



Income Support

Imprisonment

Overview

This Factsheet explains the effect that imprisonment or psychiatric confinement following a criminal charge may have on:

- income support claims;
- income support pensions, allowances and supplements; *and*
- use of DVA cards.

It also provides information about redirection of payments and a brief description of crisis payments.

What is imprisonment?

The *Veterans' Entitlements Act 1986* (VEA), (s55), defines a person as being in gaol if the person is:

- being lawfully detained while under sentence for the conviction of an offence; *or*
- undergoing a period of custody pending trial or sentencing for an offence.

What is psychiatric confinement?

The VEA defines a person as being in psychiatric confinement if confined to a psychiatric section of a hospital, or any other place, where persons with psychiatric disabilities are confined, following a criminal charge.

When are payments not affected?

Your service pension or income support supplement will not be affected by imprisonment or psychiatric confinement if:

- your sentence is suspended;
- you are undertaking a community service order;
- you are undergoing home detention;
- you are on parole; *or*
- you are in a psychiatric institution undertaking a course of rehabilitation.

Effect of confinement in a psychiatric institution

If you are confined in a psychiatric institution because you have been charged with an offence, then your service pension or income support supplement payments can only continue if you are undertaking a course of rehabilitation. A course of rehabilitation is defined as a specifically planned series of activities including medical or other treatments directed towards improving your functioning. The course of rehabilitation must be structured in such a way that it could lead to a release from confinement.

Imprisonment, *continued*

Effect of confinement in a psychiatric institution, continued

If you are detained in a psychiatric institution because you have been convicted of an offence, then your income support pension or benefit cannot be paid, even if you are undertaking a course of rehabilitation.

Effect of imprisonment on income support claims

A claim for income support pension prior to entering prison, or while in prison will still be investigated following normal procedures. However, the pension or benefit will not be payable until you are released from prison.

Imprisonment of a person does not preclude the person's partner from being eligible for a partner service pension.

Effect of imprisonment (or psychiatric confinement) on an income support pension or benefit

Your income support pension will be suspended or forfeited while you are imprisoned unless it is redirected to an eligible person. Your income support pension may be redirected to:

- your partner;
- your child; *or*
- another person provided the pension payment is used for the benefit of your partner or child.

The following table indicates the circumstances and actions required to have pension instalments redirected:

If	Then	And	Contact
you are imprisoned/confined and your partner is receiving a service pension or income support supplement from DVA	<ul style="list-style-type: none">• your payment is suspended, however;• an amount may be redirected to your partner or another person for the benefit of your partner	<ul style="list-style-type: none">• your partner may receive both their own pension and a portion of your pension, however;• the total amount <i>MUST NOT</i> exceed the single rate.	DVA
you are imprisoned/confined and have a dependent child, and your pension instalments have not been redirected to a partner	<ul style="list-style-type: none">• your payment is suspended, however;• an amount may be redirected to another person to care for the child	<ul style="list-style-type: none">• another person may receive a limited amount of your pension to maintain the child on behalf of the imprisoned person, provided the child is not placed in a State Authority.	DVA

Imprisonment, *continued*

Effect of imprisonment (or psychiatric confinement) on an income support pension or benefit, *continued*

If you or your partner are imprisoned/confined and either of you are receiving a payment from Centrelink, you should contact Centrelink directly.

If you or your partner are receiving a social security age pension paid by DVA then the social security rules apply. These rules are explained in the Centrelink publication *Information for prisoners, offenders and their families*. Copies of this publication can be obtained from the Centrelink website or by contacting your nearest Centrelink office.

What pensions and benefits are affected

The following pensions and benefits will be affected by imprisonment/confinement:

- Age, invalidity and partner service pension;
- Pension supplement;
- Income support supplement;
- Rent assistance;
- Remote area allowance;
- Veterans supplement;
- Pensioner Concession Card (PCC);
- Bereavement payments;
- Attendant allowance;
- Temporary incapacity allowance;
- Loss of earnings allowance;
- Vehicle assistance scheme;
- Recreation transport allowance;
- Defence Force Income Support Allowance (DFISA);
- Education entry payment; *and*
- Dependent child add on.

Imprisonment, *continued*

What pensions and benefits are affected, continued

If you are imprisoned, or in psychiatric confinement following a criminal charge, and receive	Then
service pension or income support supplement, including rent assistance and remote area allowance	<ul style="list-style-type: none"> • any pension payable after the first day of imprisonment will be suspended or forfeited, unless the payment is redirected to your partner or child; <i>and</i> • pension is payable from the day of release.
pension supplement	your pension supplement will be suspended. If you retain a gold or white treatment card you may be eligible for veteran supplement and/ or seniors supplement.
veterans supplement	your supplement will be suspended or forfeited unless you are in receipt of extreme disablement adjustment, special rate disability pension, war widow's/widower's pension, or an additional amount of disability pension for double amputations.
<ul style="list-style-type: none"> • temporary incapacity allowance • loss of earnings allowance • vehicle assistance scheme • recreation transport allowance • remote area allowance • attendant allowance 	it is likely that these allowances will be suspended or forfeited, as you would have difficulty meeting the eligibility conditions.
Defence Force Income Support Allowance (DFISA)	if your income support payment is suspended or forfeited due to your imprisonment, no amount of DFISA is payable.

