



Social Security (Administration) (Enhanced Income Management Regime—Commonwealth Referrals and Exemptions) Determination 2023

I, Amanda Rishworth, Minister for Social Services, make the following determination.

Dated 1 September 2023

Amanda Rishworth
Minister for Social Services

Contents

Part 1—Preliminary	1
1 Name.....	1
2 Commencement	1
3 Authority.....	1
4 Definitions	1
Part 2—Vulnerable welfare payment recipients	4
Division 1—Specified States, Territories and areas	4
5 Specified States, Territories and areas	4
Division 2—Decision-making principles	5
Subdivision A—General	5
6 Vulnerable welfare payment recipient—decision-making principles.....	5
Subdivision B—Usual case	5
7 Usual case	5
Subdivision C—Persons who are vulnerable youth or have been released from gaol or psychiatric confinement	7
8 Persons who are vulnerable youth or have been released from gaol or psychiatric confinement	7
Part 3—Disengaged youth and long-term welfare payment recipients	9
Division 1—Exempt welfare payment recipients—specified class of persons	9
9 Specified class of persons	9
Division 2—Exempt welfare payment recipients—specified activities	10
10 Specified activities—school aged child	10
11 Specified activities—child (other than a school age child)	10
Division 3—Exempt welfare payment recipients—decision-making principles for financial vulnerability	12
12 Financial vulnerability—decision-making principles	12
Part 4—Repeal of this instrument	13
13 Repeal of this instrument	13

Part 1—Preliminary

1 Name

This instrument is the *Social Security (Administration) (Enhanced Income Management Regime—Commonwealth Referrals and Exemptions) Determination 2023*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The later of: (a) the day after this instrument is registered; and (b) the day on which the <i>Social Security (Administration) Amendment (Income Management Reform) Act 2023</i> commences.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under subsections 123SCL(5), 123SCM(12), 123SDB(2) and 123SDD(2), (3) and (6) of the *Social Security (Administration) Act 1999*.

4 Definitions

- (1) In this instrument:

Act means the *Social Security (Administration) Act 1999*.

approved child care service has the same meaning as in the *A New Tax System (Family Assistance) (Administration) Act 1999*.

Centrepay means the voluntary deduction service provided by Services Australia under section 61A of the Act.

Section 4

equivalent rate of special benefit has the meaning given by section 123SB of the Act.

failure to undertake reasonable self-care: see subsection (5).

financial exploitation: see subsection (3).

financial hardship: see subsection (4).

homelessness or risk of homelessness: see subsection (6).

indicator of vulnerability: see subsection (2).

program of regular health and development assessments, for a child, means a series of health and development assessments that are provided to the child:

- (a) by one or more treating health professionals; and
- (b) in accordance with the schedule of health and development assessments for a child of the same age, as set out in the record published by the Northern Territory and known as the My child health record, as in force when this instrument commences.

relevant priority needs, in relation to a person, means the priority needs (within the meaning of section 123TH of the Act) of the person and the priority needs (within the meaning of that section) of each of the following:

- (a) any child of the person;
- (b) any partner of the person;
- (c) any other dependants of the person.

school age child has the meaning given by section 123SDF of the Act.

severe disability or severe medical condition has the same meaning as in Part 2.5 of the *Social Security Act 1991*.

strategies includes tools and training.

terminal condition has the same meaning as in Part 2.5 of the *Social Security Act 1991*.

treating health professional has the meaning given by subsection 197(1) of the *Social Security Act 1991*.

treatment includes care.

Indicators of vulnerability

- (2) Each of the following circumstances is an **indicator of vulnerability**:
 - (a) financial exploitation;
 - (b) financial hardship;
 - (c) failure to undertake reasonable self-care;
 - (d) homelessness or risk of homelessness.

Financial exploitation

- (3) A person (the **first person**) is experiencing **financial exploitation**, if another person or entity:
- (a) has acquired; or
 - (b) has attempted to acquire; or
 - (c) is attempting to acquire;
- possession of, control of or the use of, or an interest in, some or all of the first person's financial resources, through the use of undue pressure, harassment, violence, abuse, deception, duress, fraud or exploitation.

Financial hardship

- (4) A person is experiencing **financial hardship** if:
- (a) the person is unable, due to a lack of financial resources, to obtain goods or services, or to access or engage in activities, to meet the person's relevant priority needs; and
 - (b) that lack of financial resources is not solely attributable to the amount of income earned, derived or received by the person.

Failure to undertake reasonable self-care

- (5) A person is experiencing **failure to undertake reasonable self-care** if:
- (a) the person is engaged in conduct that threatens the physical or mental wellbeing of the person; and
 - (b) the Secretary is satisfied that the person has not taken sufficient steps to address the conduct.

