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**Opportunities and problems
astride the welfare/work
divide: the CDEP scheme in
Australian social policy**

W. Sanders

No. 141/1997



DISCUSSION PAPER

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The Australian National University
September 1997

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No. 141/1997

ISSN 1036-1774
ISBN 0 7315 2576 0

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ORIGINAL ARTICLES

THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION
PUBLISHED WEEKLY
535 N. Dearborn St., Chicago 10, Ill.
Subscription price, \$5.00 per annum in advance.
Single copies, 15 cents.

Published for the Association by the American Medical Publishers Association

Copyright, 1934, by American Medical Publishers Association

Printed at the American Medical Publishers Association

Second-class postage paid at Chicago, Ill.

Acceptance for mailing at special rate of postage provided for in Section 1103, Act of October 3, 1917, authorized on July 1, 1934.

Postmaster: This journal is published weekly except on Sundays and public holidays.

Subscription orders, notices of change of address, notices of non-receipt, and notices of subscription termination, should be sent to the American Medical Publishers Association, 535 N. Dearborn St., Chicago 10, Ill.

Entered as second-class matter, July 16, 1879, under No. 103, Postoffice No. 103, at Chicago, Ill., under special rate of postage provided for in Section 1103, Act of October 3, 1917.

Postage paid at Chicago, Ill., under No. 103, Postoffice No. 103.

Postage paid at Chicago, Ill., under No. 103, Postoffice No. 103.

Postage paid at Chicago, Ill., under No. 103, Postoffice No. 103.

Postage paid at Chicago, Ill., under No. 103, Postoffice No. 103.

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Postage paid at Chicago, Ill., under No. 103, Postoffice No. 103.

Postage paid at Chicago, Ill., under No. 103, Postoffice No. 103.

Summary

- Australian social policy is characterised by a program and institutional divide between welfare income and work income.
- ATSIC's CDEP scheme sits astride this divide and has done so for 20 years.
- This position astride the welfare/work divide has been a source of both opportunities and problems for the CDEP scheme.
- Opportunities relate to different players, or stakeholders, operating at different levels with the scheme.
- For ATSIC (and the DAA before it) the CDEP scheme has offered the opportunity of a budget item which is directly offset against social security expenditure.
- For participating organisations, the CDEP scheme has offered the opportunity of a grant which is notionally linked to a legislative entitlement and hence less discretionary than many other grants.
- For individual participants, the CDEP scheme has offered the opportunity of not having to comply with two-weekly social security procedures in order to maintain eligibility and the ability to earn larger amounts of additional income without losing eligibility.
- The CDEP scheme has also allowed flexible workplace practices to be developed incorporating indigenous values and social practices.
- Problems with and criticisms of the CDEP scheme over the years, have included undermining award wage employment, substitution for the funding responsibilities of other government programs, the creation of secondary labour market conditions and a bias towards indigenous men rather than women.
- Although these problems and criticisms have, to some extent, been addressed, new versions of problems and criticism tend in time to arise and persist. This is related to the CDEP scheme's position astride the welfare/work divide.
- Here the focus is on allegations of racial discrimination in comparison to NSA/YTA recipients, which have arisen in recent years. These allegations have considerable prima facie credibility and this too relates to the position of the CDEP scheme astride the welfare/work divide.
- Frequently the DSS and other government organisations treat CDEP participants not as NSA/YTA recipients, but as low income earners. Where this is to the disadvantage of CDEP participants, because of the links between CDEP and NSA/YTA in CDEP guidelines, allegations of racial discrimination can legitimately be made.
- The paper also notes that there is one instance in which DSS does treat CDEP participants as the equivalent of NSA/YTA recipients.

- The final section of the paper suggests that the basic lesson from the CDEP scheme is that a government program can survive astride the welfare/work divide, but that it is likely to be beset by fairly considerable ongoing problems as well as opportunities.
- It suggests that the Howard Government's work-for-the-dole scheme will face similar problems and criticisms about how participants ought to be treated, though not allegations of racial discrimination. These problems and criticisms will differ slightly from those encountered by the CDEP scheme because the work-for-the-dole scheme participants are being placed more on the welfare side of the welfare/work divide.
- It also suggests that, in the longer term, interaction between the two schemes may be a two way phenomenon, with the work-for-the-dole scheme possibly having more effects on the CDEP scheme than vice versa.

