

23 September 2025

## ***Analysis of payment cancellations under 42AM of the Social Security Administration Act 1999***

### **Summary**

Payment cancellations under section 42AM of the *Social Security (Administration) Act 1999* (the Act) have been paused as part of the integrity review. 42AM is the section of the Act that provides powers to cancel payments for failure to re-engage with employment services within 28 days of a mutual obligation failure.

Recent decisions<sup>1</sup> of the Administrative Review Tribunal (ART) suggest these cancellations have been based on a wrong date, which is most likely to have been coded into the automated process or at least rubber stamped as being a correct date.

Economic Justice Australia's (EJA) analysis indicates that approximately 310,000 people were not given the legally correct number of days to re-connect with employment services. Accordingly, a remediation process to correct these decisions would be a significant exercise.

However, remediation would only apply to a subset of this group who had not intentionally skipped mutual obligation reporting because they were unemployed or had other reasons for no longer requiring income support. Previous data<sup>2</sup> suggests as many as 20 per cent of the people affected may have belonged to this group at the time of the cancellation.

### **Background**

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<sup>1</sup> [Yarde and Secretary, Department of Employment and Workplace Relations Chief Executive Centrelink \(Social security\) \[2025\] ARTA 317 \(10 January 2025\)](#)

<sup>2</sup> DEWR submission 254.2 to the Workforce Australia inquiry suggests 80 per cent of people affected by 28 day cancellations are reporting income 6 months later. It is unclear to EJA what criteria DEWR will apply to remediation for 42AM - Department of Employment and Workplace Relations. (2023). *Submission 252.4 to the House Select Committee on Workforce Australia Employment Services*. Parliament of Australia.

Payment cancellations under 42AM of the Act have been paused as part of the integrity review the Secretary announced on 21 March 2025.<sup>3</sup>

42AM is the section of the Act that provides powers to cancel payments for failure to re-engage with employment services within 28 days of a mutual obligation failure.

Due to non-engagement, the cancellations do not follow the Targeted Compliance Framework (TCF) route for capability review and capability assessments.

The payment is cancelled automatically without human review, and the legislation does not directly require review of reasonable excuses, as with reductions cancellations under subsection 42AF(2). Hence this 28-day rule has most likely been automated.

The problem identified in the ART decision is that cancellations under section 42AM occurred 28 days from the mutual obligation failure (e.g. not attending appointment, not meeting points target by due date).

Subsection 42AM(3) specifies the cancellation should occur 28 days after the person has received notification of a reconnection requirement. The reconnection requirement is usually to contact the provider, and have a new requirement set.

The notification of reconnection requirement may be sent a number of days after the mutual obligation requirement, as the first step is for the person to be notified that they have two (now five) days to remedy the problem before the payment is suspended (i.e. the resolution period).

The payment suspension takes effect from the date that the reconnection requirement is notified.

The two cases (Yarde and Harding,<sup>4</sup> below) suggest the IT system was programmed to cancel the payment after 28 days of the original notification of the mutual obligation failure warning rather than the notification of reconnection.

These cancellations are likely to have existed when the 28-day cancellation rule was introduced into the TCF in 2018, and continued when a resolution period of two days was introduced in December 2020.<sup>5</sup>

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<sup>3</sup> Department of Employment and Workplace Relations. (2025). *Assuring the integrity of the Targeted Compliance Framework*. Australian Government. <https://www.dewr.gov.au/assuring-integrity-targeted-compliance-framework>

<sup>4</sup> *Harding and Secretary, Department of Employment and Workplace Relations (Social services second review) [2023] AATA 1984 (7 July 2023)*

<sup>5</sup> It is unclear at this stage which of these scenarios is the cause

This could mean that the IT system (and or related manual processes) was not modified to accommodate the resolution period.

The resolution period is an exercise of the discretions (i.e. “may” in the Act (subsection 42AF(1)) that provides the Secretary an option not to suspend a payment, or to suspend after resolution time has expired.

There appears to be conflict between the availability of the discretion in subsection 42AF(1), and the requirement to cancel payments after 28 days of the notification of the reengagement requirement.

## Implications for remediation

There were approximately 100,000 payment cancellations under section 42AM per year until they were paused on 4 September 2024. Data for 2021 and 2022 is likely to be similar but is incomplete, and some figures below have been inferred as indicated in the table.

Therefore, based on the available data from December 2020 and the pause of section 42AM cancellations in September 2024 there were approx. 310,000 cancellations involving defective administration.<sup>6</sup>

**Table1: Total Cancellations by Quarter (Available Data)**

Quarter	Online	Provider	Total
Q1 2023	5890	18,015	23,905
Q2 2023	7965	15,370	23,335
Q3 2023	8440	16,070	24,510
Q4 2023	1825	3765	5590
Q1 2024	10,085	15,785	25,870
Q2 2024	12,860	14,895	27,755
Q3 2024	2880	5055	7935
Q4 2024	0	45	45
July 2021-June 2022 <sup>7</sup>			119,247

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<sup>6</sup> Section 42AM cancellations dating from 1 July 2018 may also be in scope

<sup>7</sup> Department of Employment and Workplace Relations. (2023). *Submission 252.4 to the House Select Committee on Workforce Australia Employment Services*. Parliament of Australia.

