

Superannuation And Insurance For People With Cancer

(NEW SOUTH WALES EDITION)

**Prepared by John Berrill
John Berrill
Maurice Blackburn Lawyers
Level 20, 201 Elizabeth Street, Sydney
Phone: 1800 810 812
Current as at June 2008**

**Maurice
Blackburn**
Lawyers
Since 1919

Superannuation and Insurance for People with Cancer

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1. Compulsory Super

- Work super has been compulsory since 1992.
- Employers must pay at least an extra 9% of your salary into a super fund if you earn at least \$450.00 a month and if you are between 18 and 70 years old.
- Your superannuation salary will usually include bonuses, allowances and leave payments but not overtime or workers' compensation payments.
- Some industrial awards or agreements provide super benefits in excess of the compulsory superannuation, e.g. super on overtime or make-up pay or an additional 3%.
- Many subcontractors, couriers, cleaners, owner/drivers and child care workers will qualify as employees for super.
- From July 2003, your employer must make super contributions at least every 3 months - although many pay contributions every month.
- Most super policies include extra benefits for disability and death - but not all. (see "Superannuation Disability Benefits" and "Superannuation Death Benefits" fact sheets)

2. Choice of Fund

- Usually your employer selects the employment super fund, although some employers will offer you a choice including an industry fund.
- From 1 July 2005, many employees will be able to choose which super fund their compulsory contributions are paid into.
- However, many government employees and those covered by defined benefit funds or awards will have a limited choice or no choice at all.
- If you have a choice of super funds, it's important to check the disability and death insurance cover when deciding which fund to join.
- Find out the names of the funds and get help to check your cover. (See "Free Super and Insurance Advice Service" fact sheet)

3. To Check Your Super

- If you are employed or have been employed, check the benefits statements which are sent out by your super fund every year.
- Look for your account balance, the contributions paid into the fund in the last year, and your disability and death benefits.
- To find out what old super funds you might have, check the Lost Members Register at the Australian Taxation Office (visit their website at www.ato.gov.au/super or ring the Infoline on 13 10 20)
- If you don't think you've got disability and death cover, always double check. Sometimes a statement will say "nil cover" but you might still have had cover when you stopped work.

4. Important Note - Get Help

- Sometimes super statements can be wrong and are hard to understand.
- If you can't find any statements or if you're not sure of your entitlements, get help. (See "Free Super and Insurance Advice Service" fact sheet)

Information prepared by:

John Berrill
Maurice Blackburn
Level 20, 201 Elizabeth Street, Sydney
1800 810 812

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What if Superannuation Contributions Are Not Paid?

1. Introduction

- If your employer doesn't pay super contributions into a Fund for you, you can take action.

2. Collecting Super - Tax Office

- The Australian Taxation Office (ATO) is responsible for collecting unpaid compulsory super.
- If you think your employer hasn't paid any or enough super, you should notify the ATO.
- There is a form to fill in which you can get from the ATO website (www.ato.gov.au/super) or by ringing 131 020.
- The ATO will record your notification and should try to collect the super and pay it into a super fund you nominate.
- It can take many months to collect the money and there is no guarantee the ATO will do so.
- It's important to chase up the ATO but they might not tell you much because of the Privacy Act.

3. Suing Your Employer

- If you are covered by award super or if your work agreement includes super, you may be able to sue your employer to collect the contributions and any insurance benefits you have lost.
- It's doubtful the ATO will try to collect any insurance benefits.
- Your super fund can also take action to recover unpaid contributions.

4. Check Your Super Regularly

- It's very important to check that your employer is paying super contributions. Your employer has to give you a quarterly statement setting out all superannuation contributions.

- If your employer goes out of business, your super might never be collected. You might also lose valuable disability and death cover. (see "Superannuation Disability Benefits" and "Superannuation Death Benefits" fact sheets.)

