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Here is an update as it has been awhile since the last newsletter.

## Transitional arrangements for community representatives appointed before November 2015

As advised in the December 2015 issue of HIYU, the Minister made a decision that all new appointments of Benefits Review Committee community representatives will be for a fixed term of five years effective from November 2015.

For existing community representatives, this means that those of you who have served more than five years, you need to be transitioned to align your tenure in line with new appointees.

To reduce the impact of the introduction of the five year tenure on Benefits Review Committee's capacity to review decisions, the transition phase will be over a period of three years from 30 June 2016 to 30 June 2019.

Regions will need to recruit before June of every transition year so that the new community representatives can become familiar with the role before those ending their tenure finish. This should guarantee continuation of service. Your continued support throughout the transition is very much appreciated.

Our team is currently looking at ways to streamline the recruitment process and align it to the new fixed term tenure.

## Community Representatives reappointment after Fixed Term Ends

We have been getting a few queries as to whether community representatives are eligible for reappointment after the end of their tenure.

Community representatives can reapply but the rollover is not automatic. The application for reappointment is considered by the Ministry on a case by case basis, taking into account the

existing regional pool of applicants. Recommendations are then sent through to the Minister for Social Development to make the final decision.

## **Ministerial Appointments - Expressions of Interest sought**

The Ministry of Social Development is seeking a number of Ministerial appointments that are currently advertised on the Ministry website.

The link below will take you to the web page:

<http://www.msd.govt.nz/about-msd-and-our-work/about-msd/ministers/appointments.html>

## **Social Security Legislation Rewrite Bill**

The Social Security Act 1964 (SSA) establishes New Zealanders' fundamental legal entitlements to social assistance delivered through the benefit system.

The SSA is long overdue for a rewrite. It was written in 1964 and has been changed many times since then. As a result it is fragmented and can be confusing. It can be difficult to navigate through the Act to find out what help is available.

An aim of the rewrite is to make the Act easier to read and use for all interested parties. A rewritten Act that is clearer in its intent would be less open to interpretation and challenge.

There are no changes to the amount of payment people receive and people will continue to receive their payments as usual. There are no proposed cuts to benefits as a result of this new Bill. At this stage implementation of the Bill is proposed for July 2017.

Some of the policy changes in the rewrite are:

- Orphan's Benefit and Unsupported Child's Benefit are combined and will be renamed the Supported Child's Benefit
- Emergency Benefit will be renamed the Exceptional Circumstances Benefit with discretion to apply work obligation where appropriate
- both parents in split custody situations may be eligible to receive Sole Parent Support
- remove Emergency Maintenance Allowance
- provide single carers who receive the Supported Child's Payment access to a single rate of Sole Parent Support and to have work expectations set at a level appropriate to the age of the child
- allow regulations to be made to specify client circumstances for compulsory redirection to cover essential costs

Further information can be found on our website:

<http://www.msd.govt.nz/about-msd-and-our-work/work-programmes/social-security-act-rewrite/>

## **My MSD**

MSD clients can now apply for help with some one-off costs using our online service MyMSD.

Clients can also:

- tell us what they have earned
- tell us about a change in address, phone or accommodation costs
- tell us about a relationship change
- check their next appointment
- book, change and cancel some appointments
- view their payment details
- view debt details
- check their payment card transactions

<http://www.msd.govt.nz/about-msd-and-our-work/newsroom/stories/community-investment-update/2016/mymsd-online-service.html>

## **Accommodation Supplement – cost code error**

You may have heard there was an error in some people's Accommodation Supplement payments. Some people were overpaid and others were underpaid.

Anyone who was underpaid their Accommodation Supplement is now getting the correct amount. People who were overpaid won't have to pay the money back. Payments have now being made to people owed money because of this error.

More information can be found on the following link:

<http://www.msd.govt.nz/about-msd-and-our-work/newsroom/2016/accommodation-supplement-error.html>

## **Additional information required for the Benefits Review Committee to make a decision**

If the Committee needs clarification about an issue or legislation before they can make a decision, the Committee should request information from the Ministry and/or applicant.

The hearing should be adjourned if the required information or clarification cannot be provided at that time. If the hearing is on papers only the other party should be notified of the request.

The Committee must not directly contact the Ministry's legal advisors. This is because the legal advisors act for the Ministry and it is a conflict of interest for them to provide legal advice directly to the Committee. If the Committee is unsure of a legal point, such as the interpretation of case law or legislation, then it should ask for legal submissions on that point

from the Ministry and the applicant. Once the information is received, it should be provided to the Committee and the other party.

If an adjournment is required then the Committee needs to specify the length of the adjournment and either arrange the time to reconvene at the hearing or instruct the Co-ordinator to schedule the follow up hearing. As a general rule an adjournment shouldn't be longer than two weeks but each adjournment should be based on the need for the adjournment. No case should be adjourned without the follow up hearing being scheduled.

Further information can be found in the Panel Members Information Pack.

If in doubt please contact any one of the Review and Client Representative team.

## **Notification of BRC decisions**

It is a legislative requirement (Section 10A (9) of the Social Security Act 1964) for the Benefits Review Committee to notify the client in writing of its decision. The Electronic Transactions Act 2002 states that if the information is required to be given 'in writing', [it can be done] either in person or by registered post.

In summary this means that we must, as a minimum, courier or post BRC decisions, but until there is a change in legislation, we cannot send the decision only by e-mail.

## **BRC Findings**

The findings of the BRC need to be clear including what the panel considered when coming to its decision. For example if the decision is about Unsupported Childs Benefit then the panel needs to explain how it has applied the definition of Family Breakdown and other criteria.

## **Recording a hearing**

Can a client record a Benefits Review Committee (BRC) or Medical Appeals Board hearing? Yes!

A client does not need to seek approval before recording a hearing. It is entirely lawful for someone to record a conversation to which she or he is a party. The client does not need to ask for permission and does not need to inform the Committee of the recording. However it is an offence if a client records a conversation that she or he is not a part of, (e.g. if the client leaves the room and records the conversation of others in the room).

If a client requests to record the hearing, best practice would be for the Committee to record the hearing using a Dictaphone which makes a digital recording, copies can then be made to a CD so that the client, the Committee and the Ministry all have the same recorded information. The Regional Fraud Investigation Units have these available. The Committee should politely inform the client that it is preferable for the client to let the Committee know if she or he is recording the hearing.

The Ministry does not have the authority to refuse a request to record the hearing. This has been confirmed by Legal. The guidelines about recording a Medical Appeals Board or BRC hearing can be found in the panel members Information Pack.

Committee members should also be mindful that with modern technology a recording may occur without their knowledge.

### **Hearings via video conference**

It has been confirmed that the Video Conferencing technology does not have the facility for recording (visual or verbal). Spark who are the providers for the Video Conferencing technology have confirmed that this function is not available. If a recording of the hearing is sought use a digital dictaphone.

## **BRC panel queries**

If the BRC panel has a process question, it is welcome to contact the Review and Client Representative Team. Panels may want to contact the team, for example, if the panel is unsure if they have jurisdiction to hear a case.

## **Feedback**

The RCR Team welcomes any feedback from you. The team's contact details are below.

### **For more details contact**

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