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IMPACT ON SOCIAL SECURITY
PENALTIES OF INCREASED REMOTE
WORK FOR THE DOLE REQUIREMENTS

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Impact on social security penalties of increased remote Work for the Dole requirements

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Abstract

CAEPR Working Paper 108/2016 described the number and pattern of social security penalties being applied to jobseekers participating in the Remote Jobs and Communities Program. The paper argued that more onerous requirements of jobseekers in the remote areas covered by that scheme was a major driver of their being overrepresented among those being penalised across the social security system. From 1 July 2015, under what was renamed the Community Development Programme, even more stringent requirements were applied – in particular, the requirement that 18–49-year-olds participate in Work for the Dole for 25 hours per week, five days per week, year-round. The paper predicted that this would lead to further increases in penalties. This paper analyses the first release of data about penalties applied under the new arrangements, covering the period from 1 July 2015 to 31 December 2015. It shows that penalties have, indeed, increased at a startling rate, and provides further evidence of the disproportionate impact of this change on Indigenous people.

Keywords: income support, employment, participation requirements, compliance, Community Development Programme

Acknowledgments

This paper arises from a research project on the implementation of the Remote Jobs and Communities Program (RJCP; now the Community Development Programme), in partnership with Jobs Australia. This project has been funded by the Australian Research Council and Jobs Australia, starting in 2013 and continuing for up to four years (Linkage Project no. 130100226). The research aims to document the way that RJCP is implemented over its first few years. It includes interviews with, and surveys of, providers; interviews with clients and other stakeholders; and observations. The author thanks Jobs Australia for its ongoing support for, and assistance in, this research project.

Acronyms

ANU	The Australian National University
CAEPR	Centre for Aboriginal Economic Policy Research
CDP	Community Development Programme
RJCP	Remote Jobs and Communities Program

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Introduction

In a recent CAEPR Working Paper, *Financial penalties under the Remote Jobs and Communities Program* (Fowkes & Sanders 2016), Dr Will Sanders and I described the increasing number and rate of social security penalties being applied to jobseekers participating in the Remote Jobs and Communities Program (RJCP).¹ In that article, we noted that from 1 July 2015 changes to RJCP (which included renaming to the Community Development Programme or CDP) had substantially increased obligations for program participants, with most required to Work for the Dole for 25 hours over five days in each week throughout the year. Our argument was that these more onerous requirements were likely to further accelerate the rate of penalties being applied and exacerbate the disproportionate burden of social security penalties falling on remote (predominantly Indigenous) Australians.

This paper presents analysis of the first release of social security penalties data, following the implementation of the new Work for the Dole arrangements under what is now called CDP. As expected, it shows a dramatic increase in the number of penalties applied to jobseekers in CDP. Although CDP participants make up only around 5% of the total number of jobseekers to whom the relevant social security penalties apply, these data show that in the first six months of the CDP they incurred more penalties than the other 95% of jobseekers combined. CDP penalties have also contributed to a substantial rise in the proportion of penalties being applied to Indigenous people.

Background

On 1 July 2013, a new remote employment program – RJCP – was established by the then Labor government, replacing existing ‘mainstream’ employment programs (Job Services Australia and Disability Employment Services) and the Community Development Employment Projects program (CDEP), which was specifically for remote areas. RJCP had around 37 000 participants, of whom around 85% were identified as Indigenous. Under the program, most participants were required to participate in some form of ‘activity’ for between 15 and 20 hours per week, although there was flexibility for participants to be referred to alternative forms of assistance such as health or counselling programs, training or voluntary activities. The election of the Coalition government in September 2013 brought an increased emphasis on ‘structured activities’, which involved more rigid structuring of daily activity schedules,

tighter supervision and keeping of timesheets. In December 2014, the Minister for Indigenous Affairs announced radical changes to the program to take effect from 1 July 2015. Under the changes (which were accompanied by a name change to CDP), most unemployed people aged from 18 to 49 were required to Work for the Dole for 25 hours per week, five days per week throughout the year, with up to six weeks time off in each year (Scullion 2014).