Acknowledgments

Thanks to Jin Lui who provided the data from the NATSIS units record file on which Table 2 is based. Thanks also to Hilary Bek and Jon Altman for editorial comments and proof reading, and Jennifer Braid for layout and design.

A version of this paper was given at the July 1997 National Social Policy Conference sponsored by the Social Policy Research Centre, University of New South Wales. It will appear in one of the volumes of conference proceedings.

Introduction

Australian social policy is characterised by a significant program and institutional divide. On one side of this divide sit the programs and institutions of income support or welfare. On the other, sit the programs and institutions of earned income or work. The rules applying to income derived from each side of this welfare/work divide are substantially different. Income derived from work is subject to regulation through employment contracts or industrial awards, superannuation and workers compensation requirements, and occupational health and safety requirements. Income derived from welfare is subject to none of these, but it is subject to other rules such as income or means tests for both qualification and withdrawal of income support, multiple entitlement exclusions and basic eligibility rules.

Most government programs sit fairly clearly on one side or the other of this welfare/work divide. The programs of the Department of Social Security (DSS), for example, and the education and training course income support programs of the Department of Employment, Education, Training and Youth Affairs (DEETYA) all sit on the welfare side of the divide. DEETYA's employment subsidy programs, on the other hand, sit on the workforce side of the divide. So too, more indirectly, do most other government programs which encourage economic development or employment. There is one government program, however, which has sat astride the welfare/work divide for over 20 years and continues to do so. This is the Community Development Employment Projects (CDEP) scheme run by the Aboriginal and Torres Strait Islander Commission (ATSIC).

The CDEP scheme was introduced on a small pilot scale by the Fraser Coalition Government in 1977 in response to the spread of Unemployment Benefit payments into remote indigenous communities.¹ The scheme proved immediately popular, but for some years laboured under a number of budgetary and administrative problems which inhibited its expansion. In the early 1980s, around the time when the Hawke Labor Government came to power, these problems with the scheme were, to some extent, addressed and the scheme began expanding quite rapidly (see Table 1). By 1991/92 the scheme operated in almost 200 indigenous communities, involved over 20,000 individual participants and accounted for a third of the ATSIC budget. Since the early 1990s, expansion has been somewhat more tentative (again see Table 1). Problems and criticisms of the CDEP scheme have re-emerged, including allegations that the treatment of CDEP participants by DSS and other administrators of government programs is, in some ways, racially discriminatory. But the scheme is still very popular with indigenous communities.

This paper attempts to do four things. First it examines the way in which the CDEP scheme sits astride the welfare/work divide. Second it looks at the opportunities which this position astride the divide has provided for the CDEP scheme, at various levels from organisations to individual participants. Third it examines the problems and criticisms which the CDEP scheme has endured

because of its position astride the welfare/work divide, and in particular how the allegations of racial discrimination in the treatment of CDEP participants relate to this position. Finally it asks whether there is likely to be any interaction between or lessons to be drawn from the CDEP scheme for the Howard Government's work-for-the-dole initiative.

Table 1. CDEP participant numbers and expenditure, 1976-96

	No. of communities participating	No. of participants	CDEP expenditure	CDEP as % of portfolio ^a expenditure
1976/77	1	100	0.1	0.1
1977/78	10	500	2.0	1.6
1978/79	12	800	2.9	2.1
1979/80	17	700	3.8	2.7
1980/81	18	1,300	6.9	4.3
1981/82	18	1,300	7.0	4.1
1982/83	18	1,300	7.4	3.7
1983/84	32	1,700	14.2	5.8
1984/85	33	2,900	23.5	8.3
1985/86	38	4,000	27.2	9.2
1986/87	63	6,000	39.5	12.0
1987/88	92	7,600	65.5	17.0
1988/89	130	10,800	98.8	22.0
1989/90	166	13,800	133.2	25.0
1990/91	168	18,100	193.1	34.0
1991/92	185	20,100	204.5	32.0
1992/93	186	19,900	234.4	28.0
1993/94	222	24,100	251.9	27.0
1994/95	252	27,000	278.3	29.0
1995/96	274	28,400	310.5	31.0

Note: ^a Aboriginal and Torres Strait Islander Affairs portfolio, formerly Aboriginal Affairs.

