

SUBMISSION TO THE NATIONAL COMMISSION OF AUDIT (1.5 pages)

In 2012-2013 the Department of Human Services administered \$149.4 billion in payments – 39% of the government outlays.¹ How much of that is expended in actual ‘income support’/benefits? How much is spent on administering same?

My experience supports the premise maladministration in the administering of benefits is systemic. It is erroneous to consider future efficiency/fiscal gains lay solely in remodelling ‘benefits’/payments without considering the real and substantive efficiency/fiscal savings which may well lay in a careful and independent review/remodelling of the Department of Human Services administrative practices.

A summary of my ‘coal-face’ experience

In 2010/2011 I underwent bilateral hip replacements. I did not work over this period. I received a benefit for approximately 20 weeks, totalling \$4,967.00 in payments. In early 2011 I appealed a Centrelink decision (the ‘original decision’) to automatically cancel \$ 675.00 in benefit payments. I appealed solely on the grounds the decision to cancel, in all the circumstances, was irrational.

I have since been advised by the Department of Human Services that they do not cost their internal operations relating to reviewing/defending applications for a review of staff decisions. Since lodging my application for appeal I estimate the Department’s internal operations, in defending their ‘original decision’, effectively amounts to thousands, if not tens of thousands of dollars. In May 2012, as a result of that ‘appeal process’, the Administrative Appeals Tribunal (AAT) affirmed the Department’s ‘original decision’.

In May 2012 I appealed the AAT decision to the Federal Court. The Department outsourced its legal representation. The Department refused 3x early and reasonable offers to settle. The Federal Magistrate described the Department’s Response to the Appeal as *absolute nonsense*, ordering it to be amended.

After many months, and based on information held by the Department since 2010, the Department conceded the appeal prior to Hearing. In January 2013 the Court remitted my appeal back to the AAT. Notwithstanding their belated capitulation in the Federal jurisdiction the Department then confirmed to the AAT their intention to fully defend the ‘original decision’. Having commenced the process the Department’s outsourced lawyer’s ultimately moved, again prior to Hearing, to concede their error. On 15 May 2013, in direct response to an application from me, the AAT removed their 2 May 2012 decision from publication / AUSTLII. On 15 May 2013, noting in part...*it has taken in excess of two years and the expenditure of considerably more public and private money...there has been a failure in the process of administrative decision-making ...*, the AAT handed down a final decision; at the AAT’s initiative/instruction the decision was withheld from publication.

At all relevant times the Department’s instructed outsourced legal representation was made up of 1 Partner, 1 Special Counsel, 1 lawyer, various law graduates and an instructed Barrister from the Independent Bar.

\$664.00 was re-paid to me by the Department in July 2013. **Despite no Hearing(s), 10 invoices totalling 70 pages were submitted to the Department by the outsourced law firm DLA Piper.** The Department refuses, under FOI, to release the final total of outsourced legal costs as expended by them in my matter. An application to appeal that decision is now on foot to the Office of the Information Commissioner.

¹ Department of Human Services Annual Report 2012-2013 p3

The Department's legal position was, at all times, unsophisticated, inadequate and zealous in defending an unmeritorious position.

Relevantly, and importantly, the Department's 'decision making processes' appear insufficient to allow them to discharge their public-service responsibilities of effective/efficient governance. I am confident my experience is not 'stand-alone'. To that end the Department of Human Services is fundamentally failing to use its resources to best effect.

While my substantive issues are currently being compiled for a submission to the Commonwealth Ombudsman, I would nonetheless welcome the opportunity to discuss prospective meaningful 'efficiency/fiscal' saving measures highlighted by my 'coal face' experience as a 'temporary beneficiary.'

Submitted by Jane Carrigan (individual) 25 November 2013.