Homelessness or risk of homelessness

- (6) A person is experiencing **homelessness or risk of homelessness** if the person:
- (a) does not have access to safe, secure and adequate housing; or
 - (b) does not have a right to remain, or a reasonable expectation of being able to remain, in the housing to which the person has access; or
 - (c) is using, or is at risk of needing to access, emergency accommodation or a refuge.

Part 2—Vulnerable welfare payment recipients

Division 1—Specified States, Territories and areas

5 Specified States, Territories and areas

For the purposes of paragraph 123SCL(1)(a) of the Act, each of the following is specified:

- (a) the Northern Territory;
- (b) an area covered by the *Social Security (Administration) (Declared income management area — Anangu Pitjantjatjara Yankunytjatjara lands) Determination 2012*;
- (c) an area covered by the *Social Security (Administration) (Declared income management area — Ngaanyatjarra Lands) Determination 2023*;
- (d) an area covered by the *Social Security (Administration) (Vulnerable income management areas) Specification 2012*.

Division 2—Decision-making principles

Subdivision A—General

6 Vulnerable welfare payment recipient—decision-making principles

For the purposes of subsections 123SCM(2) and (6) of the Act, the decision-making principles are set out in sections 7 and 8 of this instrument.

Subdivision B—Usual case

7 Usual case

Matters to consider in deciding whether to make a determination

- (1) In deciding whether to make a determination under subsection 123SCM(1) of the Act in relation to a person, the Secretary must consider the following matters:
 - (a) whether the person is experiencing an indicator of vulnerability and, if so, whether being subject to the enhanced income management regime under section 123SCL of the Act would be an appropriate response to that indicator;
 - (b) whether the person is applying appropriate resources to meet some or all of the person's relevant priority needs and whether being subject to the enhanced income management regime under that section would assist the person to apply appropriate resources to meet some or all of those needs.

Note: This section does not apply in relation to certain persons: see subsection (8).

Matters to consider in deciding whether to vary or revoke a determination

- (2) In deciding whether to vary or revoke a determination made under subsection 123SCM(1) of the Act in relation to a person, the Secretary must consider the following matters:
 - (a) whether the person is likely to experience an indicator of vulnerability if the variation or revocation were made and whether being subject to the enhanced income management regime under section 123SCL of the Act is an appropriate response to that indicator;
 - (b) whether the person is likely not to apply appropriate resources to meet some or all of the person's relevant priority needs if the variation or revocation were made and whether being subject to the enhanced income management regime under that section is assisting the person to apply appropriate resources to meet some or all of those needs.

Note: This section does not apply in relation to certain persons: see subsection (8).

Common rules

- (3) Subsection (1) or (2) does not limit the matters the Secretary may consider.
- (4) For the purposes of paragraph (1)(a) or (2)(a), in considering whether a person is experiencing an indicator of vulnerability, or is likely to experience an indicator

Section 7

of vulnerability, the Secretary may act on the basis of relevant documents and information in the Secretary's possession.

- (5) For the purposes of subsection (1) or (2), the Secretary may be satisfied that a person being subject to the enhanced income management regime under section 123SCL of the Act:
- (a) would be, or is, an appropriate response to an indicator of vulnerability; or
 - (b) would assist, or is assisting, the person to meet some or all of the person's relevant priority needs;
- even if the person is willing to enter, or has entered, into an enhanced voluntary income management agreement with the Secretary under section 123SF of the Act.
- (6) For the purposes of subsection (1) or (2), in considering whether a person being subject to the enhanced income management regime under section 123SCL of the Act:
- (a) would be, or is, an appropriate response to an indicator of vulnerability; or
 - (b) would assist, or is assisting, the person to meet some or all of the person's relevant priority needs;
- the Secretary must have regard to the following matters:
- (c) all the relevant personal circumstances of the person;
 - (d) any services (however described) that are available, or that can be made available, to the person;
 - (e) if the person is, or has been, subject to the enhanced income management regime:
 - (i) any changes that have occurred to the person's personal circumstances during the period in which the person was subject to that regime; and
 - (ii) the likely impact on the person, and on any dependants of the person, of the person being the subject of a determination under subsection 123SCM(1) of the Act;
 - (f) if there is a determination under subsection 123SCM(1) of the Act in force in relation to the person and the Secretary proposes to vary or revoke that determination—the likely impact on the person, and on any dependants of the person, of the proposed variation or revocation.
- (7) Subsection (6) does not limit the matters to which the Secretary may have regard.
- (8) This section does not apply in relation to a person if:
- (a) the Secretary is required to make a determination under subsection 123SCM(1) of the Act in relation to the person because of section 8 of this instrument; or
 - (b) a determination is in force under subsection 123SCM(1) of the Act in relation to the person because of section 8 of this instrument.

