

# YouthLaw Aotearoa

## Submission on the Social Security (Financial Assistance for Caregivers) Amendment Bill

Level 3 Park View Tower  
21 Putney Way  
Manukau  
Auckland

0800 UTHLAW  
(0800 884 529)

[www.youthlaw.co.nz](http://www.youthlaw.co.nz)



# SOCIAL SECURITY BILL



## UNSUPPORTED CHILD BENEFIT (UCB) AND ORPHANS BENEFIT (OB)

Benefit for caregivers of  
children who cannot be  
cared for by their guardians

### SUMMARY OF BILL

Removes the  
12 months of  
care criteria



Provides  
Christmas  
and Birthday  
allowances



### YOUTHLAW'S POSITION

#### We agree with the changes because:

- Caregiving is often short term or for an unknown duration
- Reduces caregivers' financial strain
- Provides stability and wellbeing for children\*
- Provides more support to Māori caregivers and children. Majority of children and caregivers who receive UCB and OB are Māori\*
- Aligns with UNCROC obligations

#### Other thoughts:

- Christmas allowance should include other cultural holidays
- Youth Payment criteria should be revisited

\*This information is taken from Oranga Tamariki's Regulatory  
Impact Statement on financial assistance for caregivers

## Contents

Introduction .....	4
Who we are .....	4
Our Experience With Young People As Caregivers .....	5
YouthLaw Submission .....	6
Removal of the twelve-month rule .....	6
Christmas and birthday allowance .....	6
United Nations Convention on the Rights of the Child .....	7
Te Tiriti o Waitangi .....	7
Youth Payment.....	8
Recommendations .....	9

# Introduction

---

## Who we are

YouthLaw Aotearoa is a Community Law Centre vested under the Legal Services Act 2000. We are a charity and part of the nationwide network of twenty-four community law centres throughout Aotearoa / New Zealand.

Our service provides free legal advice and advocacy specifically for children and young people under 25 years of age. We help young people with benefits in several ways:

- Our legal advice team empowers young people with information and advice about social security benefits.
- Our legal education team provides information through workshops and sessions with young people, or those supporting them about social security benefits.
- We publish youth-friendly information resources, undertake research, and make submissions on the law and policy affecting children and young people.
- We assist support workers in other organisations with information about benefits and payments.

This submission is informed by YouthLaw Aotearoa's insights from working with children

and young people across New Zealand for over thirty years.

It has been prepared by Isabella Meltzer, law reform volunteer, Sarah Butterfield, a solicitor on our legal team, Manawa Pomare, Senior Solicitor and Legal Educator and our YouthLaw staff and board.

**Contact:** Sarah Butterfield, Solicitor

Email: [sarahb@youthlaw.co.nz](mailto:sarahb@youthlaw.co.nz)

# Our Experience With Young People As Caregivers

---

YouthLaw Aotearoa has provided advice and assistance to young people who have care of children who are not their own. Typically, the caregivers who approach us only plan to care for a child temporarily. The reasons for short-term care arrangements vary, but often owe to the incapacity of the child's guardians, or a breakdown in relationship between the guardian(s) and the child. Often these care arrangements will be on an emergency and urgent basis. Unfortunately, caregivers often have no other option but to pay expenses out of their own pocket because of the twelve-month requirement for the Unsupported Child's Benefit ("UCB") and Orphans Benefit ("OB").

As an example of a typical client experience please see below an anonymised case study of a real client that YouthLaw Aotearoa advised:

*A agreed to care for their younger relations owing to an urgent situation with the children's parents. A was only planning on caring for the children for a short-time to allow the parents time to get back on their feet. Unfortunately, A was unable to apply for the unsupported child benefit because the care arrangement was short-term. As a consequence, A did*

*not have any financial support and had to use their own money and savings to care for the children. This was financially difficult as the children were in A's care over Christmas. As a result of A's kind and generous action of caring for the children at a difficult time, A experienced financial hardship.*

# YouthLaw Submission

---

YouthLaw Aotearoa strongly support the proposed changes to the Social Security (Financial Assistance for Caregivers) Amendment Bill. Financial assistance should be provided to caregivers who care for children short-term or for an unknown duration of time, as very often caregiving takes this form. Christmas and birthday allowances are also crucial for children's sense of wellbeing, identity, and stability. The changes also better align with the principles of the te Tiriti o Waitangi and better comply with New Zealand's international obligations under the United Nations Convention of the Rights of the Child.

## Removal of the twelve-month rule

We support the removal of the twelve month eligibility criteria, as care arrangements are often short-term or for an unknown duration. Currently, short-term, or unknown duration caregivers cannot receive the UCB or OB as they do not meet the criteria. Consequently, caregivers either suffer financial hardship, or must tell WINZ that they intend to care for the child for a twelve-month period, which may not be the case, but is the only way to receive financial assistance. Caregivers should not be put under financial strain for taking care of

children in difficult situations. There is also evidence that many UCB or OB caregivers are from low-income households.<sup>1</sup> Receiving the UCB or OB for short-term or unknown periods will help alleviate the financial strain on caregivers. It will also provide greater placement stability, less maltreatment, and decreased likelihood of a care and protection placement for children.<sup>2</sup>

This amendment will enable family, extended family, whānau, hapū or iwi to care for children in need. It may also mean that children are less likely to be removed from their homes and enter Oranga Tamariki care. These payments are also vital in improving caregiver retention.<sup>3</sup>

We also support the changes as they bring UCB and the OB in line with those provided to Oranga Tamariki caregivers.