5. Important Note - Get Help

- If you think your employer might not be paying full super contributions, get help immediately. (see "Free Super and Insurance Advice Service" fact sheet).

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When can I get my Superannuation?

1. Preserved Super

- Your personal contributions paid up to July 1999 can be paid to you when you leave a super fund.
- However, your post-June 1999 contributions and employer contributions must usually stay in a fund until you reach retirement after age 55 (or up to age 60). This is called your “preserved super”.

2. Early Access

You can get early access to your preserved super in some circumstances:

- you have been on Centrelink payments for at least 6 months and can't pay your living expenses (you can get up to \$10,000.00 per annum);
- you're over the minimum retirement age (55-60), have been on Centrelink payments for 9 months and won't be going back to regular work (you can get all your super);
- you're over the minimum retirement age (55-60) and still working (you can take out an annuity or pension);
- you need money to pay for palliative care, funeral expenses, modifications to your home or car, or medical and transport expenses for treatment outside the public health system for you or a dependent;
- for loan repayments to prevent the sale of your home (up to 3 months repayments plus 12 months interest every 12 months);
- you are permanently incapacitated for work (you can get all your super);
- the preserved amount is up to \$200.00;
- you are a temporary resident and permanently leave Australia (you can get all your super minus tax).

3. How to Make Early Access Applications

- Applications under (a) and (b) above are made to your super fund and you will need a letter from Centrelink (called a “Q230”).
- Applications under (c) and (d) above must be made to Australian Prudential Regulatory Authority (APRA). Application forms are available on their website (www.apra.gov.au). You will have to show APRA you can't pay for the expenses.
- Applications under (e) above can be made to the super fund and you will need two medical certificates.

- Applications under (g) above can be made to the super fund and you will need proof that you were a temporary resident and have left Australia.

4. Important Note

- You might have a separate claim for super disability benefits as well as your contributions (see "Superannuation Disability Benefits" fact sheet).
- Get advice before applying for your super. (see "Free Super and Insurance Advice Service" fact sheet).

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Superannuation Disability Benefits

1. What are Super Disability Benefits?

- Most super policies include disability benefits - but not all.
- Super disability benefits are Total and Permanent Disability (TPD) lump sums or disability pensions or both.
- They are usually insurance benefits which “top up” the contributions in your fund if you have to stop work.

2. What are Total and Permanent Disability Benefits?

- To get a TPD lump sum, you have to show you can't ever go back to your usual job or any other suitable work that fits your education, training or experience.
- You don't have to be unfit for any work at all.
- E.g. if you have only ever done manual work and can't do that type of work now, it won't matter if the doctors say you could do office work.
- If you lose the use of your arms, legs or eyes, you might qualify for a TPD benefit even if you can still work.
- There is usually a 6-month qualifying period, but this can be reduced in some cases.
- Many people with Cancer will qualify for a TPD benefit.
- Many people on Disability Support Pensions will qualify for a TPD benefit.

3. What are Total and Temporary Disability Benefits?

- If you can't do your usual job because of Cancer, you may qualify for total and temporary disability benefits (TTD).
- Some funds have weekly or monthly payments if you can't do your usual job (TTD payments).
- The payments can be up to 75% of your wage and might be paid for up to 2 years - or perhaps even up to age 65.
- There is usually a qualifying period of 1, 3 or 6 months.
- Payments are usually offset against workers' compensation and sometimes transport accident and Centrelink payments.

- Temporary payments might stop if your employment is terminated or if you are paid a TPD benefit.

4. Automatic Cover

- Most employment super funds provide disability cover without any health questions - up to certain limits.
- This means that if you already had Cancer before you joined the fund, you will still be covered for disability benefits - including if you stop work because of a pre-existing injury or illness.

5. Making Super Disability Claims

5.1 When to Claim

- Super disability claims should be made as soon as possible.
- However, claims can often be made years after stopping work.
- It doesn't usually matter if you've already been paid out your super contributions.
- Disability claims can also be made by the estate of a person after they die.