As discussed in our April 2016 Working Paper, the obligations of most income support recipients under RJCP were already more onerous than those of their counterparts in Job Services Australia (Fowkes & Sanders 2016).² This, we argued, had contributed to the application of a higher rate of financial penalties under RJCP than under the ‘mainstream’ Job Services Australia program. Inadequacy of protections for the vulnerable and a level of resistance to requirements perceived as unfair or purposeless also, in our view, contributed to the heavier burden of penalties being applied. On this basis, we anticipated that the number and rate of penalties would continue to climb, and even accelerate, once the new Work for the Dole rules were implemented.

Numbers of penalties applied under the first six months of the Community Development Programme

On 1 June 2016, the Australian Government Department of Employment released data on social security penalties for the last two quarters of 2015 – the first six months of the new CDP Work for the Dole arrangements (DoE, various dates).

In the last two quarters of 2015, 50 807 financial penalties were applied to jobseekers in CDP (Fig. 1). This was more than double the number of penalties applied to this group in the first six months of 2015 (19 295), before the new rules came into effect.

Of the 50 807 penalties applied in the first six months of CDP, 44 488 (88%) were No Show, No Pay penalties, which are applied when a participant fails to attend their Work for the Dole activity and does not provide a ‘valid excuse’.³ Each penalty means a loss of 1/10th of an individual’s fortnightly benefit, with each day of nonattendance able to be counted as a separate ‘breach’, attracting its own penalty. No Show, No Pay penalties tripled from 14 835 in the first half of 2015 to 44 488 in the six months after the new rules were in place (Fig. 2).

FIG. 1. Financial penalties under RJCP and CDP, by quarter, July 2013 to December 2015