Inferred Dec 2020-June 2021			50,000
Total (inc inferred data)			308,192

## Extracts of relevant decisions

### Yarde and Secretary, Department of Employment and Workplace Relations Chief Executive Centrelink (Social security) [2025] ARTA 317 (10 January 2025)

#### ***Did Mrs Yarde fail to meet her reconnection requirement?***

38. Even if I were satisfied that Mrs Yarde had committed a mutual obligation failure on 27 June 2024, and it was appropriate for Centrelink to exercise the discretion to stop her payments, I would set aside Centrelink’s decision to cancel Mrs Yarde’s JSP with effect from 26 July 2024 for 2 reasons.

39. Firstly, I am not satisfied that Mrs Yarde failed to meet her reconnection requirement. Centrelink’s letter of 2 July 2024 stated *“If you do not call your provider and meet the requirement they have given you, your payment may be cancelled.”*

40. The ARO’s finding that Mrs Yarde had failed to reconnect with her provider within 4 weeks is incorrect. Centrelink’s letter of 2 July 2024 simply required Mrs Yarde to contact APM. It did not require her to attend an appointment. Ms Yarde did in fact contact APM on behalf of Mrs Yarde by 25 July 2024, which is within 4 weeks of the notification on 2 July 2024.

41. Further, even if Mrs Yarde had been required to attend a reconnection appointment, APM cancelled Mrs Yarde’s scheduled appointment for 25 July 2024 and failed to reschedule a reconnection appointment for her, apparently due to staffing issues. This is not Mrs Yarde’s fault and she ought not be penalised for APM’s failure. Ms Yarde, on behalf of Mrs Yarde, was in contact with APM on 25 July 2024 seeking assistance so that Mrs Yarde could meet any further requirements and no adequate assistance was provided.

42. Secondly, unless the Secretary has determined an earlier date for the payment suspension period to end (which does not appear to have occurred in this case), subsection 42AM(3) authorises cancellation of a person’s payment only if the person fails to comply with the reconnection requirement within 4 weeks after that requirement is **notified** under subsection 42AM(2).

43. Mrs Yarde was notified of the requirement for her to reconnect with her provider by letter dated 2 July 2024. The cancellation date of 26 July 2024 is a period of 4 weeks

after Mrs Yarde's alleged mutual obligation failure on 27 June 2024. However, as at 26 July 2024, a period of 4 weeks had not elapsed since Mrs Yarde was notified of her reconnection requirement.

44. It was therefore not open to Centrelink to cancel Mrs Yarde's JSP on 26 July 2024 under section 42AM of the Act as she did not fail to meet her reconnection requirement within 4 weeks of notification. Centrelink's decision to cancel Mrs Yarde's JSP with effect from 26 July 2024 will be set aside. This means that Mrs Yarde's JSP should be restored and she is to be paid arrears from 25 June 2024.

**Harding and Secretary, Department of Employment and Workplace Relations (Social services second review) [2023] AATA 1984 (7 July 2023)**

29. In failing to enter a new plan when this was requested, Ms Harding committed a mutual obligation failure. A person who commits a mutual obligation failure must have a reconnection requirement imposed. If the person does not comply with the reconnection requirement within four weeks, the person's payment is cancelled.
30. On 21 January 2021, Ms Harding was advised her payment had been suspended and that she was required to call her employment services provider as soon as possible. A notice advising her of the cancellation of her payment was issued on 16 February 2021, less than the required four weeks after the notice suspending her payment had been issued. As it was less than four weeks, this cancellation decision was not made in accordance with s42AM(4) of the Administration Act. In addition, she did comply with the reconnection requirement by contacting her employment services provider on 22 January 2021. It follows the power to cancel her payment under s 42AM(4) of the Administration Act did not arise.
31. Ms Harding's payment should only have been suspended in the period which ended on 21 January 2021, immediately before the day on which she contacted her job services provider. It follows that under s 42AL(4) of the Administration Act, Ms Harding should have received back pay for some of the period in which her payment was suspended. It is unclear from the information before the Tribunal if this has occurred.
32. The Secretary concedes Ms Harding complied with the reconnection requirements, and that her payment should not have been cancelled.

## **Conclusion**

This analysis suggests there are significant concerns about the integrity of the administration of payment cancellations under subsection 42AM(3) of the Act. The error relates to an incorrect date that has been used for the cancellation of payments after 28 days. This incorrect date may have been coded into the IT system resulting in automated cancellations, or which has been used in a process to rubber stamp thousands of decisions. There is a need to provide transparency about whether this problem exists, and how the Department will remediate the defective administration.