**Willing to Work: National Inquiry into Employment Discrimination against Older Australians and Australians with Disability**

# Submission No 224

**Name** Anne Zalega

**Submission made by**

☒ Australian with disability looking for work

[x]  Other
 Please describe: Australian with disability injured at work

# Submission regarding Older Australians / Australians with Disability / Both

### **Your experience**

**Have you (or the person you are submitting on behalf of) experienced employment discrimination?**

[x]  Yes

[ ]  No

[ ]  Not sure

**Did you take any action in relation to the employment discrimination you experienced?**

[x]  Yes

[ ]  No

**Please tell us more, for example, what action you took and how effective you felt it was; or why you chose not to take any action.**

I) At my place of employment which was a private home of selfunded disabled person ( similar to NDIS model). She was my employer and I was her carer.

1. I talked to the person doing the discrimination – I explained the effect it has on me. No result.
2. Called manager and then person above it (management committee president). Their response was to arrange meeting with with me and I was advised that they just would not employ disabled people anymore.
3. Contacted Office of Fair Work. They only dealt with part of it.
4. Contacted Work and Safety QLD and they did investigation but it did take long time and in the mean time I went on stress leave.

II) While on Workcover and dealing with compensation payout.

**Did your experience of employment discrimination impact on your participation in the workforce? (For example, did you have to stop work, change jobs or take sick leave?)**

[x] Yes

[ ] No

**Please tell us more**

I went on stress leave.

All of the above took 2 years to deal with. I already suffered from psychological and physical injuries so additional stress, luck of support and security took toll on me and I snapped. I was on Workcover for about 2 years. Their medical Tribunal doctors made comment “ you are Polish so why ant you soak tobacco in the vodka that way you can kill stress, smoke and drink in same time”. I was hospitalised and my specialist was fighting WorkCover for a treatment approval. Eventually I had to engage solicitor when originally I did not consider legal action at all.

When I was employed I was already receiving DSP, concession card. The work ( 10hr/week) was only addition to it . Work for me was a therapy and was giving me self-worth plus extra income.

While on WorcCover I still received part DSP, concession card. All the treatment and medications were discounted due to concession card. My compensation payout was for lost wages only and took into consideration me having concession card for discounted medications and treatment and it not included loss of DSP but out of the compensation I had to repay Centrelink all the money and then my DSP was cancelled. I also lost concession card, had exclusion period plus all my med and treatment I had to pay in full. After preclusion period I had to reapply for DSP and waited 3 months for approval. Awaiting approval my children supported me. I could not afford medical treatment and most of my medication for medical condition even prior to my employment.

### **Barriers**

**Do you think older Australians/Australians with disability face barriers when they look for work or are in a job?**

[x] Yes

[ ] No

[ ] Not sure

Potential employers see our disability not ability.

In my case I did disclose some of the information about my disability, which helped me to get the job in the context one disable person understand other disable person ( my service provider was a person with disability). With employers knowledge I asked for and received help from **[redacted]** to accommodate my needs to perform my duties. But eventually I was asked to perform duties potentially harmful for person in my condition. For the sake of having job I stayed until I snapped.

**If yes, or not sure, what do you think these barriers might be?**

Anxiety about disclosing hidden disability and worrying about potential employer ability to understand. Worrying about those ‘hidden’ and potentially harmful tasks person will have to face at work.

I only speak about carers work, support workers work, life assistance work:

People Manual handling is the biggest issue. Law states - safety for all! But behind the close doors the manual handling is under question, especially if a disable person manages its own funding, lives in its own place and employs carer with disability. The awareness of hardship to get work is on both sides.

Worker with disability will ask questions about safety at the job interview but even if they are assured about safety practices later on , if they get the job, they will be asked to do questionable work and their disability will be blamed for it :

 “ The lift is safe only you can’t do it properly!”

