

Justice

Legal Services Act 1991

Legal Services Board Appointments

Pursuant to section 98 (f) of the Legal Services Act 1991, the Minister of Justice has been pleased to reappoint

Margaret Alison Boyd-Bell, accountant of Auckland, and

Janet Mary Hesketh, administrator of Wellington

and further appoint, pursuant to section 98 (d) of the said Act

Sharon Ellen Barcello Gemmell, co-ordinator of Marlborough

and further appoint, pursuant to section 98 (e) of the said Act

Alan Donald McKenzie, barrister and solicitor of Wellington

each as a member of the Legal Services Board for a term of 3 years on and from the date hereof.

Dated at Wellington this 3rd day of June 1999.

COLIN KEATING, Secretary for Justice.

gp4517

Social Welfare

Social Security Act 1964

Direction by Minister of Social Services, Work and Income

To: The Chief Executive of the Department of Work and Income

Pursuant to section 5 of the Social Security Act 1964, I, Roger Morrison Sowry, Minister of Social Services, Work and Income, give you the following direction.

This direction replaces and revokes the previous directions relating to Advance Payment of Benefits given to the Director-General of Social Welfare and in force, in relation to you, by virtue of section 10 of the Employment Services and Income Support (Integrated Administration) Act 1998.

Advance Payment of Benefits

This direction applies where a Beneficiary makes application for an advance payment of a Benefit under section 82 (6) of the Social Security Act 1964.

In considering whether an advance payment of a Benefit would best meet the Immediate Needs of a Beneficiary and in exercising your discretion to make such payment, you are to apply the following provisions.

Analysis

1. Interpretation
2. Identifying Particular Immediate Need
3. Determining whether an Advance would Best Meet the Immediate Needs of the Beneficiary
4. Amount of Advance
5. Repayment of Advance
6. Exercise of Discretion
7. Advances for Particular Needs

1. Interpretation

1.1 In this direction, unless the context otherwise requires,—

“Act” means the Social Security Act 1964;

“Advance” means an advance payment of a Benefit under section 82 (6) of the Act;

“Cash Assets”, in relation to any person—

(a) mean assets of that person and his or her Spouse (if any) that can be readily converted into cash and include—

(i) shares, stocks, debentures, bonus bonds, and other bonds;

(ii) bank accounts, including fixed and term deposits with any bank, friendly society, credit union, or building society;

(iii) money invested with or lent to any bank or other financial institution or person;

(iv) the net equity held in any property or land not used as the person's home;

(v) building society shares;

(vi) mortgage investments and other long term loans;

(vii) bills of exchange or promissory notes;

(viii) the applicant's share in any partnership; but

(b) do not include—

(i) the motor vehicle principally used by the person for his or her personal use;

(ii) a caravan, boat, or other vehicle the net equity in which is less than \$2,000;

(iii) a caravan, boat, or other vehicle which is used by the person or a member of his or her immediate family for day to day accommodation;

(iv) the personal effects of the person and his or her Spouse (if any);

“Immediate Needs”, in relation to a Beneficiary, means all of the Beneficiary's essential needs, including—

(a) the Beneficiary's Particular Immediate Need; and

(b) his or her ability to meet the regular and ongoing essential living expenses of the Beneficiary and his or her Spouse and Dependent Children (if any);

“Invalid's Benefit” means an invalid's Benefit under section 40 of the Act;

“Particular Immediate Need”, in relation to a Beneficiary, means a particular and immediate need for an essential item or service.

1.2 Expressions otherwise defined in section 3 (1) of the Act are to have the meanings so defined.

Note: Except in headings, words, or phrases whose words begin with capital letters refer to a term defined in clause 1.1 or in section 3 (1) of the Act.

2. Identifying Particular Immediate Need

2.1 To be considered for an Advance, a Beneficiary must be able to identify a Particular Immediate Need.

2.2 In determining if a Particular Immediate Need exists, you are to have regard to the following matters:

(a) the effect on the Beneficiary or the Beneficiary's Spouse or any Dependent Child if the need is not met;

(b) when that effect might be expected to impact on that or those persons;

(c) the Beneficiary's ability to meet the need from the Beneficiary's own resources.

2.3 A Beneficiary can generally be expected to be able to meet a Particular Immediate Need if the Beneficiary and his or her Spouse (if any) has—

(a) Cash Assets of—

(i) in the case of an unmarried person, a value equivalent to four times the maximum weekly rate of an Invalid's Benefit for an unmarried person without a Dependent Child; and

(ii) in the case of a married person or a Sole Parent, a value equivalent to four times the maximum weekly rate of an Invalid's Benefit for a married couple without a Dependent Child; or

(b) Income (including any New Zealand Superannuation or Veteran's Pension payable to the Beneficiary or his or her Spouse) that would prevent payment of an Invalid's Benefit.

