

SUPERANNUATION AND DEMENTIA

MARCH 2015



**TALKING ABOUT ALZHEIMER'S
ACROSS AUSTRALIA**
FIGHTDEMENTIA.ORG.AU

**Please note: the purpose of this document is to provide general information only.
Please see your financial advisor or legal professional to obtain financial advice.**

**The information contained within this document is current as of February 2015
and is subject to change dependent on legislation and Government policy.**

Acknowledgements

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Alzheimer's Australia respectfully acknowledges Aboriginal and Torres Strait Islander people as Traditional Custodians of their land, we also acknowledge both past and present Elders, and their continuing connection to country.

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SUPERANNUATION AND DEMENTIA

EARLY ACCESS TO SUPERANNUATION

The progressive deterioration in cognitive functioning associated with dementia will often mean that the person with dementia will eventually need to scale back or cease paid employment. This has considerable financial implications for the person living with dementia and their family, particularly for those with Younger Onset Dementia who often have additional financial responsibilities such as supporting children, education and mortgage repayments. People with dementia and their families often ask whether they have a right to access their superannuation early to assist with their financial situation, given that they have a terminal illness.

The purpose of this document is to provide an overview of some of the options which may apply to people with dementia who want to access their superannuation and also to provide information about how to make a complaint if you are not happy with how your superannuation provider and insurance company have responded to your claim.

There are several circumstances in which a person with dementia can access the money in their super fund early. These include:

- 1) Compassionate grounds
- 2) Severe financial hardship

There are also circumstances in which people with dementia may be able to access funds through insurance which is provided as part of their superannuation. These circumstances include:

- 3) Terminal illness
- 4) Total and permanent disability

Please see Appendix 1 for a breakdown of the terms used in this document.

EARLY ACCESS TO SUPERANNUATION – APPLYING THROUGH THE DEPARTMENT OF HUMAN SERVICES

COMPASSIONATE GROUNDS

The Australian Government Department of Human Services (DHS) provides assistance in very limited circumstances where benefits may be released on specified compassionate grounds. These are defined in the Superannuation Industry (Supervision) Regulations 1994 and include:

- Medical treatment or transport
- Mortgage assistance
- Modifications to your home or motor vehicle
- Palliative care
- Funeral expenses for a dependant

The DHS is responsible for administering the early release of superannuation funds if the request meets the specific requirements of the legislation relating to the early release of superannuation on the basis of the above specified compassionate grounds. All applications for the release of superannuation on the basis of compassionate grounds should therefore be made directly to the DHS who may then grant approval to the superannuation provider to release the funds. Additional information and links to relevant forms are provided below. The superannuation provider will advise you which benefits it can and which it cannot release, if any (this is something you will need to discuss directly with your superannuation provider).

Accessing your superannuation early to care for a spouse or child: there are circumstances where you can access your own superannuation to assist in costs associated with the care of your spouse or a child. The same forms will need to be completed. If you are accessing your superannuation to assist with costs associated with caring for someone who is not your spouse or child, you will need to provide evidence that they are your dependant.

Respite care: applications to access superannuation early to pay for respite services will not be considered.

Residential aged care: applications to access superannuation early to pay for costs associated with residential aged care will not be considered.

Further information regarding accessing your superannuation early can be accessed from the Department of Human Services website (<http://www.humanservices.gov.au/customer/services/centrelink/early-release-of-superannuation>) or by ringing 1300 131 060 (Early Release of Superannuation Benefits Program).

The superannuation provider may charge fees for the early release of superannuation (this is something you need to contact your superannuation provider about directly as this will vary between superannuation providers). Tax consequences may also apply, please see below for further information regarding your superannuation and tax.

You can make a claim on one or more of the specified compassionate grounds. Please note: The information below was adapted from the Department of Human Services website.

I. MEDICAL TREATMENT OR TRANSPORT

You may be eligible for an early release of superannuation for medical treatment or transport expenses if:

- you or your dependant (a partner or child is automatically considered as your dependant) has a life threatening illness or injury, acute or chronic pain, or acute or chronic mental illness, and;
- you or your dependant needs assistance to meet the costs of medical treatment which is not readily available through the public health system or covered by insurance; or
- you or your dependant needs assistance to meet the costs of transport to access medical treatment; and
- you do not have the financial capacity to pay for the expenses without accessing your superannuation.

You **will not** be eligible for an early release of superannuation for medical treatment or transport expenses if you or your dependant:

- can't work due to a medical condition and need assistance paying living expenses; or
- medical treatment or transport expenses are paid for by work cover.

Maximum release amount

The maximum amount that can be considered for release within a 12-month period is equal to 12 months of medical treatment or transport expenses.