5.2 How to Claim

- There will be claim forms to fill in and medical reports and other papers to lodge.
- You might be asked to sign medical, workers' compensation and tax authorities and to go to a few medical and rehabilitation examinations.
- It's very important to give the right information and medical reports and to make submissions to help your claim.
- TPD claims usually take approximately 12 months and TTD claims approximately 2-4 months. However, both can be longer.

5.3 What if Your Claim is Rejected?

- You can ask the super fund to change the decision (Section 101 Complaint).
- They have 90 days to make a new decision.
- If your claim is still not successful, you can appeal to the court or to the Superannuation Complaints Tribunal (SCT).
- The SCT is an alternative to the courts. It's quicker and cheaper than most courts and cases are decided by written submissions and replies without formal hearings.
- There are limits on the types of complaints the SCT can deal with.
- It's important to get update reports and make detailed submissions to support an SCT appeal.
- Many appeals and complaints win or are settled.

6. Important Note - Get Help

- There are time limits for appeals to the courts and the SCT.
- Disability claims can be complicated and take a long time but it's very important that you at least find out about your rights.
- Get advice and help with a claim or appeal. (see "Free Super and Insurance Advice Service" fact sheet).

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Superannuation Death Benefits

1. What are Super Death Benefits?

- Super funds have death payments which are usually contributions plus any insurance benefits paid if a person dies when still in a fund or up to 6 months after leaving.
- Some government super funds pay lump sums or pensions to surviving partners or children.

2. Who Can Claim?

- A death benefit is paid to the husband/wife, de facto or interdependent partner, children or financial dependants of a deceased fund member or to the deceased's estate.
- A de facto partner is a person of the opposite sex living with the deceased on a bona fide domestic basis at the time of death.
- An interdependent relationship exists if a person had a close personal relationship with the deceased, including living together and one person providing the other with financial and domestic support and personal care at the time of death.
- Same sex partners can be interdependent partners.
- If there are no partners or dependants, the benefit is usually paid to the deceased's estate under a Will. If there is no Will, the benefit might be paid to other persons.
- Any one who relied on the deceased for money or was paid money by the deceased even in a small way may claim, e.g. if the deceased paid rent or some money for food or bills.
- When you join a fund, you are asked to name someone you would like to get the death benefit.
- However, the fund doesn't usually have to follow your nomination - although a few funds do have binding death benefit nominations.

3. How to Claim

- Write to the trustees of the super fund to claim and tell them your relationship to the deceased.

- You can ask who is nominated and if anyone else has claimed.
- The fund might ask you to send in papers such as a Statutory Declaration, a copy of a will, marriage certificate, property title, bank accounts, expense receipts, etc.
- It's important to highlight how you were financially dependent on the deceased.

4. Can I Appeal?

- Yes. The trustees of the fund decide who gets the benefits, but if you aren't happy, you can ask them to change the decision.
- If you are still not satisfied, you can appeal the trustees' decision to the Superannuation Complaints Tribunal (SCT) or to the courts.
- Many appeals win or are settled.
- Get advice and help with death benefit claims.

5. Important Note - Get Help

- Strict time limits can apply to super death complaints with the Trustee and with SCT death complaints - usually 28 days.
- Some super death benefit claims are complicated and stressful at a very sensitive time.
- Get advice and help with death benefit claims. (see "Free Super and Insurance Advice Service" fact sheet)

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Insurance Disability Benefits

1. Introduction

- Many people with Cancer will be able to claim disability benefits under insurance policies.

2. Types of Insurance Disability Policies

- Income protection
 - covers your income if you can't work because of an injury or sickness.
- Mortgage protection insurance
 - covers mortgage repayments.
- Consumer credit insurance
 - covers personal loan repayments.
- Trauma insurance
 - pays a lump sum upon a particular diagnosis, eg Motor Neurone Disease, Multiple Sclerosis, heart attack or stroke.
 - offered either separately or as part of income protection, health insurance etc.
- Term life insurance
 - pays a lump sum on Total and Permanent Disability (TPD) or death.
- Sickness and accident insurance
 - pays lump sums for TPD, loss of use of limbs, broken bones etc.
 - offered under travel insurance or group policies.