Sources: Sanders (1988); ATSIC and DAA Annual Reports various years since

Astride the welfare/work divide

The 'Basic Outline and Guidelines' document, presented to the Commonwealth Parliament in May 1977, identified the CDEP scheme's first objective as:

To provide employment opportunities thereby reducing the need for unemployment benefit for unemployed Aboriginals within the community at a cost approximating unemployment benefits (Commonwealth Parliamentary Debates, House of Representatives, 26 May 1977: 1922).

The document went on to state that grants would be confined to 'remote areas' or 'separate communities' where unemployment was high and 'projects had been specifically requested by a community'. Grants were to be paid to 'Aboriginal community councils' or 'clan groups' and were 'not to exceed the total entitlement of individual members to unemployment benefits', although there was to be some allowance for 'specific grants' for the 'purchase of materials and equipment'. It then specified that:

Each community will be encouraged to establish its own method of remuneration for its members who participate in the project provided that:

(a) all unemployed community members, eligible to apply for unemployment benefits will be given the opportunity to participate;

(b) each participating community member, provided he contributes the required minimum hours or satisfies other minimum criteria determined by the community, will be guaranteed a minimum income approximating his normal unemployment benefit entitlement (Commonwealth Parliamentary Debates, House of Representatives, 26 May 1977: 1922).

In 1991, Unemployment Benefits were replaced within the Social Security Act by Job Search Allowance (JSA) and Newstart Allowance (NSA) and in 1995 these, in turn, were replaced for 16 and 17 year olds by Youth Training Allowance (YTA). Reflecting these changes, the 1995 ATSIC guidelines for CDEP stated that:

CDEP is a community development/employment program for Aboriginal and Torres Strait Islander communities which is funded by the Department of Finance as a partial off-set against unemployment benefit.

To participate in CDEP, persons who are entitled to receive, or who actually receive payment of Job Search Allowance (JSA), Newstart Allowance (NSA) or Youth Training Allowance (YTA) elect to forego the DSS allowance and work for wages which are paid from a government grant to the community (ATSIC 1995: Division C, Chapter 1).²

Both these sets of guidelines indicate very clearly that the CDEP scheme is an employment program. So participants in the scheme, and income derived from it, could be expected to be subject to the normal rules and regulations of employment or wage income. Yet both sets of guidelines also very clearly link participation in the CDEP scheme with eligibility for unemployment-related income support payments. From this, we might expect the normal rules of income support/welfare to apply. So the CDEP scheme sits astride the welfare/work divide and questions of how normal work and welfare rules apply to CDEP participants and income remain somewhat unclear, at least from these general guidelines.

This position astride the welfare/work divide has been a source of both opportunities and problems for the CDEP scheme. The opportunities have, in many ways, outweighed the problems; and this is reflected in the scheme's growth

since the mid 1980s. But the problems have also been significant and need to be understood.

Opportunities

The opportunities which this position astride the welfare/work divide has presented for the CDEP scheme can be analysed in relation to different players, or stakeholders, operating at different levels within the scheme. Three different levels of stakeholders can be usefully identified; the promoting department or organisation (which was initially the Commonwealth Department of Aboriginal Affairs (DAA) and in 1990 became ATSIC), the Aboriginal community councils (which are recipients of CDEP grants) and the individual CDEP participants.

For the DAA/ATSIC, the CDEP scheme has offered the opportunity of a budget item which has been seen by governments as directly offset against social security expenditure. This has allowed ATSIC, and the DAA before it, to argue strongly for the build up of the CDEP scheme over time and also for some flexibility within annual CDEP budgeting. This has been a major resource for the DAA/ATSIC within Canberra bureaucratic politics, strengthening it in relations with the Department of Finance, as well as with governments of the day and their budgetary processes. It has been difficult, if not indeed impossible, for governments and the Department of Finance to resist arguments that expansion of the CDEP scheme would be largely offset by social security savings and that indigenous communities which wanted to be able to participate in the scheme, instead of receiving social security payments, ought to be able to. Hence, the CDEP scheme's increasing prominence over the years as a proportion of the DAA/ATSIC budget (see Table 1).