What you need to do

To apply for an early release of superannuation for medical expenses you need to:

- complete the DHS medical, dental or transport application form
- provide a report for medical practitioners or specialists form completed by a relevant registered treating medical practitioner,
- provide a report for medical practitioners or specialists form completed by a relevant registered treating medical specialist,
- provide 100 points of certified identification, and
- provide all supporting documents requested in the application form.

More information regarding the supporting documents required can be found on the DHS website (<http://www.humanservices.gov.au/customer/enablers/centrelink/early-release-of-superannuation/compassionate-grounds-medical-treatment>).

II. MORTGAGE ASSISTANCE

You may be eligible for an early release of superannuation for mortgage assistance if:

- your mortgagee is threatening to repossess or sell your home due to arrears on your mortgage
- the property under threat is your usual place of residence
- you are responsible for the mortgage repayments, and
- you can't afford to pay the arrears without accessing your superannuation.

You **will not** be eligible for an early release of superannuation for mortgage assistance if:

- you are not in arrears on your mortgage but expect to have difficulty making future repayments
- you are in arrears on your mortgage but your mortgagee is not threatening to repossess or sell your home, or
- you are in rental arrears.

Maximum release amount

The maximum amount that can be considered for release within a 12-month period is the sum of:

- 3 months repayments, and
- 12 months interest on the outstanding balance of the loan.

This amount is not an indication of how much will be approved for release. This is based on the amount needed to prevent the forced sale of your usual place of residence.

What you need to do

To apply for an early release of superannuation for mortgage assistance you need to:

- Complete, sign and date the DHS Mortgage Assistance Application form,
- provide 100 points of certified identification, and
- provide all the supporting documents requested in the application form.

More information regarding the supporting documents required can be found on the DHS website (<http://www.humanservices.gov.au/customer/enablers/centrelink/early-release-of-superannuation/compassionate-grounds-mortgage-assistance>).

III. MODIFICATIONS TO YOUR HOME OR MOTOR VEHICLE

You may be eligible for an early release of superannuation for home or vehicle modifications if:

- you or your dependant has a severe disability, and
- you need to modify your home or vehicle to accommodate your own needs, or the needs of a dependant, in the case of severe disability, or
- you need to purchase disability aids to accommodate the severe disability, and
- you can't afford to pay for them without accessing your superannuation.

You **will not** be eligible for an early release of superannuation for home or vehicle modification expenses if:

- you or your dependant's medical condition has not been diagnosed as a severe disability
- you are applying to modify a dependant's home that is not your principal place of residence, or
- you or your dependant is unable to work due to a severe disability and you need help paying living expenses.

Maximum release amount

The maximum amount that can be considered for release within a 12-month period is the amount equal to the cost of the modifications or disability aids.

What you need to do

To apply for an early release of superannuation for home or vehicle modifications or disability aids you need to:

- complete, sign and date the DHS home or vehicles modification form
- provide 100 points of certified identification, and
- provide all the supporting documents requested in the application form.

More information regarding the supporting documents required can be found on the DHS website (<http://www.humanservices.gov.au/customer/enablers/centrelink/early-release-of-superannuation/compassionate-grounds-modifications-to-your-home-motor-vehicle>).

IV. PALLIATIVE CARE

If you need to access your superannuation for palliative care costs, you can apply to DHS or directly to your superannuation fund depending on your circumstances. If you are applying for the release of only part of your money to pay for costs associated with care e.g. employing someone to care for you or your dependant, then you apply to DHS directly. If you wish to access all of your superannuation money as you will not be in paid employment again, you need to contact your superannuation provider and lodge an application directly with them.

You may be eligible for an early release of superannuation for palliative care expenses if:

- you or your dependant has a terminal illness
- you or your dependant need assistance paying palliative care expenses, and
- you can't afford to pay for the expenses without accessing your superannuation.

You **will not** be eligible for an early release of superannuation for palliative care expenses if:

- you or your dependant have a medical condition which has not been diagnosed as a terminal illness; or
- you or your dependant are unable to work due to terminal illness and you need assistance to pay living expenses.

Maximum release amount

The maximum amount that can be considered for release within a 12-month period is the amount equal to 12 months of palliative care expenses.

What you need to do

To apply for an early release of superannuation for palliative care expenses you need to:

- complete, sign and date the DHS Application for Palliative Care form
- provide 100 points of certified identification, and
- provide all supporting documents requested in the application form.

More information regarding the supporting documents required can be found on the DHS website (<http://www.humanservices.gov.au/customer/enablers/centrelink/early-release-of-superannuation/compassionate-grounds-palliative-care>).

