

Housing Benefit and Council Tax Benefit Circular

Department for Work and Pensions

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HB/CTB A17/2009

ADJUDICATION AND OPERATIONS CIRCULAR

WHO SHOULD READ	All Housing Benefit (HB) and Council Tax Benefit (CTB) staff
ACTION	For immediate information and action from 2 November 2009
SUBJECT	Total disregard of Child Benefit income in HB/CTB and technical amendments to reflect The Childcare Act 2006. Amendment to the HB and CTB capital thresholds for customers who have reached the qualifying age for State Pension Credit.

Guidance Manual

The information in this circular **does** affect the content of the HB/CTB Guidance Manual. Please annotate this circular number against:

Part B, paras W2.131; W2.160-2.182; W2.500; Annex F; Annex H; BP2 P2.131; P2.160-2.182; P2.500; Annex F; Annex H.

Part B, paras P1.21, P1.170, P1.331, P1.350, P1.351, P1.352, P1.353, P1.354, P1.713, P1.771, Annex B.

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
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The Housing Benefit and Council Tax Benefit (Child Benefit Disregard and Child Care Charges) Regulations 2009

Background

- 1 In the 2008 Pre-Budget Report (Chapter 4 *Fairness and Opportunity for All*), the Chancellor announced that Child Benefit would be disregarded in the calculation of HB and CTB. The intention is to boost the incomes of many of the lowest paid families, including those who are the parents of children in poverty.
- 2 Statutory Instrument 2009 No 1848 was laid in Parliament on 15 July 2009. In summary, the changes in this set of regulations are
 - the introduction of a full disregard of Child Benefit in Housing Benefit (HB) and Council Tax Benefit (CTB). This is effective from 2 November 2009
 - amendments to reflect the changes to registration requirements for child minders in England made by the Childcare Act 2006 effective from 5 August 2009

The changes

- 3 Child Benefit income will be fully disregarded in HB and CTB from 2 November 2009.
- 4 The regulations also tidy up the provisions in HB and CTB regulations to reflect the changes to registration requirements for child minders in England made by the Childcare Act 2006. Relevant childcare charges can be deducted from income for HB and CTB purposes. The legislative references in the HB and CTB regulations needed to be amended to refer to the relevant provisions in the Childcare Act so that childcare charges applicable in England can be deducted. *Regulation 2* provides for this.
- 5 The application of the childcare disregard depends upon the care provider being registered under relevant legislation. However, two registers were established under the Childcare Act 2006 including provision for voluntary registration. The conditions for registration under Part 10A of the Children Act 1989 now apply to Wales only and the current instrument provides an equivalent reference to the provisions relating to England in the Childcare Act 2006. The existing references to Scottish legislation are still valid.

Impact on Local Authorities

- 6 Approximately 200,000 current HB and CTB customers are likely to benefit from the Child Benefit disregard change and their cases will need reassessing from the date of change.

- 7 Some Child Benefit recipients will become newly eligible for HB/CTB. There are currently no plans to run a specific take-up exercise or additional publicity alongside the introduction of the full disregard of Child Benefit. However, the Budget 2009 report confirmed that the Government will work to join up the delivery of financial support and help local authorities in improving take up of tax credits and benefits.

Amendment to the HB and CTB capital thresholds for customers who have reached the qualifying age for State Pension Credit

Background

- 8 The Chancellor announced in his Budget 2009 speech that the capital threshold in Pension Credit and pension age Housing Benefit and Council Tax Benefit would increase from £6,000 to £10,000 from November 2009 (the threshold for those permanently resident in care homes remains unchanged at £10,000).
- 9 The Social Security (Deemed Income from Capital) Regulations 2009 (SI 2009/1676) were laid on 8 July 2009 and come into force on 2 November 2009. This part of the circular gives guidance on the new rules from 2 November.

The changes

- 10 The amendments raise the capital threshold above which a customer is treated as having assumed income from capital from £6,000 to £10,000, irrespective of whether the customer is permanently residing in a care home. Customers will only be treated as possessing a prescribed amount of income where their capital exceeds this amount.
- 11 The method of establishing the amount of assumed income where a customer's capital exceeds £10,000 is unchanged. Consequently, from 2 November 2009 a customer's assumed income from their capital would be calculated on the basis of £1.00 for each £500 (or part thereof) of capital in excess of £10,000.

Impact on Local Authorities

- 12 Some people will become newly eligible for HB/CTB. There are currently no plans to run a specific take-up exercise or additional publicity alongside the change to the capital threshold. However, the Government will continue to work with local authorities to join up the delivery of financial support and help improve take up of tax credits and benefits.