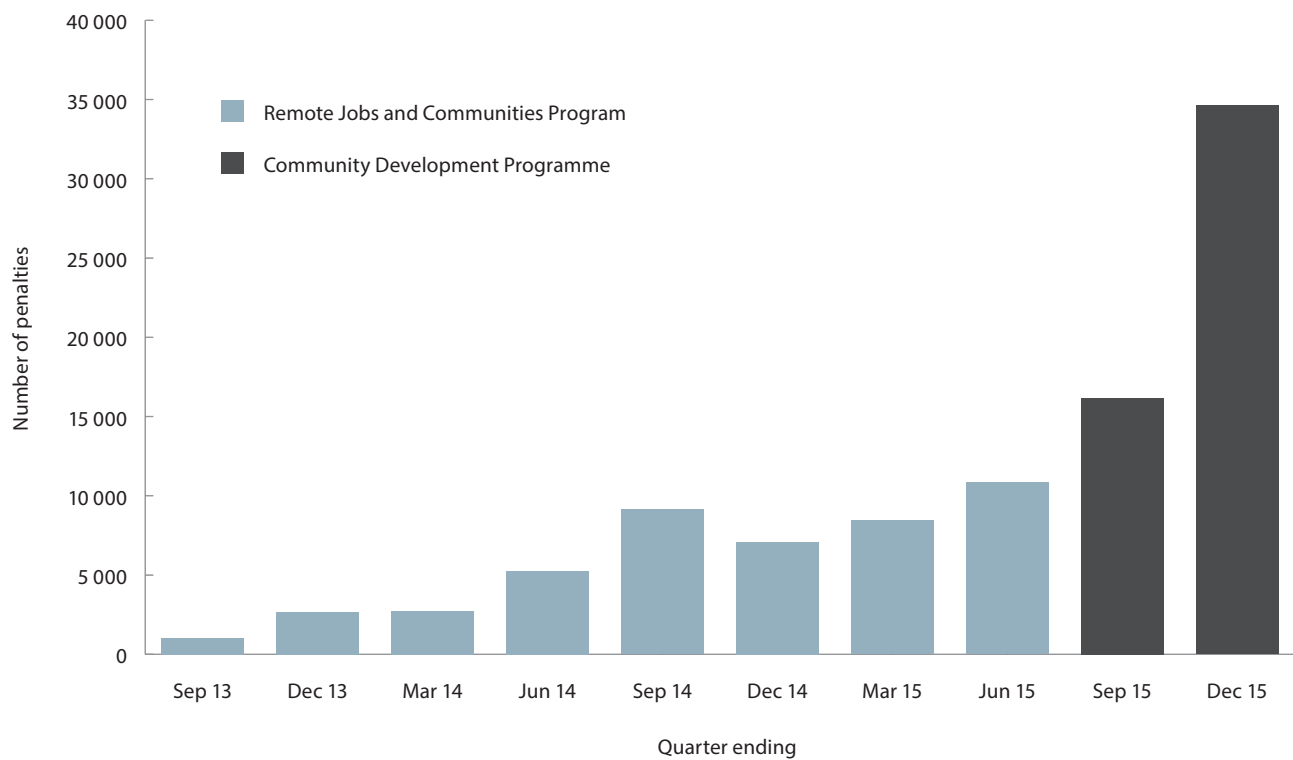
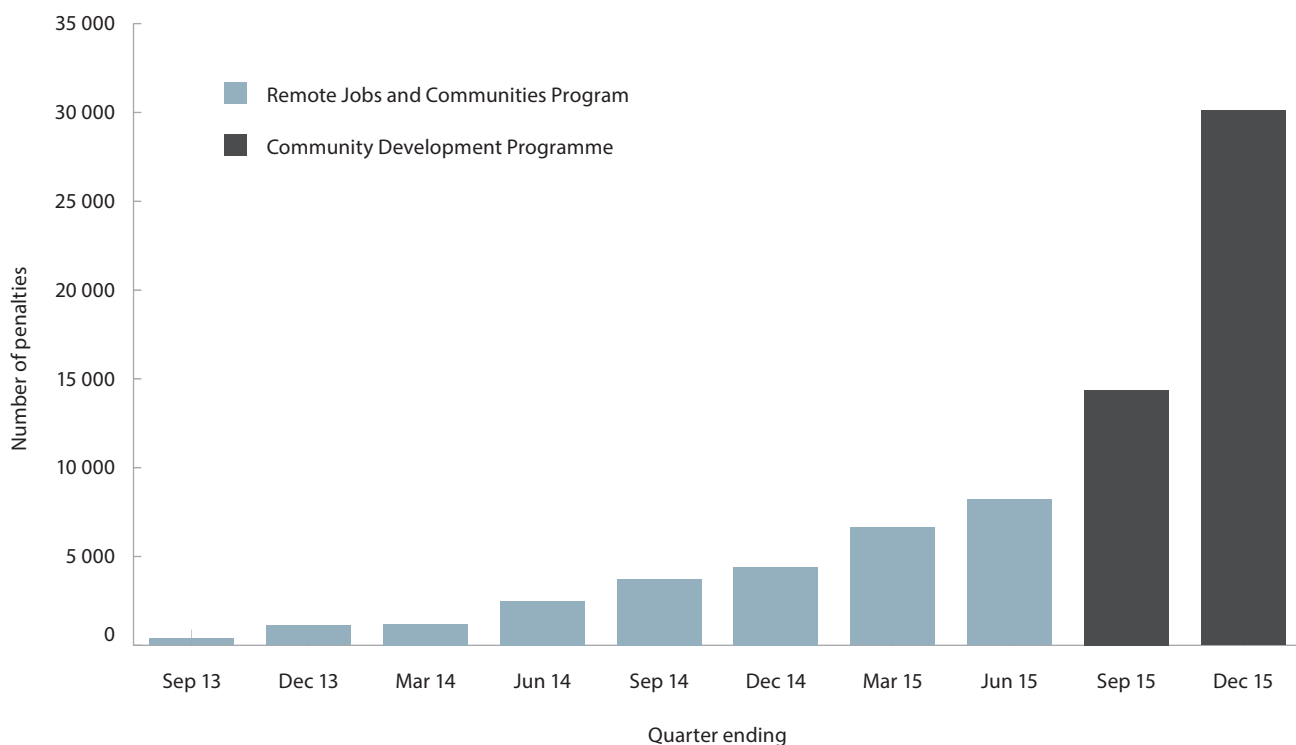