The second level at which the CDEP scheme has offered opportunities to stakeholders has involved recipient organisations. Most of these organisations rely for funding on discretionary government grants. However, with the CDEP scheme, the element of discretion in the allocation of government grants is considerably reduced, if not indeed eliminated. These are social security payments in a slightly different form, the argument runs, and as such they are legislative entitlements rather than discretionary grants. Given the links in the CDEP scheme's guidelines to the welfare side of the welfare/work divide, this argument too is difficult to resist. So CDEP becomes an almost guaranteed non-discretionary form of funding for participating organisations which greatly strengthens these organisations in their dealings with ATSIC, and also to a lesser extent with other government funding agencies.

The CDEP scheme also offers opportunities at the level of individual scheme participants. Procedurally, participants are spared the need to comply with two-weekly social security procedures in order to demonstrate their ongoing compliance with the finer points of eligibility for NSA or YTA, such as being willing and available to undertake suitable work. Instead participants are placed on a three-monthly ATSIC-administered CDEP participant schedule, which is cross-

checked with DSS records only for such gross eligibility issues as instances of double payment.

More substantively, CDEP guidelines are far more generous than NSA and YTA guidelines in allowing additional income to be earned while still retaining eligibility. On CDEP, the ATSIC guidelines state, one can earn:

a maximum gross weekly income of two times the weekly remote per participant rate from permanent part-time work from sources other than CDEP wage component funds before becoming ineligible for CDEP (ATSIC 1995, Division C, 1.4.8.1).

As the remote per participant rate for the CDEP scheme is currently around \$170 per week, this allows CDEP participants, theoretically, to earn up to an additional \$340 per week without losing their CDEP entitlement. On NSA, by contrast, payment starts to be reduced by 50 cents in every dollar of additional income earned above \$60 per week.

Recent data from the 1994 National Aboriginal and Torres Strait Islander Survey (NATSIS) suggests that this opportunity to earn additional income while on CDEP is being utilised. The income distribution of those who identified themselves in the NATSIS as CDEP participants was significantly higher than those who identified as unemployed; though not as high as those who identified as employed outside the CDEP scheme (see Table 2). The median income for CDEP participants was \$11,271 compared to \$7,278 for unemployed (again see Table 2).

Another major opportunity offered by the CDEP scheme has been to enable recipient organisations to provide flexible, culturally-sensitive working environments. Under the scheme's guidelines, workplaces have been able to incorporate and reflect many indigenous values and social practices, rather than strain against them. This has made CDEP scheme employment more attractive to some indigenous people than other employment settings (see Smith 1994: 18-19, 22-23, 1996: 15-16). It has, in the process, also strengthened the position of the recipient indigenous organisations.

All these are significant opportunities that the CDEP scheme has offered, at various levels, to stakeholders and participants. They largely explain the popularity of the scheme among indigenous people, indigenous organisations, and the indigenous affairs policy community. All these opportunities are related to the position of the scheme astride the welfare/work divide. They each draw on both the income support and the employment aspects of the scheme. However, this position astride the welfare/work divide has also been a source of problems and criticisms for the CDEP scheme, the most recent and prominent of which have been allegations of racial discrimination in the treatment of CDEP participants by the DSS and other government agencies.

Table 2. Income distribution of indigenous people aged 15-64, by labour force status, 1994

Income \$ per annum		Labour Force Status		
		Unemployed %	CDEP employed %	Other employed %
0-3,000		12.2	0.2	0.9
3,000-8,000		44.2	25.7	4.3
8,000-12,000		20.8	29.5	8.5
12,000-16,000	Per cent distribution	16.4	17.2	8.8
16,000-20,000		3.7	16.4	13.9
20,000-25,000		2.2	6.0	23.0
25,000-30,000		0.4	3.1	18.0
30,000-35,000		0.1	1.2	9.7
35,000-40,000			0.1	5.6
40,000+			0.5	7.4
Total		100.0	100.0	100.0
	Number	39,748	16,364	46,575
Mean income		\$8,290	\$12,641	\$24,128
Median income		\$7,278	\$11,271	\$22,971

Source: NATSIS unit record file³

Problems and criticisms

Despite its popularity, the CDEP scheme has suffered many problems and criticisms over the years. In the early years it was accused of undermining award wage conditions and of not being able to guarantee participants the equivalent of their social security entitlements. It has been accused of being a substitution funding regime, allowing other government agencies and programs to avoid what would otherwise be their funding responsibilities. It has also been accused of creating secondary labour market conditions for indigenous Australians and of discriminating against indigenous women in favour of indigenous men (see Altman and Sanders 1991).

