Submission on the Social Security (Benefit Categories and Work Focus) Amendment Bill

This submission is from the National Beneficiary Advocates Consultation Group. We are a group of beneficiary advocates working with beneficiaries around NZ, we come together quarterly to consult with Ministry of Social Development officials, as well as meeting with Ministers responsible for Social Development portfolios. We have expertise and practical knowledge of the current operation of the Social Security Act 1964, as well as experience in how people interact with Work and Income front-line staff, and through the review and appeal processes.

We reserve the right to present further information to this submission in conjunction with our oral submission to the committee.

We oppose this bill, as we believe that the new approach and measures enabled by the bill will be used to reinforce a belief in and acceptance of an underclass in NZ, and a belief that these people have fewer rights and less choice than other citizens on the basis of their employment status. Further we believe the changes have the potential to place many NZ men, women, and children into poverty, which will have immediate and serious detrimental impact on their health and well-being, as well as a negative impact on society as a whole.

This bill has the potential to do the opposite of what is intended, by increasing the poverty and suffering of desperate vulnerable families, putting them into positions such as precarious housing, ill health and poor nutrition, which will in fact lower their productive potential.

The proposal to change welfare delivery through the construction of a new set of benefit categories further complicates the benefit system, through a renaming process assigning the label Jobseeker to most people. This combines six benefit types, which are not aligned in terms of their treatment of earnings, or work expectations, but with the common theme of the ability to impose tougher sanctions.

These sanctions are able to be applied to people in a wider range of circumstances, particularly many more families with children. The extension of the work test sanction regime to sole parents, widows, and woman alone, as well as actively applying it to 'partners', is a change which impacts primarily on women and dependent children.

This reform is not based on research identifying a problem that requires sanctions, but rather on an ideology and assumption that beneficiaries must be lazy and need financial sanctions to be motivated into work.

The justification that there is a 'problem to solve' seems to come from the Welfare Working Group report 2011 which defined long-term dependency as “Individuals who have been in the welfare system for six or more consecutive months.”

Using this definition it is hardly surprising that the report found that sole parents, sick people, and disabled people are likely to be at risk of long-term welfare dependency; it is incredibly unrealistic to think that sole parents, sick people, and disabled people, will become financially independent within 6 months of the life shock which lead to their need for assistance.

This report has been used to support the myth of welfare dependency and people spending long
periods lounging on the dole; in fact the statistics used in the report fail to support this myth.

In our flexible labour market there is a high degree of casualisation, with temporary and short-term contracts, part-time work, variable hours, and seasonal variations in demand. This is supported by unemployment creating competition for positions; those people in precarious work will be churning on and off benefits, as the market dictates.

Research in fact indicates that when the economy is growing and there are jobs, the numbers in receipt of benefits reduce, and that is across benefit types, with those who face the greatest barriers showing the least increase in employment.

*The intention to combine benefit categories*

The stated reason for the renaming is a strong focus on employment for more people on benefits; if this is the goal it can be achieved by changing the job-seeking services, incentives, and work tests for these different benefit types.

This would enable the retention within the benefit categories of people with similar barriers to employment, and would guide staff to recognise and understand those barriers. For example sole parents often face barriers related to childcare; they are of course not alone in facing such issues, but it can be expected that if a sole parent is looking for work, help with childcare is likely to be a need; this need does not exist for so many other 'Jobseekers' and so will become less of a consideration in the "one size fits all" model.

There will be one benefit type with different abatement rates depending on circumstances; this will be confusing for everyone involved in the administration, and is likely to leave people very confused as to how work will affect their benefit payments.

We are concerned that a "one size fits all" approach to people in the new Jobseeker category is also going to cause significant disadvantage to people with health issues. Many people have significant and ongoing health issues which impact on their ability to work, often these are long-term conditions, which may be managed but cannot be cured. Thus the person's capacity for work is permanently restricted but their condition may not be considered severe enough to qualify for Invalid's Benefit. This is a group with needs that will be very individual; a significant proportion in this group will have some mental health issues. We are very concerned about the service that people with mental health issues will experience, as we have often seen this group poorly understood by W&I staff, and also note the increased anxiety that their interactions with W&I cause.

Many thousands of people on benefits have health issues, and a significant number have mental health issues, unfortunately as a nation we do not seem to have empathy for the challenges and difficulties faced daily by people and their families living with health issues.

This is reflected by grouping together the Invalid's Benefit and the Domestic Purposes Carer Benefit, as the new Supported Living Payment.

People who are permanently and severely restricted in their capacity for work have a different set of needs and issues from people caring for someone who would otherwise need institutional type care.
This is a further example of the combining of categories creating a new client group with very different needs who cannot be served by the same service. This change is clearly for administrative simplicity rather than serving the needs of the public, and particularly not designed for serving the needs of unwell people or their carers.

Sole Parent Support fails to recognise the importance of parenting as a job that nurtures and educates the next generation of our society. It fails to recognise that young people need parenting while they are dependent and that this does not stop at the child's fourteenth birthday; in fact it is hard work parenting a teenager, even in the mythical, functional and supportive two-parent family unit.

