

## Ambitious targets needed to improve take-up of means-tested benefits and tax credits

With more than £16 billion in means-tested benefits and tax credits going unclaimed every year, the government needs to set ambitious targets to improve take-up, Citizens Advice and twenty-six other charities have said.

As part of a new campaign involving AdviceUK, the Child Poverty Action Group, Gingerbread and MIND, amongst others, Citizens Advice has written to Secretary of State for Work and Pensions Yvette Cooper to say that more needs to be done to ensure that money earmarked for children, families and pensioners in greatest need reaches those for whom it is intended.

Whilst acknowledging that the government has made a serious commitment to eradicate child and pensioner poverty, and to help the working poor, Citizens Advice Chief Executive David Harker highlights that up to £10.5 billion of means-tested benefits and £6.2 billion of tax credits remain unpaid each year –

*'This adds up to millions of people in dire need missing out on the help they should be getting to make ends meet. This is bad news at any time, but it's especially worrying when so many are still feeling the impact of the recent recession.'*

As a result the twenty-seven charities have called on the government to set ambitious take-up targets for means-tested benefits and tax credits, as an important step towards tackling poverty and providing adequate incomes for all. □

## Government should establish a Welfare Commission to create a simpler benefit system

The Work and Pensions Select Committee has called on the government to establish a Welfare Commission to examine the existing benefits system and model possible alternative structures with the aim of creating a fair but simpler system.

In a new report on *'Decision making and appeals in the benefits system'*, the Committee highlights that the level of official error in the benefits system has increased substantially since 2000/2001 and that the DWP has failed to respond to concerns and recommendations made by those responsible for scrutinising the decision making and appeals system –

*'... the Secretary of State has not produced an annual report on decision making since 2006... (contrary to undertakings given) [and] the former President of the Appeal Tribunals felt his reports were effectively ignored by the Department and we were told that the Standards Committee lacked influence.'*

Whilst the Committee says that it does not underestimate the difficulty of the task facing decision makers across the DWP as a result of the complex rules that govern the social security system, it expresses its concern that poor decision making not only costs the Department in wasted overpayments, and costs claimants

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## Replacing sick notes with 'fit notes' from Spring 2010

New regulations have been issued that make provision for the introduction of 'fit notes' in place of sick notes in order to 'provide more helpful advice to individuals and employers and help facilitate an earlier return to work.'

The *Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2010* (SI.No. 137/2010) introduce changes to the current medical certificate to allow a doctor to consider not only whether their patient is unfit for work but also whether s/he –

*'... may be fit for work taking account of the following advice ...'*

Where a doctor states that their patient may be able to work they must then provide general information to support this statement which could include advice about changes that could be made by the employer in agreement with the employee that would assist a return to work.

In addition, whilst there are currently a number of different medical statement forms and a doctor has to choose which is applicable to their patient's circumstances, the new regulations incorporate the functionality of these different forms into one new statement.

The new rules come into force from 6 April 2010. □

## Progression to Work pilots to commence in October 2010

Progression to Work pathfinders, aimed at those who may not be ready to work immediately but who 'with the right mix of support and encouragement' could get back into employment, are to be launched in October 2010, the government has confirmed.

Announcing that four areas will pilot the initiative – South London, Nottinghamshire, Staffordshire and Tees Valley – Secretary of State for Work and Pensions Yvette Cooper said in January 2010 –

*'Helping parents into jobs so they can support their families is the best way to lift children out of poverty ... We are giving parents more support to get ready to go back to work ... but in return we do expect people to take up this extra help on offer.'*

In the pilot areas, lone parents on income support and partners of income support and employment and support allowance claimants with a youngest child aged three to six will be required to actively engage with an adviser on an ongoing basis to consider, discuss and agree an action plan comprising activities they think will improve their prospects of moving back into work, and undertake agreed activities as part of their 'journey towards employment'.

The DWP advises however that the obligation on lone parents to take up help will only apply during hours when their children are at school or nursery school.

In addition, further to the government's July 2009 announcement, the Secretary of State has confirmed that the lone parent income support earnings disregard will be increased for those in the pilot areas to £50/week, also from October 2010.

NB – the Social Security Advisory Committee (SSAC) has issued a consultation on the proposed changes.

Representations should be sent no later than 29 March 2010. For more information see the SSAC website @ [ssac.org.uk](http://ssac.org.uk) □

## Impact on claimants of DWP and Revenue delays in responding to appeals

The Administrative Justice and Tribunals Council (AJTC) is looking for evidence from advisers on the impact on claimants of DWP/HMRC delays in responding to appeals.

When the draft *Tribunal Procedure (Social Entitlement Chamber) Rules 2008* were under consultation, the AJTC pressed for the introduction of a 42 day time limit for the DWP and HMRC to respond to an appeal, either by revising the appealed decision or by sending the appeal and supporting submission to the Tribunals Service.

