



Australian Government



Disability Support Pension recipients under 35 years Guidelines

V 1.4

Disclaimer

This document is not a stand-alone document and does not contain the entirety of Disability Employment Services Programme Providers' obligations. It should be read in conjunction with the Disability Employment Services Deed and any relevant guidelines or reference material issued by the Department under or in connection with Disability Employment Services Deed.

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Document Change History

Version	Start Date	Effective Date	End Date	Change & Location
1.4	12 Sep 2015	12 Sep 2015		Category: Provision of greater detail on who has compulsory participation requirements (p3).
1.3	1 Jul 2015	1 Jul 2015	11 Sep 2015	Category: Update on reporting of compliance arrangements for this cohort, including IT enhancements. Provision of greater detail on the policy.
1.2	9 Mar 2015	9 Mar 2015	30 Jun 2015	Category: Clarification regarding people who are covered by this measure and those that are not.
1.1	8 Dec 2014	8 Dec 2014	8 Mar 2015	Category: Clarification regarding the Suspension of Disability Support Pension recipients under the age of 35
1.0	1 Jul 2014	1 Jul 2014	7 Dec 2014	Category: New Guidelines to outline a provider's responsibility in servicing Disability Support Pension recipients under the age of 35 who have an assessed work capacity of at least eight hours per week.

Background

Disability Support Pension (DSP) is an income support payment for people with a permanent physical, intellectual or psychiatric impairment who are unable to fully support themselves through paid work.

From 1 July 2014, DSP recipients under age 35 with a work capacity of eight or more hours a week have compulsory participation requirements in order to remain qualified for DSP. However, if either their baseline work capacity or their work capacity with intervention is 0-7 hours, the recipient is exempt from participation requirements. DSP recipients under 35 with a temporary work capacity of 0-7 will have a temporary exemption from their participation requirements for the relevant period.

These Guidelines specify a Disability Employment Services (DES) Providers' role in providing services to DSP recipients under 35 year of age who are subject to compulsory participation requirements. They also specify the delegated legislative authority given to providers to assist them engage these recipients.

These guidelines support the 2014 Budget measure, *Compulsory Participation Requirements for DSP recipients under 35*. Some recipients are exempt from the measure, including recipients with a dependent child under six and people

working under the Supported Wage System (SWS). Some recipients who are exempt may continue to choose to participate in DES as a volunteer (non-activity-tested) Participant. For more detail refer to the Guide to Social Security Law (3.6.1.110 *Participation Requirements for DSP Recipients* and 3.6.1.120 *Participation Requirement Exemptions for DSP Recipients*). The guide can be found at <http://guides.dss.gov.au/guide-social-security-law>

Since 1 July 2014, most DSP recipients under age 35 with an assessed work capacity of at least eight hours per week are required to undertake compulsory activities as outlined in their Job Plan, which is their Participation Plan under Social Security Law.

The intent of compulsory activities are to support the person to prepare for, find and maintain employment and may include work experience, education and training, or rehabilitation activities to overcome individual barriers.

If the DSP recipient's compulsory activity is participation in DES, the DSP recipient is required to agree to a Job Plan, attend participation interviews with the Department of Human Services (DHS), attend scheduled appointments with their DES provider and undertake the activities included in their Job Plan, or their DSP payment may be suspended or cancelled.

Compliance and the Department's IT System

DSP recipients subject to compulsory activity requirements can be identified via the Participation Profile as a '**DSP Compulsory Participation Client**'.

If a DSP compulsory recipient is failing to meet their obligations, the DES provider considers if there is non-compliance to report to the DHS, taking into account reasonable excuses and circumstances beyond the person's control. There are three non-compliance reports that can be submitted to DHS via the IT system:

DSP Appointment Report Diary (DARD) for failure to attend a provider Appointment

DSP Activity Report (DACR) for failure to undertake compulsory activity detailed in a Job Plan; and

DSP Appointment Report Job (DARJ) for failure to enter into or agree to update a Job Plan.

