In Confidence

Office of the Minister for Social Development and Employment

Chair, Cabinet Social Outcomes Committee

Further Automated Decision-Making Legislative Amendments

Proposal

1 This paper seeks agreement to further remediation decisions regarding Automated Decision-Making (ADM). The remediation of the ADM processes in this paper build on decisions made by Cabinet in March 2025 to enable more efficient administration of the welfare system to prioritise employment-based conversations with clients [SOU-25-MIN-0013 refers].

Relation to government priorities

2 Use of electronic systems to automate various processes and administrative functions, including decision-making, plays a key role in delivering the Government's target to have fewer people on the Jobseeker Support benefit (50,000 fewer by 2030). Automating low-risk tasks frees up staff time to focus on employment conversations with clients, ultimately providing more opportunities to support people into work. Further, this will support the Ministry of Social Development's (MSD) ability to implement government priorities more efficiently in future.

Executive Summary

3 In March 2025, Cabinet agreed to the decisions sought to expand legislative authority for the use of ADM by MSD. s 9(2)(h) [redacted] [SOU-25-MIN-0013 refers].

4 After further detailed design work, decisions are required to remediate the use of ADM in several additional processes. These decisions fall outside the scope of my delegated authority. I seek Cabinet agreement to the following proposals:

4.1 Introduce several exceptions to Cabinet's previous decisions relating to mandatory reviews [SOU-25-MIN-0013 and CAB-25-MIN-0050 refer]. These exceptions will strengthen the integrity of the welfare system by enabling staff to request additional information in specific circumstances. When an exception is triggered, MSD will undertake manual reviews to confirm a client's circumstances.

4.2 Exclude Orphan's Benefit, Unsupported Child's Benefit and Special Benefit from the previous Cabinet decision that all specified benefits must be reviewed at the same time [CAB-25-MIN-0050 refers].

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4.3 Extend a previous Cabinet decision to process Work Capacity Medical Certificates for clients receiving Supported Living Payment on the grounds of restricted work capacity [SOU-25-MIN-0013 refers].

4.4 Confirm that clients applying for, or receiving assistance on medical grounds, must provide MSD with a medical certificate or other evidence as a 'condition of grant' and a 'condition of medical review'.

4.5 Introduce mandatory reviews for clients receiving Special Benefit 13-weeks after commencement, and every 26-weeks thereafter.

5 Proposals in this paper require amendments to the Social Security Act 2018, and associated regulations, to give effect to the remediation of ADM processes. The decisions made in this paper will inform drafting instructions to the Parliamentary Counsel Office.

Background

6 In March 2025, Cabinet agreed [SOU-25-MIN-0013 refers]:

6.1 to amend the Social Security Act 2018 (the SSA) to expand the legislative authority to allow MSD to use automated electronic systems to administer the welfare system.

6.2 to the continued use of the Automated Decision-Making Standard (the ADM Standard) to safeguard the automated exercising of statutory powers and functions, including decision-making.

6.3 in principle, to amend the SSA and the Social Security Regulations 2018 to give effect to remediation decisions including for Mandatory Reviews, Medical Reviews and End of School Year process.

6.4 to authorise the Minister for Social Development and Employment to take final policy decisions and implement all proposals outlined in the March paper.

Further legislative amendments are required to remediate some Automated Decision-Making processes

7 After further detailed design work, s 9(2)(h) These additional decisions fall outside of the delegated authority Cabinet agreed in the March meeting [SOU-25-MIN-0013 refers]. I propose to make further legislative amendments to allow MSD to automatically review, obtain information, suspend and cancel assistance, when appropriate.

8 As a safeguard protected through the SSA, and reflected in the ADM Standard, clients will continue to be able to lodge a review of ADM decisions in accordance with MSD's existing Review of Decision process.

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Introducing exceptions to the processing of mandatory reviews

9 Cabinet previously agreed to introducing a mandatory review[1] for all clients who receive one of the specified benefit types [ECO-25-MIN-002 refers]. Cabinet also agreed that these clients will have to confirm their circumstances at least once every 52-weeks, and if a client confirms no change, their mandatory review will be automatically processed [CAB-25-MIN-0050 refers]. This means their benefit will continue at the same rate[2] payable and their review date will be reset to 52 weeks later [SOU-25-MIN-0013 and CAB-25-MIN-0050 refer].

