It is also important that there is no corresponding increase in child poverty due to this change.

If you wish to discuss our submission, please contact us.

Yours sincerely

  
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