Note discretion in exceptional circumstances in clause 6.2.

3. Determining whether an Advance would Best Meet the Immediate Needs of the Beneficiary

In determining if an Advance would best meet the Immediate Needs of a Beneficiary, you are to have regard to:

(a) the assistance that is or might be available to the Beneficiary from other sources or under the Act to meet the Beneficiary's Particular Immediate Need;

(b) the Beneficiary's existing level of debt, and whether the rate of repayment of the proposed Advance (as set out in clause 5) from subsequent instalments of the Benefit would be sustainable, having regard to—

(i) whether the reduction of the amount of Benefit payable to the Beneficiary will leave enough for the Beneficiary's living expenses and any other debt repayments; and

(ii) the likelihood it would cause the Beneficiary to seek further Advances or other supplementary assistance under the Act;

(c) whether the Beneficiary is likely to continue to be in receipt of the Benefit for the period over which the Advance would be repayable;

(d) any other matters put forward by the Beneficiary to justify the Advance.

4. Amount of Advance

4.1 The amount of an Advance should be the least amount required to meet the Beneficiary's Particular Immediate Need.

4.2 In no case is the amount of an Advance to exceed the instalments of the Benefit payable to the Beneficiary and his or her Spouse (if any) in a six week period.

Note discretion in exceptional circumstances in clause 6.2.

5. Repayment of Advance

Subject to clause 7.2.3, every Advance is to be recovered from the Beneficiary at a rate that will ensure the Advance is repaid within 24 months after the making of the Advance.

Note discretion in exceptional circumstances in clause 6.2.

6. Exercise of Discretion

6.1 If you determine that a Particular Immediate Need exists, and that an Advance would best meet the Immediate Needs of the Beneficiary, you are to have regard to the matters set out in clause 6.3 in exercising your discretion whether to make an Advance.

6.2 In the exercise of your discretion, if you determine that a Beneficiary has exceptional circumstances, you may, after having regard to the matters set out in clause 6.3—

(a) make an Advance where the Beneficiary and his or her Spouse has Cash Assets or Income exceeding the limits set out in clause 2.3; or

(b) make an Advance in excess of any limit set out in clause 4 or clause 7.1.3; or

(c) recover an Advance at a lower rate than set out in clause 5 or clause 7.2.4.

6.3 The matters referred to in clause 6.1 and 6.2 are—

(a) the Beneficiary's ability to repay the Advance;

(b) whether the Beneficiary could reasonably have been expected to have made provision for the Particular Immediate Need;

(c) the extent to which not making an Advance, or an Advance in excess of the limit, or requiring recovery at the rate set out in clause 5, would—

(i) worsen the Beneficiary's position; or

(ii) increase or create any risk to the life or welfare of the Beneficiary or the Beneficiary's Spouse or any Dependent Child; or

(iii) cause serious hardship to the Beneficiary, or the Beneficiary's Spouse or any Dependent Child;

(d) any other matters that you consider to be relevant, in the circumstances of the particular case.

7. Advances for Particular Needs

7.1 Essential Home Repairs

7.1.1 You may, subject to the provisions of this direction, make an Advance to any Beneficiary for the following Particular Immediate Need:

(a) to carry out essential repairs and maintenance to the Beneficiary's home, or to the paths, fences, or retaining walls of, the property on which that home is located; or

(b) to provide essential services to the Beneficiary's home such as sewerage, water, or electricity connection.

7.1.2 No Advance under clause 7.1.1 may be made unless—

(a) the Beneficiary provides proof of his or her ownership (or joint ownership) and occupation of the property to which the Advance is to be applied;

(b) the work to be done is essential in order to maintain the property in a reasonable living standard; and

(c) the Beneficiary shows proof that he or she has unsuccessfully applied for financial assistance for the purpose from any other agencies that provide assistance to Beneficiaries for such purposes.

7.1.3 An Advance under clause 7.1.1 should not exceed an amount of \$1,000.

Note discretion in exceptional circumstances in clause 6.2.

7.2 Safety Footwear

7.2.1 You may, subject to this direction, make an Advance to a Work-tested Beneficiary who—

(a) is directed, under section 111 of the Act, to participate in an Organised Activity that involves undertaking work; and

(b) is, for the Beneficiary's safety while participating in that activity, required by the provider of the work to wear safety footwear not supplied by that provider; and

(c) does not already own suitable safety footwear; and

(d) could not participate in the Organised Activity without purchasing safety footwear.

7.2.2 A Beneficiary may not be refused an Advance under clause 7.2.1 by reason only of the matters set out in clause 3 (b) or (c).

7.2.3 An Advance under clause 7.2.1 should not exceed \$130.

Note discretion in exceptional circumstances in clause 6.2.