It is likely that for many of our vulnerable children the increased stress that these changes will put onto their only caregiver will not improve their standard of living. Should their caregiver get a job, there will still be all the household tasks to do as well as parenting; thus quality time, time spent to cook meals, make lunches, help with homework, deal with problems at school, is put at risk with a stressed and tired parent.

Single parent families generally experience trauma as part of a transition to this family organisation type, this may have been a separation, possibly domestic violence, sometimes bereavement. Even the most amicable separation changes the lives of any children in the family forever. This does not mean that their custodial parent can never work, but it does mean that there are considerations beyond simple childcare to take into account. For example if a child is ill or for some other reason unable to go to childcare or school, a sole parent has no choice but to remain home and care for that child, regardless of the requirements of employment or W&I. People hold a real fear that should this happen they will be sanctioned.

We do not support the combining of benefits into three categories, based solely on work expectations that take no account of the different needs, or of different barriers faced by groups within those categories. If an increased focus on work is the intention then changes can be made to the current rules for the different benefits, thus maintaining the understanding of the differing needs and barriers of these different groups. To make changes to expectations for different categories of beneficiary is a much clearer indication of Parliamentary intention than to leave it up to policy makers to create exemptions and exceptions, to treat different 'classes' of beneficiary differently inside the same benefit category.

Changes in sanction regime

This bill is presented under the rhetoric of an investment approach but in fact there is no investment approach; the strategy this bill advances is one of increased and more severe sanctions being applied to the entire beneficiary population, with reduced discretion to take account of individual circumstances.

There is a significant increase to the severity of sanctions, and the scope of application of these sanctions; benefits are reduced or stopped not only to enforce work-test obligations, but to enforce social obligations, and to assist the police to enforce warrants, as well as to enforce a medical examination – the “Work Ability Assessment”. Due to the combination of benefits the
number of people to whom the work-test sanctions will apply is in excess of four times the number that the current work test sanction regime applies to.

A significant increase to the punitive nature of the sanction regime is the thirteen-week non-entitlement period that MUST be imposed if a person turns down an offer of suitable work – this is regardless of how many if any other work test fails this person has [Clause 45 section 117(1B)].

We ask that you refer to SSAA2011/104, this individual was work-test failed unfairly, and this change means that such a call on the part of a W&I case manager may result in a person and family having no or reduced income for three months. http://www.nzlii.org/cgi-bin/sinodisp/nz/cases/NZSSAA/2011/104.html?query=work%20test

We submit that if this is adopted in some form that the CE be given discretion in the application of this sanction. That the CE be instructed to first create a strong definition for a suitable job, and a strong process for referral of applicants to jobs so that the right people are sent to the right jobs, and they know what that job is, and that job seekers and employers are aware of their rights and responsibilities, as well as expectations and abilities.

There is also the extension of the thirteen-week non-entitlement period so that it MUST be applied to a person who leaves a job of less than 15 hours per week. We see this as simply unreasonable, and submit that there must be the ability for discretion to be applied. For example a person may have left a part-time job on the understanding that they had a better job with more hours and pay, but should the new job not eventuate a sanction must be imposed.

In addition there are sanctions for pre-employment drug testing, arrest warrants, and failing to send children to ECE or enrol at a medical practice, and failing to undergo a work ability assessment. All of these are contained in the new section 116B.

Difficulty with any of the above obligations is generally an indicator of an underlying issue which is affecting the person’s life; to simply sanction them financially does not prepare them for employment, neither does it facilitate the resolution of their problem, be it housing, transport, addiction, mental health, or one of a multitude of possibilities.

We are opposed to financial sanctions being imposed for these obligations, and feel that the social nature of the obligations makes non-financial sanctions that target the desired outcomes without causing hardship for other family members and dependants, the appropriate style of coercion to use. We submit that in enforcing these obligations, discretion must always be exercised, and the CE should be encouraged to invest in these people ensuring they are resourced to achieve these obligations, and that they are in a sustainable position to maintain this.

**Re-compliance**

It is important that when there is a sanction regime there is also the ability for people to 'make good' their failures; under the present legislation this ability to 'make good' is clear, and is in principle achieved by doing whatever it is that the person failed to do.

At present every failure has an associated re-compliance, which requires greater time and effort to achieve depending on the seriousness or repeat nature of failure.
It is essential that people be able to re-comply, as the goal of sanctions is to achieve compliance rather than to impose hardship and poverty.

Re-compliance in relation to drug testing is comprehensive, and covered in great detail. However there is no detail as to how re-compliance can be achieved when sanctions have been imposed on parents under new section 60RA, or the re-compliance process following the imposition of sanctions on people who are considered to have failed in their obligations under 60GAG to work with a contracted service provider.

We submit that if sanctions are going to be applied their potential impacts must be very clearly analysed and that an easy path to re-compliance be identified so that the goal of compliance is achieved. While we commend that the Ministry has considered the potential for harm in the drug-testing regime, we are very disappointed that the same thought for consequences, and design of a re-compliance path has not gone into the implementation of social obligations on families, or into the imposition of a Work Ability Assessment.