Many of these problems and criticisms have, over the years, been at least partly addressed. But equally, they seem never entirely to go away. Problems and criticisms keep re-emerging in new guises. Why, for example, are CDEP scheme participants exempt from superannuation requirements when other employees are not? This continual re-emergence of problems and criticisms relates in part to the position of the CDEP scheme astride the welfare/work divide. Because the scheme has links to both sides of this divide, it is always possible to argue that CDEP participants ought to be treated differently than they are.

Allegations of racial discrimination

The latest form of criticism of the CDEP scheme is a stream of complaints to the Human Rights and Equal Opportunity Commission (HREOC) alleging that CDEP participants are being racially discriminated against in their treatment by DSS and other government agencies. The basis of these allegations lies in the fact that the CDEP scheme is only open to indigenous people and that although in the ATSIC guidelines CDEP participants are equated with NSA/YTA recipients, in practice they are not treated this way by the DSS or other government agencies. This sometimes disadvantages indigenous CDEP participants in comparison to NSA/YTA recipients in gaining access to government and even non-government services; and hence the allegations of racial discrimination.

These allegations of discrimination do have considerable *prima facie* credibility. The DSS does not treat CDEP participants in the same way as NSA/YTA recipients, but rather treats them, in all but one instance, as low-income wage earners. While low-income wage earners can qualify for many elements of DSS income support, they do not always do so on the same basis as NSA/YTA recipients. For example, a low income wage earner without dependent children (and without eligibility for any DSS payment) cannot qualify for DSS rent assistance; whereas an equivalent NSA/YTA recipient can. Similarly an NSA recipient over 60 who has been in receipt of income support for 12 months qualifies for a Pensioner Concession Card, whereas an equivalent CDEP participant/low-income wage earner does not. In the income tax assessment system, NSA/YTA recipients can qualify for a beneficiary tax rebate, whereas CDEP participants, as low income wage earners, cannot.

These differences in treatment may seem minor, and they are not always to the disadvantage of CDEP participants.⁴ But where they are to the disadvantage of CDEP participants, a strong case can be made that they are racially discriminatory. That case for racial discrimination relates to the position of the CDEP scheme astride the welfare/work divide. For it is the link that is made in the CDEP scheme's guidelines between CDEP participation and eligibility for social security payments which opens the way for and gives credence to the argument that CDEP participants ought to be treated in the same way as NSA/YTA recipients.

As noted above, there is one instance in which CDEP participants are formally recognised as the equivalent of NSA/YTA recipients. This arises from Section 614A of the Social Security Act which states that NSA:

is not payable to a person for period if that person has received, or may receive, income for that period that is paid by a community or group from funds provided under a Commonwealth funded employment program.

Clarifying this final phrase, section 23 (1) of the Social Security Act states that a Commonwealth funded employment program is:

a Commonwealth program of funding to a community or group where the funding is based wholly or partly, on the number of people in that community or group who are, or are likely to be, qualified for new start allowance.

These two provisions of the Social Security Act were added in 1991 specifically to deny CDEP participants the theoretical ability of perhaps qualifying for part JSA/NSA payment while on CDEP.⁵ In the language of the Social Security Act, CDEP participants were, through these two new sections, subject to a 'multiple entitlement exclusion'; that is they could not receive two similarly-based entitlements to income support at the same time. The CDEP scheme was, for the first time, being recognised within the Social Security Act as the formal equivalent of an income support payment. If CDEP income had been treated totally as wages, on the employment side of the divide, this multiple entitlement exclusion would not have been necessary. CDEP participants would simply have qualified for JSA/NSA on the basis of whether they met the standard eligibility criteria.