It is important that DES providers work with these DSP compulsory recipients to meet their compulsory requirements and actively participate in DES because failure to do so may result in their loss of qualification for DSP.

DHS will support DES providers' management of DSP compulsory recipients to ensure their ongoing engagement.

Delegation

To enable employment service providers to fulfil their role in servicing DSP compulsory recipients, certain powers under the *Social Security Act 1991 (SSA)* and the *Social Security (Administration) Act 1999 (SS(A)A)* have been delegated to them via a legislative instrument.

Specifically, employment service providers have delegated power under the SSA section 94B to require the person to enter into a participation plan. The Job Plan is a Participation Plan under the Act. Once the person enters into a Job Plan with a provider that plan replaces any participation plan they may have with DHS. A provider must notify a person of the requirement to enter into a Job Plan and give notice of the time and place to enter into such a plan.

Providers have been delegated authority under SS(A)A section 63 to issue a notice to require the person to attend an Appointment. This provides authorisation for any appointment request regardless if the person has a Job Plan in place.

Exemptions

DHS has responsibility for exemptions from participation requirements. A DSP recipient will continue to have compellable participation requirements until they no longer meet the criteria – for example they turn 35.

Temporary exemptions may apply to some DSP compulsory customers. The following DSP recipients may be exempt for a period from compulsory participation interviews and also their compulsory activity obligations:

- people who have a dependent child under age 6;
- women who are pregnant (in the last six weeks of pregnancy and the first six weeks after birth of the child);
- people who have a current medical certificate noting they are unable to work 8 or more hours a week;
- people working in an Australian Disability Enterprise or under the Supported Wage System; and
- People experiencing special circumstances, such as homelessness, or personal crisis.

DES providers cannot exempt DSP recipients from participation requirements. If a provider believes one of the criteria above applies, the Participant should be referred to DHS to consider an exemption.

Programme of Support

Other DSP recipients who engage with DES include under 35 year olds with work capacity of 8 or more hours, without a severe impairment, and who must demonstrate they have actively participated in a Programme of Support to be DSP eligible. There is no compliance

framework for those subject to a Programme of Support. However, they must engage with the DES program or they may jeopardise their eligibility for the payment.

Most DSP recipients who have Programme of Support requirements will also be required to meet the compulsory participation requirements for under 35 year olds. Participation in the DES program will meet both their Programme of Support requirement and their compulsory participation requirement. It is important that DES providers work with these recipients to meet their Programme of Support requirements and actively participate in DES because failure to participate in their DES program may jeopardise their eligibility for DSP.

For more information, please refer to the *Participation in a Programme of Support Fact Sheet* on the DES Provider Portal.

Disability Employment Services Deed Clauses:

Clause 81 – Referrals

Clause 87, 88 and 89 – Appointments; Initial Contacts; and Contact Services

Additional Clauses:

Clause 114 - Effect of Suspension

Clause 115 -118 - Suspensions

Clause 116-118 – Exits

Clause 99 – Program Review

Clause 96 - General requirements for an Employment Pathway Plan

Clause 97 - Failure and Reporting

Reference documents relevant to these guidelines:

Eligibility, Referral and Commencement Guidelines

Contacts Guidelines

Programme Review, Programme Summary and Exit Guidelines

Online Diary Supporting Document

Direct Registration Guidelines

Period of Service Guidelines

Job Plan Guidelines

Guide to Social Security Law

Explanatory Note:

1. All capitalised terms have the same meaning as in Disability Employment Services Deed (the Deed).
2. In this document, '**must**' means that compliance is mandatory and '**should**' means that compliance represents best practice.

Table 1 – Disability Support Pension Recipients under 35s years – Referrals and Services.

