

# Guide to the new compliance regime

**F**rom 1 July 2009 Centrelink will be implementing a new compliance regime for people in receipt of “participation payments” (all activity tested payments other than full-time student payments). There are benefits to the new system but inconsistencies to watch out for.

## What are the different categories of “failures”?

There are five categories of failures:

- no show no pay failure;
- connection failure;
- reconnection failure;
- serious failure; and
- unemployment non-payment period

## What is a “no show no pay” failure?

A “no show no pay” failure can be imposed on a person for failing to participate in certain activities required by their Activity Agreement (now called an Employment Pathway Plan) without a reasonable excuse. For example, failing to attend Work for the Dole, training or a job interview. The penalty is a 10% cut in the person’s fortnightly payment for each failure committed.

A person cannot incur more than one failure on a particular day. However multiple failures may arise for the same activity; for example, missing three consecutive days of Work for the Dole-three failures may be imposed.

There is a distinction between an activity and an appointment - failure to attend an appointment results in a “connection failure” (see below) rather than a “no show no pay” failure. If a person fails to act appropriately while participating in an activity (commits misconduct) or behaves in a manner during a job interview that results in them not receiving the job, this may also result in a “no show no pay” failure.

A “no show no pay” penalty does not apply if a person has a “reasonable excuse”. This does not apply to misconduct. The person

must appeal on the grounds that his or her action was not in fact “misconduct”.

## What is the role of providers?

Employment services providers do not make compliance decisions. Providers have the discretion to decide whether to report non-compliance. Centrelink must decide which failures to apply.

Providers must attempt to make two separate contacts with the person on two separate days before reporting non-compliance. Guidelines for providers emphasise the discretion to consider strategies such as giving a person another opportunity to attend an appointment or letting someone make up time missed from an activity.

## When will the penalty be applied?

Centrelink cannot deduct the penalty in the pay period in which the person was notified of the failure. The penalty does not affect access to health care cards, family tax benefit or extra payments such as Rent Assistance or Pharmaceutical Allowance etc.

## What is a connection and reconnection failure?

Failing to attend an appointment, enter into an Employment Pathway Plan (EPP), or meet a job search requirement may result in a “connection failure”. There is no financial penalty for a connection failure. Centrelink imposes a “reconnection requirement” such as being required to attend another appointment, enter into an EPP, or return a Job Seeker Diary.

If a person does not meet or attend the reconnection requirement, and does not have a reasonable excuse, Centrelink will impose

a reconnection failure period. The penalty is the loss of a person’s daily rate of payment (one-fourteenth of the fortnightly payment) until they meet their reconnection requirement.

## What is a serious failure?

There are two ways in which a person may incur a “serious failure”: wilful and persistent non-compliance, or refusing or failing to accept an offer of suitable employment. The penalty is that a person’s payment may be stopped for eight weeks. All add-on payments stop also because the person loses entitlement during this period.

Before imposing the penalty for not accepting a job offer, Centrelink must consider whether the work was suitable and whether there is a reasonable excuse for rejecting the job. Before a serious failure for persistent non-compliance is determined, Centrelink must undertake a Comprehensive Compliance Assessment (see below).

All eight week non-payment penalties can be appealed. A person *must* be paid pending the review.

## Can the penalty be “worked off”?

A person can avert or end a serious failure period by undertaking a “serious failure requirement” (called a Compliance Activity).

The Compliance Activity required to reinstate payment will generally be full-time Work for the Dole, 25 hours per week for eight weeks. If a person is already undertaking an activity, it may include part-time work, work experience, approved training or intensive job search. Principal carer parents and people with a partial capacity to work are

required to participate in activities for 15 hours per week for eight weeks.

Where a person fails to commence a Compliance Activity, Centrelink will reinstate the eight week non-payment penalty. Once a person has commenced the Compliance Activity, any failure to attend or participate, without reasonable excuse, may result in a “no show no pay” failure.

### What if a person does not have capacity to comply?

If a person lacks the capacity to undertake a serious failure requirement, Centrelink must decide whether serving the penalty would cause severe financial hardship. If it would, the person’s payment must be reinstated. Strict financial hardship criteria apply. For a single person, liquid assets (ie savings) must be below \$2,500. For a person with children or members of a couple, liquid assets must be less than \$5,000.

### What is a “comprehensive compliance assessment”?

Three of any failures in a six month period automatically trigger a “comprehensive compliance assessment” (CCA). Centrelink or an employment service provider can also initiate one at any time if it is warranted.

The CCA, which is generally conducted in person by a social worker, aims to determine whether a person has any barriers to participation or employment, whether they have been given

appropriate participation obligations and whether they would benefit from additional or alternative assistance. Possible outcomes of a CCA can include referral to a Job Capacity Assessment, an alternative employment service such as the Disability Employment Network, a recommendation that the EPP be amended, or that a serious failure be imposed.

Once a CCA has been triggered, and until it is finalised, a person cannot incur further failures. The person’s payments will continue until it is finalised.

The failure to attend a booked CCA could potentially result in a penalty being imposed.

### What is an unemployment non-payment period?

A person will lose their payments for eight weeks if it is determined that they became voluntarily unemployed or were dismissed for misconduct at work. The preclusion period will not apply if the actions were not voluntary, the voluntary act was reasonable or the actions were not misconduct.

There is no option to “work off” this type of penalty. However Centrelink can end the penalty period early if serving it would cause severe financial hardship *and* the person is in a specified class of persons, for example, has a dependant child, significant caring responsibilities, a recognised illness, impairment or condition, or are homeless.

## Young people penalised the hardest

**Y**oung people are disproportionately affected by penalties. One in four “participation failures” applied in 2007/08 were imposed on young people between the ages of 18 and 21 years. Approximately 45% of all penalties were imposed on people under the age of 25. These statistics are also reflected in homelessness figures.

The latest data indicates that 24% of young people are unemployed. Around 70,000 teenagers are currently unemployed.

It is evident from our casework, that young people are not fully aware of their Centrelink rights and obligations. This is exacerbated in the case of young people at risk of homelessness or in a vulnerable situation accessing homeless services and other emergency services.

The global economic crisis, and the effect that it is having on the employment prospects of young people, means that the provision of clear, simple information about the new compliance regime and young people’s rights and responsibilities is as critical as ever.

### Welfare Rights to produce wallet cards for young people

The Department of Education, Employment and Workplace Relations (DEEWR) will be providing us funding to produce a wallet card, primarily aimed at young people and job seekers, as a guide to Centrelink payments – Youth Allowance and Newstart Allowance.

The wallet cards, which will be written in plain English and accessible to young people, will contain information about a person’s rights, responsibilities and obligations. It will also contain information about the new compliance regime and potential penalties that can be incurred from 1 July 2009.

Watch this space as the project develops... ▲

### Key Welfare Rights tips

- Some “failures” reduce payments for each day missed
- Some “failures” suspend payments until a person meets a particular requirement
- Some “failures” stop payment for eight weeks
- Some penalties can be “worked off” by doing approved intensive activities
- **All** penalties can be appealed
- A person *must* be paid while they wait for the review (if they appeal an eight week non-payment penalty). ▲