

## Income support for claimants whose non disability grounds have ended

New regulations have been issued to ensure that income support claimants who cease to be entitled on non disability grounds (e.g. single parents whose youngest child has reached the age of twelve) are no longer able to continue their claim on the basis of sickness or disability, but should claim employment and support allowance instead.

In force from 30 December 2009, the *Income Support (Prescribed Categories of Person) Regulations 2009* (SI.No.3152/2009) correct a legislative 'oversight' that currently allows people whose non disability grounds for entitlement come to an end to remain on income support if they satisfy one of the other grounds on the basis of sickness or disability.

This has been achieved by removing the provisions which allow entitlement to income support on the grounds of a health condition or disability, except for claimants who are receiving incapacity benefit and become entitled to income support on income grounds, or those who were getting income support on disability grounds before the introduction of the employment and support allowance regime.

NB – the regulations also ensure that people whose claims for income support were wrongly terminated when their non disability grounds ended (before the legislative 'oversight' was discovered) can have their income support claim reinstated if they wish. □

## Whether necessary to complete a claim form or name a particular benefit in order to make a claim

### New Court of Appeal judgment

In a new judgment, the Court of Appeal has considered what constitutes a claim for benefit and whether it is necessary for a claimant to complete a claim form or to name the particular benefit that they wish to claim.

In *Novitskaya v London Borough of Brent & Anor* [2009] EWCA Civ 1260 (1 December 2009) Ms Novitskaya claimed asylum in 1999 and was notified of the grant of her refugee status on 12 May 2004. As a result,

she was entitled to housing benefit of £28,000 backdated to the date of her claim for asylum as long as she made a claim within 28 days of the refugee status being notified, i.e. on or before 10 June 2004.

On 10 June 2004, she handed in a statement to the DWP saying that she would like her income support, and 'whatever else' she was entitled to, to be backdated

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## Government proposes fixed term awards of HB

The government has launched a consultation on far reaching reforms designed to bring housing benefit into line with its overarching welfare to work strategy and to address the increase in HB expenditure that has been an unintentional consequence of the introduction of local housing allowance.

To this end, the government is proposing to introduce fixed period HB awards of six months which 'build on the example of the tax credit system'. Options given include removing the need to report minor changes of circumstances and either paying benefit at a fixed rate or using a fixed weekly earnings figure for people in work.

Other proposed changes include –

- awards of three months of out of work rate HB when people go into work, but with a longer qualification period on benefit than is needed for the current four week run-on, so that 'help is focused on those furthest from the labour market';
- taking the highest local rents out of the calculation when assessing an average rent for local housing allowance so as to bring the figure down.

NB – the deadline for responding to the consultation is 22 February 2010.

The consultation paper 'Supporting people into work: the next stage of Housing Benefit reform' is available @ [www.dwp.gov.uk/consultations/2009](http://www.dwp.gov.uk/consultations/2009) □

## 'Increasing concern' about capacity of Jobcentre Plus to deliver quality services

As the economic downturn becomes more severe, the capacity of Jobcentre Plus and its partners to continue to deliver quality services is of increasing concern, Sir Richard Tilt, chair of the Social Security Advisory Committee (SSAC) has said.

In his foreword to the SSAC's latest Annual Report, Sir Richard acknowledges that the challenge that 'the most difficult economic conditions that we've seen for many years' has presented to the Department for Work and Pensions and to Jobcentre Plus in particular, is probably unprecedented, in both scale and scope.

Sir Richard also notes that, in addition to gearing up to providing benefits and services to large numbers of new claimants, Jobcentre Plus has had to maintain the pace of a programme of change (including the introduction of employment and support allowance, preparation for the Flexible New Deal, and the migration of lone parents from income support to jobseeker's allowance).

However, whilst Sir Richard says that the fact that services have mostly been maintained to a generally good standard in the face of these challenges represents a considerable achievement, and one that fully deserves mention and recognition, he notes that the Committee has observed 'signs of strain', and that –

*'... we have become increasingly concerned about the capacity of Jobcentre Plus and its partners to continue to deliver quality services, tailored to the needs of individual customers ... in a weakened labour market, in which the most disadvantaged work seekers face relatively more daunting barriers than previously.'*

SSAC's Annual Report is available @ [www.ssac.org.uk](http://www.ssac.org.uk) □

## Claimants missing out on automatic tax credit backdating as a result of Revenue failure

Claimants are missing out on automatic backdating of their tax credit awards because the Revenue is failing to apply the rules correctly, according to the Low Incomes Tax Reform Group (LITRG).

The LITRG highlights that tax credit legislation makes it clear that a claim for tax credits 'shall be treated as made' up to 93 days before the day it is received and that for some groups of tax credit claimants – families claiming child tax credit only; families claiming both child tax credit and working tax credit; and claimants who come off certain benefits because they have started a new job – the Revenue automatically applies backdating on receipt of the claim.

