



Submission on the New Zealand Income Insurance Scheme proposal

April 2022

Background

Carers NZ is a peak body and national charitable trust which monitors the interests of 1 million+ New Zealanders who assist family, whānau, and aiga who are unwell or have an ongoing health condition or disability.

The unpaid mahi aroha of family carers has an annual economic value of \$10 billion + (source: Infometrics, 2015) and almost 90% of carers are of workforce age 15 to 64, undertaking paid employment in addition to their caring responsibilities for family members.

Established in the 1990s by and for family carers, Carers NZ acts as the ongoing Secretariat for the Carers Alliance a coalition of more than 50 national not for profits. The Carers Alliance is the Government's partner to co-design effective policy and government priorities for family, whānau and aiga carers outlined in *Mahi Aroha the Carers' Strategy*, now in its third five year Action Plan. ACC is among the government signatories of *Mahi Aroha*.

Two thirds of New Zealand's family carers are women and 20% of these care for more than one person in their whānau; 54% of carers themselves have a disability or health condition. Three quarters of family carers experience depression and anxiety; 59% struggle to pay their bills; and only 21% are able to work full-time outside of their caring responsibilities. More than 70% experience loneliness and social isolation. They are a vulnerable community within the paid workforce and a population whose mahi aroha is often unpaid and taken for granted in health, disability, and aged care. A growing number of family carers receive payment for the care they deliver to friends and family members.

Our submission relates both to family carers in paid employment and to those who receive payment for the care they provide to friends and whanau.

Carers NZ's position for this consultation

Carers NZ supports the objectives of the New Zealand Income Insurance Scheme to provide income stability to people who lose their jobs or are no longer able to work due to a health condition or disability. Such a scheme would make it possible for family carers who are unable to keep working to receive an income while they recover or transition to other income support.

Family carers are vulnerable workers on many fronts; this Scheme offers safeguards and protections that do not currently exist for the thousands of New Zealanders in caring roles for friends and whanau.

We have four main priorities for the design of the Scheme:

- The need for non-standard working arrangements to be covered by the Scheme
- Coverage for people who have multiple jobs who lose one of those jobs
- A broad view of the health conditions and disabilities that would trigger coverage under the Scheme to include stress and mental incapacity that may prevent family carers continuing with their work
- A culture that errs on the side of coverage, rather than the prevailing culture of denial of coverage taken by ACC

Broad coverage of types of work

Most family care is provided on the basis of 'natural support' in New Zealand e.g. care provided at no cost to the state. Almost 90% of family carers are workforce age and undertake paid employment in addition to their caring role. Family carers work in a wide variety of working arrangements from traditional full or part-time employees, to casual, fixed term, and self-employed. Carers may have multiple employers, juggling responsibilities to earn an income while balancing family care commitments.

Carers NZ's recent *State of Caring* survey found that of 1,650 respondents, 21% of family carers work full-time, 30% part-time, and 30% are unable to participate in paid employment; the balance are retired. Family carers are a fragile workforce due to their competing responsibilities; it can be a struggle at the best of times to keep working and earning.

If a family carer experiences an injury or has an adverse health diagnosis, this can pose significant economic risks for their household and **whanau**.

The employment of carers paid by the Government to care for family is legally complex.

Most carers work outside of their unpaid caring role, reflecting the diversity of the population. A growing number are paid to deliver care on the same basis as the wider caring workforce. 1 in 8 New Zealanders in every workplace is a family carer.

The Ministry of Health's Individualised Funding model mandates that the disabled person is the employer, with an IF 'Host' sitting between the Ministry and the carer, acting as paymaster and delivering other legally mandated responsibilities of an employer. However, the Employment Court recently ruled that this is a fiction, finding the parent and full-time carer of a severely disabled woman is employed by the Ministry of Health and not his daughter, who is not capable of understanding and discharging the obligations of an employer. A number of these cases are pending and have been appealed by the Crown.

For these reasons we argue that the definitions for a New Zealand Income Insurance Scheme should cover as broad a set of workers as possible and also reflect that a care worker's employer may not be the one actually paying the wages (and the levies due under the scheme).

Coverage should be based on facts, not the terms of any contract or agreement. The terms 'loss of reasonably anticipated income' and 'established pattern of work' appear well-constructed for this purpose. This should not be artificially limited by excluding classes of employment as this could cause or exacerbate distortions in work conditions if employers seek to evade coverage. The principle should be that coverage rests on the actual loss experienced.