FIG. 2. No Show, No Pay penalties for nonattendance at activities under RJCP and CDP, by quarter, July 2013 – December 2015



Not all of this change can be attributed to the changed obligations of jobseekers. The changes to the program funding deed and guidelines that brought about new Work for the Dole requirements also linked the bulk of providers' service fees to attendance in the Work for the Dole program (DPM&C 2015). Where a participant fails to attend their Work for the Dole activity without providing a valid excuse, the provider is not paid the relevant service fee for that time unless they report the noncompliance and re-engage the participant within two weeks. Although providers have discretion not to recommend a penalty in cases where they feel that it is not appropriate, they are penalised financially for making this decision and it reflects poorly in their performance rating.⁴

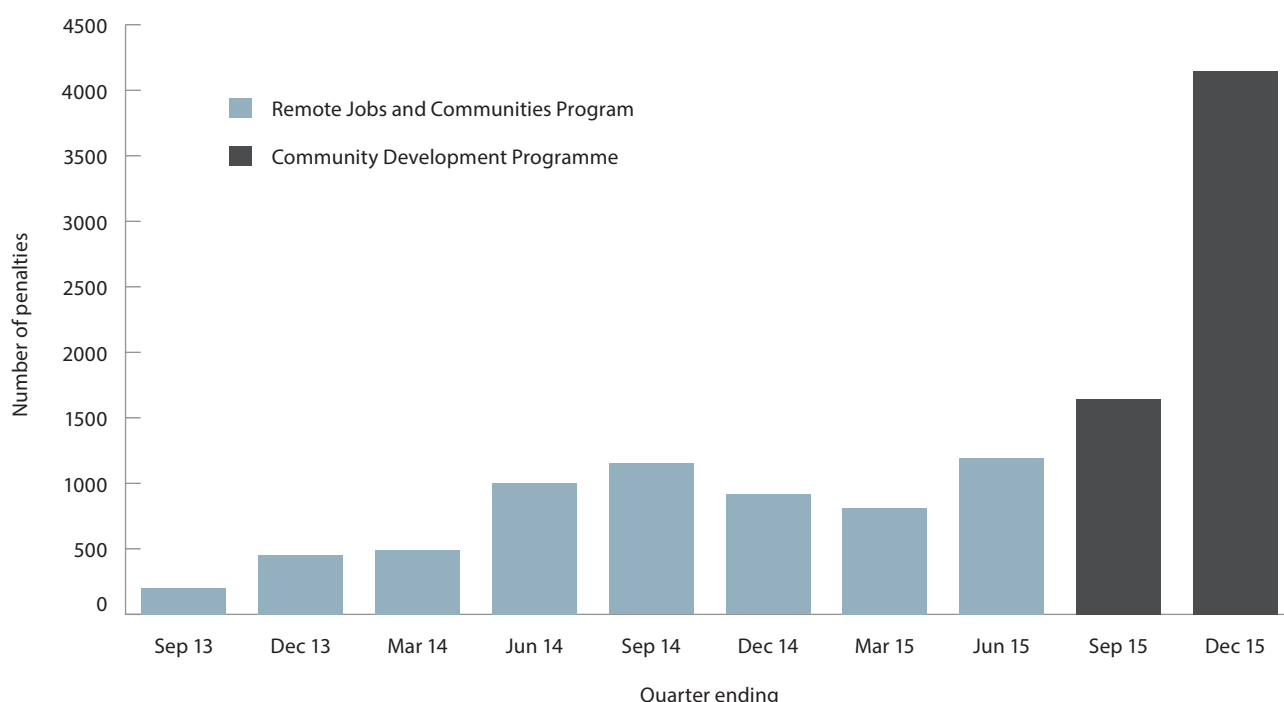
The highest level of penalties applied to those who fail to meet their participation obligations relates to 'serious failures'. Serious failures may occur where a jobseeker has refused or rejected suitable work (including losing work through misconduct) – called here 'employment-related' failures. Serious failures also occur in cases of what is called 'persistent noncompliance'. Persistent noncompliance requires that a jobseeker incur three minor penalties (e.g. No Show, No Pay penalties) over a six-month period, and that the Australian Government Department of Human Services determine that this has occurred 'intentionally, recklessly or negligently'. Serious penalties attract up to eight weeks without income support, although this can be waived when a jobseeker agrees to return to Work for the Dole.⁵

