



7 April 2025

Tēnā koe

Official Information Act request

Thank you for your email of 10 March 2025, requesting information about the 13-week non-entitlement period.

I have considered your request under the Official Information Act 1982 (the Act), and I have interpreted your request for information to be related to the Jobseeker Support benefit. Please find my decision on each part of your request set out separately below.

- *Could you please advise what the Ministries internal policy is for applying this non-entitlement period and the process of what happens after someone is placed on a conditional benefit?*
- *How long are they on a conditional benefit for? How does a conditional benefit turn to usual main benefit?*

A client and their partner (if any) who are applying for Jobseeker Support and have work obligations, can have a 13-week non-entitlement period if they:

- have become voluntarily unemployed without a good and sufficient reason
- are applying for a benefit because they were dismissed by their employer for misconduct

'Becoming voluntarily unemployed' means the client has resigned from, or otherwise left employment without a good and sufficient reason.

'Dismissal as a result of misconduct' means the client has lost employment as a result of misconduct without a good and sufficient reason.

Information on the Ministry's 13-week non-entitlement period and voluntary unemployment or dismissal for misconduct is publicly available on the Ministry's website at the following links:

- www.workandincome.govt.nz/map/income-support/main-benefits/jobseeker-support/non-entitlement-period-for-13-weeks.html.
- www.workandincome.govt.nz/map/income-support/main-benefits/jobseeker-support/voluntary-unemployment-or-dismissal-for-misconduct-01.html.

When a 13-week non-entitlement period is imposed, clients can be granted a provisional benefit if they agree to a 6-week recompliance activity or programme

of activities. This is agreed upon with their case manager, and the benefit is conditional on the grounds that the client will need to repay any amount they receive if they do not complete the recompliance activity. The provisional benefit starts at the beginning of the activity period, and the Ministry will remain engaged with the client to ensure they are meeting the activity requirements.

Clients who want to receive a provisional benefit need to attend an appointment or seminar to discuss suitable recompliance activities. Case managers must make an approved activity available to them at the earliest opportunity. Approved activity examples can be found here: www.workandincome.govt.nz/map/income-support/main-benefits/jobseeker-support/approved-activity-examples-01.html.

At the end of the activity period, or 13-week non-entitlement period (whichever is earlier), the condition will be removed, and the benefit will continue as regular unless the client is challenging the dismissal or loss of employment.

Client is challenging dismissal or loss of employment

During this period, a client can have a benefit conditionally paid if the client is challenging the dismissal or loss of employment. This includes where the client has lodged a personal grievance (PG) or are taking legal proceedings against their previous employer. This benefit is only granted when the client signs a statement agreeing using details of the PG decision, they:

- will repay all of the benefit received during the 13-week non-entitlement period if misconduct is proven and
- may need to repay part or all of the benefit received during the 13-week non-entitlement if they win wages, or other compensation.

The condition to repay part or all of the benefit remains until the PG has been finalised and an outcome has been reached.

Depending on the outcome of the PG, the client (or partner's) entitlement date and non-entitlement period may be reviewed. Based on information about the outcome of the case, an overpayment may be established if the client has received a wage settlement for a period during which a benefit with work obligations was paid, or a 13-week non-entitlement period may be applied if it is determined the employer was not at fault.

If the settlement order states that the payment or part payment is to cover legal or other costs, the Ministry does not recover benefit received from the payment amount. If the case is settled but no party is admitting fault, the Ministry must decide whether the voluntary unemployment provisions apply.

Information on PG and legal proceedings against an employer, including considering the outcome of a case is available on the Ministry's website at the following links:

- www.workandincome.govt.nz/map/income-support/main-benefits/jobseeker-support/personal-grievance-or-legal-proceedings-against-em-01.html.
- www.workandincome.govt.nz/map/income-support/main-benefits/jobseeker-support/outcome-of-case-01.html.

I am also providing you with policy information on PG that is available on the Ministry's intranet. Please find this information attached.

- *Does the ministry request copies of settlement agreements from clients if one is reached?*

Information on financial compensation is required from the client in order to assess their entitlement date for the benefit.