Process	Details
<p>1. DHS, DSP recipient</p> <p>Referral to DES (new or existing)</p> <p><i>Disability Employment Services Deed</i> <i>Clause Reference:</i></p> <ul style="list-style-type: none"> • Clause 81 	<p>Most DSP recipients under the age of 35 with an assessed work capacity of eight or more hours per week (without a youngest child under six years) will have compulsory activity requirements.</p> <p>DHS will work with these DSP recipients to negotiate and review their Job Plan which is their Participation Plan under the <i>Social Security Act 1991</i>. This plan will include compulsory attendance at DHS Participation Interviews and other compulsory activities focused on supporting the DSP recipient to prepare for, find, and maintain employment.</p> <p>If it is determined that a referral to employment services is appropriate, DHS will conduct a Job Seeker Classification Instrument (JSCI) and where required an Employment Services Assessment (ESAt) or Job Capacity Assessment.</p> <p>Where this assessment determines that a referral to DES is appropriate:</p> <ul style="list-style-type: none"> • If the DSP recipient <u>does not have an existing referral</u>, DHS will refer the DSP recipient to DES, based on the results of this assessment – Proceed to Step 2. • If the DSP recipient already has a current referral to a DES Provider and is already connected, DHS does not need to make a referral – Proceed to Step 4. <p>DHS will inform the DSP recipient about their compulsory requirements to participate in DES and this will be outlined in their Job Plan with DHS. This includes informing the DSP recipient that failure to comply with their compulsory activities may result in the suspension or cancellation of their payment.</p> <p>Notes: DSP recipients with compulsory requirements may have previously been connected to a DES provider as a volunteer. They now have a compulsory obligation to attend regular appointments with their DES provider and undertake the activities in their Job Plan.</p> <p>DSP recipients with compulsory requirements will be identified in the Department’s IT System via the Participation Profile as ‘DSP Compulsory Participation Client’</p> <p>In accordance with the Deed and subject to eligibility, DSP recipients not covered by this measure can volunteer for DES. This may include DSP recipients aged 35 years and over and DSP recipients under 35 years who have work capacity of 8 or more</p>

Process	Details
	<p>hours per week or who are Principal Carer Parents with a youngest child under six. Volunteers do not have participation requirements.</p> <p>For some individuals subject to Programme of Support, being engaged in their DES program will be how they meet their Programme of Support activity requirement. For others, working while being supported in DES is how they will meet the requirement. It is therefore necessary that best efforts are made to ensure they undertake their program and/or work.</p> <p>Note: For those subject to Programme of Support, any periods of suspended service from their DES program does not count towards their Programme of Support requirement.</p>
<p>2. DHS, DES Provider</p> <p>Receiving new referrals and commencing DSP recipients with compulsory requirements</p> <p><i>Disability Employment Services Deed</i> <i>Clause Reference:</i></p> <ul style="list-style-type: none"> • Clause 81 • Clause 87 • Clause 88 • Clause 89 	<p>In some instances DHS will book an initial interview for the DSP recipient with their DES Provider.</p> <p>As part of the referral, DHS may include text in the <i>Special Requirements</i> section of the online Diary providing information for the DES Provider on the DSP recipient's compulsory requirements.</p>
<p>3. DES Provider</p> <p>Initial Interview/next Appointment – discussion of compulsory requirements and compliance with DSP recipient</p> <p><i>Disability Employment Services Deed</i> <i>Clause Reference:</i></p> <ul style="list-style-type: none"> • Clause 87 • Clause 88 	<p>At the Initial Interview, or at the next scheduled Appointment after the DSP recipient becomes subject to compulsory requirements, the DES Provider must:</p> <ul style="list-style-type: none"> • negotiate a Job Plan with the DSP recipient, or • update their Job Plan including negotiating the inclusion of at least one compulsory work-focused activity. A requirement to attend regular participation interviews with DHS is included in the template for the Job Plan. and is a compulsory activity. The new or updated Job Plan must be agreed and signed by the DSP recipient. • discuss job search and local labour market opportunities and provide job matching to suitable vacancies and assistance to apply for jobs where required. • discuss services, activities (such as training, work experience) and other support that the DSP recipient with

