

Recoveries processes and defaulting relating to employees

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Introduction

This section provides information about recoveries.

The Debt Recovery team is responsible for all actions related to the recovery of overpayments. You should forward all overpayment related diary and document notifications and relevant correspondence to the Debt Recovery team in tray in Pracsys.

If the determination that created the overpayment is subject to a reconsideration or Administrative Appeal Tribunal (AAT) action, a write off should be requested by the debtor.

Any changes, questions or issues with the recovery of an employee's overpayment should be raised with the Debt Recovery team.

You should ask if you notice that injured worker has claimed any third party settlement or Centrelink payments. If you discover something that does not look right, feel right or when you receive information either from the employee or another source (employer, rehabilitation provider, Solicitors etc.) that is relevant and has the potential to impact the management of a claim, please refer to the ["Just Ask"](#) process

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Setting up a debtor agreement

The CAIS Debt Recovery Team is responsible for negotiating a repayment amount and ensuring a debtor agreement is in place. Any queries should be directed to the Debt Recovery Team.

A debtor agreement is a contract between a person/debtor (employee, employer or service provider) and Comcare that sets out the amount of money to be repaid per fortnight and the period of time over which repayments will be made. A debtor agreement provides a formal commitment by a person to repay an overpayment, ensures that the person is clear about their responsibilities and helps formalise the recovery process.

The Debt Recovery Officer will consider the following when arranging a debtor agreement:

- the amount offered for repayment
- frequency of repayments
- the total timeframe for repayment
- option of negotiation (up to 30% discount with General Manager approval).

A Debt Recovery Officer will consider the following when reviewing a debtor agreement:

- the employee's current financial position
- the appropriateness of requesting further financial details
- opportunities to increase repayments
- opportunities for negotiated settlement
- full or partial waiver of the debt.

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Means of recovering overpayments

Once a formal or informal debtor agreement is in place, a debtor has several payment options when repaying a debt owed to Comcare. The appropriate repayment method will depend on the circumstances of the overpayment, as well as any future

incapacity or non-incapacity payments owed. The options include:

- money in
- offsetting

Money in

Money in is where a debtor repays an overpayment straight to Comcare via electronic funds transfer (EFT). An overpayment can be repaid in one instance, known as lump sum money in. Alternatively, a debtor may repay the overpayment in more easily manageable amounts, usually when the overpayment is large, e.g. over several EFT payments.

If a debtor repays an overpayment by EFT, the Debt Recovery Team will allocate the payment in Pracsys.

Note: A debtor using the money in option should be advised to reference the relevant claim number when making payments straight to Comcare. As these payments must be manually received by Finance and allocated by the Debt Recovery Team, the repayment amount should be no less than \$50 (per payment) to ensure that the recovery is cost effective.

Offsetting

Comcare may offset money owed by making an underpayment to a debtor. Lump sum or periodic offsetting is administratively efficient for Comcare and provides some assurance that repayments will be made. It is therefore Comcare's preferred repayment approach.

In most cases you should only offset non-incapacity overpayments from future non-incapacity payments, as the systems for incapacity and non-incapacity recoveries operate separately.

However, in some circumstances (usually high cost overpayments), a non-incapacity overpayment can be offset from incapacity payments (Xpayees only). Offsetting from incapacity payments must be cost effective (e.g. minimum of \$50 per payment).

Note: Comcare should only offset against an employee's entitlements after advising them that offsetting will occur, and agreement has been obtained by the employee.

Defaulting on payments

When a debtor defaults on a debtor agreement the Debt Recovery Team will contact the debtor by phone to establish the reason for this and to remind them of their repayment obligations.

If an employee advises that there has been a change in their financial circumstances which is impacting their capacity to meet repayments, then consideration should be given to setting up a new debtor agreement. The employee will need to complete a Statement of Financial Circumstances form. The Debt Recovery team is responsible for monitoring overpayments, as a result all Statement of Financial Circumstances should be sent to the team.

Monitoring Progress

Compliance with the debtor agreement will be monitored by the Debt Recovery Team.

Recovering overpayments from a deceased estate

A deceased employee may have overpayments from either incapacity or non-incapacity payments created prior to their death. Alternatively, an overpayment might occur if Comcare receives late advice about the death of an employee after incapacity payments have been made.

Incapacity overpayments

Incapacity is payable up to and including the date of death. Any incapacity payments made after an employee's date of death must be reversed in Pracsys before the date of death can be entered.

Where incapacity payments have been made less than 14 days after the employee's death, the overpayment should be referred to the Debt Recovery team. These overpayments will be added to the DRT periodic bulk waiver recommendations to

the General Manager.