Social Obligations

The imposition of obligations relating to enforcing certain behaviours on parents as a sector of society based solely on their employment status is most certainly cause for concern from a human rights perspective.

We question whether it is the role of MSD to impose such obligations, and indeed whether it is the role of a government to take parenting choices away from a sector of the public based on employment status.

We are opposed to the use of financial sanctions to impose these obligations, and cannot understand the rationale for imposing financial sanctions on a family which it is asserted is not caring for dependent children properly. We believe that using financial sanctions is not the best tool to improve child welfare, and are disappointed that other methods such as incentives have not been proposed, as these could represent a true investment in the welfare of the nation's children.

It is also not clear whose benefit will be sanctioned, but it is likely to be the parent identified as the primary caregiver, thus money is being taken from the parent responsible for meeting the child's basic needs, how is this going to improve the circumstances for the child?

We do not believe that these changes should be adopted at all, however if it is believed that this is a correct function of MSD, then a fully considered approach that incentivises, rather than sanctions children and families, is child focused, and will achieve improved outcomes for children must be designed.

At the very least there must be a clearer process for re-compliance should sanctions be imposed.

Work Ability Assessment

This bill introduces a “work ability assessment” which will be undertaken in accordance with a procedure determined by the chief executive.
We are very concerned about such an assessment being introduced, based on the evidence from overseas examples of such assessments being introduced and provided by contracted providers. Recent evidence from Britain indicates that in excess of 40% of assessments have been incorrect; there has been an enormous cost to the British system both in terms of the cost of the assessment process, but also the cost of reviews within the Welfare system to correct the mistakes. Suicides have also been linked to the assessments, and the stress that these processes have brought to bear on some individuals.

Recent statements by the Minister of Social Development are that it is this British model that she intends to follow.

It is admirable to focus on empowering people, and on what they can do, but we must be realistic, unless you live with ill health or disability you cannot actually understand what this is like. What this assessment is likely to discount is that people best know for themselves the extent that they are limited in their ability, and what strategies and treatments can be employed to improve their quality of life. People with ill health and disability are as diverse a group as any other cross section of our population, there are huge variations in educational achievement, in levels of family and social support, age, gender, ethnicity; the one thing they have in common is that illness or disability affects their lives.

Should it be decided that such a work ability assessment be the chosen approach then we submit that how such an assessment is conducted should be a process developed in conjunction with consumer groups as well as carers and a wide variety of professionals, so that a tool can be developed that is truly useful for the client, maps a path to wellness (or maintenance) and fits the circumstances of each individual.

As failure to undertake this assessment is an action for which a person MUST be sanctioned; there should be a very transparent process to enable re-compliance with this obligation.

**Pre- benefit Activities**

There is a significant extension of the pre-benefit activities both in activity requirements, and the vastly increased numbers of people captured by the requirement due to the combination of benefit types. This is of great concern as the triage effect of the pre-benefit activities is lauded by MSD as a success, at times in excess of 50% of participants did not proceed with their applications. There is no record of what happens to the applicants who fail to complete the application process, it is unlikely they all get jobs and it is more likely they return to apply again when their situation is more desperate.

Under section 11G the chief executive is not required to investigate any claim for benefit until the applicant has undertaken any required pre-benefit activities, this also extends the 20-day rule to apply to almost all applicants for benefit, this is in direct opposition to court of appeal findings that the chief executive has a duty to investigate all claims for benefit. This is likely to result in people being assessed as able to work as a default, and put into a series of activities they are unable to do, then receiving no assistance as they failed the activities.

We submit that if such changes are adopted that W&I be required to monitor all participants in their pre-benefit activities whether they go on to benefit or not; this would give a much more accurate representation as to whether the pre-benefit activities in fact get people back into work.
sooner, and are worth investing in.

Further we submit that the chief executive be instructed to investigate whether there was an incorrect decision not to grant should the applicant reapply within 13 weeks, and if there was an incorrect decision that the benefit be granted in full from the earlier date and arrears paid.

**Reapplication every 52 weeks**

Alongside the increasing number of people subject to pre-benefit activities, there are an increasing number of people who will be required to reapply every 52-week period. Again the reapplication process has been lauded as a success in its application to the Sickness and Unemployment benefits already. However service centres that chose to check that no one fell through the cracks found that no one had 'been on a benefit when they shouldn't have been'.

Proactive case management is a much more efficient method of ensuring people say on the right benefit and receive the correct level of assistance, rather than filling in a form once a year.

The reapplication process appears to be a process aimed at making up for a lack of real case management; if there was real case management there would be no need for reapplication or a recheck of a person's circumstances, as their case manager would already be aware of their current situation.

We understand that young men are over-represented in the group who fail their reapplication, and are concerned that members of this demographic may end up disengaged from the system without legitimate income, and increase the poverty for their friends and whanau who end up supporting them. This disaffected group may also have a negative social impact in their communities.

We submit that the reapplication process be monitored to follow people who failed their reapplication, and ensure that it is not causing poverty, or increasing peoples disconnection from the labour market.

**Warrants to Arrest and Drug Testing**

We question whether some of the changes are in fact designed to alienate, and disengage people from W&I support. Some mental health consumers and youth particularly, already have significant issues of trust with W&I. It is a confusion of purpose when the government department responsible for social development carries out the functions of the police.