3. Income Protection Insurance

- Most self-insured people and others in the work force have income protection insurance.
- You might be covered if you can't do your usual job, one of the duties of your usual job or any other suitable work.
- You will be covered for fixed monthly payments or a percentage of your earnings after a qualifying period.

- The period of insurance payments will depend on the policy - it might be 2 years, 5 years, to age 65 or lifetime.
- If you go back to work, you might still be eligible for partial disability or rehabilitation payments.
- Some income protection policies also include trauma benefits for loss of use of limbs, Motor Neurone Disease, Multiple Sclerosis, heart attack, cancer etc.

4. Making Insurance Claims

4.1 When to Claim

- Insurance disability claims should be made as soon as possible.
- However, claims can often be made years later.
- Claims can also be made by the estate of a person after they die.

4.2 How to Claim

- There will be claim forms to fill out and medical reports and other papers to lodge.
- You might be asked to sign medical, Medicare and tax authorities and to go to a few medical and rehabilitation examinations.
- It's important to give the right information/reports to help your claim – particularly medical reports and written submissions supporting the definition of disability in the policy.
- Claims can take approximately 3 to 12 months.

4.3 What if Your Claim is Rejected?

- If your claim is rejected, if your insurance payments stop, are late or reduced, or if you are being mucked around, you can lodge a formal Complaint with the insurer.
- They have 21 or 45 days to make a new decision.
- If you are still not satisfied, you can appeal to the courts or to an industry complaints scheme (Financial Industry Complaints Service (FICS) or the Insurance Ombudsman Service (IOS)).
- FICS and the IOS are quicker and cheaper than most courts and complaints are decided by written submissions and replies without formal hearings.
- There are limits on the types of complaints they can deal with.
- It's important to get update reports and make detailed written submissions to support a FICS or IOS complaint.
- Many appeals and complaints win or are settled.

5. Important Note - Get Help

- There are time limits for appeals to the courts and the industry complaints schemes.
- Get advice and help with a claim or appeal. (see "Free Super and Insurance Advice Service" fact sheet)

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Government Superannuation Funds

- New South Wales Edition

1. State Super

- New South Wales public servants have been covered by super schemes for many years.
- Schemes such as the State Superannuation Scheme and the State Authorities Super Scheme pay lump sums or pensions depending on whether you stop work because of resignation, retirement, disability or death.
- The Schemes pay disability pensions or lump sums if you are permanently or temporarily unfit for work or if you die.
- However, most NSW Government employees are in First State Super which is an accumulation super fund with disability insurance benefits.
- First State Super pays lump sums on resignation or retirement and includes total and permanent disability and death insurance lump sums and temporary disability payments for up to 2 years.

2. Commonwealth Super Schemes

- Most Commonwealth public servants are members of generous defined benefit schemes - CSS, PSS or the Military Superannuation and Benefits Scheme.
- They include invalidity benefits usually paid as lifetime pensions if you are permanently unfit for your usual job or any other suitable work.
- Under the Military Super and Benefits Scheme, the rate of the invalidity pension depends on the severity of your disability.
- Some Commonwealth government employees are members of an accumulated contribution scheme, AGEST, which includes total and permanent disability and death lump sums.

3. Claims and Appeals

- The claims process for government disability benefits is basically the same as for other super schemes.
- Government Superannuation Funds - New South Wales Edition.
- There are claim forms to fill in, medicals to supply which support your claim and written submissions to make. You might have to go to a few medical/rehabilitation appointments and sign authorities.

