

Section 23 Disability Services Act 1986 (DSA) Participant Information Sheet



You may be liable, under section 23(2) of the *Disability Services Act 1986* (DSA), to repay the Commonwealth for the cost of your rehabilitation program, namely the Disability Management Service, if you are entitled to compensation or damages from someone for the disability, injury or health condition for which you are undertaking, or have undertaken the rehabilitation program.

The Department of Education, Employment and Workplace Relations (DEEWR) is responsible for administering recoveries under section 23 of the DSA on behalf of the Commonwealth, and the following information is important to help you understand how and when the Commonwealth may recover costs.

When will I have to repay cost?

You may have to repay the Commonwealth for the cost of your Disability Management Service when you recover or receive compensation or damages for the disability, injury or health condition related to the Disability Management Service you have undertaken or are undertaking. For example, this could be when you receive money from an insurance company after you have made an insurance claim, when you reach an out of court settlement for your compensation or common law claim, or when a court awards you damages for your disability, injury or health condition.

How much will I have to repay?

The Commonwealth is entitled to recover the cost, as determined by the Secretary of DEEWR, of and incidental to the Disability Management Service provided to you. The cost of a Disability Management Service can be different for each participant depending on the amount of time you spend in your service. The maximum amount of time you can spend in your service is 24 months with a maximum cost of \$7,480.00. If you participate in a Disability Management Service for less than the full 24 months the cost of your service is calculated at a pro-rata rate.

Where you are participating in your Disability Management Service as a Job in Jeopardy participant the maximum period of service is 12 Months with a maximum cost of \$2,460.00.

In the event that a Notice of Charge is sent while you are still participating in the Disability Management Service the recoverable cost will be for a full 24 month program. However, if your final service cost is less than our estimate, we will automatically refund you the difference. To assist us to make your refund, you may be asked to provide your bank details.

For more information on how the cost of your Disability Management Service is calculated please reference the Disability Employment Services – Disability Management Service Cost Fact Sheet.

How are Costs recovered?

Under section 23 of the DSA, the Commonwealth can require any party that pays you compensation, or is ordered to pay you damages, to pay the Commonwealth the cost of your rehabilitation program, in this case the Disability management Service, from your compensation or damages settlement.

You will be asked to complete and sign a Contact Authority Form (CAF). The CAF in part, gives DEEWR the authority to release information regarding your Disability Management Service recovery to the named parties thus enabling DEEWR to notify the parties involved in a compensation or damages case of their obligations under

section 23 of the DSA. You will need to provide contact information for each the parties involved in your claim including your solicitor, the liable party and their insurance company and/or solicitor.

Notices of your Disability Management Service cost will be sent to you, the party you are claiming compensation or damages from and your solicitor. It is important that this cost is considered in your claim for compensation or damages.

DEEWR, on behalf of the Commonwealth, issues the following notices in respect of recovering the cost of your Disability Management Service under section 23 of the DSA:

1. **Letter of Intent** - (sent to you and your solicitor) explains that DEEWR will recover the cost of your Disability Management Service if you receive compensation or damages for your disability, injury or health condition for which you are undertaking the service.
2. **Notice of Intent to Recover Costs** - (sent to the party liable to pay you compensation or damages) informs other parties of their obligation to ensure that your Commonwealth-funded Disability Management Service cost is recovered by the Commonwealth before you receive a your payment for compensation or damages. It will include the estimated or actual cost of your Disability Management Service.
3. **Final Notice of Charge** - This letter states the actual total cost of your Disability Management Service if completed. The Final Notice of Charge may include an estimate of future cost if you are still participating in the Disability Management Service.

All notices are sent to the person liable to pay you compensation or damages (or their insurer or solicitor), and copies are sent to you and your solicitor. Some notices may be issued or re-issued after you have finished your Commonwealth-funded Disability Management Service.

Notices will inform you of your obligations and the service provided. No information will be provided to third parties about your Disability Management Service without your consent.

If you settle your compensation or damages claim before DEEWR sends you and the relevant parties to your compensation or damages claim any notices, this does not discharge your obligation under the DSA to pay to the Commonwealth an amount equal to the cost of your Disability Management Service.

If however you have participated in the Disability Management Service, and received payment of your compensation or damages before your debt to the Commonwealth is repaid, you will be responsible for making repayment to the Commonwealth directly. Please contact the Disability Management Service Recovery Team as soon as possible to arrange repayment if you have received your compensation or damages in these circumstances. Legal action may be taken against you if payment is not received.

It is very important that you advise your solicitor and any other relevant parties to your compensation or damages claim, of your obligation to pay the Disability Management Service cost under section 23 of the DSA.