Subdivision C—Persons who are vulnerable youth or have been released from gaol or psychiatric confinement

8 Persons who are vulnerable youth or have been released from gaol or psychiatric confinement

Secretary required to make a determination

- (1) The Secretary must make a determination under subsection 123SCM(1) of the Act in relation to a person if:
 - (a) the person is aged under 16 and is receiving special benefit; or
 - (b) the person is aged 16 or over but under 22 and is receiving:
 - (i) youth allowance; or
 - (ii) disability support pension; or
 - (iii) a payment under the ABSTUDY Scheme; at a rate worked out on the basis that the person is independent because of subsection 1067A(9) of the *Social Security Act 1991*; or
 - (c) the person is aged under 25 and has, within the last 13 weeks, received a crisis payment because of being qualified for the payment under section 1061JG of that Act (about release from gaol or psychiatric confinement).
- (2) However, the Secretary is not required to make that determination in relation to the person if the Secretary is satisfied that:
 - (a) being subject to the enhanced income management regime under section 123SCL of the Act would place the person's mental, physical or emotional wellbeing at risk, including that the person:
 - (i) is not able to meaningfully engage in the enhanced income management process due to mental health issues; or
 - (ii) does not have the capacity to comprehend the operation of enhanced income management; or
 - (iii) is experiencing serious instability in the person's housing or living situation and enhanced income management would affect the person's ability to direct funds to housing; or
 - (b) the person is undertaking full-time study or is an apprentice; or
 - (c) within at least 4 of the last 6 fortnights, the person has received less than 25% (other than because a compliance penalty period applied to the person) of:
 - (i) the maximum basic rate of youth allowance or disability support pension or the maximum fortnightly rate of a payment made under the ABSTUDY Scheme; or
 - (ii) the equivalent rate of special benefit; or
 - (iii) if the person has received crisis payment—the maximum basic rate of the social security pension or social security benefit payable to the person under section 1061JU of the *Social Security Act 1991*; or
 - (d) the person is subject to the enhanced income management regime under section 123SE of the Act (about volunteers); or
 - (e) all of the following apply:

Section 8

- (i) the person meets the criteria in paragraph (1)(a) or (b);
- (ii) one or more determinations under subsection 123SCM(1) of the Act have previously been made in relation to the person because the person met the criteria in paragraph (1)(a) or (b) of this subsection;
- (iii) the earliest such determination came into force more than 12 months ago.

Matters to consider in deciding whether to revoke a determination

- (3) In deciding whether to revoke a determination made under subsection 123SCM(1) of the Act in relation to a person because of subsection (1) of this section, the Secretary must consider the following matters and no other matters:
- (a) whether the person continues to meet the criteria in paragraph (1)(a), (b) or (c) of this section;
 - (b) whether remaining subject to the enhanced income management regime under section 123SCL of the Act will place the person's mental, physical or emotional wellbeing at risk, including that the person:
 - (i) is not able to meaningfully engage in the enhanced income management process due to mental health issues; or
 - (ii) does not have the capacity to comprehend the operation of enhanced income management; or
 - (iii) is experiencing serious instability in the person's housing or living situation and enhanced income management will affect the person's ability to direct funds to housing;
 - (c) whether the person is undertaking full-time study or is an apprentice;
 - (d) whether within at least 4 of the last 6 fortnights, the person has received less than 25% (other than because a compliance penalty period applied to the person) of:
 - (i) the maximum basic rate of youth allowance or disability support pension or the maximum fortnightly rate of a payment made under the ABSTUDY Scheme; or
 - (ii) the equivalent rate of special benefit; or
 - (iii) if the person has received crisis payment—the maximum basic rate of the social security pension or social security benefit payable to the person under section 1061JU of the *Social Security Act 1991*;
 - (e) if the person has been subject to a determination under subsection 123SCM(1) of the Act, because of subsection (1) of this section, for a period or periods totalling at least 12 months—whether the person:
 - (i) has successfully engaged in a supportive relationship that provided mentoring, coaching or case management that included a transition to independence and is likely to continue doing so such that the person does not need to remain subject to the enhanced income management regime; or
 - (ii) has demonstrated the skills and ability to manage the person's money and to live independently and is likely to continue doing so such that the person does not need to remain subject to the enhanced income management regime.

