

A Frequently Asked Question:

How can I apply for the Disability Support Pension after 1 July 2015 and what is considered?

Filling in your Application for a Disability Support Pension

- Get an application form and fill it in cover to cover, sign and date the form.
 - You may find this form online.
- When you have filled the form in, make a copy of the entire application and all the documents that you have included with it. I mean the entire application that includes the first page to the last.
 - If you need assistance to fill in application for the DSP, ask a friend, relative or an advocate to assist you.
- Consider each question one at a time. In other words think about what the question is asking you? It will say list your disabilities/illnesses, injuries, medical conditions. Here is your chance to list them all. Yes! All of them. Do not leave any out.
- Good idea to start with the one that affects you the most.
 - For example slipped discs, Multiple Sclerosis (examples only).
- If you find that there is not enough room on the form, that's alright, just add another page. If you do add another page, make sure you number the question that you are answering. For example, Question 6 of Page 9.
- Make sure you have and include all the medical reports that you wish to rely on. Also include any (examples only) letters from Social Workers etc, Specialist Reports, and GP, tests results, and reports and be sure you include them with your application.
- Do not send originals, ONLY copies.
- I suggest that you send your application by registered mail and track its delivery.
 - I suggest you get confirmation signature to prove that delivery did in fact get to the Department.
- Now sit and wait.
- Do not expect a reply within 2 weeks or even months.
 - You can after you have confirmed that your application has been delivered, wait another 30 days (or less. Then you can call DHS and ask them if they received your application and that status of that application. Often they have received the application, but have not yet entered it onto their system. They will be able to tell you this.
- DHS can take months before they decide your application.
- You may be required to be assessed by a DMA (Disability Medical Assessment).

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- You will not require an assessment if it is obvious on the face of the records/paper work that you will be eligible for the DSP.
 - You may be permanently blind, have a manifest disability etc.

What is considered to see if I am eligible for the DSP?

- To be eligible for the DSP you will need the following and you must meet ALL the criteria, not just one or the other.
- **Medical Criteria s 94 of the *Social Security Act***
 - Says a person is qualified for the DSP if:
 - (a) The person has a physical, intellectual or psychiatric impairments: and
 - The Person's impairment is of 20 points or more under the *Social Security (Tables for the Assessment of Work-Related Impairment for Disability Support Pension) Determination 2011 (The impairment Tables); and*
 - The person has a continuing inability to work.
 - In accordance with s 94 of the Act, you are regarded as having a CITW if:
 - You have an inability to work due to your accepted impairments for 15 hours or more a week; and
 - You have actively participated in a Program of Support (POS).
 - You will not be required to meet the POS if you have an impairment of 20 or more points under a single Impairment Table.
 - Note everyone that applies for the DSP meets the first criteria; why else would they apply for the DSP.
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Where can you get a copy of the Impairment Tables?

For those who want a copy of the Tables, go to Google and type in:

- Social Security (Tables for the Assessment of Work-related Impairment for Disability Support Pension) Determination 2011

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- *Social Security Act 1991*
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- I, JENNY MACKLIN, Minister for Families, Housing, Community Services and Indigenous Affairs, make this Determination under subsection 26(1) of the *Social Security Act 1991*.