Or

“ Lift me up!”, “Sorry, I can’t, I need to use hoist “, “ O that’s right you are with the bad back, if so and so would be here she would do it “

Or

‘ I am paying you good money so you have to do it “

 In my experience workers do unsafe manual handling, only to keep the job. I was very often put in this position and I did it because I knew that it would be hard to find another job.

**Does employment discrimination have an impact on gaining and keeping employment for older Australians/Australians with disability?**

[x] Yes

[ ] No

[ ] Not sure

It creates stress, lowers ones self-esteem and gives a feeling of second best, discourages to give it a go, making person more sick and affects health.

In my case after my accident at work and what has happen to me many of my working friends with disability resigned from work being afraid that in case of injuries they loose DSP and they won’t be able to support themselves.

**Are there any practices, attitudes or laws which discourage or prevent equal participation in employment of older Australians/Australians with disability?**

[x] Yes

[ ] No

[ ] Not sure

**Please tell us more**

1.Many job applications have a question:

 “ Did you ever claimed WorkCover, other insurance or do you have work related injuries.

2. Person on DSP and working cannot claim TPD or Death Insurance. In order to claim you have to work more then 15 hrs/week.

I was on DSP, working 10 hrs/week, I was injured at work and could not claim TPD.I complained to Mr S. Ciobo, MP for Southport with no luck.

3.Centrelink law – preclusion period is to avoid double dipping but in a case of work related injuries to a person with disability and on DSP is a giving government windfall gain.

Firstly injured disable person does not receive in hand all awarded compensation money. After paying all back including legal fees there is not much left in hand but preclusion period take the gross amount into calculation of preclusion from DPS.

Secondly, compensation of injured DSP recipient is calculated ONLY on loss of income ( up to 15 hrs/week) .

In my case I earned $233 a week plus I received part pension of $ 320 a week.

Compensation calculated loss of $ 233/ week but I lost $ 553 a week plus out of the received $233 I had to pay back $530.

“ To impose a preclusion period as a result of an accident to a person already in receipt of disability support pension for totally different conditions to that caused by the latter accident is to hand to the Commonwealth a windfall gain. The preclusion period is to overcome double dipping in the sense explain above, not to allow the Commonwealth to take part of a damages settlement for un connected causes”[ AAT Stern v Dep.of Family and Community Services’]

Or

“ It is conformity with the legislation that an award of damages unconnected with the conditions for which the disability support was granted be regarded as special circumstances. An injured person’s resort against a defendant for pain and suffering should not be turned into a revenue gathering exercise by the Commonwealth.”[ DDS v Hulls ].

President was already set for people for disability on DSP and injured at work, yet despite above findings I lost all my appals. My case was taken in the contest of injured people awaiting compensations and while waiting they received DSP.

**What are the incentives and disincentives for older Australians/Australians with disability to work?**

**Incentives:**

Wellbeing, better health, being part of community, not being taxpayers burden, freedom to spent the money, opportunity to make new friends or friends at all

**Disincentives:**

Possibilities of work related injuries, ending up worst off and ending up on the end of the cue as an unproductive, useless person.

Luck of community understanding that discrimination hurts and has negative impact on individual

### **Good practice**

**Are there examples of good practice and workplace policies in employing and retaining older Australians/ Australians with disability?**

[x] Yes

[ ] No

[ ] Not sure

**Please tell us of examples of good practice in employing and retaining older Australians/ Australians with disability in work that you are aware of.**

Government and council jobs provide full support and can cater for people with different disabilities. Especially the grievance procedures are in place.

### **Solutions**

**What action should be taken to address employment discrimination against older Australians/Australians with disability?**

**What should be done to enhance workforce participation of older Australians/Australians with disability?**

**What outcomes or recommendations would you like to see from this National Inquiry?**

1. Revisit compensation law, especially Centrelink preclusion period.
2. Provide more finding for free legal advice.
3. Change the insurance policy about claiming TPD and Death to no cap on amount of working hours.
4. Assurance from government that selfunded people with disability living in their own home are trained as employers with responsibility and understanding for providing safe and right paying work, right grievance procedures without repo caution for speaking out.