However, the LITRG advises, claimants who have no children and who have been in work prior to the Revenue receiving their claim do not have their claims backdated automatically –

*The way the backdating regime is operated by HMRC means that those people can only get their claim backdated if they ask*

*for it once their claim has been processed. The law says that HMRC must give backdating whenever appropriate, yet HMRC do not take action to ensure that claimants are receiving what they are due.'*

As a result, the LITRG calls on the Revenue –

- to review all working tax credit claims where no backdating has been given and write to each claimant requesting the information necessary to establish whether backdating was due, and then make appropriate payments which should include interest; and
- to amend the claim form, the notes to the claim form, the award checklist and all hard and online copies of relevant leaflets to explain the backdating rules prominently and clearly.

NB – according to the latest set of tax credits statistics, people with no children who were claiming working tax credit only as at 1 April 2009 numbered nearly half a million. □

## Government to provide extra 'employment help' to carers

Extra 'employment help' is to be provided to carers through Jobcentre Plus, the government has announced.

The changes – part of the short-term aims of the government's Carers Strategy which were due to be implemented by 2011 – include –

- the introduction of care partnership managers in every Jobcentre Plus district to build partnerships with relevant organisations, assess demand for support and encourage development of local services such as replacement care, and ensure advisers have comprehensive up-to-date knowledge, skills and local information to effectively support carers;
- enhanced adviser training with carer specific learning to improve advisers' knowledge of issues faced by carers and their ability to help

carers overcome challenges that prevent them from combining caring responsibilities with paid employment;

- providing carers not in full time paid employment, who are not already eligible for an employment programme and who want help to improve their employment prospects, with access to a package of support including help from a dedicated personal adviser, referral to suitable work preparation and vocational training; and
- funding for replacement care for carers participating in approved activities as part of an Action Plan.

Launched in June 2008, the government's Carers Strategy is available @ [www.dh.gov.uk/en/SocialCare/Carers/index.htm](http://www.dh.gov.uk/en/SocialCare/Carers/index.htm) □

# New guarantees to young people not in education, training or employment

The government has made four new guarantees to young people not in education, training or employment.

In a Commons debate on November's Queen's Speech, the Prime Minister Gordon Brown said that –

*'No one can justify leaving young people out of work, in poverty and without hope for the future ... I want to make four new guarantees designed to ensure that at no point are young people deprived, for any length of time, of the opportunity to work or train or prepare for work.'*

To this end, the Prime Minister announced –

- from January 2010, all 16 and 17-year-olds who are not in employment, education or training will be guaranteed

a place in learning;

- that young people who are unemployed for less than a year will now be able to benefit from there being a guaranteed job or training;
- a day-one guarantee to all young people out of work, including the offer of online training courses and work experience; and
- a graduate guarantee to provide access to a high-quality internship or to training, or help into self-employment for new graduates still out of work after six months.

NB – the Queen's Speech also carried over the Child Poverty Bill into the next parliamentary session. □

# Government concession for lone parents with disabled children

During its passage through Parliament, the government accepted an amendment to the Welfare Reform Bill which exempts lone parents with children under the age of 16 on the lowest rate of the care component of disability living allowance from having to engage in work-related or job-seeking activities.

Whilst the government had proposed that only those lone parents with children in receipt of the middle or higher rate of the care component would be exempt, an amendment was tabled by Baroness Thomas of Winchester during the Third

Reading of the Welfare Reform Bill in the House of Lords in October 2009 which led to a statement in November by Work and Pensions Minister Lord McKenzie that the government has –

*'... now decided to ensure that lone parents on income support who have a child under the age of 16 and in receipt of any rate of care component of disability living allowance will not be required to undertake work-related activities.'*

NB – the Welfare Reform Bill received Royal Assent on 13 November 2009. □

# Community Allowance to be piloted in 3 areas from next year

A new Community Allowance scheme, designed to support those on employment and support allowance or incapacity benefit into work, is to be piloted in three areas from next year.

Established by 'Create', a consortium of not for profit organisations, and funded by the DWP, the Community Allowance will allow claimants to earn money doing part-time community-building work, with no impact on their benefits.

NB – in last year's welfare reform White

Paper 'Raising expectations and increasing support: reforming welfare for the future' the government said that –

*'... if the pilots show that the Community Allowance improves customers' chances of moving into work and off benefit, we will consider introducing it on a larger scale.'*

For more information on the pilots that will launch in January 2010 see [www.communityallowance.org](http://www.communityallowance.org) □

## Whether necessary to complete a claim form or name a particular benefit in order to make a claim

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to the date of her asylum claim. She was given a housing benefit claim form on the same day but did not complete and hand it in until 24 June 2004. As a result Brent Council refused to backdate her benefit on the basis that the statement dated 10 June 2004 did not count as a claim for housing benefit.

