COMMUNITY EDUCATION WEBINAR – 12th May 2020

COVID-19 and SUPERANNUATION

Topics discussed:

• COVID19 Pandemic Provisions
• Early access to your super
• Claiming disability insurance benefits (if you’re unable to work due to a mental health or other medical condition)

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Better Mental Health For All
“I believe the law should serve everyone, not just those who can afford it.”
Our Part To Play

Like MHFA, we seek to educate the community.

The role of MB is also creating awareness about the entitlements individuals have, but are often unaware of and too overwhelmed to pursue.

Mental Health Issues and financial stress are cyclical – poor mental health can lead to loss of work and stable income.

COVID19 has exacerbated these problems.
Our Capability

25+ year history in this area of law

Values aligned

Litigation wins
Breadth of Services

- Class Actions
- Institutional Abuse
- Road, work, dust, medical negligence compensation schemes
- Lost Super & Wages Theft
- Public Affairs & Submissions
Topics for Today

1. Access to Super – pandemic provisions
2. Who is eligible
3. Key considerations before accessing super early
4. Consequences – risk of losing disability insurance
5. Disability Insurance Explanation – TPD and Income Protection

Note: This presentation is general information only and not designed to substitute tailored legal advice suited to individual circumstances. This is not financial advice and we encourage people to engage an independent financial advisor before making any decisions about accessing their super.
What is superannuation?

Superannuation has been compulsory since 1992. Almost everyone in the workforce has had superannuation at some stage.

Employers currently pay a minimum 9.5% of salary into a super fund.

Superannuation is not just your nest egg for retirement. Your super fund will likely have a number of insurance benefits to cover you if you become sick and unable to work.

It usually doesn’t matter how you became sick, or how long you are off work.
Early access to superannuation

- Financial Hardship
- Permanent Incapacity
- Terminal Illness

Compassionate grounds

Other
- Departing Australia permanently
- Account balance less than $200
Early access to super

From 20 April 2020, people facing financial stress as a result of COVID-19 pandemic can access their superannuation account balance early.

Should be a **last resort** only – consequences on account balance and insurance benefits.

Strict eligibility criteria applies.

Apply through MyGov website to access up to $10,000 out of super account balance before 1 July 2020 and up to a further $10,000 from 1 July 2020.
Who is eligible?

You can apply to access your super early under the pandemic provisions if you are unemployed or eligible to receive one of the following government allowances:

1. Job seeker payment
2. Youth allowance for jobseekers
3. Parenting payment (including single and partnered payments)
4. Special benefits; or
5. Farm household allowance.
Who is eligible?

You can also apply if you can show that on or after 1 January 2020, you were either:

1. Made redundant; or

2. Had your working hours reduced by at least 20%

If you’re a sole trader, you need to show that the business was suspended or there was a reduction in your turnover of 20% or more.

Strict criteria with potentially severe penalties for those seeking early access to their super who are ineligible.
Things to consider before early access

- Do it as a last resort
- There are consequences on your retirement balance which will affect you later in life
- Withdrawing your account balance could jeopardise any insurance cover you have attached to that super account (explore this later)

Be careful of potential fraud – the ATO has warned of the risk of scams where people:
1. impersonate the ATO or a trusted organisation like your super fund, to steal money or personal identifying information
2. Approach you and charge you for services that are free, like gaining access to your super

Things to consider before early access

- Real estate agents pressuring tenants in financial hardship to make early draw down on their super before they will show leniency

- ASIC warned such conduct could lead to jail time and fines as a likely breach of Corporations Act

- If a person become bankrupt – remember that super is one of the few savings that are quarantined from creditors

- If in extreme financial distress, we suggest ensuring you have explored all options before drawing on super – especially if there is a risk of bankruptcy
Things to consider before early access

Vulnerable people may be pressured to withdraw their super. These include:

1. Elderly – pressure by family members
2. People with mental health issues
3. People who are incapacitated to make informed decisions
4. Women (or men) in abusive relationships

Some reports of people going through divorce, accessing their super to reduce their ex-spouse’s entitlements.
Many people not aware that they have death and total and permanent disability (TPD) cover in their super, and some have income protection cover too

Crucial lifeline

Disability insurance is most utilised during and in aftermath of economic crisis

If you withdraw your account balance, or don’t leave a minimum amount in to cover premiums, you will lose automatic disability insurance cover

Loss of this cover could occur when a person needs it most
Insurance in Superannuation

Under MySuper, a superannuation fund trustee is required to provide the following insurance benefits at a minimum to all MySuper members:

- Total and Permanent Disability (TPD); and
- Death.

Currently ‘Opt out’ – however insurance isn’t automatic for people under 25 years old or where the account balance is under $6000, and must be ‘opted in’ by those members.

About 12 million Australians have insurance through superannuation, though about a quarter of members do not know that they have cover.

More than 70% of Australian life insurance policies (more than 13.5 million separate policies) are held through superannuation funds. Each year, there are about 17,000 disability benefits paid and about 46,000 deaths.
Legislative Changes

In 2019, new laws were passed directing super funds to cancel insurance attached to member accounts if they didn’t receive contributions to that account for 16 months, or if balance was less than $6000.

The Federal Government have confirmed that if you have an active account with more than $6000 at any time before 1 November 2019, your insurance will not be switched off.