- A decision will take approximately 3-12 months.
- If your claim is rejected you can lodge an internal complaint followed by an appeal to the Superannuation Complaints Tribunal (SCT) or to the courts. Time limits apply.
- Many appeals and complaints win or are settled.
- Get advice and help with disability claims.

4. Important Note - Get Help

- There are time limits for appeals to the courts and the SCT.
- Get advice and help with claims and appeals. (see “Free Super and Insurance Advice Service” fact sheet).

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How can I get new Insurance or Superannuation?

1. Pre-existing Disabilities

- If you already have Cancer, it can be difficult to get disability or death insurance cover.
- If you try to take out your own insurance or super policy you will usually have to fill in a health questionnaire.
- If you know you have Cancer, you might have to tell the insurer and they might refuse to cover you.
- If you knew you had Cancer when you joined but didn't tell the insurer, they might refuse to pay you.

2. Group Super/Insurance

- However, it might be possible to get disability and death cover by joining a "group" super or insurance scheme.
- For example, with your employment super, employer income protection insurance, union or credit union.
- You might be offered automatic cover up to a certain limit without any health questions.
- With some schemes you are covered for pre-existing disabilities if you haven't had active medical treatment for say 6 months.
- If you are thinking of leaving work, your employment super might offer to continue your total and permanent disability or total and temporary disability insurance even if you have a disability.

3. How To Find Out

- If you are starting a new job, check what insurance cover is offered by the super funds you can join.
- If you are considering leaving work, check whether your employment super offers an insurance continuation option BEFORE you leave.
- If you want to take out private insurance, do it through an insurance broker - don't apply direct to insurance companies.

4. Appeals

- If you are refused insurance cover because of your Cancer, it might be unlawful discrimination.
- Discrimination complaints can be made to the Human Rights and Equal Opportunity Commission or to an industry complaints scheme.

5. Important Note - Get Help

- It's very important to know your rights before you leave work, before you start a new job or before you sign up for super or insurance.
- See "Free Super and Insurance Advice Service" fact sheet.

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Superannuation / Insurance and Centrelink

1. Introduction

- A super or insurance benefit might affect your Centrelink entitlements depending on whether the benefit is paid as a lump sum or a pension.

2. Will a Super Pay-out Affect my Centrelink?

- A super lump sum is included in your Centrelink Assets Test when you receive a pay-out.
- However, if you keep the money in a super fund it won't be included in your assets until retirement age.
- Super lump sum pay-outs are not treated as income.

3. What about Super Pensions?

- Super pensions are usually treated as income and may reduce your Centrelink payments.
- Super pensions paid out as lump sums may be included in the Assets Test and not as income.

4. Will my Insurance Pay-out Affect my Centrelink?

- Insurance lump sums for disability or death are included in your Assets Test when paid to you.
- However, some insurance lump sums with investment components are deemed to be income when received and may reduce your Centrelink payments.

5. What about my Insurance Income Protection Payments?

- Income protection payments are usually treated as income and may reduce your Centrelink payments.
- Income protection payments paid out as lump sums may be included in the Assets Test and not as income.

6. Important Note - Get Help

- Before you get a super or insurance payout, you should speak to a Centrelink officer and also get advice about how the payout might affect your Centrelink benefits. (See "Free Super and Insurance Advice Service" fact sheet).
- There can also be tax implications of a super or insurance payout. You should check with your financial advisor.

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Free Super and Insurance Advice Service

1. Need Help?

- Many people don't know they can claim disability benefits from their super or insurance.
- If your work is cut short because of Cancer, you won't have enough super to live off. Any extra disability benefits will help a lot.
- If you have any disability insurance policies, it's important to maximise the benefits you can claim.
- Many people might also have questions about how to claim superannuation death benefits.

2. Where Can I Get Help?

- A free Super and Insurance Advice Service has been set up to give legal advice to people with Cancer and others.
- Call John Berrill at Maurice Blackburn on 1800 810 812 for free legal advice.

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