We submit that drug testing is a policy introduced on the basis of anecdotal evidence, and as a vote catcher. There exists within the work testing rules and policy sufficient tools to sanction people who might be using drug use as a work avoidance mechanism.

Further we are opposed to a person being essentially compelled to submit to a drug test (or their benefit MUST be stopped) and then being forced to pay for the test, particularly when there are reports of a lack of reliability in the tests being used by the growing private testing industry.

It is unclear what the rationale is for making Social Development assist in the functions of Justice and Police, and impose financial sanctions on families for the actions of an individual member.

This effectively makes Work and Income front-line staff into employees of Justice or the Police in
the eyes of those being affected by a warrant to arrest. This is a situation that is likely to lead to more unsafe workplaces; W&I offices already deal with client behaviour which impacts on the safety and security of staff and other clients. Every W&I office has at least one security guard at all times as a response to a rising number of incidents.

W&I does not have the capacity or the skill to extend its functions into drug testing and warrant enforcement, to do so is likely to result in an unsafe workplace, and an increased level of poverty amongst a group feeling increasingly bullied and disengaged from society. These changes will not make people ready for work, or get people into employment.

**Changes to absence from NZ**

At present people on benefits seldom travel overseas, those who do often have assistance from friends and family with flights and accommodation. It is usual that they will in fact be exploring job prospects while overseas, but usually the main purpose of the travel will be family related.

While overseas a person on a benefit will need to meet their own living costs, as well as their costs in NZ during their absence, they try to stretch their benefit to this, a holiday on a benefit isn't like a Pacific Island Getaway, it’s like being poor in another country, for a short time.

Sometimes due to the stress of their situation people fail to advise W&I of their leaving the country, some fail to advise also because they did not realise they needed to, but we believe that the vast majority of working age beneficiaries advise W&I before they go overseas.

We are also concerned that there is no foolproof way of ensuring that the information is recorded when a beneficiary does advise W&I that they intend to travel.

**We oppose this change as unnecessary, and submit that if it is adopted there needs to be discretion so that the full circumstances can be considered.**

**Increased use of Regulations**

We are concerned that there is much detail that is intended to be enacted as regulation, and which won't be subject to the opportunity for public democratic debate; included in the subjects for regulation is the process for the work capacity assessment, as well as the engagement of preferred suppliers for goods and services including those covered by Disability Allowance. This is a process that will affect thousands of NZ citizens and one which the public has a right to input into.

**We submit that significant changes are being made to the Welfare system and that democratic debate is an essential element of this change; significant detail must be part of the public debate and must not be hidden in regulations that are yet to be written.**

**Preferred suppliers for Disability Allowance**

This bill proposes to take the choice of disability provider away from the patient and put this choice into the hands of W&I, in situations that will be covered by regulations.
The patient practitioner relationship is often intimate and requires a level of trust. We are concerned that a bulk buying of services approach may result in misspending as people are referred to the services that are contracted rather than those which will in fact be their most effective treatment.

It is also a significantly dis-empowering process to prevent people from being able to make choices about treatment, and/or of treatment provider.

Such a significant change in service delivery needs to be fully understood rather than the detail be as yet unknown, and to be contained in regulation. We are concerned at the potential for this change to lead to people not being able to receive the best treatment for their condition.

Preferred Suppliers for other goods and services

The bill introduces the ability for W&I to engage with preferred suppliers for goods and services beneficiaries need; we believe that this may be items like whiteware, as well as goods such as food, and understand that the government intends to use the purchasing power that size brings to get value for money from suppliers.

We can see that it is important to get value for money, but are concerned that such state intervention in the market could have significant impact on small businesses not in the position to tender national purchasing contracts.

We question whether the potential economic impacts on small business in NZ have been assessed.

It is likely that many of the items that come under these agreements will be of the type for which an advance payment of benefit would be made; in this situation the person is paying for the goods with a loan from their benefit and we believe that like all other consumers they should have choice when making purchases.

This is a dis-empowering move that takes away people's purchasing choice, while potentially having negative impact on NZ businesses.

Beneficiaries needing an item for which there is a preferred supplier contract will be compelled to accept the item the MSD has purchased on the terms MSD negotiated, with no right of appeal.

We submit that if such a process is adopted it should be conducted in a clear and transparent way rather than the detail being hidden in regulations, and that there needs to be a right of appeal.

Reduction in change of circumstances grace period

At present people get an eight-week adjustment period when caring responsibilities change to enable an adjustment to new circumstances and reduction in finances. This will be reduced to 28 days.

While 28 days may seem sufficient time to adjust to a change of financial circumstances, finances are only a subsequent change for a person, who has had a child removed, or whose sick relative has gone into care or died. They will be coping with shock and find it difficult to even be sure of the right next move to make.
We are opposed to the reduction in this period, and believe that eight weeks is a reasonable adjustment time for someone with a major life change event, and that this period should be retained.

**Changes to the Medical Appeals Board**

The current Medical Appeal Board provisions are re-situated under section 10 along with the other review and appeal provisions of the Act. We support this realignment, and submit that it needs to be taken a step further.