## Christmas and birthday allowance

We support the proposed changes to Christmas and birthday allowances. The proposed changes will reduce financial strain on caregivers, who currently pay for Christmas and birthday experiences for children without state assistance. Celebrations are essential as they promote

---

<sup>1</sup> Oranga Tamariki- Ministry for Children Regulatory Impact Statement: Transforming financial assistance for caregivers of children who are unable to care for them (10 June 2020) at 5.

<sup>2</sup> At 17.

<sup>3</sup> At 27.

stability and inclusion for children, which positively impacts the well-being and identity of the child.<sup>4</sup> This amendment enables caregivers to better meet the child's full range of needs.<sup>5</sup>

Whilst YouthLaw Aotearoa support these proposed changes, we do also recognise that there are significant cultural holidays other than Christmas, where money may be required to celebrate the event, such as Eid, Matariki, Chinese New Year and Hanukkah.<sup>6</sup> We request that MSD be empowered to allocate the Christmas funding for any of these holidays at the request of the caregiver and in accordance with the child's culture and/or religion. Recognition of other cultural holidays is essential as New Zealand is a multi-cultural country and there may be children who do not celebrate Christmas in the care of caregivers.

These allowances also help to bridge the disproportionate financial support gap between Oranga Tamariki caregivers UCB and OB caregivers.<sup>7</sup>

---

<sup>4</sup> At 17.

<sup>5</sup> At 17.

<sup>6</sup> These are examples of significant holidays, but there are many more.

<sup>7</sup> Oranga Tamariki Impact Statement, above n 1, at 23.

<sup>8</sup> Oranga Tamariki- Ministry for Children Departmental Disclosure Statement: Social

## **United Nations Convention on the Rights of the Child**

The proposed changes better align with New Zealand's international obligations under the United Nations Convention of the Rights of the Child ("UNCROC"). In particular, the changes align with articles 3, 20 and 27.<sup>8</sup> The changes support caregivers to care for children who cannot stay with their guardians, which aligns with Article 20.<sup>9</sup> The amendment also better enables caregivers to meet children's needs and overall wellbeing through celebrating the important events of Christmas and birthdays, and thus improves their wellbeing and standard of living, as observed by articles 3 and 27 respectively.<sup>10</sup>

## **Te Tiriti o Waitangi**

We must acknowledge that we are not experts in te Tiriti and should not be treated as such. However, we are committed as an organisation to holding the Crown to account in relation to te Tiriti obligations. If our views differ from the views of iwi and other Māori law experts, we submit that greater weight should be given to their contribution over ours.

Most children who receive the UCB and OB are Māori, and a significant proportion of their

Security (Financial Assistance for Caregivers) Amendment Bill (14 July 2020) at 7.

<sup>9</sup> United Nations Convention on the Rights of the Child 1577 UNTS 3 (opened for signature 20 November 1989, entered into force 2 September 1990), art 20.

<sup>10</sup> Convention on the Rights of the Child, art 3 and art 27.

caregivers are also Maori.<sup>11</sup> We are concerned that there is an inequity between Maori and other carers who receive benefits for caring for children under the Oranga Tamariki system. It is outside the scope of our submission to do justice to an analysis of every potential underlying factor for this disparity. The government should undertake a consultation with Māori about the UCB and OB benefits, and what could be done to better support Māori caregivers. Regardless of the underlying causes, the Crown still has an obligation to address this disparity.<sup>12</sup>

YouthLaw Aotearoa submit that the removal of the twelve-month requirement and the additional funds for Christmas and birthdays will help to reduce the disparity in state funding between Oranga Tamariki carers and whāngai carers. These changes will better enable whāngai carers to care for tamariki they may otherwise struggle to provide for and enhance their kaitiakitanga and whanaungatanga responsibilities.

## Youth Payment

On a separate note, we often encounter issues with how the “family breakdown” criteria is interpreted by the Ministry of Social Development (“MSD”) for the Youth Payment (“YP”). We are commonly contacted by young people who have experienced a breakdown in relationship with their guardian, but the YP is declined by MSD on the basis that the guardian has advised that they are willing to continue caring for the young person. The issue with this, is that the young person may feel unsafe living with their guardian. The young person may feel unsafe because of emotional, financial, physical, psychological or sexual abuse. As an example, a guardian may reject a young person based on their conversion to a different religion or because they have identified as being LGBTQI+, but still be willing to care for that young person. Unfortunately, this can leave young people in the position of not living with their guardian and having little or no financial means. It can also mean that young people are unable to escape from parental abuse. We ask that MSD undertake a consultation into the “family breakdown” criteria and develop guidelines about how this term should be interpreted. We recommend that guidelines specify that parental willingness to care for the child is not sufficient to determine that there has not been a breakdown..

---

<sup>11</sup> Oranga Tamariki Departmental Disclosure Statement, above n 8, at 3.

<sup>12</sup> Waitangi Tribunal Te Urerewa (Wai 894, 2015) at 659.



# Recommendations

---

**We recommend that MSD be given discretion to provide the Christmas allowance for other significant cultural/religious celebrations on the request of the caregiver and in accordance with the child’s identity and religion.**

**We recommend that the bill be endorsed by the select committee and continue to the second reading, and beyond.**

**We recommend that the government consult with Maori on what could be done to better support Māori caregivers.**

**We recommend that guidelines be created through consultation on the interpretation of the Youth Payment “family breakdown” criteria. We recommend that the guidelines specify that parental willingness to care for the child is not sufficient to determine that there has not been a breakdown.**

Ngā mihi nui

YouthLaw Aotearoa



## YouthLaw Aotearoa

Level 3 Park View Tower  
21 Putney Way  
Manukau  
Auckland

0800 UTHLAW  
(0800 884 529)

[www.youthlaw.co.nz](http://www.youthlaw.co.nz)