- Dated 2011
 - Minister for Families, Housing, Community Services and Indigenous Affairs
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- These tables commenced 1 January 2012 and if you get 20 points, you must also meet the third criteria of having a CITW. This means that you are unable to work for at least 15 hours or more per week within the next 2 years.
 - The definition of 'work' means (a) that is at least 15 hours per week on wages that are at or above the relevant minimum wage: and
 - (b) That exists in Australia, even if not within the person's locally accessible labour market.
 - You will find DHS will try and argue that you do not satisfy s94 (1)(b) of the Act, and you do not have a CITW as you have not actively participated in a POS, (requirement under s 94(2)(aa) of the Act.
 - The focus is on your level of functioning and not so much on your symptoms.
 - You will only be given points to impairment if your condition causing that impairment is permanent, and that the impairment results from a condition that is more likely than not to persist for more than 2 years.
 - In other words, how does this condition/s affect your ability to function?
 - Can you get out of bed, does any of the medication you are on affect your functioning? You could be undergoing treatment, taking medications that have serious side effects and this affects your ability to function. The treatment, medications could also be causing you excessive drowsiness etc.
 - A condition will only be given points if it is considered to be fully diagnosed, treated and stabilized (FDTS) In other words, your condition/s is not going to improve within the next 2 years. It is more than likely going to persist more than 2 years.
 - You have tried all reasonable treatments and that's it! If you are on a waiting list of a year or more, your condition could also be considered FDTS.
 - For example if your specialist says you will require surgery, your condition has not been FDTS and that impairment will not be given any points. It will not be given any points as it has not been FDTS. In other words this has not yet been considered permanent.
 - If your Doctor says they want you to try this new medication. Again, your condition may not be considered FDTS.
 - Assuming you have the 20 points under the tables and those points are given under a single Impairment Table, you will not be required to participate in a (POS) as your condition is considered to be severe within the meaning of s 94 (3B). That is this

condition/s prevents you from working 8 hours or more per week in the next 2 years, and benefiting from training etc.

- You will though need to meet the requirement of being unable to work 15 hours or more per week in the open market without any assistance or that you do require assistance for the next 2 years (more on this later).
- If you do not receive 20 points under one Table, then you will be required to have participated in a Program of Support (POS). That is because you have been assessed as not having a severe impairment.
- Next they look to see does this condition prevent you from undertaking any work, study of 15 hours or more per week for the next 2 years without any support, assistance? This is referred to as the CITW (Continuing Inability to Work).
- That is do you have an inability to work a Program of Support within the next 2 years because of your impairments and undertake training within the next 2 years or such activity is unlikely because of your impairment to enable you to work independently of a Program of Support within the next 2 years.
- If the answer is yes, you will be unable to undertake any activity for 15 hours or more per week, for the next 2 years due to your condition/s, and then you would meet that criteria.

How is this decided?

- There are a number of different factors used to determine this, and a lot of disregarded. Some of the ones that are disregarded are:
 - Impairments that have not been given a rating under the Tables;
 - The availability of work in the person's locally accessible labour market (s 94(3) (b));
 - The person's motivation to work/train, except when your medical evidence indicates that the lack of your motivation is directly attributable to the impairment;
 - The person's preference regarding the type of work/training;
 - The person's potential attractiveness to an employer in a particular area of work or employer preferences and discriminatory practices that exist in the open labour maker, including the willingness or otherwise or employers to engage people with disabilities;
 - The existence of a benign employer of sheltered or special employment: that is, only the normal workplace is considered;

What is a Job Capacity Assessment?

- You will be required to participate in a JCA (Job Capacity Assessment).
- This is used to determine your eligibility for the DSP.
- This is usually undertaken by an Occupational Therapist, Psychologist, Dr, and an Allied Health Professional.
- During the assessment they will ask you a series of questions.
 - Some of the questions are usually: What have you been mostly doing in the last 2 years?
 - In your most recent job, how many hours you mostly worked?
 - Have you done any paid work at all in the last 2 years?
 - What your highest level of education is that you completed?
 - Do you think any of these could be work related?
 - Can you still use any of those skills now?
 - What is preventing you from using these skills?
 - Can you read English?
 - Do you write English well?
 - Work Capacity, do you have any disabilities or medical conditions that affect the hours you are able to work?
 - Here they are asking you to tell them how many hours you think you could work in a typical week.
 - Do you have any disabilities that affect the type of work that you do?
 - How long the condition/s affect your ability to work?
- There are more questions; I am only including a few here.
- They are looking to see what impact the medical conditions you have listed on your DSP application have on your ability to engage in work and to see if you would benefit from any work.

Paper work is very important, and make sure you keep copies of ALL paper work you send in.

Remember, you have the right to appeal a decision. You have 13 weeks from the date of the decision to appeal.

More on this later.

Good luck!

Disability Support Officer