Currently the Ministry's review and appeal process is a two-stage process, with an internal initial review adding an extra initial check. However the Medical Appeal Board process is a one-hearing process with Judicial Review being the only further course open as an appeal.

The Act refers matters in which the decision has been made on the basis of a medical opinion about health, disability, and work capacity to a Medical Appeals Board, there is no initial internal review of the decision prior to the Board hearing, and the process for the hearings is not conducted to meet a national standard but has huge regional variation, neither are there national outcomes able to be reported accurately.

We submit that a formal internal review process should be adopted to initially review the decision and ensure a consistent process has been followed. That a National standard be adopted to ensure a clear and consistent path for clients reviewing a decision to a Medical Appeal Board, which gives access to support people and an understanding of the decision. A decision, which we are advised, is not made solely on medical grounds but that “a number of factors including medical evidence are taken into account”.

On the grounds that the medical information informs rather than is the basis for these decisions, a right of appeal to the Social Security Appeal Authority be granted, or that a competent tribunal be appointed to hear such appeals, and ensure a nationally consistent approach to reviews and appeals by people affected by W&I decisions.

**Further suggestions and comments**

When the work tests for sole parents and Sickness beneficiaries became somewhat aligned, it was clear that a significant disadvantage was created for those on a Sickness benefit, as both categories were to seek part-time work, but their earnings would affect their benefits differently. This disadvantage has been retained in the combination of benefit types into the Jobseeker benefit; former Sickness beneficiaries assessed as able to work part-time will be seeking 10-20 hours per week, and sole parents with their youngest child between 5 and 14 will be seeking the same hours.

If the person limited to part-time work due to illness finds 15 hours per week at the minimum wage $202.50 before tax, their benefit will be abated by $85.75. However if the sole parent is in the same employment they will lose only $31.40.

This creates a high effective marginal tax rate, and accordingly a disincentive to part-time work, for people whose health makes full-time work unachievable at present.

We submit that an alignment of the abatement rates so that part-time work is incentivised for all
beneficiaries, and that the 70c rate is applied at a level tied to 20 hours at the minimum wage.

In detail this would look like:
First $100 no abatement (with retention of the childcare and personal effort allowances)
Up to 20 hours at minimum wage (currently $270) abated at 30c
Earnings in excess of $270 abated at 70c

We submit that such an adjustment to the abatement rates would incentivise part-time work and labour market participation.

Participation and opportunities in the workforce for sole parents, and people with health issues in the new categories included in the Jobseeker allowance, is severely curtailed by employer attitudes to parenting and to workplace suitability.

We submit that if there is going to be an expectation created that these people will be able to find suitable positions, then there needs to be engagement with employers to change attitudes towards employees, in particular relating to parenting obligations, and the perceptions that it will be unsafe/too hard/too expensive to hire a person with a health issue.

Split and shared parenting arrangements

Often when couples separate and make arrangements for the day-to-day care of their children they recognise the importance of both parents continuing to have an active role in caring for their children; this is also being reflected by Family Court Parenting Orders.

Thus there are more cases of shared and split custody, where both parents continue to play an active role in day-to-day parenting after separation, in these cases IRD splits the Family Tax Credit entitlement between the two parents.

The Social Security Act does not recognise that two parents may both be primary caregivers, unless there is a court order relating to split custody new 20C. Otherwise only one parent is treated as a sole parent, even when both have equivalent childcare responsibilities, and costs.

This view of parenting arrangements is outdated, and does not recognise that the best interests of the child are often served by joint parenting, neither does it recognise that many families do not have the resources to access the Family Court.

This failure to recognise shared and split custody arrangements often results in the parent not considered primary caregiver by W&I being financially unable to meet their obligations as a parent; in relation to providing a home, food, and other necessities of life.
This may lead to the parenting arrangement being unsustainable, and ultimately the child losing the intended advantage of continued quality interaction with both parents.

We submit that the provision of welfare must be designed with the best interests of the child as a primary consideration. We submit that a recognition of shared and split parenting arrangements is needed, both so that parents can be supported according to their actual situation, and children are not disadvantaged, but also so that W&I staff are able to recognise the parenting responsibilities of each parent when imposing work-test and other obligations.
Economic impact on rural communities

At present W&I operates a remote location policy which restricts people’s ability to receive a work-tested benefit if they live in a location to which the policy applies. This policy is going to be extended to apply to an extra 150,000 or more people as they are categorized as Jobseekers.

The impact I have seen of this policy in action has been the curtailing of growth and opportunities in these communities. When an employment opportunity is created there is no-one available to fill the position, the employer is unable to source workers from outside the area, as the policy results in a shortage of available accommodation for these workers; the opportunity is lost and the economy shrinks.

We submit that economic analysis is needed to ensure that W&I policies are not inhibiting economic growth especially in rural New Zealand.

In the past five years MSD and in particular W&I have undergone major changes in focus and service delivery in an environment of increasing demand and diminishing funding, we believe that these changes have had a negative impact on the way that services are delivered to the public.