Lessons and interactions

The basic lesson that can be drawn from the CDEP scheme would seem to be that a government program which attempts to sit astride the welfare/work divide in Australian social policy, can survive, and even flourish, but that in doing so it will experience considerable ongoing problems, as well as opportunities. The Howard Government's work-for-the-dole scheme may not face allegations of racial discrimination, but it will face problems about how participants ought to be treated in comparison to others in the community whose employment and income circumstances fall more clearly on one side or other of the welfare/work divide.

It appears, from current indications, that participants in the Howard Government's work-for-the-dole scheme will be more on the welfare side of the divide than CDEP participants. They will be working for their income support payments, rather than for a wage payment which is notionally offset against a social security entitlement, as in the CDEP scheme. But questions about being treated like employees will still arise, because the work-for-the-dole participants will be working. Will they be covered by workers compensation rules, occupational health and safety rules and superannuation rules? And if not, as workers, why shouldn't they be? The experience of the CDEP scheme suggests that these sorts of issues will not go away. They will plague the work-for-the-dole scheme, as they have done the CDEP scheme; and this relates to the position of these programs astride the welfare/work divide.

In the longer term, it may be that the Howard Government's work-for-the-dole scheme will have effects on the CDEP scheme, more than vice versa. Once a work-for-the-dole scheme is legislatively established, the question may be asked why the CDEP scheme remains an essentially non-legislated and informal program. Why can't it too be clearly legislated, rather than administratively established and only legislatively recognised through one indirect reference in the Social Security Act? Another possible interaction may be that indigenous community organisations who are having trouble getting onto the CDEP scheme—and there are still more seeking participation in the CDEP scheme than can be accommodated by ATSIC—may try instead to participate in the general work-for-

the-dole scheme, and there is no reason why they should not. Interaction between the schemes could become a quite complex two-way process, with each being used as both a comparison and standard against which the other is judged.

Conclusion

The CDEP scheme has survived, and flourished, within Australian social policy, despite sitting astride a major institutional and program divide between income derived from welfare and income derived from work. This position astride the welfare/work divide has presented the CDEP scheme with both opportunities and problems. While the opportunities appear, in many ways, to have predominated, the problems and criticisms refuse to go away. This can be related to the position of the scheme astride the welfare/work divide. Similar, though slightly different, ongoing problems and criticisms may await the Howard Government's work-for-the-dole initiative.

Notes

1. Previously Unemployment Benefit payments had been largely kept out of these communities through interpretations of the eligibility rules which prevailed within DSS (See Sanders 1985).
2. During 1996, amendments to the Social Security Act did away with JSA, merging it with NSA.
3. The original official report on the NATSIS findings gave income broken down by main source of income, rather than by labor force status (See Australian Bureau of Statistics 1995: 55). The mean incomes given in this original report by main source of income were: earned CDEP \$12,403, earned non-CDEP \$24,802 and government payments \$9,576. This, however, is a less direct way of examining CDEP participants' incomes in comparison to unemployed people's incomes than the breakdown by labour force status used here, as the government payments category under main source of income includes large numbers of people who are outside the workforce.

The CDEP figures in this table may include some CDEP administrators, as well as CDEP participants, accounting for the small tail of incomes above \$30,000. While this may push up the CDEP mean slightly, it will not greatly affect the median. Nor does it detract from the general point about the upward shift in the income distribution from the unemployed to CDEP participants at much lower levels of income than \$30,000.

4. The best example of advantageous treatment is the ability, mentioned above, under the CDEP scheme guidelines, for CDEP participants to earn more additional income than NSA recipients, without losing their basic eligibility. Another example, is that since July 1995, CDEP participants have been treated by the Abstudy administration as part-time wage earners, which enables them to qualify for Abstudy living

allowances. Previously, along with NSA/YTA recipients, CDEP participants could not qualify for these living allowances because they were deemed to be ineligible through a multiple entitlement exclusion.

5. In the process of reviewing the social security system in the mid-1980s, Cass (1988: 251) pointed out the theoretical possibility of qualifying for part Unemployment Benefit while on CDEP. This appears to have precipitated the 1991 amendments. It is doubtful, however, that this theoretical possibility was ever realised in the period from 1977 to 1991. The idea of CDEP payments and Unemployment Benefit payments being mutually exclusive appears to have been clearly practised by the DSS from the beginning of the CDEP scheme, even if it was not clearly spelt out in the social security legislation.

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