- *What happens if a client lodges a PG with the employer but then it does not progress any further? Do they have to repay the 13-week non-entitlement period?*

Generally, only lodging a PG and not progressing it further may not provide the Ministry with sufficient proof that the client is challenging their dismissal and may not be eligible to receive benefit payments during the 13-week non-entitlement period.

The following information may be provided to the Ministry by the client to show they are challenging a dismissal:

- Evidence that they have a representative (union, lawyer, community law centre, industrial relations advocate)
- A letter from Mediation Services or the Employment Relations Authority.

As stated above, if the case is settled but no party is admitting fault, or if the outcome of the case is not to progress the PG, the Ministry may make a decision as to whether the voluntary unemployment provisions apply based on the information available to them.

- *How is a conditional benefit recorded on a clients file? Is it just recorded in CMS notes or is it clearly visible on screen each time a Ministry staff accesses that clients file?*

This information will be recorded on the Client Management System (CMS) on the client's file.

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 nui

pp. 

Anna Graham
General Manager
Ministerial and Executive Services

Personal Grievance

This page provides you with the process to follow for clients who may be subject to a 13 week voluntary unemployment stand-down and have lodged a personal grievance against their previous employer.

Waiving the Voluntary Unemployment Stand-down

A client with work obligations who has left their job of their own freewill (without a good and sufficient reason), or has been dismissed from work because of misconduct and applies for a benefit will generally be subject to a voluntary unemployment stand-down.

A benefit may be granted however, if the client has lodged a personal grievance (PG), or are taking legal proceeding against their previous employer. Before a benefit can be granted you must obtain verification from the client that they are challenging the dismissal or loss of employment.

For more information see:

[Voluntary unemployment or dismissal for misconduct \[http://doogie/map/income-support/main-benefits/jobseeker-support/transfer-between-benefits-01.html\]](http://doogie/map/income-support/main-benefits/jobseeker-support/transfer-between-benefits-01.html)

[Personal grievance or legal proceedings against employer \[http://doogie/map/income-support/main-benefits/jobseeker-support/deciding-non-entitlement-period-for-voluntary-unem-01.html\]](http://doogie/map/income-support/main-benefits/jobseeker-support/deciding-non-entitlement-period-for-voluntary-unem-01.html)

[Ministry of Business, Innovation and Employment \[http://www.dof.govt.nz/\]](http://www.dof.govt.nz/)

Requirements before the benefit is granted

Before granting the benefit every client must confirm in writing that they agree to advise Work and Income of:

an approximate date their PG is to be heard **and**
the outcome of their PG, once known.

In addition, the client must sign a statement agreeing that, after their benefit has been reassessed using details of the PG decision that they:

will repay all of the benefit received during the 13 week non-entitlement period if misconduct is proven **and**
may need to repay part or all of the benefit received during the 13 week stand-down if they win wages, or other compensation.

Note: You must keep in regular contact with the client to ascertain if the PG has been finalised, and what the outcome is. Contact should be at 3 monthly intervals.

Reviewing a clients benefit

Using DREW, along with the client's original application and information provided by the client, reassess the client's entitlement date taking into account any work related payments received from the settlement.

Note: Work and Income is only required to obtain information on the financial compensation, all other information relating to the case is confidential to the client and employer.

Personal grievance successful

When the PG is successful, the client's entitlement date will need to be reviewed. Generally, the overturned decision will include compensation payment that will need to be included in the client's 'date ceased work' assessment.

There are two types of compensation:

in lieu of wages **or**
personal payment

Personal payments are not included in the 'date ceased work' assessment, however the payment is to be treated as a capital payment.

Full notes must be added to client event notes.

Personal grievance unsuccessful

Generally, when a PG is unsuccessful (ie: the previous employer dismissed the client with just cause), the 13 week non-entitlement period is imposed. Any benefit paid must be established as a debt, by backdated review, the 'reason for event' code will need to be changed by the Data Integrity Unit (DIU).

Full notes must be added to client event notes.

For more information see:

[Compensation or damages \[http://doogie/map/income support/core_policy/income/types of income/compensation or damages 01.html\]](http://doogie/map/income%20support/core_policy/income/types%20of%20income/compensation%20or%20damages%2001.html)

Content owner: [Work and Income Design and Improvement](#) Last updated: 29 November 2020

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