



**Australian
Nursing &
Midwifery
Federation**
VICTORIAN BRANCH

Newsflash

Monday 31 October 2022

Public sector update

Superannuation on unpaid parental leave

Following earlier communications with members, we identified five employers in the public sector who appear not to have been making superannuation contributions on parental leave taken after 30 June 2021 as required by clause 27.6 of the Nurses and Midwives (Victorian Public Sector) (Single Interest Employers) Enterprise Agreement 2020-2024.

These contributions are supposed to be calculated on employee's pre-salary packaging earnings over the 26 full pay periods immediately prior to commencing parental leave and then divided by 52 to generate a Weekly Parental Leave Super Contribution to be paid throughout the unpaid component.

ANMF instructed its solicitors to serve a letter of demand on those five health services.

Since that time, we have become aware of a further 15 employers who also appear to be similarly non-compliant. It is likely that it is not limited to the 20 employers identified to date. Health services argue that they have experienced significant difficulties with their payroll systems, leading to the alleged non-compliance. Some health services are reliant on payroll services provided by other health services, adding to the complexity.

All these health services are members of the Victorian Hospitals Industrial Association (the VHIA), and ANMF has been meeting with the VHIA to address the non-compliance.

The discussions with VHIA have been focussed on four things, without prejudice to our right to commence formal legal proceedings:

1. **Payments going forward** – this relates to members commencing unpaid parental leave now. ANMF is seeking that all health services be compliant as soon as practicable but by no later than 31 November 2022.
2. **Payments for periods between 1 July 2021 and now** – ANMF is seeking that all health services be compliant by no later than 31 November 2022.
3. **Compensation for late payment** – ANMF has proposed that an additional contribution be made for late payment of superannuation.

Authorised by Lisa Fitzpatrick ANMF (Vic Branch) Secretary

4. **Tax implications for late payment** – ANMF is seeking that members who are assessed by the ATO for additional taxation arising from the late payment of superannuation be compensated by their employer.

It remains our preferred outcome to have all health services be fully compliant without recourse to the Federal Court. However, we have also made it clear that health services who do not meet the above timelines and/or do not address the issues at (3) and (4) above may be subject to commencement of formal legal proceedings both to recover the underpayment for affected ANMF members, and also to seek a penalty be imposed for non-compliance.

An update will be provided on progress towards the end of November. At this stage only one Victorian public health service appears to be unlikely to meet these timeframes.

Further updates will be provided to affected members.

JOB REPS AND HEALTH AND SAFETY REPS ARE ENCOURAGED TO DISPLAY THIS NEWSFLASH ON THEIR WORKPLACE NOTICEBOARD.

Authorised by Lisa Fitzpatrick ANMF (Vic Branch) Secretary