

Submission on the Job Capacity Assessment Program by the National Welfare Rights Network (NWRN)

February 2008

1. Background

The purpose of a Job Capacity Assessment (JCA) is to provide a comprehensive assessment and identification of an individual's barriers to finding and maintaining employment and assessing their current and future work capacity. As a result, where appropriate, assistance is provided to help a jobseeker improve their current work capacity.

The information from the Job Capacity Assessment will assist in determining:

- what type of payment an individual is on and whether they face a harsher Newstart Allowance earnings free area and income test;
- what level of activities, if any, they will be required to do;
- whether they have compulsory activities at all;
- whether they be entitled to a Pensioner Concession Card;
- where they will be referred to for support and assistance; and
- whether they will potentially be subjected to the compliance regime, and the possibility of losing all of their Social Security payments for eight weeks.

JCAs are conducted by organisations contracted to the Department of Human Services. Underpinning the problems with JCAs is the political context. The Welfare Rights Centre understands that Job Capacity Assessors operate in the harsh environment of the former Department of Employment and Workplace Relations' ideologically driven and misplaced "Work First" approach as opposed to the much more effective "Work Ready" approach as proven in many other OECD countries. We also understand that the previous Government placed too much emphasis on the new compliance regime and its unjustifiable and counter-productive eight week no payment penalty system. Further, we recognise that Centrelink is seriously under-resourced and the pressure this places on the whole system as well as the fact that assessors may deal with clients whose lives are difficult and complex.

2. Job Capacity Assessments – some fundamental issues

2.1 JCAs not delivering accurate assessments

In the experience of Welfare Rights caseworkers, the Job Capacity Assessment process has not delivered accurate assessments of work capacity in a significant proportion of cases.

As a result:

- far too many people are being placed on wrong payments; and
- far too many of those placed on Newstart Allowance are being given inappropriate, and often unachievable, activity requirements.

As a consequence:

- Job Network Providers are constantly dealing with problems that are not of their making resulting in over 529,650 participation reports being sent to Centrelink in 06-07¹;
- Centrelink has to maintain a vast team of investigators to examine the 12,000 participation reports it receives each week, 6,000 of which prove to be unenforceable; and
- DEWR has increased its rate of Secretary appeals to the Administrative Appeals Tribunal by 84% (2006/07), 62% of which it subsequently withdraws. Eighty percent of these withdrawals relate to Disability Support Pension eligibility assessments.

2.2 Central flaw

The primary reason why these assessments are not accurate is because the process became corrupted by DEWR's single minded, "work first" obsession.

As a result, the assessment process is extremely unbalanced with far too much emphasis on the second component of "impact of impairment on capacity to work" and far too little on the prior component of "medical ... (etc) impairment".

Where medical evidence exists, JCAs regularly fail to examine or take account of it. They routinely overlook or ignore Treating Doctors' Reports (TDRs) either through lack of training, lack of experience, lack of interest, lack of time or lack of direction. Far too often they do not even obtain or examine a copy of the Centrelink file which often contains significant medical evidence.

Worse still, many JCAs actually state disagreement with the medical assessment, despite no relevant training in the particular area themselves and despite not having sought a second medical assessment to confirm the alleged inaccuracy of the first medical assessment. In addition, too often the TDR itself is deficient. Treating Doctors are not given a copy of the Impairment Tables, are no longer invited to make an Impairment Rating assessment and are certainly not given any opportunity to state their opinion on the impact of the impairment or condition they are treating on a person's capacity to work. Despite most JCAs not being medically qualified, the fact that often there is insufficient or defective (because of the process) medical evidence, the Impairment Rating is determined by the JCA.

This structural failure to properly obtain, assess and give due weight to medical evidence, combined with DEWR's heavily imposed "work first" (or else) framework, has resulted in systemic wishful thinking that has under-emphasised (often ignored or even denied) the medical impairment and over-emphasised a person's "capacity or partial capacity" to work, leading to the result set out above.

