



5 December 2024

Tēnā koe

Official Information Act request

Thank you for your email of 12 November 2024, requesting information about the discretion to pay benefits to persons in custodial remand. This was transferred from the Ministry of Justice to the Ministry of Social Development to consider.

I have considered your request under the Official Information Act 1982 (the Act). Please find my decision set out below.

- 1. How often (if at all) has this discretion been exercised in favour of a beneficiary who is in custody on remand in each of the following periods:*

1 January 2019 - 31 December 2019

1 January 2020 - 31 December 2020

1 January 2021 - 31 December 2021

1 January 2022 - 31 December 2022

1 January 2023 - 31 December 2023

1 January 2024 - 31 October 2024

If the Ministry exercises discretion to pay a beneficiary who is in custody on remand, this is recorded in the notes of individual case files. In order to provide you with this information, Ministry staff would have to manually review a substantial number of files. As such, I refuse your request under section 18(f) of the Act. The greater public interest is in the effective and efficient administration of the public service.

I have considered whether the Ministry would be able to respond to your request given extra time, or the ability to charge for the information requested. I have concluded that, in either case, the Ministry's ability to undertake its work would still be prejudiced.

- 2. Please can you also tell me what is the process by which the Ministry comes to a decision to exercise this discretion?*

Generally, when a client enters custody and is held on remand, their benefit will be stopped the day after they enter custody as benefit payments are not payable to a person who is in prison or on remand. However, and as you are aware, the Ministry has discretion to continue to pay all, or part of the clients' financial assistance from the Ministry to a client who is remanded in custody pending a

further court appearance after taking their ongoing financial circumstances into account. Further information on the Ministry's Manuals and Procedures (MAP) site can be found here on the Work and Income website:

<https://www.workandincome.govt.nz/map/income-support/main-benefits/jobseeker-support/changes-and-reviews/jobseeker-support/remanded-in-custody-01.html>

The attached **Appendix** also provides you with the guidance for staff if they have a client who is held in custody and has requested for their benefit to continue.

I will be publishing this decision letter, with your personal details deleted, on the Ministry's website in due course.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with my decision on your request, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Ngā mihi

Pp.



Magnus O'Neill
General Manager
Ministerial and Executive Services

Clients held in remand – continuing benefit payments

MSD has discretion to continue paying current benefit to a client held in remand to assist them with their continuing costs. The following page outlines what MSD should consider and how these requests should be managed.

On this Page:

Generally, when a client enters custody and is held on remand, their benefit will be stopped because benefits are not payable to a person who is in prison or on remand. However, we have discretion to continue to pay **all, or part of** a current financial assistance to a client who is remanded in custody pending a further court appearance **after** taking their ongoing financial circumstances into account.

More details, including what factors to consider can be found on [MAP \[https://doogie.ssi.govt.nz/map/income-support/main-benefits/jobseeker-support/changes-and-reviews-jobseeker-support/remanded-in-custody-01.html\]](https://doogie.ssi.govt.nz/map/income-support/main-benefits/jobseeker-support/changes-and-reviews-jobseeker-support/remanded-in-custody-01.html), (note: this leads to the guidance for Jobseeker Support - if client received other assistance, look under that benefit type). Note the wording on financial considerations is for **continuing** costs – not new costs.

You should consider each case on its **own merits**. Full notes of the discussion and considerations made should be made on the clients' file. If more information is required, then the client may need to work through an agent to provide this to MSD.

When clients contact Integrity Intervention Centre (IIC)

Integrity Intervention Centre (IIC) will suspend a client's benefit payment the day after they enter custody. Clients are sent a letter advising them to contact us if they are in remand and have additional costs. If IIC receives a call from a client in remand, IIC will:

Get as much information from the client as possible

Update a clients address to a new postal address as needed

Advise the client that they will need to:

Have an agent, or someone MSD can engage with on this request to continue payments

Provide verification that any costs are continuing during their time in remand, and can't be held (i.e., car repayments)

Confirm contact details, and how we can reach the client

Confirm the client's next court appearance date

IIC will then pass this to the appropriate service centre via CMS workflow.