Process	Details
<ul style="list-style-type: none"> • Clause 89 	<p>compulsory requirements needs to assist them to overcome barriers to employment based on the individual circumstances of the DSP recipient.</p> <ul style="list-style-type: none"> • explain their rights and discuss the DSP recipient’s obligations under Social Security law regarding their compulsory activity requirements and the consequences of not participating in accordance with their Job Plan (possible loss of payment if they do not sign their plan, attend Appointments and undertake compulsory activities) • agree to a contact schedule (minimum 6 contacts each 3 months) • schedule the DSP recipient’s next Appointment, and • issue a Notification informing the DSP recipient of their requirement to attend Appointments and participate in activities outlined in their Job Plan. <p>Following the Initial Interview, or the next scheduled Appointment, the DES Provider must:</p> <ul style="list-style-type: none"> • record the DSP recipient’s Appointment result (including any comment that may be relevant), and • upload the signed Job Plan as soon as possible. <p>Notes: It is important that DES Providers appropriately assist DSP recipients, depending on their individual circumstances and barriers, to ensure they are able to maintain their attendance and participation at scheduled Appointments and activities.</p> <p>The DES Provider should reinforce with the DSP recipient the importance of keeping in contact with their employment consultant and notify the recipient of their participation requirements and the consequences of failure to comply – which may be suspension or cancellation of their payment of DSP if they fail to attend an Appointment, enter into or update Job Plan, or undertake the compulsory activity. DSP recipients with participation requirements must let their provider know if they are unable to attend an Appointment, or if their circumstances change to the extent that they can no longer participate in the activities identified in their Job Plan.</p> <p>If a DSP recipient is unable to meet their compulsory requirements due to a change of circumstances, the DES Provider can discuss an alternative activity with the DSP recipient and update the Job Plan. The DSP recipient can also discuss their compulsory participation at their regular interviews with DHS.</p> <p>Alternatively, if appropriate, the DES Provider can refer the DSP</p>

Process	Details
	recipient to a Change of Circumstances Reassessment – Please refer to the <i>Referral to an Employment Services Assessment Guidelines</i> .
<p>4. DES Provider</p> <p>Ongoing servicing including Minimum Contact Appointments</p> <p><i>Disability Employment Services Deed</i> <i>Clause Reference:</i></p> <ul style="list-style-type: none"> • Clause 87 • Clause 88 • Clause 89 	<p>DES Providers must provide DSP recipients with compulsory requirements with the minimum level of contacts and servicing as required under the <i>Disability Employment Services Deed</i> (the Deed).</p> <p>At the DSP recipient’s regular Contact Appointments, the DES Provider must:</p> <ul style="list-style-type: none"> • review and update the Job Plan if required, • discuss how the DSP recipient is going with job search and other activities in which they are participating as per their Job Plan, • arrange the next Contact Appointment, and • issue an Appointment letter informing the DSP recipient of the requirement to attend Appointments and participate in activities in their Job Plan. <p>The DES Provider should record the outcome of each Contact Appointment and upload the updated and signed Job Plan (if required) to the Department’s IT System immediately, or as soon as possible, as evidence of the DSP recipient’s participation in DES.</p> <p>Note: DSP recipients who are already working eight hours a week or more, who have a future work capacity with intervention of more than the hours they are currently working must remain connected to their DES provider and, must have a Job Plan that builds and sustains their employment to reach their specified future work capacity with intervention.</p>

Table 2 – Disability Support Pension Recipients under 35s years – Compliance.

Process	Details
<p>DES Provider, DSP recipient, DHS</p> <p>Failure to enter into or update a Job Plan</p> <p><i>Disability Employment Services Deed</i> <i>Clause Reference:</i></p> <ul style="list-style-type: none"> • Clause 97 • Clause 98 	<p>As with all DES Participants, DSP recipients with compulsory requirements must have a current signed Job Plan in place at all times. The Job Plan must be updated regularly, take into consideration an individual’s circumstances and have the compulsory requirements outlined in the Job Plan for the requirements to be enforceable under Social Security Law.</p> <p>Where a DSP recipient does not enter into or agree to update a Job Plan without a reasonable excuse, the DES provider must report this to DHS by submitting a DSP Appointment Report- Job Plan (DARJ) via the Department’s IT system within 10 Business Days of the event.</p>