3. Job Capacity Assessment Guidelines, particularly as they relate to assessment and referral practice

Welfare Rights workers have come across many instances where there appears to have been inappropriate referrals to employment service providers, particularly to Job Network. The referral may take place because the client does not have sufficient medical information, any recent information on their condition, may not have ever had a condition recognised or have an illness such that they either have no insight into their condition, or refuse to acknowledge its existence. All of the above situations, when they occur, can be extremely damaging to the individual, and in worse case scenarios, place their health at risk.

JCA's lack the flexibility to use sensible, professional judgement to determine whether or not it is appropriate to undertake an assessment on a particular client who may be facing some form of crisis in their lives. It is not appropriate in every case for a JCA to occur as soon as the client seeks an exemption or claims DSP. Nor is it rational or humane for clients with serious mental health problems where doctors report that they have attempted suicide or idealize about suicide, to be expected to undergo a JCA. Just as it is counterproductive for people recently released from psychiatric institutions or hospital to be required to undergo a JCA. Yet all of these sorts of cases have presented themselves to Welfare Rights workers since the new assessment process started.

¹ Jeff Whalen, CEO, Centrelink – letter to Commonwealth Ombudsman, October 2007.

Less experienced assessors who make assessments without all medical advice, or who ignore TDR's can lead to inappropriate referrals, for instance, a client with an intellectual disability was referred to PSP, when a DEN referral was more appropriate. Inappropriate referrals lead to unmanageable activity agreement and potential participation failures. This is particularly problematic if referral is to a JNP and the person is unable to exit without JNP approval.

Given the clients that are targeted by JCA, it would be expected that only appropriate referrals were made and that the letters sent requesting a person to attend a JCA would be appropriately worded so as not to cause anxiety. In our experience however, this is not the case. We are still finding cases of inappropriate referrals to assessors and still far too many clients do not really understand what the purpose of the JCA is, who they are meeting or why the JCA is important.

Timeliness or unhealthy rushing?

The 2005-06 Department of Human Services Annual Report indicates that 82.5% of assessments in non-remote areas were completed within 10 working days. While on the one hand it could be seen as a positive that this figure denotes a better result than the timeliness standards mandate, it seems to us that in many cases assessments are rushed, often leaving little time for the client to obtain medical evidence to support their claim or request for an exemption.

Often it is in the best interests of a client to take a recent medical report to the JCA interview. However, given the speed of their referral and the increased immediacy of the process (within 10 days), they do not have time to get such reports. This may lead to an inaccurate JCA referral or recommendation.

Matching assessors with disability

In our experience one of the key aspects of the assessment that clients are most unhappy with, and which causes them to doubt the veracity and accuracy of the JCA findings is that, for example, a person may suffer from chronic schizophrenia but their assessor may be a physiotherapist. This brings into question the quality of the assessment.

In practice we find that JCAs often focus on an examination of the medical evidence ONLY to determine the person's capacity to work and, DO NOT look into the individual circumstances. This is particularly so for clients claiming Newstart Allowance (incapacitated) or a temporary activity test exemption. At times they will only do an assessment on whatever medical reports are on file e.g. TDRs, etc. This means that the Assessor may not be aware of the particular non-medical issues or barriers that are affecting the individual. Consequently, personal issues, family problems or responsibilities, social, economic, homelessness, cultural or linguistic factors can be overlooked. These issues may be picked up through the JSCI, but then again, they may not.

Disclosure of sensitive personal information

In our experience many clients do not feel comfortable disclosing personal and sensitive information. This is particularly so when they have either already disclosed information to Centrelink. Additionally, a factor in working strongly against adequate personal disclosure, which is often vital for the correct assessment and the setting of "reasonable" activity requirements, etc, is that the client has not been able to build a rapport with the assessor. This issue becomes more problematic when a client is required to undergo a second, third or subsequent JCA with different assessors.

The individual circumstances and non-medical factors should be taken into consideration when making an assessment as to the person's work capacity. This is imperative because it will have direct implications for the person on what follows after the assessment.