In the two quarters following the start of CDP, 5794 serious failures were applied for persistent noncompliance, more than twice the number (2006) in the previous six months (Fig. 3). Because three penalties must be applied for the serious failure to occur, there is a lag between new requirements and their leading to serious failures – one reason for the close to tripling of penalties between the quarter ending September 2015 (1646) and the quarter ending December 2015 (4148).

The relative burden of penalties falling on CDP participants

Figures presented in the Forrest review suggest that CDP participants make up around 5% of the total group of unemployed people engaged in major labour market programs (Forrest 2014). In our earlier Working Paper (Fowkes & Sanders 2016), Sanders and I showed that the percentage of financial penalties imposed on CDP participants was substantially higher than their 5% representation in the overall jobseeker group. We argued that a major contributor to that difference was the more onerous annual activity requirements under RJCP compared with Job Services Australia – the program that accounts for around 83% of jobseekers nationally. In July 2015, as the new CDP Work for the Dole rules came into effect, Jobs Services Australia was replaced by the new jobactive program. Although jobactive has a greater emphasis on Work for the Dole than Job Services

FIG. 3. RJCP and CDP serious failures (persistent noncompliance), by quarter, July 2013 – December 2015



Australia, it has left the hours of activity requirements broadly unchanged.⁶ The change in requirements was most substantial in CDP.

The activity requirements under jobactive and CDP are summarised in Table 1. Over most age groups and jobseeker categories, activity requirements under CDP are substantially higher than under jobactive.

In the quarter ending December 2015, more than half of all financial penalties nationally (57%) were applied to CDP participants (Fig. 4). This rose to 62% of No Show, No Pay (activity-related) penalties and 78% of persistent noncompliance failures. Some caution is needed in considering these figures. During this period, there was a major transition from Job Services Australia to the new jobactive program, which started on 1 July 2015. It is likely that this caused a temporary reduction in penalties being applied to nonremote jobseekers, inflating CDP penalties as a proportion of the whole. However, the number of No Show, No Pay penalties applied to CDP jobseekers in the last quarter of 2015 exceeded the

number applied to Job Services Australia participants in any quarter over the two years leading up to the change to jobactive. If current policy settings continue, there is no question that the 5% of participants who are in CDP will continue to be penalised at a much higher rate than their counterparts in nonremote areas.

The enormous acceleration in CDP penalties has also contributed to something that we have not seen before in this data series. Across the social security system, around 11% of jobseekers are identified as Indigenous, but, in the last six months of 2015, 62% of all financial penalties were applied to this group. It is clear from the types of penalties being applied that this does not reflect rejection by Indigenous jobseekers of work opportunities.

Since the final quarter of 2010, the incidence of employment-related penalties (those that relate to rejection or failure to pursue work opportunity) among Indigenous-identified jobseekers has been steady and proportionate to the Indigenous share of jobseekers, at around 11% (Fig. 5). However, Indigenous-identified

FIG. 4. Financial penalties applied to jobseekers in RJCP and CDP as a percentage of all penalties applied nationally, by quarter, July 2013 – December 2015