Entitlements not affected by imprisonment/confinement

Imprisonment/confinement has no effect on the following benefits:

- Repatriation Health Card For All Conditions (Gold Card) unless your entitlement is due to receipt of income support pension;
- Repatriation Health Card For Specific Conditions (White Card);
- Commonwealth Seniors Health Card;
- Disability pension;
- Orphan's pension;
- War widow's/widower's pension;
- Decoration and Victoria Cross allowance;
- Clothing allowance;
- Seniors supplement;
- Veterans' Children Education Scheme if all eligibility criteria continue to be met; *or*
- Entitlements relating to a period prior to imprisonment.

Imprisonment, *continued*

Health care entitlements

If, while imprisoned, you continue to hold either a Repatriation Health Card For All Conditions (Gold Card) or a Repatriation Health Card For Specific Conditions (White Card), then your entitlement to health care services at Veterans' Affairs expense remains unchanged.

However, an entitled person serving a prison sentence has the same rights to medical treatment as other prisoners. In most instances treatment services for imprisoned eligible persons would be provided by the prison authorities on the same terms and conditions that apply to other prisoners.

Should imprisoned entitled persons seek approval for treatment outside the prison system, any approvals would be conditional on:

- (I) prior approval being obtained from both DVA and the prison authorities;
- (II) all costs incidental to the provision of the treatment, in particular the cost of security escorts are met separately (ie are not covered by DVA); *and*
- (III) the service provided must be medically necessary;
- (IV) the prison being satisfied that Veterans' Affairs funded treatment would not interfere with the authority's management functions;
- (V) the health provider must be willing to provide the service and accept the relevant DVA fee for the service.

Bereavement payments in respect of disability pensions

If you are a dependant receiving disability pension bereavement payments and are subsequently imprisoned/confined during the period the payments are being made, the bereavement payment continues to be payable to you for the duration of the bereavement period.

If you are receiving disability pension at an eligible rate and die while imprisoned, bereavement payment in respect of your death is payable to an eligible dependant.

Bereavement payments in respect of income support pensions

If you receive income support bereavement payments and are subsequently imprisoned/confined, the bereavement payment may be redirected in the same way as the income support pension for the duration of the bereavement period. If your income support payments are not redirected, then you are not entitled to bereavement payments in respect of an income support pension.

Bereavement payment is payable in respect of your death if you die while imprisoned and your payments are being redirected to a partner or child.

Imprisonment, *continued*

Effect of imprisonment/confinement on DVA assessment of marital status

Imprisonment does not affect the way the Department of Veterans' Affairs assesses and records your marital status. You and your partner are still regarded as a couple for pension assessment purposes unless you have actually separated.

Effect of imprisonment/confinement on Pensioner Concession Card (PCC) entitlement

This card is a fringe benefits card that may be affected by imprisonment. If your income support payments are not redirected, you will not be entitled to a PCC while your payments are suspended or forfeited.

If your income support payments are redirected to a pensioner partner to care for dependent children, your partner will already hold a PCC with details of those children. Those children are eligible for any medical or pharmaceutical concessions available with that card.

The PCC cannot be redirected to a non-pensioner partner. Your non-pensioner partner needs to qualify for a pension from DVA or Centrelink in their own right to be issued with a PCC.

Crisis payments

A crisis payment is immediate financial assistance that may be paid to people in severe financial hardship and suffering from extreme circumstances, or release from lawful custody where the custody has been 14 days or more. The payment is a 'one-off', non-taxable, non-refundable payment, designed to assist in establishing a new residence. Crisis payment is payable in addition to the person's regular payment.

To claim a crisis payment, you will need to complete the *Form D0567 Application for Crisis Payment – Prison/Hospital Release*. You must lodge the completed form with DVA, or make an informal claim, within 7 days of release from lawful custody.

For more information refer to *Factsheet IS121 Crisis Payments*.

Can I request a review of a decision?

If you are dissatisfied with a decision to suspend or forfeit your service pension or income support supplement you have the right to ask that we review that decision. You may apply to have the decision reviewed by a Review Officer. If you decide to apply for a review, you must do so within 3 months of receiving the letter notifying you of our decision. Your request for a review must set out in writing your reasons for seeking a review.

If you are dissatisfied with any aspect of the Review Officer's decision, you may apply in writing to the Administrative Appeals Tribunal for a review of that decision. Your application should set out the reasons for your appeal and should be lodged with the Tribunal within 3 months of the date you receive the Review Officer's decision.

Imprisonment, *continued*

Your obligations

As a service pensioner or income support supplement recipient you have a responsibility to keep us informed of changes that may affect the amount of pension you receive. These responsibilities are described in our Factsheets and letters to you as 'obligations'.

You are required to tell us within 14 days (28 days if you live overseas or receive remote area allowance) of changes to your circumstances that might affect the rate of payment you receive or your eligibility to receive that payment. In relation to imprisonment/confinement you must tell us if:

- you are imprisoned/confined;
- your marital status changes; *or*
- the number of your dependent children changes.

Oral advice

While we make every effort to ensure that you are given accurate information, it is important that you seek written confirmation of oral information or advice before making any major decisions based on that information.

We continually strive to improve the level of service you receive and make this request as an added safeguard for you.

Other Factsheets

Other Factsheets related to this topic include:

- *IS121 Crisis Payments.*

More information

All DVA Factsheets are available from DVA offices, and on the DVA website at www.dva.gov.au.

You can phone DVA for the cost of a local call on 133 254 or 1800 555 254 for country callers.

Use a normal landline phone if you can. Mobile phone calls may cost you more.

You can send an email to DVA at: GeneralEnquiries@dva.gov.au.

You can get more help from any DVA office.