V. FUNERAL EXPENSES FOR A DEPENDANT

You may be eligible for the early release of superannuation for a dependant's funeral expenses if:

- your dependant has passed away
- you need assistance paying funeral expenses, and
- you can't afford the expenses without accessing your superannuation.

You **will not** be eligible for an early release of superannuation for a dependant's funeral expenses if:

- you are applying for funeral expenses for someone who was not a dependant
- your dependant's funeral has taken place and has been paid for; or
- you are applying for your own funeral.

Maximum release amount

There is a maximum amount of superannuation that can be released for a dependant's death, funeral or burial expenses. Please refer to the DHS website for further information.

What you need to do

To apply for an early release of superannuation for a dependant's funeral expenses you need to:

- complete, sign and date the Application for Funeral Assistance form
- provide 100 points of certified identification, and
- provide all supporting documents requested in the application form.

More information regarding supporting documents required can be found on the DHS website (<http://www.humanservices.gov.au/customer/enablers/centrelink/early-release-of-superannuation/compassionate-grounds-funeral-expenses-for-a-dependant>).

SEVERE FINANCIAL HARDSHIP APPLYING THROUGH YOUR SUPERANNUATION PROVIDER

There are circumstances where early access to superannuation may be permitted and administered directly by the superannuation provider including severe financial hardship.

Legislation is in place regarding accessing superannuation under severe financial hardship which falls into two categories:

Category 1

- You are receiving an eligible Commonwealth income support payment continuously for 26 weeks, and
- You are unable to meet reasonable and immediate family living expenses (the basic necessities of everyday living) and you have no other assets or resources which could reasonably be used to cover this gap.

Category 2

- You are age 55
- You are receiving an eligible Commonwealth income support payment for a period of no less than a total of 39 weeks since reaching age 55, and
- You can declare that at the time you are making your request you are not in paid employment (working for 10 or more hours each week).

Severe financial hardship benefits are released from your super account in the order of unrestricted non-preserved, restricted non-preserved and preserved benefits.

Australian Government income support payments include:

- mature age partner allowance
- age pension
- wife pension
- widow B pension
- special needs pension
- parenting payment (single)
- sole parent pension
- bereavement allowance
- disability support pension, and
- carer payment.

DHS will supply a letter confirming that you have received an eligible income support payment for the required period. Letters are no longer valid after 21 days after the date on letter.

HOW MUCH CAN I ACCESS?

Category 1

- \$1,000 minimum (except where your super account balance is less than \$1,000) and
- \$10,000 maximum.

These payments are gross amounts i.e. you may have to pay tax and withdrawal fees before you receive the money.

You can only receive one severe financial hardship payment in any 12-month period.

Category 2

- There is no restriction on how much of your account balance you can withdraw.

ACCESS TO LIFE INSURANCE AND TOTAL PERMANENT DISABILITY INSURANCE THROUGH YOUR SUPERANNUATION PROVIDER

Superannuation providers will usually offer death and total permanent disability (TPD) insurance cover as a part of their superannuation fund. A default level of cover is generally provided and super members have the option of opting out or purchasing additional units of cover for death, terminal illness, TPD or salary continuance benefit if the person becomes temporarily or partially disabled.

Terminal illness and TPD are insurance benefits that differ from your account balance or superannuation contributions made by you or your employer to your super fund. These insurance benefits are usually funded by the deduction of premiums from your account balance. **The payment of such insurance benefits is usually made in addition to your super fund account balance.**

There are rules and policies that govern TPD and terminal illness insurance benefits and these will differ between superannuation providers – the rules and policies that govern TPD and terminal illness insurance are stipulated in the contract between the superannuation providers and the insurance company underwriting TPD and terminal illness cover. It is necessary for super members to have an understanding of the different definitions and terms and conditions of insurance. These can be found in the product disclosure statement.

Many superannuation providers will state in their member guides or on their website that they do not guarantee the payment of an insured benefit or the performance of the insurer.

If a claim for TPD or terminal illness is successful, the insurer will credit this sum to the superannuation provider who will then administer it in accordance with legislative and trust deed requirements being met.

The payout figure received from such claims will vary depending upon the insurance options you have selected as a part of your fund. For example, one unit of cover for death and terminal illness may cover the individual for \$85,000 with a maximum cover of \$5 million for death or \$3 million for terminal illness.

Exclusions may apply and superannuation members should carefully review the product disclosure statement or contact their superannuation provider to obtain additional information regarding this.