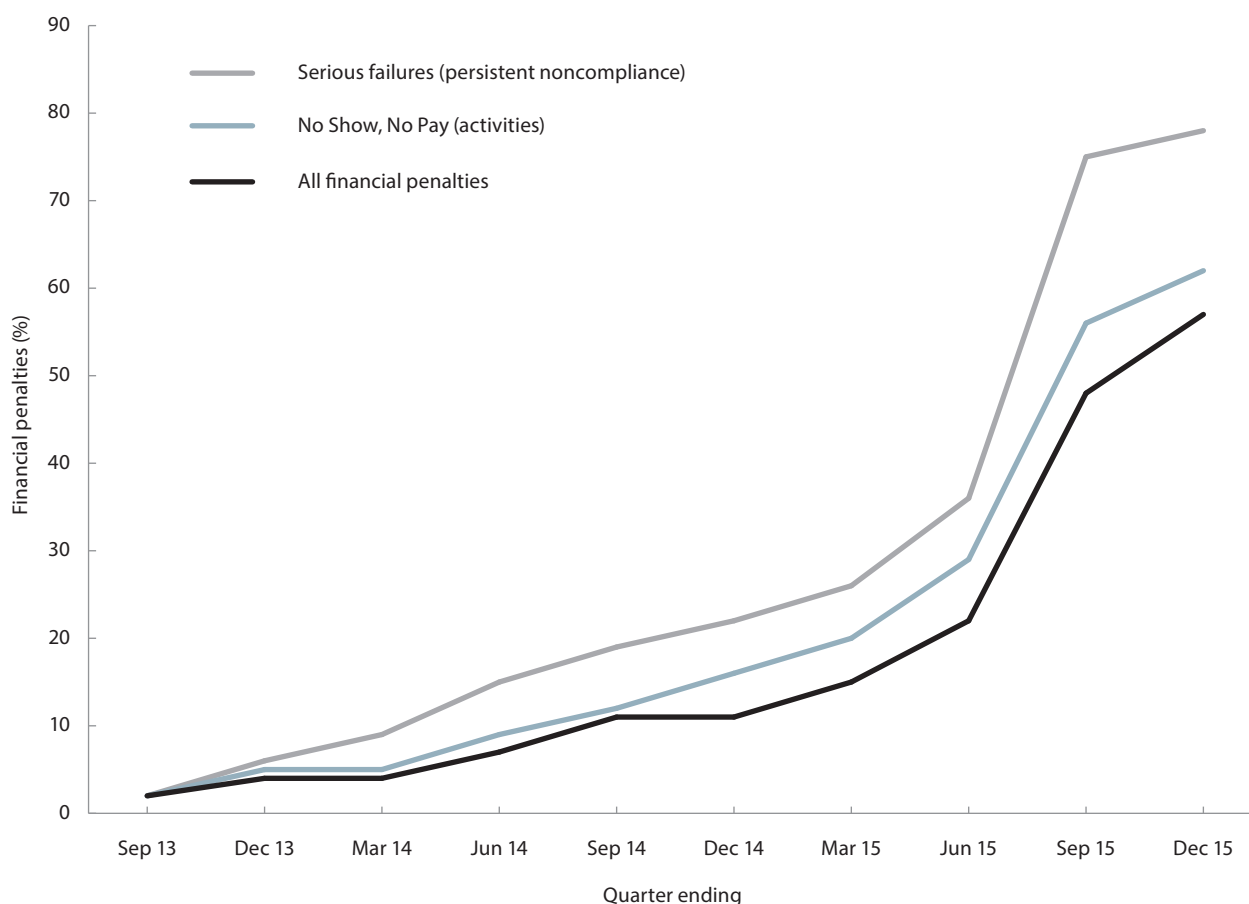
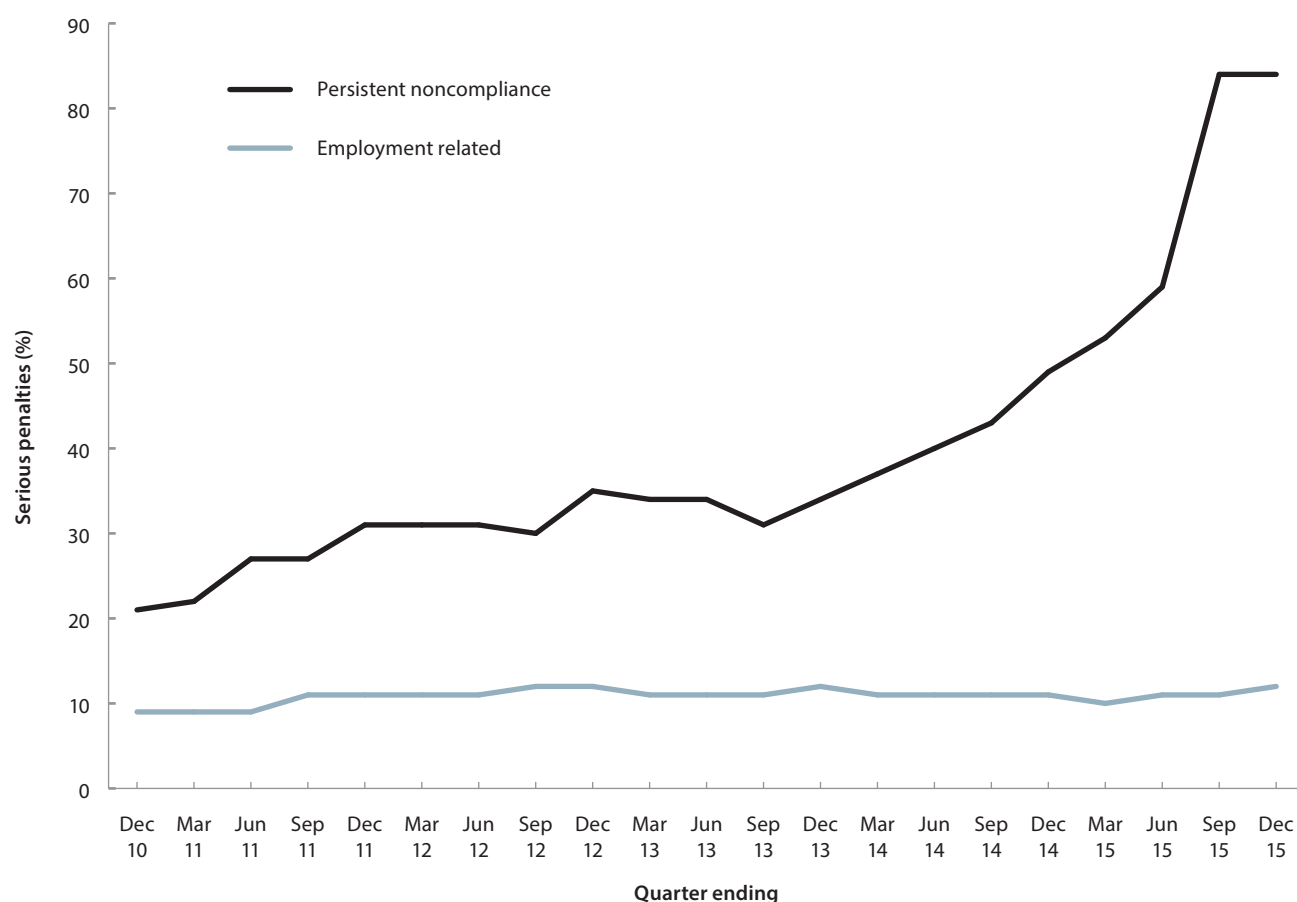


