Appeals – how to appeal against a Centrelink decision

Thousands of people appeal Centrelink decisions each year. And thousands are successful! A successful appeal may mean that you will get your payment restored, or you won’t have to pay back a debt to Centrelink, or you will receive your correct Social Security entitlements.

➢ What does it mean to appeal?

Appealing simply means asking for a review of the decision with which you are not happy. The person or tribunal you appeal to can change the original decision if it is wrong. For example, if Centrelink cancels your Social Security payment and you disagree with that decision you can appeal against it. Sometimes Centrelink will ask whether you would like a decision “reviewed”. A “review” is the same as an “appeal”.

➢ How much does it cost to appeal?

Nothing. Appealing is free.

➢ What are my rights?

You have the right to:

- know why Centrelink made a decision about your payment. The reasons for the decision must be in writing;
- appeal any Centrelink decision that you believe is wrong;
- obtain copies of the law or policy which Centrelink used in making its decision; and
- obtain your Social Security file under Freedom of Information laws (for further information, see the Factsheet “Freedom of Information”).

➢ Can I get in trouble for appealing?

No. You cannot get in trouble or be penalised for appealing a decision about your Social Security entitlement. Centrelink encourages people to appeal. Centrelink deals with an enormous number of people every week, and knows that its staff make mistakes. Also, Social Security law is very complex and open to different interpretations. That is why there is an appeals system.

You may come across someone working in Centrelink who tries to discourage you from appealing, or tells you that it is not possible, or that it is pointless because you won’t win.
The person may be trying to be helpful, but do not accept that advice! It is just the opinion of an individual worker and it goes against Centrelink policy. Appealing is your legal right and no one should discourage you from pursuing that right.

- **How do I appeal?**

If you think Centrelink has made the wrong decision and you would like to appeal, you should do so immediately. You may need to organise evidence to support your case, but do this later rather than delay your appeal.

1. **The first step is to appeal to an Authorised Review Officer.**

If a Centrelink officer makes a decision with which you are not happy, ask for a review of that decision by an Authorised Review Officer (ARO). AROs are senior Centrelink officers who review decisions by the original decision maker.

It is best to lodge an ARO appeal in writing, either by writing a letter or by completing a “Request for a review by an Authorised Review Officer” form, available from [www.welfarerights.org.au](http://www.welfarerights.org.au) or from your local Welfare Rights Centre/Advocate. You should be sure to:

- provide your name and contact details;
- provide your Customer Reference Number;
- say what decision you are appealing;
- say why you think the original decision is wrong; and
- provide any evidence you think will help your case.

Keep a copy for your own records, then post or lodge your appeal in person at your local Centrelink office.

If preparing a letter or completing a form is difficult, simply ask for an ARO review over the telephone or at the Centrelink counter. If you do this, ask for a “receipt number”, make a note of the name of the Centrelink officer, the date you rang, and details of your request.

The ARO will usually interview you by telephone, rather than in person, to hear your side of the story. Sometimes an ARO may also ask you to attend an interview. The ARO will then send you a letter outlining the reasons for their decision.

Often when you ask for a review by an ARO, Centrelink will ask the person who made the original decision to look at their decision again. This may help you but if you don’t get everything you want, you should insist that your appeal goes to the ARO. Also if you prefer, you have the right to request that the matter goes straight to an ARO and that the original decision maker does not review it again.

2. **What can I do if I’m not happy with the ARO decision?**

If you are not happy with the ARO decision, you should consider appealing to the Social Security Appeals Tribunal (SSAT). This is the first appeal stage that is outside Centrelink. The SSAT is totally independent from Centrelink. The SSAT is fairly informal and you should have every opportunity to discuss your case at the hearing. Welfare Rights has produced a booklet “how to appeal to the social security appeals tribunal”, available from [www.welfarerights.org.au](http://www.welfarerights.org.au).

3. **What can I do if I’m not happy with the SSAT decision?**

If you are not happy with the SSAT decision you have the right to appeal to the Administrative Appeals Tribunal (AAT). Centrelink can also appeal against the SSAT decision to the AAT. It is most useful to speak to your local Welfare Rights Centre/Advocate or Legal Aid office regarding this stage of appeal.
What can I do if Centrelink cancels or reduces my payment?