7.2.4 Where the Beneficiary receives a Participation Allowance for participating in the Organised Activity, an Advance under clause 7.2.1 should be recovered at the rate of not less than \$5 a week.

Note discretion in exceptional circumstances in clause 6.2.

Dated this 25th day of May 1999.

ROGER SOWRY, Minister of Social Services, Work and Income.

g04503

Recoverable Assistance for Non-Beneficiaries Amendment

Pursuant to section 124 (1) (d) of the Social Security Act 1964, I, Roger Morrison Sowry, Minister of Social Services, Work and Income, approve the following amendments to the Recoverable Assistance for Non-Beneficiaries welfare programme (as approved by me on 15 February 1999), which are to be considered part of the programme.

Dated this 25th day of May 1999.

ROGER MORRISON SOWRY, Minister of Social Services, Work and Income.

Amendments

1. Special Assistance with Driver Licence Costs

1.1 Clause 3.1 of the programme is amended by inserting, after the definition of the term "Departmental Debt Balance", the following definition:

" 'Driver Licence' has the same meaning as in the Land Transport Act 1998."

1.2 The programme is amended by inserting, after Clause 12.1, the following heading and clauses:

"Part 3A

"Payments to People in Specific Circumstances

"12A Grants for Driver Licences

"12A.1 Renewals of existing driver licences

"12A.1.1 The Chief Executive may make a Payment to an Applicant for the actual cost of applying under the Land Transport (Driver Licensing) Rule 1999 for a renewal of a Driver Licence if—

- (a) The Applicant—
 - (i) Is the holder of an unexpired Driver Licence; or
 - (ii) Has been the holder of a Driver Licence which the Applicant failed for a good or sufficient reason to renew before its expiry; and
- (b) The Applicant is applying for a Driver Licence of the same or equivalent class or classes.

"12A.1.2 The maximum amount of any Payment under Clause 12A.1.1 must not exceed—

- (a) For an Applicant under the age of 76 years, \$29.50;
- (b) For an Applicant between the age of 76 and 80 years, \$37.50;
- (c) For an Applicant over the age of 80 years, \$77.00.

"12A.1.3 The Chief Executive may make one Payment under Clause 12A.1.1 to each of the Applicant and his or her spouse during a 52 Week Period.

"12A.1.4 A Payment under Clause 12A.1.1 must not be made to an Applicant who is disqualified from holding or obtaining a Driver Licence under any enactment.

"12A.2 New Driver Licences

"12A.2.1 The Chief Executive may make a Payment to an Applicant, who—

- (a) Has not previously been the holder of a Full Licence; and
- (b) Has an immediate and Essential Need to obtain a Driver Licence,—

for the actual cost of applying and being tested for a Learner Licence, a Restricted Licence, or a Full Licence. In this Clause and in Clauses 12A.2.4 and 12A.2.5, 'Full Licence', 'Learner Licence', and 'Restricted Licence' have the same meanings as in the Land Transport (Driver Licensing) Rule 1999.

"12A.2.2 An Essential Need exists for the purposes of Clause 12A.2.1 where the Chief Executive is satisfied that it is necessary for the Applicant to obtain a Driver Licence—

- (a) To undertake any Organised Activity of a kind that the Applicant will be required to participate in at least once every fortnight;
- (b) To apply for Employment for which a Driver Licence is an essential requirement;
- (c) To undertake an Employment opportunity available to the Applicant;
- (d) Where the Applicant or any member of his or her Immediate Family has a disability, to provide transport to enable that person to undertake daily living activities (including receiving treatment for the disability, or undertaking education or Employment); or
- (e) For any other special reason.

"12A.2.3 In considering whether a Driver Licence is necessary, the Chief Executive must have regard to:

- (a) The availability and suitability of public transport and any other transport options; and
- (b) The particular circumstances of the Applicant and his or her Immediate Family.

"12A.2.4 The maximum amount of any Payment under Clause 12A.2.1 must not exceed—

- (a) For an Applicant applying for a Learner Licence, \$63.50;
- (b) For an Applicant applying for a Restricted Licence, \$74.50;
- (c) For an Applicant applying for a Full Licence, \$105.00.

"12A.2.5 The Chief Executive may, to each of the Applicant and his or her spouse during a 52 Week Period, make one Payment under Clause 12A.2.1 in relation to each of the categories of Learner Licence, Restricted Licence, or Full Licence.

"12A.2.6 A Payment under Clause 12A.2.1 must not be made to an Applicant who—

- (a) Is disqualified from holding or obtaining a Driver Licence under any enactment; or
- (b) Has failed without good and sufficient reason to renew his or her Driver Licence before its expiry."

Explanatory Note

This note is not part of the welfare programme but is intended to indicate its general effect.

These amendments, approved by the Minister of Social