TABLE 1. Activity requirements under CDP and jobactive

Category	jobactive (July 2015 – June 2020)	CDP (July 2015 – June 2018)
Point at which annual activity requirement (Work for the Dole) starts	Annual activity requirement starts after 12 months or more receiving assistance. Work for the Dole is default, but jobseeker can opt for accredited training, voluntary work, part-time work or another approved program	Work for the Dole activity requirement starts immediately and is mandatory for 18–49-year-olds with full-time work capacity, unless in part-time work
Hours of activity required (other than early school leavers under 22 years of age) – people with full-time work capacity	Aged under 30: 650 hours over 26 weeks each year (50 hours per fortnight) Aged 30–59: 390 hours over 26 weeks each year (30 hours per fortnight)	Aged 18–49: 25 hours per week in Work for the Dole activities with up to 6 weeks time off, with approval, each year (1150 hours each year)
Early school leavers who are under 22 years of age	25 hours per week (less for principal carers and people with part-time work capacity)	25 hours per week (less for principal carers and people with part-time work capacity)
People with part-time work capacity and principal carers	Aged under 30: 390 hours over 26 weeks each year (30 hours per fortnight) Aged 30–59: 200 hours over 26 weeks (15–16 hours per fortnight)	30 hours per fortnight or up to work capacity. Approximately 600 hours each year, noting that principal carers may not be required to participate during school holidays