Part 3—Disengaged youth and long-term welfare payment recipients

Division 1—Exempt welfare payment recipients—specified class of persons

9 Specified class of persons

For the purposes of subsection 123SDB(1) of the Act, a specified class of persons is persons:

- (a) who are aged 16 or over; and
- (b) who are receiving special benefit; and
- (c) who are not a nominated visa holder; and
- (d) who are not the principal carer of a child who is aged under 6.

Section 10

Division 2—Exempt welfare payment recipients—specified activities

10 Specified activities—school aged child

For the purposes of subparagraph 123SDD(1)(b)(iv) of the Act, the specified activity, for a school age child who has a terminal condition, is a program of treatment for the terminal condition, provided by one or more treating health professionals.

11 Specified activities—child (other than a school age child)

Specified number and kind of activities

- (1) For the purposes of paragraph 123SDD(1)(c) of the Act, the specified number and kind of activities for a child (other than a school age child) are the following:
 - (a) for a child who is aged under 3—2 activities of a kind mentioned in subsection (3);
 - (b) for a child who is aged 3 or over but under 4:
 - (i) if the child, as a result of a severe disability or severe medical issue, is unable to participate in any activities of a kind mentioned in subsection (4)—3 activities of a kind mentioned in subsection (3); or
 - (ii) otherwise—2 activities of a kind mentioned in subsection (3) and 1 activity of a kind mentioned in subsection (4);
 - (c) for a child who is aged 4 or over and attending pre-school or kindergarten—2 activities of a kind mentioned in subsection (3);
 - (d) for a child who is aged 4 or over and not attending pre-school or kindergarten:
 - (i) if the child, as a result of a severe disability or severe medical issue, is unable to participate in any activities of a kind mentioned in subsection (4)—3 activities of a kind mentioned in subsection (3); or
 - (ii) otherwise—2 activities of a kind mentioned in subsection (3) and 2 activities of a kind mentioned in subsection (4).
- (2) However, if the child has a terminal condition, the specified number and kind of activities for the child is one activity that is a program of treatment for the terminal condition, provided by one or more treating health professionals.

Health related activities

- (3) The kind of activities for a child are the following:
 - (a) an activity to meet the immunisation requirements (within the meaning of the *A New Tax System (Family Assistance) Act 1999*) for the child;
 - (b) a program of regular health and development assessments for the child;
 - (c) a program of treatment for the child, provided by one or more treating health professionals.

Engagement related activities

- (4) The kind of activities for a child are the following:
-

- (a) an activity of attending, for at least 8 hours per week, an approved child care service;
- (b) an activity of attending playgroup (whether formally facilitated or otherwise);
- (c) an activity of attending creche;
- (d) an activity of attending Kindergym;
- (e) an activity of attending primary school;
- (f) any other age appropriate activity that is designed to promote the child's social, emotional, mental or physical development.

Section 12

Division 3—Exempt welfare payment recipients—decision-making principles for financial vulnerability

12 Financial vulnerability—decision-making principles

- (1) For the purposes of subsection 123SDD(5) of the Act, the decision-making principles are set out in this section.

Financial exploitation

- (2) The Secretary must consider whether the person experienced financial exploitation during the 12-month period mentioned in paragraph 123SDD(1)(d) of the Act.

Priority needs

- (3) The Secretary must consider:
- (a) the person’s relevant priority needs during that 12-month period; and
 - (b) whether the person, during that 12-month period, was applying appropriate resources to meet some or all of those needs.

Money management strategies

- (4) The Secretary must consider:
- (a) what, if any, strategies (however described) the person used, during that 12-month period, to manage the person’s financial resources; and
 - (b) whether it is likely that the person will continue to use those strategies, or similar strategies, to manage the person’s financial resources in the foreseeable future.

Note: For paragraph (a), examples are a personal or household budget, a financial plan, paying bills or other expenses through Centrepay or by direct debit from a bank account, arranging to pay major bills or debts by instalments, undertaking a course to learn or update financial skills, using lay-by services and using a SmartCard as part of the enhanced income management regime under Part 3AA of the Act.

Changes to payment arrangements

- (5) The Secretary must consider:
- (a) whether the person received more than one payment in relation to the person’s social security entitlement in any fortnight during that 12-month period, and the reasons for each of those payments; and
 - (b) if the person requested that the person be paid as described in paragraph (a) during that 12-month period and that request was rejected—the reasons for the rejection.
- (6) The Secretary must consider how many times (if any) the person requested that the person’s usual payday be changed during that 12-month period, and the reasons for each request.

Part 4—Repeal of this instrument

13 Repeal of this instrument

This instrument is repealed at the start of 1 July 2026.