

Housing Benefit and Council Tax Benefit Circular

Department for Work and Pensions

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HB/CTB A8/2010

ADJUDICATION AND OPERATIONS CIRCULAR

WHO SHOULD READ	All Housing Benefit (HB) and Council Tax Benefit (CTB) staff
ACTION	For information
SUBJECT	The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2010 (SI 2010 No 641)

Guidance Manual

The information in this circular does affect the content of the HB/CTB Guidance Manual. Please annotate this circular number against *BP1 paragraph P1.181, BP2 paragraphs P2.620 and P2.684, BW1 paragraphs W1.180 and W1.557; BW2 paragraph W2.620 and Annex B, paragraph 23 and C2 paragraph 2.30.*

Queries

If you

- want **extra copies of this circular/copies of previous circulars**, they can be found on the website at <http://www.dwp.gov.uk/local-authority-staff/housing-benefit/user-communications/hbctb-circulars/>
- have any queries about the
 - **technical content of this circular**, see below each subject
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The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2010 (SI 2010 No 641)

Introduction

- 1 This circular provides details of the Social Security (Miscellaneous Amendments) (No. 2) Regulations which were laid in Parliament on 11th March 2010.
- 2 The regulations introduce a number of changes to the Housing Benefit (HB) and Council Tax Benefit (CTB) regulations (for persons of working age (WA) and for persons who have attained the qualifying age for State Pension Credit (SPC)), including
 - inserting new references to ensure that income from similar sources (e.g. direct payments for health care and payments from the new 'MFET Limited') are afforded equal treatment throughout the social security benefits
 - ensuring that direct cash payments for health care under the Health Act 2009 are fully disregarded
 - ensuring that training allowance payments made as a substitute for Employment and Support Allowance (ESA) are taken fully into account
 - inserting a clear definition of 'special account' for those receiving assistance under the self-employment route into the HB/CTB regulations to ensure consistent treatment across the income-related benefits
 - amending references to young people who entered a course of non-advanced full-time education before the age of 19 who are now able to claim HB
 - removing otiose references to 'higher pensioner premiums'
 - replacing the reference to 'age 60' in the HB/CTB notional income and evidence provisions with a reference to 'attaining the qualifying age for Pension Credit'. This will align those provisions with the changes already made to others within the HB/CTB regulations, as a consequence of the equalisation of State Pension age.

Coming into force

- 3 The changes are in SI 2010/641. The amendments in respect of references to 'age 60' come into force on 6 April 2010. The other HB/CTB changes come into force as follows
 - for HB where rent is payable at intervals of a week or multiples of a week, on 5 April 2010
 - for HB where rent is payable at any other interval, on 1 April 2010
 - for CTB on 1 April 2010

The SI can be downloaded from the website of the Office of Public Information at <http://www.opsi.gov.uk/stat.htm>

The Macfarlane Trusts and the Eileen Trust: changes to funding

- 4 The Eileen Trust and The Macfarlane Trusts exist to give ex-gratia financial help to people who have been infected with HIV as a result of treatment with NHS blood or blood products. Payments made from these trusts are disregarded when considering entitlement to social security benefits. The Department of Health is introducing a new organisation ('MFET Limited') to provide financial help to this group of people. These regulations make the necessary amendments to social security regulations to maintain the status quo and ensure payments from the new trust are treated in the same way as payments from the existing Eileen and Macfarlane Trusts.
- 5 New references to 'MFET Limited' are inserted at
- HB and CTB WA and SPC regulations 2(1)
 - HB(WA) regulations 42(7)(a), 46(6), 49(4)(a), 74(9)(b) and 86(4)(a)(ii)
 - CTB(WA) regulations 32(7)(a), 36(6), 39(4)(a), 58(9)(b) and 74(4)(a)(ii)
 - HB(SPC) regulations 55(10)(b) and 67(4)(a)(ii), and
 - CTB(SPC) regulations 42(9)(b) and 57(4)(a)
- 6 Further additions have been made to the
- income other than earnings schedules at
 - HB(WA) schedule 5 and CTB(WA) schedule 5, and
 - capital schedules at
 - HB(WA) schedule 6
 - CTB(WA) schedule 4
 - HB(SPC) schedule 6, and
 - CTB(SPC) schedule 4
- 7 There are also additions to the 'amount of alternative maximum council tax benefit' schedules at
- CTB(WA) schedule 2, and
 - CTB(SPC) schedule 6
- 8 Any queries about the information contained in this section should be emailed to Richard Metcalfe: richard.metcalfe@dwp.gsi.gov.uk

Direct payments for health care

- 9 Relevant legislation has been introduced in the Health Act 2009 to allow for cash payments to be made directly to patients in lieu of their health care ('Direct Payments for Health Care'). These regulations amend the current disregard provisions within the social security benefits to accommodate these payments and ensure that they are fully ignored, in line with the treatment of social care direct payments, when calculating benefit entitlement.