Process	Details
	<p>When DHS receive a report on non-compliance, they investigate each case to determine if there are extenuating personal circumstances and/or vulnerability indicators and give the recipient an opportunity to re-engage with their provider, as well as notifying the Participant of the impact to their income support payment. This is done before their income support payments are affected.</p> <p>Note: This is the case for all reports of non-compliance.</p> <p>Providers should continue to work with the DSP recipient, including engaging them to enter into or update their Job Plan so they do not jeopardise their qualification for DSP.</p>
<p>DES Provider, DSP recipient, DHS</p> <p>Failure to attend an Appointment with DES Provider</p> <p><i>Disability Employment Services Deed</i></p> <p><i>Clause Reference:</i></p> <ul style="list-style-type: none"> • Clause 89 • Clause 96 • Clause 97 • Clause 98 	<p>If a DSP recipient with compulsory requirements fails to attend a scheduled Contact Appointment with their DES Provider, the DES Provider must, on the same business day on which the DES Provider becomes aware of the failure, make an attempt to contact the DSP recipient to ascertain whether he or she had a reasonable excuse for not attending. In determining whether a person has a reasonable excuse, the DES provider should consider the person’s personal circumstances, system-recorded vulnerability indicators, recent compliance history and any other relevant information. If the person re-engages, reporting non-compliance to DHS is not necessary.</p> <p>Reports to DHS can be provided when a DSP compulsory recipient is failing to attend appointments or not undertaking their activity. DHS will attempt to re-engage the customer and provide a warning letter about payment consequences for not complying.</p> <p>DSP Recipient Contactable – Reasonable Excuse If the DSP recipient has a reasonable excuse for not attending the Appointment (including any supporting evidence), the DES Provider must use another engagement strategy to ensure the DSP recipient meets their compulsory requirements at the next available opportunity</p> <p>The DES Provider should book another Appointment for the DSP recipient as soon as possible (service as per Step 4 in Table 1).</p> <p>DSP Recipient Contactable – No Reasonable Excuse If the DSP recipient with compulsory requirements does not have a reasonable excuse for not attending their Appointment and does not re-engage when contacted, the DES Provider must complete and submit a DSP Appointment Report Diary - (DARD) through the Department’s IT System. This must be submitted within 10 Business Days of the missed Appointment.</p>

Process	Details
	<p>The DES Provider should book another Appointment for the DSP recipient as soon as possible (service as per Step 4 in Table 1).</p> <p>DSP Recipient Not Contactable If the DES Provider is unable to contact the DSP recipient who has failed to attend their Appointment without notice, the DES Provider may decide whether it is appropriate to report the non-attendance to DHS. If so, the provider must complete and submit a DSP Appointment Report Diary - (DARD) through the Department's IT System. This must be submitted within 10 Business Days of the missed Appointment.</p> <p>The DES Provider should book another Appointment for the DSP recipient as soon as possible. (service as per Step 4 in Table 1).</p> <p>Notes:</p> <p>DES Providers should continue to try to re-engage the DSP recipient even if they are unsuccessful in contacting them in the first instance. Where they are able to contact them, the DES Provider should reiterate their participation requirements and the possible effect of their failure to comply.</p>
<p>DES, DHS, DSP recipient</p> <p>Failure to attend activity</p> <p><i>Disability Employment Services Deed</i></p> <p><i>Clause Reference:</i></p> <ul style="list-style-type: none"> ● Clause 96 ● Clause 97 ● Clause 98 	<p>DSP recipients must participate in the compulsory activities detailed in their Job Plan or risk loss of payment of DSP. DES Providers are responsible for monitoring the attendance and engagement of DSP recipients in these activities. If the DSP recipient does not attend their activity, the DES Provider must, on the same day on which the provider becomes aware of the failure, attempt to contact the person to ascertain whether there was a reasonable excuse for not attending. If the DES Provider determines no reasonable excuse exists and they choose to report it, the provider should complete and submit a DSP Activity Report (DACR) to DHS via the Department's IT system. This report must be submitted within 10 Business Days of the incident date.</p> <p>Note: DSP compulsory recipients are required to attend quarterly interviews with DHS for 18 months and then six monthly interviews thereafter. DSP recipients who are working will attend an annual interview with DHS.</p>
<p>DHS, DSP recipient, DES</p> <p>Participation Interview with DHS</p>	<p>At a DSP recipient's next quarterly or six monthly Participation Interview with DHS, DHS will review their participation.</p> <p>DHS will review:</p> <ul style="list-style-type: none"> ● the DSP recipient's Job Plan