FIG. 5. Percentage of serious penalties applied to all Indigenous-identified jobseekers, by quarter, October 2010 – December 2015

jobseekers have received persistent noncompliance failures far more often than their non-Indigenous identified counterparts throughout the period. This rate has been on the rise, not just since the most recent CDP changes, but for some time before. Indigenous jobseekers appear no less willing to work, but they are falling foul of system rules at a very high and accelerating rate. CDP marked an acceleration of a trend that was already apparent. This raises broader questions for policy makers about the appropriateness of existing employment services to Indigenous people.

Conclusion

From 1 July 2013 to the end of December 2015, there were 6436 instances of people in RJCP or CDP being assisted to achieve employment lasting 13 weeks or more.⁷ In our previous paper, Sanders and I argued that, on the basis of data then available, RJCP participants were more likely to incur a serious failure than be assisted into 13 weeks of employment. From these latest data, we can see that, from 1 July 2013 to the end of 2015, almost twice as many serious penalties were applied (12 624) as 13-week employment outcomes were secured. The rise of financial penalties – particularly penalties associated with Work for the Dole – has been exponential. Reports are beginning to emerge of the impact of lost income support on families and communities (Curtin 2016, Wild 2016ab). The punitive aspects of CDP appear to be putting at risk not only economic outcomes, but wider social and health outcomes. Indigenous communities have long supported programs that provide work at fair wages, and that offer opportunity to pursue economic aspirations. But this punitive, externally imposed model offers neither fairness nor opportunity. It must be replaced.

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Notes

1. The term 'jobseekers' here refers to those categories of income support recipients who have participation requirements under social security legislation. At present, these are recipients of Newstart and Youth Allowance (Other), principal carers with school age children, some Disability Support Pension recipients under 35 and some Special Benefit recipients.
2. While penalties are established nationally under social security legislation, particular obligations applying within each program are set out in funding deeds and guidelines. These are then incorporated into individual agreements with jobseekers. For more detail about how obligations are set, please refer to our earlier Working Paper (Fowkes & Sanders 2016).
3. The provider must record the nonattendance, noting whether a valid excuse has been given. If no valid excuse has been given, they may either report the invalid nonattendance or exercise discretion to allow the absence. Where an invalid absence has been reported by the provider, the Department of Human Services checks that the criteria for imposition of a penalty are met (e.g. the individual had a Job Plan that clearly spelled out the requirement) and imposes the penalty if they are satisfied that the criteria are met.
4. The significant jump between the September 2015 quarter and the December 2015 quarter reflects the transition period to the new model. In the first instance, for a penalty to be applied to an individual, each individual must have entered into a Job Plan reflecting the new arrangements – a process that takes some time. In addition, up until 31 December 2015, providers were guaranteed payment based on a minimum 75% attendance to give them time to establish projects and practices to support the new arrangements. Unless something changes, the December 2015 quarter is more likely to reflect the ongoing rate of penalties.
5. The jobseeker must agree to participate in a 'compliance activity' – essentially, daily Work for the Dole. For participants in CDP (unlike those in jobactive), this is equivalent to the requirements that are already in place (i.e. 25 hours per week), and take-up appears high. In practice, it is hard to tell how much income is lost through persistent noncompliance penalties as opposed to the 'short penalties' (such as No Show, No Pay) that must be incurred in the lead-up to them.
6. Although it was initially announced that some jobactive participants could be required to participate in Work for the Dole after six months, in the 2016 Budget the Australian Government reversed this decision so that the obligation does not arise until after 12 months of assistance.
7. Figures presented by the Australian Government Department of the Prime Minister and Cabinet to the Senate Finance and Public Administration Committee on 26 February 2016 in response to questions asked during the Inquiry into the Social Security Legislation Amendment (Community Development Program) Bill 2015, available at www.aph.gov.au/Parliamentary_Business/Committees/Senate/Finance_and_Public_Administration/Social_Security/Additional_Documents.

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