If DEEWR has not issued any notices to you about the cost of your Disability Management Service and these are needed for inclusion in your compensation or damages settlement, you may ask to be issued with them urgently by calling the Disability Management Service Recovery Team Hotline on Freecall 1800 001 894, via Fax at 02 6267 4651, by email at dmsrecoveries@deewr.gov.au or via post at:

The Department of Education, Employment and Workplace Relations
Disability Management Service Recovery Team C12MT1
GPO Box 9880
CANBERRA ACT 2601.

What are the special circumstances under which I can retain a refund or be released from liability in regards to my Disability Management Service cost?

In some cases special circumstances may exist where it may be unreasonable or unfair for DEEWR to recover the cost in relation to your Disability Management Service. You will need to make a formal application to DEEWR under the special circumstances provisions of the DSA for a refund of the recovered Disability Management Service cost or a release from liability to pay the Disability Management Service cost.

You may apply for a refund or release from liability under special circumstances if DEEWR:

- has recovered the Disability Management Service cost from your compensation settlement; or
- you have received compensation or damages and DEEWR is intending to recover the cost directly from you.

You may apply for a release from liability if you have not yet received compensation or damages however, generally you must receive compensation or damages before you can provide details of your settlement to DEEWR and be released from a liability.

What are special circumstances?

In determining whether special circumstance exists, a holistic view of various factors pertaining to a person's circumstances is taken.

Generally, circumstances will be considered "special" for the purposes of assessing special circumstances under the DSA if:

- they have arisen due to a combination of factors; and/or
- they are markedly different to the normal range of cases; and/or
- the recovery of Disability Management Service cost could lead to, or have led to, extreme financial hardship or an inequitable, unjust, or unreasonable situation.

What is the process for applying for special circumstances?

Application forms can be found at the Job Access website www.jobaccess.gov.au under the search topic 'section 23', or can be requested from the Disability Management Service Recovery Hotline on Freecall 1800 001 894, by Fax at 02 6267 4651, by email at dmsrecoveries@deewr.gov.au or by post at:

The Department of Education, Employment and Workplace Relations
Disability Management Service Recovery Team C12MT1
GPO Box 9880
CANBERRA ACT 2601.

When a completed application is received DEEWR will endeavour to make a decision and advise you of the outcome within 30 days.

If you are dissatisfied with the outcome of your request for a refund or release from liability, you may, in accordance with section 26 of the DSA, apply to the Secretary of DEEWR requesting a review of the decision. Applications should be made in writing within 30 days after the day you received the notice of decision, or within such further period as the Secretary allows. You will be advised of the outcome of your request for review after which time no further consideration will be given by DEEWR.

However, if you remain dissatisfied with DEEWR's decision you may apply to the Administrative Appeals Tribunal (AAT) in writing within 28 days of receiving the review decision outcome letter. The AAT can be contacted on 1300 366 700 or through their website <http://www.aat.gov.au>.

What is done with my information?

Information about you, your Disability Management Service, and the people from whom you may be entitled to claim compensation or damages is collected by the Commonwealth to manage claims for repayment of your Disability Management Service cost under section 23 of the DSA.

You will be asked to agree to the disclosure of this information to certain people and organisations so that the Commonwealth can properly manage claims for repayment. These people and organisations may include your legal representatives, your Disability Management Service provider, and people liable to pay you compensation or damages and their legal representatives.

Where can I obtain more information, give feedback, or make a complaint in relation to my Disability Management Service?

1. Your Disability Management Service Provider

Every participant's Disability Management Service is different because each program is tailored to the individual needs of the participant.

If you wish to find out more about services that have been or are going to be provided to you as part of your Disability Management Service you should ask your Disability Management Service provider.

If you are not satisfied with the services that you are receiving you should tell your Disability Management Service provider. Ask to speak to a manager or a supervisor if you think it is appropriate.

2. Customer Service Line – Freecall 1800 805 260

Disability Management Service providers are engaged by DEEWR to deliver the Disability Management Service.

Providers are contractually bound to provide services according to a code of practice and a service guarantee that set out principles for high-quality service delivery in achieving the best outcomes for participants.

DEEWR's Customer Service Line Freecall 1800 805 260 is available to you should you wish to provide feedback or make a complaint in regards to the quality of the services provided to you during your Disability Management Service.

Customer service officers will make enquiries in relation to complaints and may require Disability Management Service providers to take remedial action.

3. Disability Management Service Recovery Team Hotline – Freecall 1800 001 894

The DEEWR Disability Management Service Recovery Team Hotline Freecall 1800 001 894 is available should you have any questions about your obligations to pay the Disability Management Service cost in the event that you are seeking or have received compensation or damages.

4. Complaints Resolution & referral Service (CRRS) – Freecall 1800 880 052

The CRRS is an independent organisation funded by the Australian Government Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA). It was established in line with the Australian Government's strategy to ensure service quality within disability employment services.

Commonwealth funded disability service providers are obliged to follow the Disability Services Standards. The CRRS, freecall 1800 880 052, looks impartially into general complaints about services provided as part of Disability Management Service and specific complaints in relation to the Disability Services Standards.