MA AND CA – ABOLITION OF ADULT DEPENDENCY INCREASES

INTRODUCTION

1 This memo gives guidance on changes introduced by the Welfare Reform Act 2009 (WR Act 09). The changes take effect on 6.4.10¹.

¹ WR Act 09, s 15(1)

MATERNITY ALLOWANCE

2 DMG 16110, DMG 16135 and DMG 16160 et seq give guidance on the increase of MA for an adult dependant. The changes mean that from 6.4.10 increases of MA for an adult dependant are abolished¹. Therefore, that guidance will not apply to all claims made on or after 6.4.10.

¹ s 15(1)(a)

3 However a woman will continue to have entitlement to an ADI where her MA is payable for a MAP¹ which

1. begins before 6.4.10 and
2. ends on or after 6.4.10².

¹ SS CB Act 92, s 35(2); 2 WR Act 09, s 15(2)(a)
CARER’S ALLOWANCE

4 DMG 16110, DMG 16130, DMG 16168, DMG 60002 and DMG 60098 et seq give guidance on the increase of CA for an adult dependant. The changes mean that from 6.4.10 increases of CA for an adult dependant are abolished. Therefore, that guidance will not apply to all claims made on or after 6.4.10.

1 WR Act 09, s 15(1)(b)

5 However people will continue to have entitlement to an ADI until the earlier date in paragraph 6 below where

1. they have applied for an ADI before 6.4.10 from a date no later than 5.4.10 and

2. immediately before 6.4.10 they are

   2.1 entitled to an ADI or

   2.2 would be entitled to an ADI if the earnings rule did not apply.

Note 1: 2.1 will apply where the amount of ADI payable is extinguished under the overlapping benefit provisions (see DMG 17160 et seq).

Note 2: 2.2 only applies if entitlement has been established by actual payment of ADI prior to the earnings extinguishing payability.

1 s 15(3); 2 s 15(2)(b); 3 s 15(3); 4 SS CB Act 92, s 92; 5 SS (OB) Regs, reg 10

Example

Brian claims CA and has entitlement from 8.3.10. He claims an ADI for his wife Paula. However, Paula works and has earnings of £100 a week. Therefore the DM disallows the increase. Paula stops work on 30.7.10. Brian is not entitled to an ADI when Paula stops work.

6 For the purposes of paragraph 5 above the date is the earlier of

1. 6.4.20 and

2. the date on which entitlement to an ADI ends.

1 WR Act 09, s 15(3)
ANNOTATIONS

Please annotate the number of this memo (DMG memo 14/10) against paragraphs: 16110, 16130, 16135, 16160 (heading), 16168, 60002 and 60098 heading.

CONTACTS

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, GS36, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in Memo DMG 26/08 - Obtaining legal advice and guidance from DMA Leeds.

DMA Leeds: March 2010