The question at issue for the Court of Appeal was whether the statement handed in on 10 June 2004 constituted a claim for housing benefit. If that were the case, any defects were cured by delivery of the completed housing benefit form on 24 June 2004 and Ms Novitskaya would be entitled to the backdated benefit.

\* \* \* \* \*

In allowing the claimant's appeal, the Court of Appeal finds that it made no sense for the claimant to ask for her claims to be backdated, as she had in her statement, if no claims were being made, and that –

*'There is, moreover, nothing to suggest that the claim was not then being made. It would be different if in its context the document had to be read as meaning that the claimant wanted her benefits backdated if and when she made a claim. That would occur for instance, if she had written a letter saying 'I will be sending you my completed application form next week. When my claim is received, I would like my benefits backdated.' But that is not this case.'* (paragraph 27)

In addition, the Court holds that there is no justification for a requirement that every benefit being claimed must be expressly named –

*'There is no reason to imply such a requirement ... because, provided that the reasonable official receiving the document can understand, with or without further information, which benefits are being claimed, there is no reason to have an express reference to them. The claimant might, after all, not know the correct name of the benefit that she needed. It cannot have been the intention of Parliament she should go without the benefit because she did not know the right name.'* (paragraph 28)

The Court therefore concludes that the statement handed in to the DWP on 10 June 2004 did count as a claim and that Ms Novitskaya was entitled to housing benefit backdated to the date of her claim for asylum. □

# Welfare benefit and tax credit highlights in the 2009 pre-Budget report

In the 2009 pre-Budget report, 'Securing the recovery: growth and opportunity', the Chancellor Alistair Darling set out a series of measures designed to 'support the economy, businesses and households to secure the recovery and provide a platform for growth and opportunity'. Welfare benefit and tax credit highlights included –

## Benefit and tax credit uprating –

- increasing the basic state pension by 2.5 per cent in April 2010 and bringing forward a proportion of the increases in other benefits expected in April 2011 a year earlier, thereby providing a 1.5 per cent increase next April for those benefits and tax credits normally uprated by the RPI (although, in April 2011, benefit rates will only be increased by the remaining amount necessary to make up the difference with the RPI for September 2010).

## Young people –

- bringing forward the young person's guarantee so that, from January 2010, 18–24 year olds claiming jobseeker's allowance for six months will be guaranteed a job, work placement or work-related skills training.

## Older people –

- the provision of additional support through Jobcentre Plus and specialist providers to ensure the over 50s move back into work quickly.

## Increase in state pension age –

- confirmation that the age at which pensioner benefits can be received will increase in line with the female state pension age.

## Housing costs –

- a freeze in the Standard Interest Rate

used to calculate Support for Mortgage Interest at 6.08 per cent for a further six months, to 30 June 2010.

## Local Housing Allowance –

- postponing the reform of LHA that will mean that claimants are no longer permitted to receive more in housing benefit than they have to pay in rent, to April 2011.

## Better off in work credit –

- the roll out of the 'Better off in work credit' to ensure that claimants who have been receiving benefits for six months will be entitled to a top up payment so that their in-work income is greater than their benefit income.

## Change of circumstances for tax credit purposes –

- from January 2010, where tax credit claimants start living together or separate and delay in reporting the change, the Revenue will reduce any overpayment by the amount the claimant would have been entitled to receive had they reported the change promptly.

## Tax credits for those aged 65 and over –

- from April 2011, people aged 65 and over will qualify for working tax credit if they work at least 16 hours a week, rather than 30 hours as currently.

## Free school meals –

- from September 2010, a phased extension of free school meals to primary school pupils in low income working families in England with a household income below £16,190, and the extension of the current pilots of universal Free

School Meals for children, so that there is a pilot in each English region.

## National insurance –

- an increase of 0.5 per cent in the employee, employers and self-employed rates of national insurance contributions from April 2011, alongside an increase in the point at which individuals start to pay contributions.

## Efficiency savings –

- an additional £3 billion of savings a year by 2012–13 including £600 million from greater use of online systems and streamlining contact with the public; £15 million from national rollout of 'Tell Us Once'; and £500 million from more efficient use of automation, e-channels and telephony and greater risk profiling within the Revenue and the DWP.

## Online services –

- the launch of a new online service in 2010 that brings together information on a whole range of benefits and entitlements to allow front-line staff and advisers outside government to direct families to relevant services.

## Advice provision –

- an extra £5 million to fund extended opening hours at Citizens Advice Bureaux in 2010–11. □

**STOP PRESS:** on 15 December 2009, the government published a back to work White Paper, 'Building Britain's Recovery: Achieving Full Employment', setting out a £400m, 18 month programme to 'make sure work pays and help people off benefits and into jobs'. The White Paper is available @ [www.dwp.gov.uk/policy/welfare-reform/](http://www.dwp.gov.uk/policy/welfare-reform/) □

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