10 The series of previous decisions require that if a client completes their review and has declared no changes to their circumstances, their benefit will continue at the same rate. However, after further design of the mandatory review process, I recommend there are exceptions for specific cohorts of clients. When an exception occurs, staff involvement will be required to complete the review to confirm the right rate of payment is being paid. These exceptions will be triggered using ADM and facilitate the policy intent of mandatory reviews to confirm if a client is still eligible for benefit and receiving the right rate of payment.

11 If a client falls into any of the following cohorts, or the client has declared a change in circumstances, a staff member will be involved in the processing of their mandatory review.

- 11.1 A client has declared no change in specific circumstances for three consecutive years at the time their mandatory review was returned including:
  - 11.1.1 Client has been receiving Disability Allowance (DA) and has declared no change in their DA costs for three consecutive years at the time the mandatory review was returned.
  - 11.1.2 Client has been receiving Accommodation Supplement (AS) and has declared no change in their AS costs for three consecutive years at the time the mandatory review was returned.
  - 11.1.3 Client has declared income and has no change to their declared income amount in three consecutive years at the time the mandatory review was returned.
- 11.2 A non-beneficiary client[3] has declared no income at the time their mandatory review was returned.

12 If a client falls into any of these cohorts, a staff member will review the client's information and may request further information from the client. MSD must then decide whether to continue the benefit at the same rate, suspend, cancel, or vary the

[1] For the avoidance of doubt, I want to remind Cabinet that mandatory reviews are different from the reapplication process that applies to people receiving Jobseeker Support or Sole Parent Support. Those benefits expire and clients are required to reapply.
[2] When it states the benefit is payable at the same rate, there is the exception that the rate will vary if required by law such as the Annual General Adjustment or a client enters a different threshold of payment based on their age.
[3] 'Non-beneficiary' refers to clients who do not receive a main benefit but may receive other supplementary assistance, such as Accommodation Supplement.

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rate of the benefit. If the client remains entitled to financial assistance, a staff member will reset their review date to 52 weeks later.

13 These exceptions do not change the obligations of beneficiaries to notify MSD without delay of any change to their circumstances that may affect their benefit entitlement.

Timing of mandatory reviews

14 Cabinet previously agreed that the specified benefits a client receives will all be part of the same mandatory review [CAB-25-MIN-0050 refers]. I seek agreement to exclude the following benefits from that decision: Orphan's Benefit (OB), Unsupported Child's Benefit (UCB) and Special Benefit.

15 OB, UCB and Special Benefit will not be reviewed at the same time as the other specified benefits and will be reviewed on a separate cycle. For OB and UCB, there are IT system constraints which will make it difficult for MSD to integrate these with other mandatory reviews. For Special Benefit, with reviews occurring 13-weeks after commencement and every 26-weeks thereafter, these reviews will not align well with other mandatory reviews, which occur at least once every 52 weeks.

Medical Certificates for clients receiving assistance on medical grounds

16 In March 2025, Cabinet agreed to process Work Capacity Medical Certificates for clients receiving Jobseeker Support on the grounds of a health-condition, injury, or disability (JS-HCID) if the client has not had any change in their health condition, injury, or disability [SOU-25-MIN-0013 refers].

17 To align with current practice, I recommend this decision is extended to those receiving Supported Living Payment on the grounds of restricted work capacity (SLP-HCID)[4] with a Work Capacity Medical Certificate. Extending the decision to clients receiving SLP-HCID will maintain efficiencies for both clients and MSD staff.

18 ADM will be used when a new Work Capacity Medical Certificate is uploaded (via Healthlink) for some clients receiving SLP-HCID. The uploaded medical certificate will be assessed against relevant criteria including the client has not had any change in their health condition, injury, or disability. If all criteria are met, it will be processed automatically, and a new review date will be set to the reassessment date recommended on the new medical certificate by the health practitioner. If criteria are not met, the system will exception this out and a staff member will manually review the medical certificate before determining whether the client has ongoing entitlement to SLP.

19 For clients receiving JS-HCID, SLP, Child Disability Allowance and Disability Allowance, it is appropriate that they must have appropriate medical coverage for MSD to determine they meet the eligibility criteria[5] for that assistance. To align with this intent, I propose introducing a requirement that all clients receiving these

[4] As per section 35 of the SSA, a person has restricted work capacity if they are permanently and severely restricted in their capacity for work because of a health condition, or because of injury or disability arising (in either case) from an accident or existing from birth.
[5] Under current legislation, there is already a requirement for JS-HCID and SLP-Caring clients to provide a medical certificate on application.