TERMINAL ILLNESS APPLYING THROUGH YOUR SUPERANNUATION PROVIDER

Terminal illness or death cover provides a lump sum payout to your dependants, nominated beneficiaries (for example, your children or partner) or your legal personal representative (executor of your estate) if you die. This amount is designed to provide your dependants with money to live on, or to repay your debts. Death cover is generally available from age 15 up to age 70 (a death benefit may also be prepaid if you are terminally ill).

A terminal medical condition exists if:

- Two registered medical practitioners certify, jointly or separately, that the member suffers from an illness, or has incurred an injury, that is likely to result in the member's death within 12 months of certification. (Please note: This is unlikely to apply to people with dementia due to the varied trajectory of the disease)
- At least one of the registered medical practitioners is a specialist practicing in the area related to the illness or injury suffered by the person, and
- The certification period has not ended for each of the certificates.

If the person satisfies the terminal condition for release, any benefits that have accrued up to that point in time become unrestricted non-preserved. Any additional benefits accrued by the member during the certification period also become unrestricted non-preserved benefits. These can be accessed as a **tax-free super lump sum payment** during the certification period. Any balances remaining after the certification period ends can be accessed at any time, but may not be tax free. Visit the Australian Taxation Office website for further information. (<https://www.ato.gov.au/Super/APRA-regulated-funds/In-detail/Paying-benefits/Access-to-super-for-members-with-a-terminal-medical-condition/>).

Note: If your super fund does not allow early access to superannuation due to a terminal medical condition then you may be able to move your super fund to a different fund. It is imperative to receive independent financial advice on this to help decide if you need to transfer your super to a different fund.

TOTAL PERMANENT DISABILITY/PERMANENT INCAPACITY APPLYING THROUGH YOUR SUPERANNUATION PROVIDER

Total & Permanent Disability (TPD) cover provides a lump sum payout to you if you become totally and permanently disabled. It's meant to replace the income you would have earned if you had not become injured or ill. TPD cover is available from age 15 up to age 65.

What is total permanent disability?

This will vary between superannuation providers so it is important to familiarise yourself with the product disclosure statement to ensure a firm understanding of what constitutes total permanent disability.

Generally, TPD includes:

- Loss of limbs, which include arms or legs
- Loss of vision
- Absence from your primary occupation for more than 6 months, with no expectation of you ever returning to normal work, as a result of an illness or injury.

Insurance providers will further define TPD as either:

- Own occupation – you are unable to work in your **main** occupation again
- Any occupation – you are unable to work in **any** occupation again; or
- Home duties – those who provide unpaid domestic work/duties.

To successfully claim a TPD insurance benefit, you must meet the definition of TPD in line with the Fund's Trust Deed and insurance policy. These will vary between superannuation providers.

Whilst TPD definitions and requirements differ, generally to successfully claim a TPD insurance benefit you must establish that you have been unable to work for a 6-month period due to a medical condition that renders you unlikely to ever engage in any work for which you are qualified by reason of your education, training and experience.

You will usually need to provide:

- A statement from your treating medical practitioner(s) who are primarily treating your injury or illness, describing the nature and extent of your injury or illness
- Your previous employer may (depending on your superannuation provider and insurance company) be required to complete forms/statements in support of your claim.

ADDITIONAL INFORMATION

Nominating your superannuation beneficiary

You can nominate a beneficiary to receive your superannuation in the event of your death. There are different types of nominations. If you do not nominate a beneficiary or have a non-binding beneficiary named, under superannuation law your superannuation provider can, at their discretion, decide which of your dependants will receive your superannuation benefits. The types of nominations include:

- Binding nomination – you will need to contact your superannuation provider and ask them whether they allow binding nominations. If they do, you will need to complete a form nominating who you want your superannuation money to be paid to in the event of your death. This document will need to be witnessed by two people who are not beneficiaries. The binding nomination is valid for 3 years only. Your superannuation provider should send you a reminder before expiration of the nomination reminding you to update. You can change your nomination at any time during the 3-year period.
- Non-binding (sometimes referred to as discretionary) – you nominate a beneficiary but this will serve as a guide only and it will be at the superannuation provider's discretion as to which of your dependants will receive your superannuation benefits.

Tax payable on early superannuation withdrawals

To work out how your superannuation payment will be taxed you need to know how much of the money in your super account is a:

- Tax-free component (as it implies, this money is tax free)
- Taxable component that the superannuation provider has paid tax on (the 'taxed element')
- Taxable component that the superannuation provider has not paid tax on (the 'untaxed element').

You need to contact your superannuation provider in order to ascertain how the above elements apply to you.

The rates of tax you will pay will vary and is dependent upon:

- Your age when you access your superannuation
- The type of claim you make (e.g. compassionate grounds, severe financial hardship, terminal illness, total and permanent disability), and
- Whether your type of withdrawal is income stream or lump sum.