So if your account balance drops **below $6000** due to accessing super under new pandemic provisions, your insurance won’t automatically be cancelled. This is good.

BUT, if there is not enough money in your account to pay premiums when you withdraw your insurance will stop.

It’s important to find out what the minimum amount is required by the fund if you want your insurance cover to continue (if making a partial withdrawal).
Why claim superannuation?

If you are unable to work for any medical reason, you may be eligible to claim insurance through your superannuation.

Maurice Blackburn will check your super entitlements for free.

You may be able to claim for:

- Income protection
- TPD benefits
- Terminal illness benefits
Disability benefits

Total and Permanent Disability (TPD) Benefits:

- Insurance benefits that can be claimed if you are unable to perform the work that you are reasonably trained or qualified to do by education, training and experience.
- You do not have to be unable to do ALL work, just the work you have the skills to do.

Total and Temporary Disability (TTD) Benefits:

- Usually called income protection or salary continuance
- Usually pay a monthly benefit for up to 2 years, 5 years, until age 65 etc. (depending on the individual policy).

Multiple claims?

- Yes for TPD
- No for TTD/ Income Protection
Total & Permanent Disability (TPD)

TPD insurance usually provides a lump sum benefit if you meet the policy definition of Total & Permanent Disability.

The definitions vary, but are modelled on the definition of Permanent Incapacity which is applied if a person is trying to access their account balance on this ground.

Waiting periods

- Commonly 1 to 6 months
- Many policies allow for a waive of the waiting period for specified conditions.
- Generally conditions known to be permanent, progressive, or certain to deteriorate rather than improve.
TPD Definition

You’ll be considered totally and permanently disabled if:

• you’re unable to follow your usual occupation by reason of Illness or Injury for the duration of the waiting period, and

• in the opinion of the Insurer, […], you’re considered unlikely to ever be able to engage in any work for which you’re reasonably suited, taking into account your education, training and experience. (CBUS Insurance Guide 2017)

  o Most common definition claimed
  o Balance of medical evidence and employment history.
  o Retraining complicates the claim
  o Unlikely v Unable ever
**Income Protection**

**Usually 75% of average earnings**
(Previous 12 months)

**Payment Periods**
- 2 years
- 5 years
- To age 67 (or 65)

**Waiting Periods**
- 30, 60, 90 days

**Offsets**
- Centrelink
- WorkCover/Compensation
- Other Income

**Pitfalls**
- Subrogation
- Reduced hours
- Changing terms of employment
- Not talking to your doctor
Income Protection Definition

• Ordinarily entitlement depends on whether you meet the definition of “Total Disability” (doesn’t have to be permanent).

• You’ll be considered “Totally Disabled” if by reason of Illness or Injury:
  • You’re unable to perform at least one Income Producing Duty of your Occupation;
  • You’re not working in any occupation, whether or not for reward; and
  • You’re under the regular care and following the advice of a Medical Practitioner.
Access to Help

Our clients stories are the best way to illustrate the impact of the right support and advice at the right time.

The following are real examples with names changed for privacy.
Anna worked in the banking and financial sector for a large financial institution.

She turned to alcohol as a way of coping with the stress of the role.

She lost her job in 2005 as her addiction became very noticeable particularly when she was found to store alcohol in her desk drawer.

She began seeking financial help through Odyssey House who referred her to her us to look into a TPD claim with Plum Super.

We won her a lump sum of approx. $300,000.
Henry| Aware but overwhelmed

Henry had senior role in a large company and was earning a decent salary. He began using drugs to cope with work stress. This fractured his marriage and lost custody of his children. He lost his job and became homeless for periods of time.

Henry had an IP policy that covered 85% of his pre disability earnings for 5 years. He made a claim but it was rejected because he didn’t see any doctors for his medical conditions until after he ceased work. He hadn’t seen a doctor because he lacked insight into his mental illness, but mainly because he was embarrassed he had lost control.

We overturned the rejection and the insurer paid his full 5 year benefit backdated to when he ceased work. A financial counsellor helped him find accommodation and had the necessary funds to access other services such as drug and alcohol rehabilitation to get him back on track.
Our clients stories illustrate…

- Mental illness affects all people from all corners of the community
- If these clients had withdrawn their entire account balances before becoming disabled, they would have lost their insurance entitlements
- Financial crisis and loss of employment can impact the mental well-being of people especially during a pandemic
- Needs to be greater awareness of insurance entitlements a person can claim for
- Need to get financial advice and make an informed decision before accessing your super early
- MB do a free super check and offer obligation-free first appointments for preliminary advice
Key Take-away points

- If you’re considering withdrawing funds from your super account, seek financial advice about the impacts.
- If you don’t have a financial advisor, we can refer you to a reputable licenced one or you can call the National Debt Helpline on 1800 007 007 for free financial counselling.
- Find out what insurance cover you have and if you want to retain your insurance, find out how much you need to consider leaving in your account to pay ongoing premiums.
- If you have a medical condition that may cause you to cease work in the future it is important not to lose insurance entitlements.
- If you’re unable to work as a result of a mental health (or other medical) condition, you may be able to claim on your insurance now.
- Maurice Blackburn provide a no obligation, free super check over the phone.

Call us on 1800 196 050. It cost you nothing to know where you stand.
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If you have any questions, we are here to help you!

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