The proposed changes in this bill are significant, MSD and W&I simply do not have the capacity or resources to effectively deliver this new service model to the number of people who will become Jobseekers.

The effects of the proposed changes are dis-empowering and punitive, they are set to punish people for being unable to get work in an economic recession.

We are very concerned that for the group of 'Jobseekers' with health issues W&I often fail to understand that seeking employment or getting training is a 'part' of a treatment plan that someone has with their health professional and that work will not in itself be a cure, in fact if other parts of the treatment plan are ignored work becomes detrimental.
**Clause by clause analysis**

*Clauses 1-4*
The purpose of the bill contained in clause 4(2) is not consistent with the title of Benefit Categories and Work Focus. While 4(2)(a) introduces benefit categories, 4(2)(b)(c) focuses not on work but obligations and sanctions. The bill in fact lacks a focus on work and assisting people into work.

*Clause 5*
Similarly clause 5, which inserts a new section 1A(d) to the purpose of the Act, adds a focus on specific obligations for young people, and social obligations for parents, to the existing focus on work.

This is in fact a radical change to the purpose of welfare, and empowers the state to play a very interfering dictatorial role in the lives of families and young people on the basis of their receipt of specified payments under the Act.

**We oppose this clause, and submit that the existing wording of 1A(d) reflects the title, which must surely be indicative of the purpose of this bill.**

*Clause 9*
Contains the extension of pre-benefit activities to cover all benefit applicants except the primary applicant for a Supported Living Payment. This change is of great concern, given the triage effect that the Ministry seeks to achieve by significantly reducing the numbers of people who successfully complete their applications.

This clause also extends the range of activities which can be required of an applicant before their application is investigated under section 12, this exemption from the obligations under section 12 is used to lapse perfectly valid applications after misinformation has been given orally.

Thus we believe that the applicant must be advised in writing of the requirements in relation to pre-benefit activities, and also of the information required to support their application.

In 11F the onus is on the chief executive to ensure the applicant understands their obligations and is able to achieve the activities. We support this and ask that such information be given in writing, if necessary in the applicant’s first language.
We have significant concern about the extension of pre-benefit activities, and the accompanying extension of the 20-day application lapse rule to encompass vastly more vulnerable families than the present triage system successfully discourages.

Section 11H recognises that in some cases an applicant's spouse or partner may be non-compliant and seeks to lessen the impact on the family as a result of this. While we support this recognition, we suggest that this may be an indicator of a sole parent or single applicant rather than a couple, as there exists in such cases a lack of financial interdependence, and willingness to support.

We oppose the extension of these activities to more applicants, and submit, that if they are imposed there must be an active monitoring of unsuccessfully applicants. We submit that there must be a re-examination of the first application, with the view to granting from date of first application, when a “triaged” applicant reapplicant within 13 weeks. We submit that requirements must be clearly stated in writing in the applicant’s preferred language. We are concerned that this process will have negative impacts on applicants' health, and will fail to recognise and meet the immediate welfare needs of vulnerable families.

Clause 10
While this clause maintains the status quo we submit there is opportunity to consider that appeal under 12J be extended to matters heard by the Medical Appeal Board.

Clause 11
This is the first of the new benefit categories and is essentially the definition of sole parent, and qualifications, transferred directly from the Domestic Purposes benefit, with change of age eligibility to 19, and a ceasing of eligibility when youngest 'qualifying' child turns 14.

Unfortunately this also imports the outdated definition of split custody new section 20C, historically this was adopted to avoid a risk of families splitting custody to maximise entitlement. It unfortunately translates to a rule which creates significant disadvantage to one custodial parent in genuine cases of split custody, in practice the first parent to apply is granted assistance as a sole parent.

It is important that as more often parents are recognising the need for children to have ongoing relationships with both parents, the provision of welfare payments to parents recognises this change in family structure and parenting expectations after separation. Many parents cannot afford the expense of a court order. A similar issue exists with shared custody arrangements, as W&I only consider one parent as primary caregiver.

We oppose clause 11 and the change of benefit category. We recommend that consideration be given to the qualifications for dependant child so that situations of split and shared custody can be supported as in the best interests of the child.

Clause 14
This inserts a new purpose for the new supported living payment, as stated we oppose the combination of the former Invalids benefit with the 'carers' benefit.

The new 40A(2) inserts into the purpose an expectation that people support themselves through
work and an implicit expectation that the Supported Living Payment will be temporary, despite a qualification being a permanent and severe restriction in ability to work.

We oppose the creation of the new supported living payment, and the combination of these benefit categories. We also submit that the addition to the purpose using 40A(2) is inconsistent with the qualifications in 40C(3) and thus should not be adopted.

Clause 16
Whilst most of the qualifications are retained the age for the carers benefit has been raised from 16, to 18 or 19. We agree that 16 is young for a person to be giving full-time care but appreciate that 16 and 17 year olds were only able to qualify where there was no other suitable carer; what will happen in these circumstances now?

Clause 21
This explicitly states that a child will be regarded as an additional child ignored for the purposes of work-testing at all times after the child is born.