Lack of access to specialists

The Assessor may assess the person's impairment rate as below 20 points purely based on the medical reports available on file BUT not realising that the person (as is often the case) has not been examined by a specialist for a particular condition, e.g., Chronic Fatigue Syndrome. The Assessor would say that because the condition has not been fully diagnosed and treated they would not award any points and would assess the person's work capacity of 15 or more hours a week.

The other factor is the long waiting time for access to specialists in the public health system. Often, waiting periods to see specialists may be not less than 6 months and at times up to 18 months. Waiting times can be even more problematic in rural and remote areas. In the meantime, the individual is subject to meeting an activity test and is often not granted activity test exemptions. The costs of specialist reports, which can be prohibitive for some clients. If a doctor does not bulk bill, then this could also present problems in obtaining relevant and up-to-date medical information.

While NWRN is aware that JCA Service Guidelines allow in very limited circumstances the purchasing of specialist reports we are not certain as to how widely utilised this option is, and whether it is promoted to assessors as a service that could provide assistance for clients facing difficulties.

A further problem with the Guidelines that can lead to inappropriate assessment and referrals timelines in place about when an employment service provider can request a review and provide further information. This further evidence may not be able to be obtained within the allowable 28 days.

Activity before eligibility

A particularly worrying aspect of the current procedures is that a person can be required to enrol in a program or a service while they wait for a decision about their income support eligibility. This is a clear waste of resources, as a person may start in a DEN or PSP service, only to disengage if they are later granted the Disability Support Pension. Such a process also has a human dimension to it. We provide here an example of a client who was recently sent to CRS to undertake vocational rehabilitation while awaiting determination of their DSP claim, even though he had been granted an exemption from activities for the next month. The stresses of simply making appointments pushed this client to the edge and they became extremely distressed. Referrals should not be made until a decision has been made regarding a person's income support entitlement.

Disability Support Pension recipients and JCAs

A range of community organisations have previously raised concerns over the disincentive effects which are built into the current arrangements whereby when a person who is in receipt of DSP seeks assistance from an employment service provider this will trigger a JCA, which could lead to a cancellation of their pension. Measures should be put in place to offer a guarantee of continued eligibility for the pension for a period of time.

Manifest – Disability Support Pension

The final comment in this section relates to what DEWR has in the past referred to as “difficult jobseekers”. These are seen as a relatively small, number of people who, due to either their illness (which is generally a mental health problem), a lack of insight into their condition, or a complete denial of the condition, refuse to undertake a JCA. Some in this group also refuse to apply for DSP, even where it is clear that they would qualify for the payment. Our experience with these clients is that they also present significant resource challenges for both Centrelink and employment service providers. A copy of correspondence from the NWRN to DEWR on this important issue is attached in Appendix 2.

3.1 The appropriateness and range of the qualifications necessary for Job Capacity Assessors to undertake assessments of people with different disabilities, including those with a mental illness.

One key issue which puzzles and mystifies client's, their families and carers when they are confronted with a JCA appointment is what we refer to as “inappropriate matching”, i.e. where a physiotherapist assesses a person with a psychiatric disability. This can lead to inappropriate outcomes, reduces clients' faith in the process and undermines their confidence that a fair weighting has been given to their disability or illness.

Assessing capacity to work is a specialised skill beyond skills to diagnose and treat that particular health professionals will have with their own discipline.

There is a generalised lack of understanding by JCA's of the law as it relates to DSP eligibility. In addition, there is confusion around the explicit meanings of the words “temporary”, “treated” and “stabilised”.

Assessors do not at times recognise the impact a lack of insight into a mental health condition can have on a person's capacity to pursue treatment. In addition, the fact that for some people it is a reasonable decision to not take psychiatric medication due to unacceptable side effects.

3.2 The quality of information recorded during the assessment process, including whether this is sufficient to assist agencies making decisions on income support and/or employment assistance.

Treating doctor's health professionals' reports, even long standing ones, are ignored or contradicted completely. Centrelink is then unable to make DSP decisions accurately. Assessors may not look at the Centrelink file (even though there is much evidence on it).

