

## Bereavement Benefit Bulletin

<b>Series No</b>	18/05	<b>Date</b>	24 October 2005
<b>On desk date</b>	25 October 2005	<b>Make Changes by</b>	Immediate
<b>Subject</b>	<b>Widowers Litigation cases (Challenges from men who lost their wives before April 2001)</b>	<b>Action</b>	<b>Managers Action</b>  <b>1 Please ensure that the contents of this bulletin are brought to the attention of all Bereavement Benefit staff</b>  <b>2 Retain copy in front of Volume 8 for reference</b>
<b>Contact</b>	Advice Line 01253 848000		
<b>To</b>	Field Directors, DMs, All Bereavement Benefit Processing Staff, International Pension Centre, Pension Payments Section, Training Managers, Benefit Centres, Jobcentre & Jobcentre Plus Offices, Jobcentre Plus Business Assurance, Operations and Performance Improvement Team, All Pension Service Staff and Pension Centres, Customer Service Managers.		

The 20 days rule does not apply to this bulletin. This is for information only and does not change existing procedures

This bulletin will not be followed by a hard copy.

### **Widowers Litigation cases (Challenges from men who lost their wives before April 2001)**

#### Background

1. Articles continue to appear in the press quoting that the European Court has ordered payments to men whose wife died before 9 April 2001 and advising such widowers to make a claim for widowers' benefits by November 4 2005.
2. These articles are incorrect as there has been no recent European Court of Human Rights (ECtHR) decision and there is still no basis in law to consider payments to widowers before the introduction of Bereavement Benefits in April 2001. Bereavement Benefit Bulletin 17/05 issued on 21 October 05 advised staff how to deal with these enquiries.

#### Guidance for Staff

3. Due to the large volume of enquiries two draft letters (see Appendix [1](#) & [2](#)) have been produced to assist Bereavement Benefit Sections when dealing with these enquiries. The information on these draft letters should be sufficient to deal with all enquiries. Click here for word versions of the attached letters Appendix [1](#) & [2](#).

4. This bulletin should be used in conjunction with Bereavement Benefit Bulletins [13/05](#) & [17/05](#).
5. We are still receiving a large number of enquiries from the public. We must stress that under no circumstances should staff advise customers to contact Boston office or Products Division direct. The information published in this bulletin and the two previous bulletins as above are more than sufficient for local offices to deal with all enquiries.

Office Address

Date: \_\_/\_\_/\_\_

**Customer's Address**

Dear Mr

I have received your claim for benefit in relation to the death of your wife.

I am writing to inform you that a Decision Maker has decided that you are not entitled to Widow's Benefit for any period before 9 April 2001. This is because the prescribed time limit for claiming Widow's Benefit was three months after the date of death, and your letter was received after that time.

Before April 9 2001 there was no basis in law on which to make payments of widows' benefits to men. As you may know, there are a number of cases before the European Court of Human Rights about this. The UK Government cannot speculate about the outcome of any individual case.

If you are considering taking legal action in this matter the Government strongly advises that you seek legal advice before making a decision. For instance, there are time limits to claims and action in the courts and you will want to know how they would affect you before you take any further action. You may seek advice from a voluntary body such as a Citizen's Advice Bureau or from a welfare rights organization. You may also seek the advice of a solicitor who may make a charge for professional services. Only you can decide what action to take.

You still have the right of appeal against the decision. If you want to appeal, you should get leaflet GL24 *If you think our decision is wrong* from your social security office or a Citizen's Advice Bureau. Please send it to the appeals officer at this address. You must do this within one month of the date of this letter. Your appeal will be heard by an independent tribunal.

Yours sincerely

The Manager

Office Address

Customer's Address

Date

**Widow's benefits**

Thank you for your enquiry about widows benefits.

We have received a large number of enquiries following incorrect information reported in the press saying that men whose wives died before 9 April 2001 may be able to claim widow's benefit or widowed mother's allowance following a European Court of Human Rights ruling.

Prior to the introduction of bereavement benefits for both men and women in April 2001 a number of men challenged the existing widow's benefit scheme that paid benefits only to women. There were challenges both in the domestic courts and in the European Court of Human Rights. The House of Lords delivered their Judgement in May and unanimously rejected the widowers' claims. The European Court of Human Rights has yet to hear the widowers' case and no decision has yet been made.

The Government has decided to settle claims for Widowed Mothers' Allowance and Widow's Payment but only to those widowers who have an outstanding case in European Court and who satisfy the benefit conditions and made their original claim at the correct time. Widowers who lost in the House of Lords may take their case to Europe provided they do so by 4 November 2005 (six months from the House of Lords ruling). The Department for Work and Pensions has begun to contact those concerned and a number of settlements have been made and accepted.

Any applications for Widowed Payment or Widowed Mothers Allowance by a man whose wife died before 9 April 2001 and who has not made an application to the European Court or was not involved with the domestic cases will now be too late. Any claims received from widowers at Jobcentre Plus or Social Security Offices will be subject to the usual late claim rules and will be disallowed because they are out of time.

Yours faithfully

The Manager