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assistance types, must provide MSD with a medical certificate, or other medical evidence where appropriate, at application[6]. Further, I propose introducing new medical review settings where clients must provide another medical certificate (or other relevant medical evidence) at the point of their medical review, noting the medical review date will be triggered by the medical coverage expiring.

Introducing a mandatory review for clients receiving Special Benefit

20 I propose to introduce a mandatory review for clients receiving Special Benefit[7] 13 weeks after commencement and every 26 weeks thereafter. This mandatory review will allow MSD to obtain information, suspend, and cancel assistance for clients receiving Special Benefit.

21 The mandatory review for Special Benefit will occur at least every 26-weeks (or 13-weeks after re-commencement). Unlike other types of mandatory reviews, Special Benefit clients will be required to attend an appointment to complete their review. If a client does not participate in their review before their review date, their Special Benefit will be automatically suspended, and subsequently automatically cancelled after eight weeks if the client has still not completed their review.

22 I recommend there will be no extensions, exceptions,[8] or exemptions[9] to the mandatory reviews for clients receiving Special Benefit. The Special Benefit is grandparented and the intent is to be temporary, so it would not align with the policy intent of this assistance to provide an extension, exception, or exemption for clients from the requirement to complete their mandatory review.

Implementation

23 I intend for legislation to be introduced in November 2025, with commencement from 1 July 2026. Implementation of some of the remediation decisions will be staggered after the commencement date to minimise capacity constraints.

Cost-of-living Implications

24 This proposal is unlikely to have any direct impacts on the cost of living.

Financial Implications

25 Financial decisions related to ADM have been made through Budget 2025. This paper has no additional financial implications.

[6] I note that the existing lapse of application rules will apply if clients do not provide the medical certificate on application.
[7] Special Benefit is only available for people, or their spouses or partners, who have been receiving, or applied for, Special Benefit immediately before 1 April 2006. At the review appointment, the staff member will check ongoing eligibility for Special Benefit and determine if the client would be better off receiving Temporary Additional Support.
[8] An exception is where MSD would not be required to review a group of clients and/or a group of clients would not be required to respond to a review if and while they fall into one of a list of specific situations or circumstances.
[9] An exemption is where MSD could exempt an individual client from mandatory review for that review period, when a client contacts MSD and is not able to respond to the review even if they had more time.

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Legislative Implications

26 This paper proposes to amend the Social Security Act 2018, and associated regulations, to give effect to remediation decisions related to reviews, suspensions, and cancellations. The decisions made in this paper will inform drafting instructions to the Parliamentary Counsel Office.

Impact Analysis

Regulatory Impact Statement

27 The Ministry for Regulation has determined that this proposal is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that the economic, social or environmental impacts are limited and easy to assess.

28 A Regulatory Impact Statement supported the paper that Cabinet discussed in March 2025. The Regulatory Impact Statement included information on the impacts of mandatory reviews [SOU-25-MIN-0013 refers].

Climate Implications of Policy Assessment

29 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

Population Implications

30 If not used appropriately, ADM processes have the potential to produce (or reproduce) disparities and inequalities for certain groups, such as for Māori and disabled people. To mitigate any potential negative impacts on specific population groups, safeguards will be implemented. The ADM Standard outlines appropriate safeguards to address areas of concern. For example, the safeguards in the ADM Standard are intended to mitigate or eliminate bias and discrimination. On balance, I do not expect any group will be disproportionately impacted by these proposals.

31 Cabinet has previously received population impact advice on these proposals at a high level [SOU-25-MIN-0013 refers].

Human Rights

32 This proposal is unlikely to have any direct implications for human rights. ADM, when used alongside appropriate safeguards, can assist people in accessing the support they are entitled to. MSD will assess the remediation decisions against MSD's Security, Privacy, Human Rights and Ethics framework.

33 I have not been made aware of any potential human rights issues, but I expect my officials to follow standard processes and conduct a full assessment to align with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993 prior to introduction.

Use of external Resources

34 No external resources (contractors or consultants) were involved in the policy development of these proposals, or the preparation of this Cabinet paper.