Coverage for people who lose one of multiple jobs

We agree that coverage should be extended to those who lose one of multiple jobs. We see no reason why coverage shouldn't reflect this actual loss, i.e. 80% of lost income – rather than being limited to 80% of the person's total income (which, in any event, may be highly variable).

Likewise, cover should be available to a self-employed person who loses one part of their work where the relationship is akin to that of a worker for an employer, as opposed to an external adviser or consultant.

Broad coverage of health conditions and disability

We are heartened by the consultation document's statements that all health conditions and disabilities should be covered. Again, it is actual losses that should be covered, without artificial limits.

Family carers experience physical stress and occupational overuse disorders, as well as mental stress and incapacity. Many have disabilities and health conditions themselves that are worsened by their work (paid or unpaid) to the point that they cannot undertake caring work anymore. These situations should be covered by the Scheme. This would allow carers to retain income when they can no longer work, or while they recover.

Pre-existing conditions should not be excluded from coverage if they are worsened by caring work.

The Scheme should cover any health condition or disability that prevents a person carrying out their work in reasonable comfort and without undue stress or risk to their wellbeing.

Culture based on meeting need, not minimising payouts

We are wary of the idea of ACC running the income insurance scheme given its approach to minimising payments for injury claims.

Instead this new scheme should not prioritise its own bottom line by deflecting costs and suffering onto New Zealanders whose lives are already difficult (the same applies to ACC itself, but that is outside the scope of this consultation).

We thus do not support a 'fully-funded' model for the Scheme.

This was adopted by ACC as a prelude to competition and privatisation, and is at the base of the culture of claim denial at ACC.

We recognise the need for the scheme to have reserves, but adopting the accounting practices of private insurers may lead to a private insurer mindset of denying payouts for a new essentially monopoly provider that needs to put the interests of its clientele – New Zealanders - first. ACC's private insurer approach is already a barrier to families living with the consequences of injury getting the supports they need to recover, live well, and survive economically; it would be detrimental to replicate this unfortunate mindset in the new income insurance scheme.

Responses to specific consultation questions

1. Do you agree New Zealand should introduce an income insurance scheme for displacement and loss of work due to health conditions or disabilities?

Yes. Income insurance would protect family carers against income shocks from losing work, and allow those with serious health conditions and disabilities to stop work rather than continue at the cost of their wellbeing.

6. Do you agree with defining displacement as the involuntary loss of work due to the disestablishment of a job?

Yes.

9. Do you agree that income insurance should cover only the complete loss of a job, and cover situations where a person loses only one of several jobs that they hold?

Job loss must be defined in such a way that coverage can be extended to someone who loses one of several jobs they have through the same employer or other job source. Family carers may be in work arrangements where they have several jobs.

10. Do you agree that insurance would be payable only where income loss was greater than a minimum threshold, such as a 20 percent loss of total earnings, counting income from all of their jobs?

No. We see no reason why a person who had lost one of their jobs shouldn't receive coverage amounting to 80% of the income from that job, regardless of whether they still have income from other jobs.

11. Do you agree that it is important to provide income insurance coverage to non-standard workers, where practical?

Yes. A large portion of the family carer workforce is in 'non-standard' working relationships. These workers are particularly vulnerable and need to be covered. We also support coverage for the broad care workforce many of whom face similar vulnerabilities.

12. Do you agree that income insurance should cover the 'loss of reasonably anticipated income'?

Yes. It is important that coverage reflects the actual income that people would normally receive if not for the job loss, rather than relying solely on formal employment terms.

13. Do you agree that income insurance entitlements should be based on an 'established pattern of work'?

Yes. It is important that coverage reflects the actual work that family carers have been doing, rather than relying solely on formal employment terms. An 'established pattern of work' should not just be a matter of when they usually work but the weekly hours worked and type of work done.

14. Do you agree that income insurance should cover fixed-term and seasonal employees if they are displaced before the end of an employment agreement, with the duration of the payment running to the scheduled end of the employment agreement, or the maximum insurance entitlement duration, whichever is shorter?

Yes.

15. Do you agree that income insurance should cover fixed-term and seasonal employees, where their employment agreements are not renewed, and they can show a regular pattern of work and reasonable expectation of future income?