In our view, in cases where ONLY medical evidence is taken into account it is not sufficient for agencies to make proper decisions. The fact that many of these cases are later successful when the "big picture" is properly assessed and/or the "participation failure" is revoked following investigation or appeal highlights that the initial assessment was inaccurate. JCAs should be given more discretion not only to assess the work capacity but also to recommend exemptions where it is apparent – because of all the circumstances affecting the individual and common sense – that the person is unlikely to be able to comply.

Where there is evidence on the file, there seems to be an uneven level of awareness of the ability to undertake assessments on the papers. Although there is no doubt a preference for a face-to-face assessment, clients often have long distances or expensive journeys to make and in many cases at least an initial assessment on the papers may make an appointment manifestly unnecessary.

3.3 The appropriateness of arrangements to ensure attendance at Job Capacity Assessments.

We are still finding cases of far too many clients do not really understand what the purpose of the JCA is, who they are meeting or why the JCA is important. The issue here is that clients are often on an endless treadmill of appointments with various agencies, medical practitioners, community support workers, state child protection authorities, Centrelink offices and PAGES, etc, and often may not really know just who they are meeting "today".

In our experience many clients do not receive enough notice prior to the appointment notification letter setting the date for a JCA. This often does not allow the individual to obtain up-to-date medical evidence. Letters sent to clients that stated that they could only change an appointment in "exceptional circumstances" were seen by some of our clients as frightening and intimidating. If the current wording is still couched in such terms, then it should be re-written and presented in a more helpful and less threatening tone.

Many people don't have sufficient medical evidence and given the speed of their referral and the increased immediacy of the process (within 10 days), they do not have time to get it. Further, many actually need help to obtain information and to get medical reports.

Despite the significant efforts of JCA's to encourage clients to bring in medical information, we are still finding this a problem. Clients are calling us stating they have to have this appointment in say three days – clearly not enough time get the required medical evidence to support their case if they do not have it.

If a person does not attend a Job Capacity Assessment, the Assessor can report to Centrelink and a "participation failure" may be issued and payment suspended. This intimidating approach is not conducive to the development of initial positive experience with an assessor, as clients' may see them as offering threats rather than as a source of help and possible support.

3.4 The role of the Job Capacity Account program, including the effectiveness of the current referral arrangements to the Job Capacity Account and the Job Network.

Job Capacity Accounts allow the assessor to refer a person for treatment (e.g. for depression counselling) but this well-intended short, sharp intervention can be a very risky process, for example, referring a person to six counselling sessions when records document that they have had years of severe depression. NWRN is unsure of what processes are in place if additional support services are necessary after the intervention has finished. JCA's should be required to check the proposed intervention with the client's health practitioner or other support workers (if they exist).

It has been our experience that some client's have been inappropriately referred to a Job Capacity Account because of the existence of long waiting lists for the Personal Support Program.

NWRN notes that during Senate Estimates questions on Job Capacity Accounts the Department was unable to point to a base of evidence which indicated that a Job Capacity Account was a cost effective intervention which produced results, i.e., the client moved into the workforce. It is important for an evaluation be undertaken of the service to determine if this is the best use of funds and brings positive results for participants.

3.5 Key strengths of the current arrangements and any lessons for the future, from your knowledge of current and past arrangements in Australia and internationally.

One of the potential strengths of the system is that many of the assessors are well qualified and seek to deliver a high quality assessment and assistance to their client's. However, pressures to churn through a greater number of assessments and meet timeliness standards mean that they cannot provide a consistently high level of service. We have heard of examples where supervisors castigate assessors for putting in extra time and trying hard to get further medical advice to allow them to complete a proper assessment. The pressure to make quick decisions and referrals, when a bit more time would lead to better outcomes for the clients, are faced particularly by Centrelink staff, who currently undertake the majority of assessments.