We are opposed to this clause, and to the imposition of the additional/one child policy on New Zealand citizens on the basis of the parental income source at the time of the child's birth. We believe that this is an issue of Human Rights Discrimination.

Clause 22
This clause enables the chief executive to compel benefit recipients to work with contracted third parties, and to impose financial sanctions for non-compliance. While we agree that some services may be better delivered by the private sector such as training, we feel that it is important to set parameters around these services, and to have clear and transparent contracting, and assessment processes to ensure value for money.

We submit that there should be some expectations expressed in this section to ensure that a transparent process of contracting results in high quality services, which meet the needs of the individuals receiving them. There also needs to be recognition that in some cases the individual will not be able to work with the contracted third party.

Clause 24
This extends the application of work preparation activities to all beneficiaries not currently work-tested. While it is positive to be assisting everyone to have a life of independence and choice, this section is in fact about extending the ability to impose harsh financial sanctions onto anyone receiving financial assistance.

We are totally opposed to sanctions being able to be applied under section 117 on non work-tested benefits.

We submit that non-compliance with work preparation activities under section 60Q, and also any sanctions for non-compliance under 60RA to 60RC and 60GAG should be considered under the regime in 60T to 60Z, which gives more opportunity for discretion and re-compliance.

Clause 25
This clause imposes social obligations on parents, with the compulsion to impose financial sanctions under section 117 for non-compliance. We submit that it is not the role of the state to impose financial penalties on families for their parenting choices and that this is an abuse of human rights.

We oppose this clause, and urge the committee to rethink the financial sanctioning of vulnerable families.

Clause 28
This clause alters the payment of Disability Allowance and removes the choice of providers and treatments from the beneficiary and their health practitioner, and puts this choice in the hands of the chief executive.

Further the nature of these contracted goods and services will be defined in regulations. Along with the compulsory nature of the treatment choices of the chief executive this clause removes any right to review or appeal the treatment decision of the chief executive. We have seen cases where the chief executives health and disability team have made decisions about a beneficiary's need for certain treatments, (contradictory to the advice of the person's health professionals,) and these decisions have serious impacts on the person's health and well-being. Further the beneficiary has no right to negotiate payment according to their personal financial circumstances.

We are opposed to this clause; we submit that treatment decisions are best made by a person's treating health professional.
We submit that if this measure is adopted the written agreement of the patient’s treating health professional must be gained before the person is referred to any contracted treatment. That the level of payment for the treatment must be assessed on the basis of individual ability to pay, rather than on the basis of an agreement between the chief executive and the provider, and review rights must be given.

Clause 30
The clause sets out the process and enables financial sanctions to be imposed where there is a warrant to arrest a beneficiary. We note that while Justice or the Police will advise MSD that there is a warrant, it will be the responsibility of the beneficiary to prove it is resolved. We have significant concerns in relation to privacy with this proposal, we understand that the system of identification verification used by Justice and the Police differs from that of MSD. We are concerned that information will be given to the wrong people about others’ involvement with the Justice system, both inadvertently through mistaken identity, and because there is well-founded concern that agencies are unable to keep private information secure.

We submit that this is not the role of MSD, and that the public does not feel that such an exchange of confidential personal information could be handled professionally.
We submit that if this process is to be imposed that the matching be prescribed, that the MSD must assume the warrant has been resolved unless advised by the other competent authority that it is still outstanding, and that it is unreasonable to put the onus for providing outcome information on the citizen, when the government agencies can obviously exchange this.

Clause 31
This changes the effect of absence from NZ, and imposes a requirement to advise the department before departure.
We are opposed to this clause and submit that should this be adopted the chief executive needs the discretion to consider exceptional circumstances giving rise to a failure to notify.

Clause 35
This amendment shortens the time the benefit continues to be paid at the higher rate, after a sudden change in circumstances such as the death of a patient or child; the period will be halved from 8 weeks to 28 days.

We oppose this change, and submit that 8 weeks is a short time to adjust to the shock created by sudden change or loss.

Clause 36
This is an extension of the requirement (currently applied to Unemployment and Sickness) for beneficiaries to reapply for the benefit as often as required by regulations, to any benefit type the chief executive chooses, these specified benefits also being defined in regulations.

We are opposed to this amendment, we believe the reapplication process is used to disqualify people from benefit, and that it will impact particularly significantly on people with health issues. We submit that the committee recommend a robust resulting measure to ensure that people who are genuinely in need do not loose support in the reapplication process.

Clause 38
This amends payment of benefit as advances, and takes choice of supplier away from the beneficiary, also removing all of the choices generally associated with being a consumer, including any right to negotiate payments. This does not facilitate financial literacy, or enable budget control; it may also have serious impacts for small NZ businesses unable to bid for national contracts

We oppose this amendment especially in the compulsion to deal only with the government's contracted supplier on their terms. While it is reasonable for the government to seek to use its purchasing power to get good deals this must not be at the expense of consumer choice (if the deal is a good one there will be no need to compel people to take it). Neither can it is exercised in such a way as to impact the national economy

Clause 39
This inserts the definitions necessary for drug testing sanctions

We oppose this clause.