Cases where Pension Credit (SPC) is in payment

- 13 Pension, Disability and Carer Service (PDCS) will be running a scan in November to identify those Pension Credit cases with assumed income from capital which will need to be reassessed. A team in Walsall Pension Centre will reassess the cases. PDCS estimates that around 540,000 cases will be reassessed. LAs will start to receive ETDs in November to advise of the revised amounts of Pension Credit. The type of case will fall into the following categories.
- 14 Customers in receipt of the guarantee credit element only of Pension Credit who have savings above £6,000 and who are not residing in a care home will see an increase in their entitlement on a pound for pound basis as the amount of the income assumed from their capital will reduce. This should not affect HB/CTB as these cases will continue to receive the guarantee element of Pension Credit.
- 15 Customers receiving a combination of guarantee credit and savings credit will also see an increase in their Pension Credit, but not on a pound for pound basis, because although there will be an increase in their guarantee credit, there will be a reduction in their savings credit. But, as with those getting the guarantee element only, HB/CTB should not be affected. PDCS estimates that there will be around 260,000 cases affected where the guarantee credit element only or the guarantee credit and the savings credit is in payment.
- 16 The vast majority of customers getting the savings credit only element of Pension Credit will see an increase in their savings credit which will in turn affect the amount of HB/CTB in payment as new AIFs and savings credit rates will be sent by ETD. As the AIF should show a reduction due to the lower assumed income from capital, the change should result in an **increase** in HB/CTB, in which case the change will be effective from the first day in the benefit week in which Pension Credit becomes payable at the increased rate (*HB(SPC) Reg 60(2)(a)/CTB(SPC) Reg 51(2)(a)*).
- 17 However, should HB/CTB reduce because of the change, the effective date will be the start of the benefit week following the date on which you receive the ETD from the PDCS or Pension Credit is increased, whichever is the later (*HB(SPC) Reg 60(2)(b)/CTB(SPC) Reg 51(2)(b)*). PDCS estimates that there will be around 48,000 cases affected where the savings credit only is in payment.
- 18 A very small number (up to 2,000) of Pension Credit customers who are receiving the savings credit only, and who have some income which is a non-qualifying income for the savings credit, such as spousal maintenance payments or certain social security benefits, may see a small reduction in their Pension Credit entitlement as a result of the change. New AIFs and savings credit figures will be produced which will mean a consequential increase in HB and CTB.

- 19 PDCS will give these people a £40 one-off extra-statutory payment, regardless of the actual level of loss, to compensate them. This one-off payment has been set at £40.00 as this more than covers the amount that a person could lose in benefit between the introduction for the change and April 2010. This payment is in lieu of Pension Credit which has been lost as a result of the change, and as so will be disregarded as capital for 12 months or until the end of the Assessed Income Period, whichever is later. Due to the small amounts involved, we do not envisage these payments affecting entitlement. This payment should be treated in the same way for HB/CTB, ie treated as capital and disregarded for 12 months *HB(SPC) Regulations, Schedule 6, paragraph 21* and *CTB(SPC) Regulations, Schedule 4, paragraph 21* refer.

Cases where Pension Credit (SPC) is not in payment

- 20 Cases assessed under the HB/CTB pension age provision where the customer has assumed income from capital will need to be reassessed, and HB/CTB adjusted accordingly from 2 November 2009 (*HB(SPC) Reg 59(3)(b)/CTB(SPC) Reg 50(4)*).
- 21 The regulations also make amendments to para 24 of Schedule 5 to the HB(SPC) Regulations and para 23 of Schedule 3 to the CTB (SPC) Regulations. These refer to capital specified (respectively) in Part 2 of HB Schedule 6 and Part 2 of CTB Schedule 4. For those types of capital, no income is assumed, instead actual income should be taken into account. The amendments mean that from 2 November 2009 if those types of capital are below £10,000, you should assume no income from them and disregard any actual income they produce.

Verification of capital

- 22 Since November 2008 LAs have had the choice not to verify declared capital of £6,000 or under for all new standard claims including capital declared during interventions (*HB/CTB Bulletin G22/2008* refers). From 2 November 2009, this choice will apply to declared capital of £10,000 or under.
- 23 In all cases of doubt, LAs can still ask for verification of capital even though an amount declared is either Nil or below £10,000.
- 24 The Audit Bodies have been made aware of this advice.