Where incapacity payments have been made for more than 14 days after the employee's death, the entire overpayment should be pursued from the deceased's estate. A CM should notify the Debt Recovery team of the overpayment. The Debt Recovery team will manage the recovery of the overpayment.

Non-incapacity payments

Non-incapacity payments should not be paid for any dates of service after the employee's death. Invoices received with a date of service after the employee's date of death should be returned, unpaid.

Pre-existing overpayments

Any overpayments that existed prior to the employee's death becomes the liability of the deceased's estate. A Debt Recovery Officer should contact the executor of the estate detailing how the overpayment occurred. It may be necessary to send them a copy of the Debtor Agreement previously signed by the deceased.

Offsetting

Any overpayment that would have been payable to the employee before their death, e.g., medical, incapacity and permanent impairment lump sums can be offset against an overpayment before paying any balance to the deceased's estate. If offsetting is available, refer the overpayment to the Debt Recovery Team to discuss the recovery with the executor of the estate.

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Comcare is liable to reimburse Centrelink upon receipt of a Recovery Notice from Centrelink pursuant to section 1184 of the [Social Security Act 1991](#). The liability to pay Centrelink exists when Comcare is liable for the same period of incapacity for which Centrelink has previously paid to the employee.

Overpayments to Centrelink can occur when:

- Centrelink is paid more than the amount detailed in the Recovery Notice
- Centrelink is paid twice in error
- Comcare receives an amended Recovery Notice and pays the full amount rather than the top-up amount, or
- Comcare revokes or reduces liability for incapacity for a period where reimbursement to Centrelink has already occurred.

Comcare cannot offset one Centrelink overpayment from another payment to Centrelink. A Debt Recovery Officer should ensure that all Centrelink overpayments created in Pracsys are set to 'Pending' in the 'Amend Recovery' (AORA) screen to ensure that accidental offsetting does not occur. The exception to this rule is when you are re-determining incapacity payments so that an additional amount can be paid to Centrelink. The voided payments should be set to 'Active > Offset' so that the new payment is reduced by the amount previously paid.

There are two instances in which Centrelink will instigate the recovery process against Comcare. They are:

- Centrelink garnishee
- Double dipping

There are a number of terms used specifically in relation to Centrelink recoveries:

- garnishee - payments are held back in order to meet debt repayments due to an overpayment.
- double dipping - an employee receiving compensation payments and Centrelink benefits for the same period of time and for the same condition.
- preliminary notice - an advice that all or some of the entitlement payable to an employee may be recoverable once a decision is made on the claim. Centrelink issues this notice when an employee is likely to receive, or is receiving, compensation. Note: No incapacity is to be paid on a claim if there is a preliminary notice.

- recovery notice - Centrelink has been advised liability for the claim has been found and Centrelink has decided the amount to be recovered. This calculation results in a 'recovery notice'.
- compensation release notice - Centrelink advising Comcare that they have no interest in recovery of compensation payable. Upon receipt of a compensation release notice, Comcare can release payment to the employee.

Centrelink garnishee

The SS Act gives power to Centrelink to recover a person's incapacity payment from Comcare. If a person owes money to the Commonwealth due to an overpayment, Centrelink has the power to request a person (including a Commonwealth Agency) by means of garnishee notice, to pay certain monies back to the Commonwealth.

Garnishee notices under s1233 are to be issued to Comcare by Centrelink only as a final step in the action taken by that agency and the letter from Centrelink issuing the notice should refer to all other avenues of recovery having been pursued first.

What is Centrelink Garnishee and how does it work?

This is when Centrelink recovers an overpayment from a claimant's workers' compensation benefit. There are two steps to be met before you accept a garnishee notice:

1. It is a last resort overpayment recovery process. The employee must have already been sent a notice by Centrelink declaring its intention to recover the overpayment. Only once the employee has refused to pay Centrelink the overpayment will Centrelink be able to issue a garnishee notice to Comcare. The notice must state that all other avenues of recovery have been exhausted, and
2. It is only applicable to Comcare where the employee is in receipt of incapacity payments directly from Comcare (via Xpay). In this case, Comcare would be known as the 'Paying Authority.'

Once these two criteria are met, the money may then be recovered by Centrelink either partially or in full until the debt is paid off. In the event that the employee owes a debt to both Comcare and Centrelink, the Comcare debt will take precedence.

What if Comcare is not the Paying Authority?

If the employee is not receiving payment directly from Comcare, but from another Commonwealth Agency (their employer), you must send the notice back to Centrelink advising them that Comcare is not the Paying Authority and advise who the relevant Agency is.

Deducting money from compensation payments

Section 112 of the SRC Act prevents authorities from deducting money from compensation payments issued by Comcare. But this section does allow exceptions, in particular, 112(3) says: 'Except as provided by the Maintenance Orders (Commonwealth Officers) Act 1966, the Child Support Act 1988 or the Social Security Act 1991, or by, or by regulations under, the Family Law Act 1975, any compensation payable under this Act is not subject to attachment.'