Managing these requests in Service Centres

When considering these requests, we should consider the [MAP guidance \[https://doogie.ssi.govt.nz/map/income-support/main-benefits/jobseeker-support/changes-and-reviews-jobseeker-support/remanded-in-custody-01.html\]](https://doogie.ssi.govt.nz/map/income-support/main-benefits/jobseeker-support/changes-and-reviews-jobseeker-support/remanded-in-custody-01.html) and the **continuing** costs the client has that **can not** be avoided. Things staff may need to consider are:

Do we have verification or confirmation of on-going costs?

What continuing costs can not be avoided - and what is needed to meet these?

If the client has a partner, or children - are they applying for financial assistance in their own right - would this meet the need?

Consider following up with the partner if an application for benefit in their own right has not been started.

If the couple was on a joint benefit - and we are continuing to pay for the client in remand, then:

the benefit will be paid as a joint benefit and the partner in the community would not be transferred to Sole Parent Support.

we may need to discuss with agents of the remanded client to consider redirections to the partner in the community to cover on-going financial commitments

If clients **do not** have an agent to contact, then we may need to request an agent via sending a letter to the client - to the place they are remanded to (not their home address)

Note: Do not attempt to call the client's phone number(s) - they are in custody. This is not sufficient **or** adequate contact. If a client has no agent to liaise with communication will need to be via post. If deemed **appropriate** by Service Centre management, then a Prisoner Reintegration staff member, may be able to follow up with the client when they are next at the prison to advise what MSD requires to review the request.

When continuing benefit you must

Pay the amount sufficient to meet the on-going costs based on the financial assistance they were receiving **prior** to entering remand.

This could be all, or only part of their previous payments

No **new** assistance can be granted – i.e., if the client was only receiving non-beneficiary assistance and Accommodation Supplement, we can not pay Jobseeker Support rate)

A future suspension date/expiry **must** be set up for the clients **next** court appearance

Advise the client of the future suspension date, and that their agent must contact MSD to advise outcome

Payment extension is not guaranteed, and should be considered on its own merits

A Must-View-Note should be added to the record to advise that benefit payments have continued under legislation – noting the review date (the next court appearance).

Clients status changes - sentenced to prison

If you are advised that the client has been sentenced and is now in prison, rather than remand, you should suspend the benefit from the day **following** sentencing.

An example scenario

William was remanded in custody on 10 June. Following his benefit suspension and receipt of a letter, his agent makes contact with MSD applying for his benefit to continue. They advise that William's court appearance is 15 July.

Through his agent, William advises that while he can stop/suspend most payments - his Kāinga Ora rent payments can't be stopped, or he risks losing his house and belongings.

MSD resumes his benefit payments from the date of suspension, but manually adjusts the rate of payment to cover the cost of the Kāinga Ora rent. Any arrears due for missed rent are redirected to Kāinga Ora.

MSD places a future suspension on for the 16 July, and advises the agent that contact will need to be made to resume/review William's benefit payments on this date.

A Must View Note is added to cover the resumption and any future contact required.

Need help?

For complex situations – such as where a client has a partner in the community and is applying for benefit, please escalate these to your Manager, Capability Developer or [Helpline \[https://doogie.ssi.govt.nz/helping-you/policy-helpline/helpline/index.html\]](https://doogie.ssi.govt.nz/helping-you/policy-helpline/helpline/index.html) if you need support. Where additional guidance is required, [Helpline \[https://doogie.ssi.govt.nz/helping-you/policy-helpline/helpline/index.html\]](https://doogie.ssi.govt.nz/helping-you/policy-helpline/helpline/index.html) may escalate to Operational Policy or Legal.

Content owner: [Work and Income Operational Support](#) Last updated: 17 June 2024