- 10 Further additions have been made to the income other than earnings schedules at HB(WA) schedule 5 and CTB(WA) schedule 4 and to the capital schedules at HB(WA) schedule 6 and CTB(WA) schedule 5.
- 11 Any queries about the information contained in this section should be emailed to Richard Metcalfe: richard.metcalfe@dwp.gsi.gov.uk

Training allowance payments

- 12 When calculating entitlement to HB/CTB a training allowance is taken into account as income if payments are made as a substitute for
- Jobseeker's Allowance (JSA)
 - Income Support (IS)
 - Incapacity Benefit (IB), or
 - Severe Disability Allowance (SDA)
- 13 Similar training allowance payments can also be made as a substitute for ESA. However, the relevant HB/CTB regulation does not contain a reference to ESA. The statutory instrument amends the relevant HB/CTB regulations so that training allowance payments made as a substitute for ESA are taken into account. This will ensure consistency across the benefits.
- 14 This is achieved by inserting references to ESA into
- HB(WA) regulations, Schedule 5, paragraph 13(1)(a), and
 - CTB(WA) regulations, Schedule 4, paragraph 14(1)(a)
- 15 Any queries about the information contained in this section should be emailed to Christine Watkins: christine.watkins@dwp.gsi.gov.uk

Self-employment route: special account

- 16 Certain payments made to customers who are receiving or who have received assistance under the 'self-employment route' (defined in regulation 2, Interpretation) are disregarded in HB/CTB. The disregard applies where the payments are made from a 'special account' as defined in the JSA regulations. However, the provision does not currently extend to ESA or IS customers. These regulations make amendments to ensure equal treatment to all customers, regardless of which benefit they claim.
- 17 The amendments
- remove the reference to the definition of 'special account' in the Jobseeker's Allowance Regulations made at
 - HB(WA) regulation 46(7) and Schedule 5, paragraph 58(2), and
 - CTB(WA) regulation 36(7) and Schedule 4, paragraph 58(2)
 - insert a definition of 'special account' into HB(WA) regulation 2(1) and CTB(WA) regulation 2(1)

- 18 Any queries about the information contained in this section should be emailed to Christine Watkins: christine.watkins@dwp.gsi.gov.uk

Second chance learning

- 19 HB Regulation 56(2)(h) and CTB Regulation 45(h) were amended in April 2009 to extend the age that a full-time student not in higher education could be regarded as liable to make payments in respect of a dwelling from age 19 to 21. However, they must have begun their course before reaching the age of 19.
- 20 This condition is, inadvertently, more restrictive than that attached to the equivalent provision in the IS regulations, which allows vulnerable young people to access IS if they are under the age of 21 and undertaking a course of non-advanced full-time education which they were 'either enrolled or accepted on, or started before they became 19'.
- 21 To address this anomaly and maintain policy intention, the HB/CTB regulations now refer to young people who 'started, enrolled or were accepted on the course before they reached age 19'.
- 22 A new reference is inserted at HB(WA) regulation 56(2A) and CTB(WA) regulation 45(3A).
- 23 Any queries about the information contained in this section should be emailed to Jahnara Begum: jahnara.begum@dwp.gsi.gov.uk

Higher pensioner premiums

- 24 Most references to 'pensioner' and 'higher pensioner' premiums were removed from the working age HB/CTB regulations in 2008. This was because customers who are entitled to those premiums have their benefit calculated under the HB (SPC) Regulations 2006 or the CTB (SPC) Regulations 2006. We have since identified further redundant references to 'higher pensioner' premiums in the working age HB/CTB regulations which, for completeness, these regulations remove.
- 25 The regulations remove otiose references to 'higher pensioner premiums' by amendments at HB(WA) regulation 74(6)(a) and CTB(WA) regulation 58(6)(a).
- 26 Any queries about the information contained in this section should be emailed to Richard Metcalfe: richard.metcalfe@dwp.gsi.gov.uk

References to 'age 60'

- 27 HB/CTB circular A16/2009 contained guidance on the changes made to the HB/CTB regulations to take account of the equalisation and extension of the qualifying age for State Pension. The main changes to the HB/CTB regulations were the replacement of references to 'age 60', in certain provisions, with a reference to the qualifying age for Pension Credit.

- 28 The provisions where this change was made include the qualifying conditions for the disability premium and the disregard of the capital value of a second property. The effect was to insure that the provisions apply in line with the equalisation of State Pension age timetable
- 29 Paragraph 25 of HB/CTB circular A16/2009 explained that two references to age 60 had not been amended. These are
- the notional income provisions requiring that notional income from a personal pension/annuity must be taken into account as income, and
 - the evidence and information provisions which require customers to provide certain information in respect of a personal pension/annuity
- 30 We have now decided that these provisions should be amended in line with the changes described in HB/CTB circular A16/2009. Therefore, the references to
- ‘aged under 60’ are being replaced with references to ‘has not attained the qualifying age for Pension Credit’
 - ‘aged not less than 60’ are being replaced by references to ‘has attained the qualifying age for Pension Credit’
- 31 The effect will be that income from a personal pension etc, which would be available if applied for, will not be taken into account until the customer has reached the qualifying age for Pension Credit and the customer will not be required to provide information on such income until they have reached the qualifying age for Pension Credit.
- 32 Amendments are made at
- HB(WA) regulations 42(2)(c) and 86(5)
 - CTB(WA) regulations 32(2)(c) and 72(5)
 - HB(SPC) regulations 41(4) and 67(5), and
 - CTB(SPC) regulations 31(4) and 57(5)
- 33 Any queries about the information contained in this section should be emailed to Christine Watkins: christine.watkins@dwp.gsi.gov.uk

Notes:

- These changes come into force on 6 April 2010 in line with the start of the equalisation of State Pension age.
- Equivalent changes are also being made to IS, JSA, ESA and Pension Credit.