Clause 40
This introduces the Jobseeker Allowance, with provisions essentially transferred from the existing unemployment benefit provisions. Section 88E seeks to transfer in the provisions to include those currently on a sickness benefit, we are concerned for these people as the requirements to prove work ability have potential to have a negative impact on the maintenance of their health.

We oppose the creation of the Jobseeker allowance and submit that people would be better assisted into employment using a tailored benefit system able to better target each group with an awareness of their barriers.
Clause 41
This clause introduces the Work Ability Assessment, the process for which will be defined in regulations. As stated we are very opposed to this proposal in its current form, and especially in light of the British model that the Minister has indicated it is her intention to follow.

Furthermore this section is subject to sanctions under section 117, so a person who does not agree to a Work Ability Assessment must be financially sanctioned; by definition of section 100B applying to them this person has a health issue.

We are opposed to the introduction of a Work Ability Assessment, and submit that if such an assessment is adopted it must be developed in a transparent process using input from all relevant stakeholders.

Further we are opposed to this compulsion to submit to a medical assessment under threat of financial sanctions and consider this an abuse of the right to choose and refuse medical treatment.

Clause 42 & 43
Includes drug test obligations in work obligations, also enables the chief executive to recover the cost of the drug test from the beneficiary. We are opposed to additional financial charges on individuals and their families for failing a pre-employment drug test, when those costs are only imposed by virtue of the person's income source.

We believe that the Act contains sufficient scope for sanctions to be imposed on persons who fail a pre-employment drug test. We oppose these clauses.

Clause 44
Greatly expands the range of obligations which beneficiaries will be sanctioned for failing to complete to the chief executive's satisfaction, at the same time the chief executive's ability to exercise discretion is removed and the chief executive MUST impose these sanctions.

We are opposed to the extension of the sanction regime to the greatly increased range of vulnerable people, and we are concerned that hardship, and significant impact on the health of families and individuals will result.

We are concerned that section 116C may by reason of its arrangement cause the application of 116C(4) to be overlooked.

So that Section 116C defining reasonable cause is properly interpreted we suggest the relocation of 116C(4) as 116C(1) with a subsequent renumbering of (1) (2) & (3)

Clause 45
This clause imposes a 13-week cancellation of benefit, where the chief executive considers that the person has turned down an offer of suitable employment.

We are opposed to this clause, we have seen the chief executive act very unreasonably in defining suitable employment for individuals, and this section will be applied to all beneficiaries subject to a work test and thus will apply to many vulnerable families with children. We submit that the committee must be entirely satisfied that W&I has robust and efficient systems for referring the right people to the right jobs before this change can be enacted.
Clause 47 & 48
These clauses set out the process for re-compliance with regard to a failed drug test; while we congratulate the MSD for putting consideration into this re-compliance process we submit this level of detail should have been applied to each of the new obligations for which a sanction must be imposed.

Clause 49 & 50
These clauses extend the preferred supplier deals to also apply to goods and services paid for under a welfare programme written under section 124(1)(d), this is in addition to advances and disability allowance. This further limits the spending choices of the consumers and transfers these choices to the government. The same concerns as previously expressed continue, this is the state deciding what people eat, what they wear, who cares for their children, who provides their medical and dental treatment..... this on the basis of their income source and employment status.

We support the government seeking better deals for the taxpayer, and submit that everyone on a benefit should be given the opportunity to take advantage of these deals, but they must have final choice to ensure their needs as a consumer, and the needs of their local economy are met. We are opposed to the compulsion to use the preferred supplier, to pay at predetermined rates, and to have no right to review this choice of the chief executive.

Clause 52
This clause extends the exchange of information between MSD and contracted providers.

We submit that there needs to be a code for this exchange developed in conjunction with the office of the Privacy Commissioner, using the principles of the Privacy Act.

Clause 53
Creates the ability for classes of Disability Allowance expenses to be set in regulations, and regulations to be passed specifying expenses, which must not be funded.
At present section 69C of the Act defines Disability Allowance, and this section is further informed by a Ministerial Directive. The Disability Allowance funds expenses that arise as a result of a person's disability, which their health practitioner has verified they are supervising and believe to be of therapeutic value.
This results in a wide variety of treatments, therapies and products being covered, assessed according to each individual's circumstances.
The administration of Disability Allowance is problematic due to verification requirements, and recently due to judgements being made by third party non-treating advisers employed by the Ministry, who make assumptions about correct and appropriate treatment, without meeting the client, and without sufficient, up to date, and relevant qualifications. This has led to hardship and worsening health for many individuals, and any changes to the delivery of Disability Allowances need to be made in public through a process of democratic debate.

We oppose this clause enabling the creation of regulations relating to Disability Allowance, and urge that all decisions affecting people's access to medical care and treatment be made in an open and transparent manner.

Clause 54
Creates further regulations this time in relation to warrants to arrest, and the circumstances in which section 75B is applied. This amendment also gives power for information to be exchanged between MSD employees and the Ministry of Justice, and the New Zealand Police.
We oppose the transfer of decisions into the far less transparent process of setting regulations. We submit that the New Zealand public does not support the increased exchanges of information between ministry staff until changes have been made to satisfy the concern for the security of this information.

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