Yes. If there is a reasonable expectation of future work and income, then the artifice of a fixed-term contract should not be able to be used to avoid coverage. It is important that the scheme reflect people's actual working conditions and incomes rather than having a rigid focus on contract terms.

16. Do you agree that income insurance should cover casual employees who can show a regular pattern of work with an employer and a reasonable expectation of future income?

Yes. All carers including those providing paid support for family/whānau are often in casual arrangements. Again, it is important that the scheme cover actual losses to income and not be limited by the nature of an employment contract.

18. What risks do you see with covering, or not covering, people in self-employment?

If self-employed people are not covered it will encourage the proliferation of contractor models by providers that are inherently less secure and come without the conditions of employment, while making self-employment relatively less attractive for workers.

There would be an equity issue in people who are self-employed who lose their work not being able to get coverage when an employed worker in otherwise identical circumstances would be covered.

Establishing a pattern of work and that reasonably expected income has been lost may be harder for the self-employed, but that is a matter of evidence and they should not be excluded from the policy wholesale.

31. Do you agree that only the insurance claimant's personal exertion income should affect their insurance entitlements?

Yes. Income from sources other than work should not reduce insurance entitlements for a scheme intended to cover loss of income due to loss of work.

32. Do you agree that income insurance should have individualised entitlement, meaning a partner's income would not affect the rate payable?

Yes. The scheme is intended to replace loss of income from loss of work – partners’ incomes should have no bearing on that. Carers often share work as a couple looking after family members – if one of them is unable to continue to work, the fact that the other remains in work should not be a factor.

Relating the payment to partners’ incomes would mean households frequently would not get cover when one person lost their income, meaning that the household would still suffer the income shock that this policy is intended to avoid. Moreover, devising a fair way to reduce payments to reflect the reduced coverage for people who have partners who have incomes would be exceedingly complex.

33. Do you agree that someone should be able to earn some income from paid employment before it affects their entitlements to income insurance?

Yes. This is a necessary corollary to coverage for the loss of one job when the person retains other work. Immediate loss of all insurance payments when earning any money would prevent this, and it would also make it harder for people to re-enter work if they face the immediate loss of all their insurance payments.

34. Do you agree that insurance should abate ‘dollar for dollar’ when earned income and insurance combined reach 100 percent of previous income?

A 100% abatement rate is generally ill-advised as it effectively punishes people for taking on extra work because they receive no income for it. Instead, a phase-out as used for benefits and Working For Families should be used.

35. Do you agree that insurance should be treated as income for assessing eligibility for income support such as main benefits and Working for Families tax credits and student support?

It should be treated as income on the same basis as the income previously earned through work was.

36. Given the purpose of the In-Work Tax Credit and Minimum Family Tax Credit in encouraging people into employment and helping with in-work costs, do you agree that income insurance claimants would not be eligible for these tax credits?

No. The purpose of the scheme is to replace income lost through loss of work and protect people from an income shock. On that basis, it should be treated as if it was income from work for the purposes of the In-Work Tax Credit and Minimum Family Tax Credit, and any other government supports.

40. Do you agree that claimants should be able receive both ACC weekly compensation and income insurance at the same time for differing income loss subject to independently meeting the eligibility criteria for both?

Yes. These are separate schemes covering income loss under separate criteria. As they would be covering losses of differing incomes, there’s no issue of ‘double-dipping’.

43. Do you think the scheme should allow extensions to the base period of income insurance entitlements for training or vocational rehabilitation?

Yes. Extension periods for training or vocational rehabilitation would be of huge value for family carers who lose their jobs or cannot continue to work.

46. Should bridging payments be applied to all workers, including those not eligible for income insurance?

Yes. In these circumstances, the bridging payment effectively functions as a minimal redundancy payment. This would be valuable to family carers who might otherwise fall through the gaps in the scheme.

49. Do you agree there should be no restrictions on the types of health conditions and disabilities covered by the scheme?

Yes. The scheme should be as broad as possible and cover things like occupational overuse and gradual process injuries, as well as mental stress and incapacity. These often affect family carers. The scheme should cover any health condition or disability that prevents the person from working in reasonable comfort and without undue stress or risk to their wellbeing.

50. Do you agree that all work arrangements should be covered (assuming other eligibility criteria are met)?

Yes. As discussed above, the scheme should replace actual losses of income through lost work, and not be artificially constrained by the contractual nature of the work.