From past observation and experiences many of the JCAs have been done fairly and have suited the needs of those particular clients. However, NWRN members have also noted that there are inconsistencies, ambiguities and deficiencies because of the reasons explained in previous points above. We believe the lessons for the future is to introduce greater flexibility at all stages of the program to enable individuals participate at their own pace and according to their actual and realistic capacity. There is a need to listen to what the individuals have to say rather than just impose layers of compliance upon layers of red tape. Often people experiencing many barriers or issues need to be supported, so that they cope with these problems first so that later they will be in a better position to comply with job seeking activities or employment.

The client-focused outlook of the Department of Human Services (DHS) and their willingness to engage constructively with stakeholder groups and to seek feedback on a regular basis, and to work towards solutions (though sometimes limited by the dominance of the policy department) has meant that the introduction and operation of the new system of assessment has been reasonably smooth. A good example where this approach has worked well is when NWRN worked with DHS and other interested parties to develop strategies and an auditing process which addressed concerns over the accessibility of JCA offices to people with various disabilities.

To return to our starting point, where we see the current process as too one-sided, inflexible

and the guidelines too prescriptive and limiting, this is not the first time the assessment system has been out of balance. In the past, doctors (especially Australian Health Services doctors) had far too much influence and determinative powers and the model was too medical. Recently, it has swung far too far towards the non-medical “work capacity assessment” only. In between, there has been the Disability Panel model which although more expensive in the short term was far more accurate, valuable and efficient in the long term.

Job Capacity Assessors can play a very important part in a person’s life, so that they; get the correct payment; have achievable and reasonable activity requirements and get connected to the supports and assistance they need to get ready for work or to take up an offer of employment. Adjustments to the system need to be made to ensure that role is as positive as can be.

Attachment 1: Job Capacity Assessment: Case Studies

Incorrect application of legislation & guidelines.

Case study 1

George suffers from Diabetes, Hypertension and Morbid Obesity. These conditions were all diagnosed by *Georges* treating doctors more than ten years ago. A JCA considered that all these conditions were temporary on the grounds they were not well managed and recommended his DSP be cancelled.

Case study 2

Rianers longstanding Schizophrenia was determined to be "temporary" by a JCA. The condition was considered temporary because *Rainer* is finally responding to medication after not responding to a range of other medications over a 2-3 year period. The current medication has ameliorated some symptoms of the illness in the short term but also has had a range of side effects to do with energy/motivation/comprehension that were not considered by the JCA.

Assessors ignoring treating doctor's opinion.

Case study 3

Phillipa's Post Traumatic Stress Disorder and another physical illness had been documented at length by her doctors and their clear opinions are that she is too sick to work (but probably not permanently, they think, at this stage). A JCA determined she was fit to work 15 to 22 hours per week. She is totally unable to do this, is very weak and unwell following a long illness, a period in hospital in a coma and is on permanent antibiotics due to an immune deficiency as well as depression and Post Traumatic Stress Disorder.

Assessors suggesting treatment options that would not reasonably be expected to significantly improve a person's condition.

Case study 4

Greg was diagnosed with severe depression 14 years ago. He has undergone various treatments in that time with no real improvement. A Job Capacity Assessment suggested the 6 sessions of counselling would most likely render him fit for full time work

Qualifications of the person doing the JCA

Case study 5

Janice claimed DSP in respect of a severe and long standing depression and anxiety problem, in addition to a physical conditions which manifests in physical and highly personal and distressing symptoms

This is a very delicate issue and one which *Janice* has had great difficulty discussing even with her treating Doctors.

The Job Capacity Assessor had no qualification in any areas of her health. To be assessed by someone with utterly no idea of the scope of these serious health problems was very upsetting and ultimately the SSAT agreed that the assessment that she had no continuing inability to work was incorrect.

Case study 6

Sandra suffers from severe Bi-polar Disorder for which she has been constantly hospitalised for years, and has required numerous rounds of shock treatment. She had a JCA with an Occupational Therapist and was assessed as being able to work full time. She then, of course, 'failed' in her requirements and her Newstart Allowance was cancelled and an eight week non-payment period. Fortunately *Sandra* appealed the decision and the decision was overturned.