The Commonwealth's compensation payer (Comcare) is not intended to be excluded from the operation of garnishee notice power, provided to Centrelink, by section 1233 of the SS Act.

Double Dipping

An employee is not entitled to both compensation payments and Centrelink benefits for the same period of time and for the same condition. 'Double dipping' is when Centrelink recovers money for a specified period because an employee has been paid a Centrelink benefit and then is subsequently paid an incapacity benefit by Comcare for the same period. If this is the case, Centrelink will send a preliminary notice and a recovery notice, which will need to be actioned by Comcare.

In order for Centrelink to recover an overpayment as a result of 'double dipping', it must provide Comcare with two notices, namely:

1. Preliminary notice (under section 154(1)(a) of the SS Act) - where Centrelink is aware that an employee is also likely to receive, or is receiving, compensation from Comcare, it issues a preliminary notice to Comcare. This is simply an advice that all or some of the benefit paid to the employee may be recoverable. The effect of the notice is to prevent Comcare from paying any further compensation until Centrelink has been advised.
2. Recovery notice (under section 154(1)(b) of the SS Act) - once Centrelink has calculated the amount of benefit repayable by Comcare to Centrelink it issues a recovery notice.

Recovering income tax from employees

Comcare deducts tax from Xpayees in receipt of incapacity payments and forwards that tax to the Australian Taxation Office (ATO). Comcare reports fortnightly to the Australian Taxation Office (ATO) in relation to incapacity payments made directly to employees who have separated from Commonwealth employment.

Employees can access the income and tax information Comcare reports to the ATO by logging into their myGov account under Employment > Income Statements.

When an incapacity overpayment is created the gross amount (the full incapacity amounts inclusive of income tax) must be pursued from the employee. Repayment can be made either by offsetting or direct repayment.

Offsetting

Offsetting from incapacity payments is done from the employee's gross payments which reduces the employee's taxable income, and the amount of tax payable while the overpayment is being offset, effectively neutralising the tax component of the overpayment.

Direct Repayments

Where an incapacity overpayment cannot be offset the employee must pay back the gross amount of the overpayment via fortnightly Electronic Funds Transfer (EFT) payments. Once the entire amount is repaid the Xpay Team can send an amended tax summary to the employee so that the employee can claim back the extra tax paid.

Where the entire net component of the overpayment is repaid in the same tax year in which the overpayment occurred the Xpay Team can recall the taxable portion of the overpayment directly from the ATO.

Recovery categories in Pracsys

The following table describes recovery categories in Pracsys.

Payee	Employee	The claim recovery account is linked directly to the employee.
	Cust/Cost Centre	The claim recovery account is linked directly to a payroll customer or cost centre registered on the claim.
	Provider	The claim recovery account is linked directly to a non-incapacity payment service provider.
	Dependant	This recovery is linked to an employee's dependant as registered on the claim.
Recovery Status	Active	The recovery account has been activated in order for recoveries to take place.
	Inactive	The recovery account has been created, but as yet no recovery action has commenced.
	Pending	Recovery action is waiting, pending the outcome of some other action (i.e. negotiation with the payee).
	Write-off	The recovery account has been approved to be written off by the CEO until such time as reasonable recovery action can commence.
	Waived	The recovery amount has been approved to be waived by the CEO, permanently clearing the debt.
	Reversed	The recovery account was as a result of some action processed

		which has now been reversed clearing the debt.
	Closed	The outstanding recovery amount has been acquitted and the recovery account closed.
Recovery Type	Direct	This is where recovery payments will be deducted directly from an Xpayee claimants incapacity payments via the Xpay payroll system.
	Money In	This is where money is being received directly from the payee (i.e. Cash, cheque, money order, EFT), and is credited to the recovery account by the Xpay team via Comcare's Finance section.
	Offset	This is where recovery amounts will be deducted from future payments paid to a provider or cust/cost centre.
Recovery Offset	Lump Sum	<p>When monies are recovered using the Direct or Offset method, if the recovery offset is set to Lump Sum the entire recovery amount will be recovered in one lump sum.</p> <p>Note: If a lump sum amount exceeds the entitlements from which it is to be recovered the recovery will not go ahead.</p>
	Periodic	<p>When monies are recovered using the Direct or Offset method, if the recovery offset is set to Periodic, recoveries will be made from entitlements at the rate entered as the periodic amount.</p> <p>Note: If a periodic amount exceeds the entitlements from which it is to be recovered the recovery will not go ahead. Where the set periodic amount exceeds the outstanding recovery amount, the outstanding recovery amount will automatically be treated as a lump sum amount.</p>

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