51. Should the scheme cover partial loss of earnings due to a health condition or disability reducing work capacity?

Yes, to the extent that this is not already covered by ACC. It would not make sense to displace ACC coverage, but ACC coverage can be patchy and difficult to obtain. Partial loss of income cover would help family carers who are no longer physically able to care full-time.

52. If partial loss is to be covered, do you agree claimants should have at least a 50 percent reduction of capacity to work caused by a health condition or disability and that reduction is expected to last for at least four working weeks?

We would support a lower threshold – say 25% - and a shorter period, but understand that there will be limits to the practicality of covering lower level loss of work capacity.

53. Do you agree that the claimants' health practitioner should be main the assessor of work capacity?

Yes.

54. Do you agree that, where appropriate, employers could provide supporting information to inform the claimant's work capacity assessment process?

Yes.

55. Where an employee must stop work entirely because of a health condition or disability, do you think employers should be expected to keep a job open and help with vocational rehabilitation where a reasonable prognosis is made of return to work within six months?

Yes.

56. Should this be a statutory requirement placed on employers or an expectation?

This should be a statutory requirement in law. Merely setting an expectation provides no protection for workers from exploitative employers

57. Do you agree that employers should only pay a bridging payment to employees leaving work because of a health condition or disability when the employment is terminated by the employer?

No. This could create equity issues between people who can't work for substantively the same reason, due only to the nature of their employment.

58. Do you agree claimants should be obligated to look for work or prepare to return to work while receiving insurance?

Not if they have a health condition or disability that has been the cause of them losing their previous work.

59. Do you agree that claimants would not be expected or required to accept offers of employment that provide lower wages or conditions?

People may wish to take work with lower wages and conditions, recognising that the income insurance is only for a limited period, but they should not be requested to take such work during the insured period.

60. Do you agree the insurer could waive obligations partially or fully where a claimant is unable to meet those obligations?

Yes.

61. Do you agree claimants should be obligated to remain in New Zealand to remain eligible for income insurance?

If there is a basis for needing income insurance it should not matter where the person recovers.

64. Do you think a period of time, such as 28 days, should be allowed for travel overseas, for example, to support ill family?

A period of 28 days overseas should be allowed.

65. Should claimants with health conditions and disabilities be subject to obligations to search for work or undertaking training where they are able to?

No.

70. Do you think it is best for ACC to deliver the income insurance scheme alongside the accident compensation scheme? 71. Would the income insurance scheme be better delivered by a government department or a new entity?

ACC's culture of claim denial is problematic. ACC focuses too much on reducing its own claims payments rather than the whole-of-country impacts of its decisions. This leads to situations where claimants are put through considerable cost and mental anguish trying to get cover, and endure poverty for lack of cover. Many who may have a legitimate claim with ACC cannot afford legal support to pursue claims that have been denied; this creates inequities and injustices for populations like family carers who often have low incomes. ACC operates too much like a private insurer, rather than acting in the best interests of New Zealanders. This culture should not be replicated in the income insurance scheme. Ideally, ACC should reform its processes for the ACC scheme. Failing that, the income insurance scheme should be administered by a different agency with a public service/public good focus.

87. Do you agree that levies for health conditions and disabilities and for redundancy should be set separately?

Differentiating between levies for health conditions and disabilities and for redundancy is only of practical importance if coverage for the two types of event is to be split or one cancelled. We see no reason for setting separate levies.

92. Do you favour a Pay As You Go or Save As You Go funding approach?

A 'save as you go' fully funded model like ACC's is modelled on a private insurer approach – indeed it was adopted by ACC as a step towards privatisation and private competition. The downside of this model is that it has created a private insurer mindset with an emphasis on denying cover. That culture should not be replicated in the administration of the income insurance scheme.

Also, while ACC makes long-term payments and faces rising health costs that it must try to prepare for, the income insurance scheme will only be covering income and for a limited period.

A Pay As You Go model is preferred – being more similar to benefits and superannuation – with a small buffer against cost shocks.

93. Do you agree that the legislation for the income insurance scheme should provide the flexibility to vary entitlements and eligibility in times of crisis, over and above the proposed income insurance scheme?

Yes. Although we note that in a situation like the pandemic, a wage subsidy that keeps people attached to their jobs has proven a highly effective tool and it is preferable to pay to keep people in employment.

Thank you for the opportunity to contribute our views to this consultation. Please contact us if there are questions about our responses.

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