However, the DWP and HMRC made representations to the Tribunal Procedure Committee to the effect that such a time limit would be impossible to achieve and, as a result, Rule 24 of the 2008 Rules requires only that when a decision maker receives the notice of appeal or a copy of it, they must send or deliver a response to the Tribunal –

*'... as soon as reasonably practicable after the decision maker received the notice of appeal.'*

The AJTC is therefore keen to demonstrate the impact this has on tribunal users, both by identifying the actual time cases take to get to the Tribunals Service and by highlighting case studies showing how these delays affect people who are denied the benefits to which they are entitled.

As a result, it is inviting advisers to provide case studies, based on evidence gained from helping claimants with appeals, in order that it can highlight a range of examples for different benefits showing what the delay was in getting the case to a hearing, and what impact that had on the appellant.

For more information, see the decision making and appeals discussion forum @ [www.rightsnet.org.uk](http://www.rightsnet.org.uk) □

## Extending DLA higher rate mobility to those with severe visual impairments

New regulations have been issued in relation to the extension of entitlement to the higher rate of the mobility component of DLA to those with prescribed severe visual impairments.

Further to the government's March 2009 announcement that the new rules would be introduced from April 2011, the *Welfare Reform Act 2009 (Commencement No. 2 and Transitory Provision) Order 2010* (S.I.No.293/2010) provides for the amendment of Section 73 of the Social Security Contributions and Benefits Act 1992 to extend the higher rate of the mobility com-

ponent to those who have 'such severe visual impairment as may be prescribed' from –

- 11 April 2010, for the purpose of conferring power to make regulations;
- 15 October 2010, for the purposes of assessing claims and making decisions on eligibility; and
- 11 April 2011 for all other purposes.

The government expects that 20,000 people will benefit from the new provision at an estimated cost of almost £50 million a year. □

## Carer's allowance earnings limit to increase from April 2010

Minister for Disabled People, Jonathan Shaw, has announced that the carer's allowance earnings limit will increase from April 2010.

Speaking in parliament in January 2010,

the Minister said that the increase from £95 to £100, that was set out in the recent White Paper *'Building Britain's Recovery: Achieving Full Employment'*, is expected to benefit 40,000 carers. □

## Tax credit overpayments where claimant delays reporting change of circumstances

The Revenue has introduced a new policy that means that where tax credit claimants start living together or separate and delay in reporting the change, any overpayment will be reduced by the amount the claimant would have been entitled to receive had they reported the change promptly.

Introduced on 18 January 2010, the change – announced in December 2009's pre-Budget report – is reflected in new information, published to the Revenue website, for claimants who have delayed telling the Tax Credit Office about a partner leaving or a new partner moving in –

*'The longer you delay telling the Tax Credit Office about this type of change,*

*the bigger your overpayment will be. But the Tax Credit Office will be able to consider reducing the amount you'll have to pay back if both of the following apply –*

- *you took more than three months to let them know about the change;*
- *you've set up a new claim as a single person or with your new partner.'*

The Revenue adds that the Tax Credit Office will work out how much the claimant would have been paid if he or she had told them about the change on time and will deduct that amount from the overpayment. □

## Awarding retirement pension without requiring a claim

The government has issued draft regulations that would enable it to award state retirement pension without requiring a claim.

Whilst 175,000 people who are already in receipt of benefit go on to claim retirement pension each year, the DWP currently requires them to make contact with the Department and provide all their details afresh when they make that claim.

However, changes set out in the draft *Social Security (Exemption from Claiming Retirement Pension) Regulations 2010* will mean that all existing DWP claimants will be contacted by the Department when they approach state pension age and certain people in receipt of 'exempt' benefits – income support; jobseeker's allowance; employment and support allowance; long term incapacity benefit; or state pension credit – will be paid retirement pension without having to make a claim (unless they have decided to defer getting their pension).

NB – the DWP says however that where the claimant has a 'complex choice' to make on reaching state pension age – for example where they are in receipt of carer's allowance; short term incapacity benefit; severe disablement allowance; widowed mother's allowance; or widow's pension – it needs to make sure that they have the information they need and are equipped to make an informed choice on the best course of action in their circum-

stances, and that therefore –

*'In each and every one of these cases, we will aim to contact the customer to talk them through their options fully and to confirm whether or not they wish to claim their state pension. By proactively contacting these customers to discuss their options, we will provide the support they need to help them make informed choices; improve upon the customer experience and enable better outcomes for these customers.'*

The DWP is planning to start contacting those approaching retirement age from August 2010 and introducing automatic awards of retirement pension from October 2010.