Superannuation Complaints Tribunal

If your claim for TPD or terminal illness is rejected by your superannuation provider, you are able to request the provider to review their decision, or you can challenge their decision in a court or through the Superannuation Complaints Tribunal. Strict time limits apply to challenging their decision so it is important to get legal advice as soon as possible if this applies to you.

- For disability complaints – will depend on whether the disability that gave rise to the claim caused cessation of employment and the date of the providers decision was made (either before or after 1 July 2013)
- For death or terminal illness – there may be a 28 day time limit which may be subject to other considerations
- All other complaints - should generally be lodged within 1 year.

The Tribunal is an independent resolution body which deals with a diverse range of superannuation related complaints and offers an alternative to the court system.

The Tribunal deals with complaints on issues including decisions and conduct of providers, insurers, and other decision-makers in relation to regulated superannuation funds, approved deposit funds, annuities, life policy funds and retirement savings accounts. The Tribunal does not have unlimited jurisdiction to deal with all superannuation matters.

Further information regarding the Tribunal can be obtained on Superannuation Complaints Tribunal website or on 1800 884 114.

Financial Counselling Australia (FCA)

FCA is the peak body for financial counsellors across the country.

People experiencing financial difficulty can speak to a free, independent financial counsellor by ringing the National Financial Counselling Hotline on 1800 007 007.

YOU CAN ALSO CONTACT FCA MEMBERS BY STATE:

Victoria

Financial and Consumer Rights Council
1st Floor, Ross House, 247-251 Flinders Lane,
Melbourne VIC 3000
Phone: (03) 9663 2000
Web: www.fcrc.org.au

New South Wales

Financial Counsellors' Association of New South Wales
Suite 114, 410 Elizabeth St, Surry Hills NSW 2010
Phone: 1300 914 408
Web: www.fcan.com.au

Queensland

Financial Counsellors' Association of Queensland
PO Box 271, Fortitude Valley Qld 4006
Phone: 1800 007 007
Web: www.fcaq.com.au

Northern Territory

Money Workers Association of the NT

PO Box 4588, Alice Springs NT 0871

Phone: 0456 922 562

Web: <http://mwant.com.au/>

Australian Capital Territory

Care Financial Counselling & Consumer Credit Legal Service

PO Box 763, Civic Square ACT 2608

Phone: 02 6257 1788

Web: <http://www.carefcs.org/services.html>

Western Australia

Financial Counsellors' Association of Western Australia

33 Moore Street, East Perth WA 6004

Phone: 08 9325 1617

Web: www.financialcounsellors.org

South Australia

South Australian Financial Counsellors' Association

PO Box 988, Adelaide SA 5001

Phone: 1800 007 007

Web: www.safca.info

Tasmania

Financial Counselling Tasmania

PO Box 4676, Hobart TAS 7001

Phone: 03 6213 3549

Web: www.financialcounsellingtasmania.org.au

APPENDIX I

Preservation age: is generally the age that you can access your super benefits. A person's preservation age depends on their date of birth, as set out in the following table.

Date of birth	Preservation age (years)
Before 1 July 1960	55
1 July 1960 – 30 June 1961	56
1 July 1961 – 30 June 1962	57
1 July 1962 – 30 June 1963	58
1 July 1963 – 30 June 1964	59
After 30 June 1964	60

Preserved benefit: A super benefit that remains in a super fund until the member reaches preservation age and, in most instances, retires from the workforce.

Restricted non-preserved benefits: These are superannuation benefits which can be paid on termination of an office of employment. They can also be paid under the same conditions that preserved benefits are paid.

Unrestricted non-preserved benefits: These are generally benefits where the member has previously met a condition of release and was entitled to be paid, but has voluntarily decided to keep the funds within the superannuation system. There are no restrictions for paying these superannuation benefits out to a member at any time on demand, irrespective of age, employment situation or financial position, providing the superannuation fund rules allow the payment. Unrestricted non-preserved amounts may also simply be money you held in super before July 1, 1999 (which is when rules to restrict withdrawals were introduced).

Income stream: Is a series of regular payments over a period of time, just like being paid wages or a salary. Most people have a choice of taking their super as an income stream or as a lump sum.

WWW.FIGHTDEMENTIA.ORG.AU

Visit the Alzheimer's Australia website
for comprehensive information about
dementia, care information, education, training
and other services offered by member organisations.

Or for information and advice contact the
National Dementia Helpline on

1800 100 500

The National Dementia Helpline is an Australian Government funded initiative

or

Dementia Behaviour Management
Advisory Service (DBMAS)

1800 699 799

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