Process	Details
<p><i>Disability Employment Services Deed Clause Reference:</i></p> <ul style="list-style-type: none"> • Clause 97 • Clause 98 	<ul style="list-style-type: none"> • Provider compliance reports and the online Diary, and • information contained in DHS' IT Systems (including any activity test exemptions for that period that would not be visible in the Department's IT System). <p>If the DSP recipient has not been engaged with their provider without a reasonable excuse, DHS will apply suspension/cancellation of payment. They will make an appointment with the provider so the DSP recipient can re-engage.</p>
<p>7. DES Provider, DHS</p> <p>Reengagement Appointment</p> <p><i>Disability Employment Services Deed Clause Reference:</i></p> <ul style="list-style-type: none"> • Clause 87 • Clause 88 • Clause 89 	<p>Once the DSP recipient attends their Appointment, the Provider should:</p> <ul style="list-style-type: none"> • record the result of the Appointment in the Department's IT Systems (including any comments) immediately or as soon as possible to ensure DHS know the person has re-engaged and can reinstate their payment. <p style="padding-left: 40px;">➤ DES Provider to continue ongoing servicing as per Step 4.</p> <p>If the DSP recipient does not attend their Appointment, the DES Provider should attempt to contact the DSP recipient on the same business day on which the DES Provider becomes aware of the failure. The DES Provider should record a result for the non-attended Appointment and attempt to book another Appointment for the DSP recipient as soon as possible given the DSP recipient's payment is suspended until they re-engage with their Provider.</p> <p>The provider should use the Department's IT system to submit a DSP Appointment Report Diary (DARD) so that DHS know the person has failed to re-engage.</p> <p>The DES Provider should continue to attempt to reengage the DSP recipient until the DSP recipient engages or is Exited due to having their payment cancelled or their circumstances change and they are no longer required to participate in DES.</p> <p>Note: It is the DSP recipient's responsibility to ensure they are meeting their compulsory requirements agreed with their DES provider in their Job Plan. However, DES Providers are encouraged to assist DSP recipients to meet their compulsory requirements, given that the DSP recipient can be cancelled by DHS if they fail to comply once they have had two payment suspensions within 12 months.</p>

Table 3 – Disability Support Pension Recipients under 35s years – Exits.

Process	Details
<p>DES provider</p> <p>Program Exit</p> <p><i>Disability Employment Services Deed Clause Reference:</i></p> <ul style="list-style-type: none"> • Clauses 116-118 	<p>DES Providers may Exit the compulsory DSP recipients as appropriate.</p> <p>A DSP recipient with compulsory requirements can be exited from their program, including under existing arrangements, where they:</p> <ul style="list-style-type: none"> • are no longer in receipt of Income Support Payments; • are no longer subject to compulsory requirements (for example they turn 35 years old, or are reassessed by DHS as having a work capacity of 0-7 hours per week) and choose to exit; • are undertaking a compulsory activity agreed with DHS that is not DES; or • commences in <i>jobactive</i>, or RJCP. <p>It may be appropriate to Exit a compulsory DSP recipient from their program under certain circumstances, but in order for the person to remain qualified for DSP, a Job Plan must always be in place. For this reason the Programme Summary with relevant information must be provided so that DHS can arrange a Participation Plan with the person and they can undertake the new activities. It may be appropriate to exit a person when:</p> <ul style="list-style-type: none"> • an alternative program would be more suitable for the person and can be agreed in the Job Plan; or • comprehensive servicing to address all current employment barriers has been completed; or • despite best efforts, they cannot be engaged to participate because they are wilfully non-compliant.