Case study 7

Steve claimed DSP because he was suffering from chronic depression and suicidal. The JCA was an Occupational Therapist and referred him to a JNM. That Agency found that this was an inappropriate referral because his condition was a safety issue but also because he could not cope with the activities involved. The client with assistance of the WR Advocate appealed the decision and sought further medical evidence from Specialist. His appeal was successful and was eventually granted DSP.

Case study 8

Brian suffers from depression on medication, scoliosis, epilepsy and was married with small children, faced other personal stress and relationship issues. A social worker conducted the JCA. He was actually working on a

casual basis a few (i.e. 4-6 hours per week) but on-call only. The Assessment found a work capacity of 23-29 hours per week and placed with a JNM with no exemptions granted. This was in spite of a history of difficulties in complying. The client had had some previous participation failures and after his referral to the JNM he seen faced an eight weeks non-payment penalty as he was unable to meet the JNM's requirements. In this case the Welfare Rights advocate was strongly of the view that if the assessment was conducted by a Psychologist and/or other related specialists a more appropriate assessment would have probably occurred. It is possible that he would have been exempted him from the activity test and avoided the eight week non payment penalty. It transpired during the appeals process that one of the "participation failures" was double counted.

Lack of discretion as to whether or not to refer person to a JCA

Case study 9

Bev is a 45 year old woman of Indigenous background. She was grieving the passing away of her older son and her youngest child was taken away (presumably by the father of the child – custody dispute ongoing). She consequently lost her PPS and was put on NSA but payment was suspended because she did not attend a JCA. She left her accommodation presumably because she could not pay the rent. It appears that she had been staying with some of her extended family members. When Bev was referred to Welfare Rights she had no payment for a few weeks.

Welfare Rights requested that Centrelink restore her payment. They would not do it without a JCA. It is possible for a JCA to be conducted without the presence of the person, based on file information or Social Worker reports. We were then informed by a DEWR's Business Manager who advised me that current policy does not enable granting of exemption without having a JCA.

Subsequently Welfare Rights contact with the client and it seems that eventually she was seen by a JCA and is currently on payment. But all this has taken 3-4 months which she was without income support. If a JCA had been conducted, instead of reporting a "participation failure" and grant this woman a temporary exemption, her payment would have been restored almost immediately and all this extra stresses could have been avoided, and she would have remained in secure accommodation.

DSP reviews under JCA

Welfare Rights Centres have recently had a number of cases concerning people who have been on Disability Support Pension (DSP) since before the Welfare to Work changes in 2006 who are now being reviewed and this involves a Job Capacity Assessment. Many of these people have some component of depression or other mental illness. When they are seen in the JCA process many are being deemed to have not been "treated and stabilised" as they have not had counselling or other treatment regimes. Often it is because they have been seeing a GP who has been prescribing medication for years but has not referred them for other treatment regimes often because they have not considered them necessary. Usually this results in them being kicked off DSP as the JCA determines that they do not have the necessary 20 impairment points.

Treatment of depression – depressing

Case study 10

A Welfare Rights client who has been on DSP long-term for some 15 years primarily for Obsessive Compulsive Disorder (OCD), agoraphobia, anxiety and severe depression and who is being regularly treated by a psychiatrist, was recently referred for a Job Capacity Assessment and was reviewed by a physiotherapist.

In the course of the assessment the young physiotherapist spoke about her brother's experience with depression and made light of the seriousness of his condition. She then went on to question the client about suicidal ideation leaving our client with the impression that suicide would be an appropriate response.

Given the Government's strong "work first" policy approach, the JCA reviewer decided that the client should be linked in with a Disability Employment Network provider and that he should start to do some courses. The client felt that the only way for him to get this most unsatisfactory appointment finished was for him to agree with all that was suggested to him. He then contacted Welfare Rights as he considered that if he had been feeling suicidal he would have taken her comments as giving him a green light to such an action. Additionally, he anxiously went to the DEN provider and was immediately advised that it was not appropriate for him to undertake the activities the JCA had suggested. Further, the activities suggested by the JCA directly went against the recommendations of the client's psychiatrist as it could exacerbate his conditions. All of this happened to someone who did not have any activity requirements as they were on Disability Support Pension.