If you appeal against the reduction or cancellation of your payment, Centrelink may agree to continue your payment at the previous rate until the review is finalised. This is generally called “payment pending review”. Centrelink can do this if the decision being appealed is the result of:

- the exercising of a “discretion”;
- the "holding an opinion";
- a “participation penalty” being imposed.

Some examples of decisions based on an opinion would be if Centrelink:

- reduces or cancels your payment because it considers that you are living in a "marriage-like relationship"; or
- cancels your Disability Support Pension because it considers that you no longer have a "continuing inability to work"; or
- determines that you have failed to comply with your “Activity Agreement” and imposes a participation penalty.

The discretion to continue payment pending the outcome of a review will not be exercised where the decision was based on a clear question of fact or law, eg you are above the age limit for the payment you applied for.

When deciding whether your payment should be continued pending review, Centrelink may consider whether you are in “severe financial hardship”.

It is important to note that in some situations, if Centrelink reinstates your payment pending review and the review is unsuccessful, the amount paid pending the review may be recovered as a debt.

If you are appealing an eight week no payment period Centrelink must automatically continue your payment pending review (unless you have already served the full eight weeks before you ask for your appeal). If your payment is continued pending review and you ultimately lose your appeal, you will then have to serve the eight week no payment period.

Do I have to appeal within a certain time?

You may appeal to an ARO or to the SSAT at any time. However, to receive back pay from the date you were affected by the original decision, you must appeal to an ARO within 13 weeks of receiving written notice of the original decision and then, if necessary, appeal to the SSAT within 13 weeks of receiving written notice of the ARO decision (except for Family Tax Benefit - see below). If you appeal more than 13 weeks after receiving the notices and you are successful, you will only receive back pay from the date you appealed.

Different rules generally apply for appeals to the ARO and the SSAT regarding Family Tax Benefit assessments - see the Factsheets "Family Tax Benefit" and "Family Tax Benefit and estimating your income".

If you are appealing to an ARO or to the SSAT about a debt only, no time limits apply. This means that if your appeal is successful, and your debt is cancelled or recovery waived, you may be entitled to a refund of the amount you have paid back to Centrelink.

If you are appealing to the AAT you need to appeal within 28 days of the date you receive the SSAT decision in writing. This time limit can only be extended in limited circumstances by order of the AAT so it is important to appeal as soon as possible after you receive the SSAT decision in writing. If you appeal more than 28 days after receiving the SSAT decision you will need to ask for an extension of time.
Who can help me with my appeal?

If you have any questions or you are concerned about requesting an appeal, you should contact your local Welfare Rights Centre/Advocate.

Welfare Rights Centres are community legal centres which specialise in Social Security law. Welfare Rights Centres/Advocates offer free, independent advice and assistance on all Social Security matters. Welfare Rights Centres/Advocates are totally independent from Centrelink. All information is confidential and Centrelink is only contacted about your case if you ask the Centre/Advocate to do so.

Further information on appeals

For more information on appealing Centrelink decisions see the booklets, “how to appeal to the social security appeals tribunal” and “Administrative Appeals Tribunal Social Security Self Advocacy Kit”.

Interpreters

If you think you need an interpreter, or if you feel more confident with an interpreter, you should use one of the three free available interpreter services.

- Most Centrelink offices have interpreters available at regular times each week. Your local Centrelink office can tell you whether there is an interpreter available who speaks your language, and at what times they are in the office.
- You can telephone the Multilingual Telephone Information Service (MTI), which is part of Centrelink. MTI is staffed by Centrelink officers who are bilingual. You can ring them directly on 131 202 and they can answer your questions for you.
- You can also call the Telephone Interpreter Service (TIS) on 131 450 and ask for an interpreter. This is a free service.

Please note: This Factsheet contains general information only. It does not constitute legal advice. If you need legal advice about your Social Security entitlement, please contact your local Welfare Rights Centre/Advocate.

Welfare Rights Centres are community legal centres, which specialise in Social Security law, administration and policy. They are entirely independent of Centrelink. All assistance is free.

This Factsheet was updated in April 2008.

www.welfarerights.org.au