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Consultation

35 The following agencies were consulted on this Cabinet paper: Crown Law Office, Department of Prime Minister and Cabinet, Government Chief Digital Officer, Inland Revenue, Ministry of Business, Innovation and Employment, Ministry of Education, Ministry of Health, Ministry of Housing and Urban Development, Ministry of Justice, Ministry for Regulation, Office of the Privacy Commissioner, Oranga Tamariki, Parliamentary Counsel Office, Public Service Commission, Statistics New Zealand, the Treasury, Veterans' Affairs, and Whaikaha – Ministry of Disabled People.

Communications

36 MSD is aware of the public interest in the use of ADM and will ensure that changes are clearly communicated to the public, stakeholders and those affected.

Proactive Release

37 I intend to proactively release this Cabinet paper following Budget 2025 decisions, with redactions made consistent with the Official Information Act 1982.

Recommendations

The Minister for Social Development and Employment recommends that the Committee:

1 **note** Cabinet recently agreed to enact a general authorising provision for the use of Automated Decision-Making (ADM) s 9(2)(h) [redacted]

[SOU-25-MIN-0013 refers]

2 **note** officials from the Ministry of Social Development (MSD) have undertaken detailed design work and identified that further legislative amendments are required to remediate ADM processes

Mandatory review remediation

3 **note** Cabinet agreed that if a client confirms the information MSD presented is correct, their benefit will automatically continue [CAB-25-MIN-0050 refers]

4 **agree** to the following exceptions to the decision outlined earlier in recommendation 3:

4.1 client has declared no change in specific circumstances for three consecutive years in the following situations:

4.1.1 client has been receiving Disability Allowance (DA) and has declared no change in their DA costs for three consecutive years at the time the mandatory review was returned

4.1.2 client has been receiving Accommodation Supplement (AS) and has declared no change in their AS costs for three consecutive years at the time the mandatory review was returned

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4.1.3 client has declared income and has no change to their declared income amount in three consecutive years at the time the mandatory review was returned

4.2 a non-beneficiary client has declared no income at the time their mandatory review was returned

Timing of mandatory reviews

5 **note** Cabinet agreed in March, that the specified benefits a client receives will all be part of the same mandatory review [CAB-25-MIN-0050 refers]

6 **agree** to exclude Orphan's Benefit, Unsupported Child's Benefit and Special Benefit from the previous Cabinet decision in recommendation 5 so MSD is not required to review these benefits at the same time as other mandatory reviews [CAB-25-MIN-0050 refers]

Medical review remediation

7 **note** in the previous paper Cabinet agreed to process Work Capacity Medical Certificates for clients receiving Jobseeker Support on the grounds of a health condition, injury, or disability (JS-HCID) if the client has not had any change in their health condition, injury, or disability [SOU-25-MIN-0013 refers]

8 **agree** to extend the previous decision in recommendation 7 to process Work Capacity Medical Certificates for clients receiving Supported Living Payment on the grounds of restricted work capacity (SLP-HCID), if a subsequent Work Capacity Medical Certificate shows no change to the client's health condition, injury, or disability

9 **agree** that MSD will require all clients receiving JS-HCID, SLP, Child Disability Allowance and/or DA to provide a medical certificate, or other medical evidence where appropriate, on application for assistance for the purposes of determining eligibility

10 **agree** that new medical review settings will be introduced where MSD must review (as a 'medical review'), all clients receiving JS-HCID, SLP, CDA and/or DA when their medical coverage ends

11 **note** that in some circumstances, it may be appropriate for MSD to grant an extension to allow clients more time to obtain a medical certificate, or other relevant medical evidence

12 **agree** clients must provide another medical certificate, or other medical evidence where appropriate, at the point of their medical review for the purposes of determining ongoing eligibility

Special Benefit remediation

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13 **agree** to introduce mandatory reviews for clients receiving Special Benefit with the following features:

13.1 clients will be subject to a mandatory review at least once every 26 weeks (13 weeks after commencement and every 26 weeks thereafter)

13.2 the system will automatically suspend a client's Special Benefit if they do not complete their review by their review due date,

13.3 the system will automatically cancel a client's Special Benefit after eight weeks if the client does not complete the review, and

14 **agree** there will be no extensions, exceptions or exemptions to a Special Benefit mandatory review

Implementation recommendations

15 **authorise** the Minister for Social Development and Employment to take final policy decisions to develop and implement all proposals outlined in this paper

16 **invite** the Minister for Social Development and Employment to issue drafting instructions to the Parliamentary Counsel Office to give effect to the decisions in this paper.

Authorised for lodgement

Hon Louise Upston

Minister for Social Development and Employment

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