Case study 11 - JCA assessment of client who applied for DSP.

John participated in a Personal Support Program course for two years but then claimed Disability Support Pension (DSP). This resulted in him being sent for a Job Capacity Assessment. The assessor, a registered psychologist, determined an impairment rating of 20 points but assessed John as having a capacity to work within the next two years. He identified light, semi-skilled work such as taxi driver or bus driver as "suitable work" for him to seek.

Prior to his injury, John had been a truck driver but his treating doctor's report said that now he "can't sit, walk or drive for more than 30 minutes".

When Welfare Rights examined John's file, obtained through FOI, it appeared that Centrelink had contacted the JCA and queried the "suitable work" assessment due to the client not being able to sit or drive for more than 30 minutes. Centrelink had also asked the JCA whether they like to reconsider the suitable work examples. The JCA's response was "my observation at interview would suggest he would not have difficulty sitting for longer, given the interview took about 50 mins. Further he is living independently and manages his own personal affairs such as shopping and house work hence 8 to 14 hours is recommended to allow for gradual return to work".

Unfortunately, the inexperienced Job Capacity Assessor did not realise what many people put themselves through when before authority and in the hands of people who control their future. When John finally escaped and got home, he had to take two Panedine Forte and one Valium and lie down for a number of hours.

Case study 12 - How many impairment ratings can one man have?

Mr Y is a 61 year old man. He is married and has two children, a five year old son and a six year old daughter. Mr Y has a spinal disorder, upper limb disorder, suffers from Paget's disease, hypercholesterolemia and heart palpitations.

Mr Y applied for Disability Support Pension (DSP) in October 2007. Centrelink rejected this, at the first stage. The initial Job Capacity Assessor (JCA) allocated Mr Y an impairment rating of 15 points; consisting of 10 points for his spinal disorder condition, 5 points for the upper limb disorder, and a rating of nil for the other conditions. Mr Y was therefore ineligible for DSP as he did not satisfy the requisite 20 points impairment rating.

Mr Y attended two separate job capacity assessments, one on 13 March 2007 and one on 26 April 2007. Even though the two assessors are from the same organisation, the two reports were vastly different. The first JCA decided that Mr Y's conditions would not improve and that his job capacity (with intervention) within the next two years was 8 -14 hours per week. The second JCA, within a few weeks of the first, decided that Mr Y had a future capacity for work (with intervention) of 15 – 22 hours. It was partly these two differing opinions which led Mr Y to appeal. Furthermore, Mr Y's treating doctor found him to be "permanently unfit for work" and assigned him a total impairment rating of 35 (20 points for his back condition, and 15 points for his left shoulder/upper extremity).

Mr Y appealed the Centrelink decision. On 25 May 2007 the original decision maker concluded that the decision was correct and should not be changed. An Authorised Review Officer (**ARO**) found that Mr Y's spinal and upper limb conditions were temporary conditions, and therefore assigned him an impairment rating of nil points. So, Mr Y's doctor attributed him with an impairment rating of 35, the JCA assessed him at 15 points, although the first JCA found that Mr Y has a future work capacity of 8-14 hours per week, and the second JCA found Mr Y to have a work capacity of 15-22 hours per week.

The Social Security Appeals Tribunal (**SSAT**) found that the Impairment Tables used by the JCA and ARO for assessing Mr Y's impairments were incorrect. The SSAT also found that the impairment ratings given by the JCA were incorrect. The JCA assigned a total impairment rating of 15 points, the ARO assigned a rating of nil points and the SSAT found an impairment rating of 20 points. In disagreeing with the JCA, and highlighting the discrepancy between the two different JCA reports, the SSAT made a firm statement about the quality and authority of JCA's in general. Ultimately, the SSAT found that Mr Y does not have a "continuing inability to work" (and is thus not eligible for DSP), however, it did assess Mr Y as having an impairment rating of 20 points, drawing a stark contrast to what the JCA's found.