

Hello

I write on behalf of this claimant (she will put explicit consent in her UC journal giving permission to discuss with me) to complain about a failure to exercise discretion and follow the law when making a deduction for a fine, leading to significant financial hardship for my client. Miss [REDACTED] has been repaying a court fine at high rate. She tells me she has repeatedly tried to get the deductions reduced by contacting UC and was repeatedly told that this was a matter for the court. She is on a low income and this has placed her in significant hardship.

The Fines (Deductions from Income Support) Regulations 1992 (1992 SI 2182) Regulation 4 (1B) say the amount that MAY be deducted from UC for a fine is between 5% of the standard allowance and £108.35. This therefore gives the Department a minimum and maximum amount for the fine deduction and does not stipulate that the maximum should be deducted in all cases. I see no reason why the Department cannot exercise their discretion and choose to deduct a lower amount.

Those Regulations state that the Department shall notify the claimant of their right of appeal against this decision (Reg 4 (5)), that any decision by the Department under Regulation 4 may be revised (Reg 9), and that any decision may be appealed to a tribunal (Reg 10). I am also aware that The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013 (2013 SI 381) state that a decision under the Fines Regulations cannot be appealed (Sched. 3 para. 10).

If the decision cannot be appealed then the Department are still able to exercise their discretion and make deductions at a lower rate. Repeatedly sending my client to contact the Court when discretion lies with the DWP is, I regret, not helpful.

Please can you:

1. Reduce the fine deduction to the minimum, which is 5% of her standard allowance i.e. £12.59 pcm?
2. Comment on whether you consider that this is a decision which carries the right of appeal, and whether Miss [REDACTED] has been advised of her appeal rights if so?
3. Issue an apology for the failure to advise her either on rights to appeal and/or the Department's discretionary ability to set the fine deduction at a lower rate as noted in the Regs.

Thanks