

# MY CHILD HAS AN INCOME – DOES THAT AFFECT CHILD SUPPORT PAYMENTS?

29 March 2021

The Child Support Agency ('Services Australia') is responsible for the assessment, collection and transfer of child support payments. A formula is used to calculate the amount to be paid but it doesn't take into account income the child receives. So, what happens then?

A parent or carer can apply to Services Australia for an "administrative assessment" to determine the amount of child support payable.

## **Children under 18 years:**

That assessment is calculated using a formula, which applies only to children under 18 years of age, and relies on the following information:

- Each parent's income
- Each parent's percentage of care – or time with the children – and;
- The costs of each child, based on research and taking into account the fact that older children cost more

The formula does not take into account the child's personal income when calculating the rate of child support payable.

However, a parent can apply to vary the assessment in certain circumstances, including taking into account the income, earning capacity, property and financial resources of the child, as well as any assets held for the benefit of the child.

Generally the court will not be satisfied that a child's income is high enough to warrant a change to the assessment unless that income is regular and exceeds the equivalent of the maximum rate of Youth Allowance payable to a child under 18 years of age living at home.

A child would need to earn at least \$345.10 per week for the amount to be considered so significant as to be capable of affecting an assessment and there are very few teenagers making that kind of money.

## **Adult child maintenance**

In most situations once a child turns 18 years, they are outside the Child Support Agency assessment system. But in those situations, it is still possible for the court to order a Child Maintenance payment be made. The court can make an order for adult child maintenance in relation to a child who is 18 years or over, to enable the child to complete his or her education, or because of a mental or physical disability of the child. In doing so, the court must consider the income, earning capacity, property and financial resources of the child. Any entitlement of the child to an income tested pension, allowance, or benefit from the government does not count.

In a recent case, the court considered the amount of child maintenance a father was liable to pay for his 21-year-old daughter,

who was studying at university and working in a paid internship.

She was occupied in the internship for one or two days a week, depending on her university course work, but the internship did not continue during university holidays. When working, she was employed for 7 to 8 hours per day at \$20/hour.

The court found that she could contribute up to \$320 per week during the university term and that she had the capacity for other alternative part-time or holiday employment if the internship stopped. As her work was not continuous and not consistently two days a week, the court found that she could and should contribute at least an average of \$200 per week to her own needs, which was subsequently deducted from her parent's contribution.