NB – the DWP also advises that –

*'... we are also looking at ways we can improve our service to existing customers who reach the qualifying age for pension credit. We will start by proactively contacting customers who are on means tested benefits which are due to cease, to see if they would like to apply for pension credit. Later, we will look at the feasibility of re-using data we hold on working age claims rather than having to re-capture it for pension credit.'*

However, the DWP adds, no legislative changes would be needed for these improvements as it is not planning to remove the requirement to make a claim. □

## Government decides against further restricting HB/CTB backdating

The government has decided against restricting HB/CTB backdating to three months for working age claimants.

In 2008, the maximum period that housing benefit and council tax benefit could be backdated by working age claimants was reduced from 52 weeks to six months and, in making the change, the government said that it ultimately intended to reduce the limit to three months.

However, having reviewed the effect of the 2008 change, the DWP advises that –

*'On balance, the government has decided that it would not currently be appropriate to make a further reduction in the maximum backdating period, and that the existing six month limit for claims to housing benefit and council tax benefit from working age customers should continue to apply.'* □

Source – HB/CTB General Information Bulletin G3/2010

## Government should establish a Welfare Commission to create a simpler benefit system

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in underpayments, but also generates more costs further down the line in reconsiderations and appeals.

As a result the Committee reiterates a recommendation it made in July 2007 that the government should establish a Welfare Commission –

*'... to examine the existing benefits system and model possible alternative structures with the aim of creating a fair but simpler system that claimants and their representatives are able to understand more easily and DWP staff are able to administer more accurately.'*

The Committee's report *'Decision making and appeals in the benefits system'* is available from [www.parliament.uk](http://www.parliament.uk) □

# New DLA renewals policy increases risk of overpayments

A new DLA renewals policy introduced by the DWP could lead to claimants being overpaid or experiencing sudden drops in income, reports Citizens Advice.

In its December 2009 'Social Policy Bulletin', Citizens Advice highlights that, at present, when a renewal form is submitted, DLA is usually upgraded from the date the form was received if the decision is in the client's favour, but that where the decision is likely to mean a reduction in benefit the decision for the current award is not usually changed, so the reduction in benefit does not usually take place until the old award runs out.

However, under a new initiative launched as part of the DWP's DLA 'Correctness Programme', Citizens Advice reports that, from January 2010 –

*'... where robust grounds to change an award are identified, we will supersede from the date the customer's needs changed, taking into account the customer's awareness of the change. This could mean that the rate of benefit may change before the end of the current award.'*

Whilst Citizens Advice says that it has been given assurances that only in extreme cases will this lead to overpayments, and also that it will only be done where there is an identifiable change in circumstances not just a new decision, it warns that it does mean that clients may face sudden extreme drops in income, and that advisers therefore need to weigh up very carefully what advice to give to clients about when to return their DLA renewal forms. □

Source: Citizens Advice Social Policy Bulletin.

# Extension of paternity pay and leave from 2011

Changes to paternity pay and leave designed to give parents more choice and flexibility are to be introduced next year the government has confirmed.

The new rules will mean that –

- fathers will be entitled to up to six months extra leave, which can be taken once the mother has returned to work;
- the new provision will be available during the second six months of the child's life, giving parents the option of dividing a period of paid leave entitlement between them; and
- some of the leave may be paid – at the same rate as statutory maternity pay – if taken during the mother's 39 week maternity pay period.

NB – the new rules will be introduced for parents of children due on or after 3 April 2011. □

## Benefit uprating 2010/2011

New rates now available

Following the Chancellor's pre-Budget report, the government has issued the new benefit and tax credit rates that will come into effect from April 2010.

The new rates are now available from the benefit rates area of our welfare rights website @ [www.rightsnet.org.uk](http://www.rightsnet.org.uk)

NB – if you would like to order a colour, A3 rates poster, or copies of our handy, pocket-sized benefit rates cards, email us at [info@lasa.org.uk](mailto:info@lasa.org.uk) for details. □

# Aligning payment of pensioner benefits with working age benefits

New regulations have been issued to align the payment arrangements for state pension and pension credit with the arrangements for working age benefits that were introduced in April 2009.

In force from 6 April 2010, the Social Security (Miscellaneous Amendments) (No. 6) Regulations 2009 (SI.No.3229/2009) provide –

- that retirement pension and pension credit will be paid fortnightly in arrears; and
- that the two benefits will be paid on a payday that is allocated according to the final two digits of the claimant's national insurance number.

In addition, because the move to payment of retirement pension in arrears will leave some people without funds when they transfer from a working age benefit, the new regulations introduce a new measure to make a part week payment of retirement pension to cover the period from the day they reach pensionable age until the start of their first full benefit week for retirement pension.

NB – the new rules will not apply in the case of people who reach pensionable age before 6 April 2010, including people who have not yet claimed their retirement pension for example because they have decided to defer taking it. □

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