

Housing Benefit and Council Tax Benefit Circular

Department for Work and Pensions

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HB/CTB A20/2009

ADJUDICATION AND OPERATIONS CIRCULAR

WHO SHOULD READ	All Housing Benefit (HB) and Council Tax Benefit (CTB) staff
ACTION	For information
SUBJECT	The HB/CTB pensioner time for claiming provisions: Upper Tribunal decision in Leicester City Council v LG, CH/0392/2009

Guidance Manual

The information in this circular does not affect the content of the HB/CTB Guidance Manual.

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/>
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The HB/CTB pensioner time for claiming provisions: Upper Tribunal decision in *Leicester City Council v LG*, CH/0392/2009

Background

- 1 HB/CTB customers who are of Pension Credit age can benefit from the time for claiming provisions set out in regulations
- 64(1) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (SI 2006/214), and
 - 53(1ZA) and 56 of the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (SI 2006/216)
- 2 These regulations provide that
- 'The prescribed time for claiming housing benefit [or council tax benefit] is as regards any day on which, apart from satisfying the condition of making a claim, the claimant is entitled to housing benefit [or council tax benefit], that day and the period of three months immediately following it.'*
- 3 Effectively this means that an HB/CTB claim from a pensioner can be backdated automatically by up to three months without any requirement to show good cause, provided that the customer was otherwise entitled throughout that period.

Leicester City Council v LG, CH/0392/2009

- 4 These provisions were introduced to mirror the time for claiming provision that applies to Pension Credit claims so that pensioners could receive payment of HB/CTB for the same backdated period as they did Pension Credit. However, a recent Upper Tribunal (UT) decision - [CH/0392/2009](#) - interprets the CTB provisions in a way that is at odds with the policy intention.
- 5 This decision applies in cases where the customer receives Guarantee Credit and CTB SPC regulation 53(5)(a) applies so that the CTB date of claim is the first day of Guarantee Credit entitlement (Appendix A shows the full regulation). This first day of entitlement is established after the Pension Credit time for claiming provision has been applied, and the judgement reasons that the CTB time for claiming provision should then be applied for the period **before** that date. In other words, where regulation 53(5)(a) applies, the CTB time for claiming period is not concurrent with the Pension Credit period, but is applied **in addition** to it.
- 6 Although the decision involves a CTB case, the HB SPC regulations are formulated in the same way, so the decision must apply to both benefits. However, it should be noted that it only applies to Guarantee Credit cases where either HB SPC regulation 64(6)(a) or CTB SPC regulation 53(5)(a) applies (Appendix A shows the full regulation).

Deciding relevant claims

- 7 As stated, it was never the Government's policy that the HB/CTB time for claiming provisions should be applied in this way, and we plan to amend the regulations to meet the original policy intention in due course. In the meantime, it is for HB/CTB decision makers to decide how they interpret the regulations in light of this UT decision for relevant Guarantee Credit cases.

- 8 As has always been the case when applying the time for claiming provisions, benefit should only be awarded for a period for which the customer has entitlement. Decision makers will need to satisfy themselves that this is the case throughout the period. They may therefore find it more likely that they will need further information to determine HB/CTB entitlement if they are considering awarding benefit for the preceding three months in the cases described since there will not also be a Guarantee Credit award covering the same period.

Regulations

CTB SPC regulation 53(5)(a)

53(5) Subject to paragraph (12), the date on which a claim is made shall be—

- (a) in a case where an award of state pension credit which comprises a guarantee credit has been made to the claimant or his partner and the claim for council tax benefit is made within one month of the date on which the claim for that state pension credit which comprises a guarantee credit was received at the appropriate DWP office, the first day of entitlement to, state pension credit which comprises a guarantee credit arising from that claim;

HB SPC regulation 64(6)(a)

64(6) Subject to paragraph (11) the date on which a claim is made shall be—

- (a) in a case where an award of state pension credit which comprises a guarantee credit has been made to the claimant or his partner and the claim for housing benefit is made within one month of the date on which the claim for state pension credit was received at the appropriate DWP office, the first day of entitlement to state pension credit arising from that claim;