Reporting changes of circumstances for tax credit purposes

New regulations have been issued in relation to the reporting of changes of circumstances for tax credit purposes.

From 1 November 2006, the Tax Credits (Claims and Notifications) (Amendment) Regulations 2006 (SI.No.2689/2006) impose a requirement on claimants to notify additional changes of circumstances where:

- there are changes in the number of hours they usually work and this takes them below the 16 hours a week or 30 hours a week thresholds;
- they cease to be responsible for a child or young person, for example where a child or young person is taken into care or fostered with another family; or
- a child or young person ceases to qualify for support, for example a young person leaves non-advanced full time education or approved training before they reach 20, except where this change is automatically applied.

However, also from 1 November 2006, the regulations allow for the 3 month period for giving notice to begin from the date the claimant first becomes aware of the change in circumstances rather than, as now, from the date on which the change of circumstances occur.

Provision is also made for advance notification to be able to be given where a child is expected to become a qualifying young person, for example they intend to stay on in non-advanced full-time education or training.

NB – from 6 April 2007, the new regulations reduce the time claimants are given to notify required changes of circumstances, from 3 months to 1 month.

Transforming the Personal Capability Assessment

Trials of ‘extensively revised’ test to begin this month

The DWP has published details of how it proposes to transform the Personal Capability Assessment (PCA) into ‘a positive assessment incorporating assessment of capability and of health related interventions which would contribute to overcoming health-related barriers preventing people with disabilities from engaging in work’.

‘Transformation of the Personal Capability Assessment – Report of the Physical Function and Mental Health Technical Groups’ was commissioned by the DWP as part of the implementation of the government’s proposals for welfare reform, that include the abolition of incapacity benefit and the introduction of a new employment support allowance in its place.

The report proposes both an extensively revised mental function assessment – incorporating areas of mental function that are ‘relevant to the ability to engage in work, taking into account also the abilities and difficulties of people with learning disabilities or other conditions affecting cognitive and intellectual function’ – and the introduction of a new set of physical functional areas – to ‘better reflect the activities felt to be most relevant to capability for work and those activities that an employer might reasonably expect of their workforce’.

(continued on page 4 column 2)

Sick and maternity pay age limits abolished

New regulations have been issued that will remove the upper and lower age limits for entitlement to statutory sick pay, and the lower age limit for statutory maternity pay (and statutory adoption and paternity pay) purposes.

The Employment Equality (Age) Regulations 2006 (SI.No.1031/2006) are introduced from 1 October 2006 as a result of EU Directive 2000/78/EC that outlaw discrimination in employment and vocational training on a number of grounds, including age, and must be implemented by 1 December 2006.

NB – in addition to removing references to age as a condition of entitlement for these benefits, the new regulations also redefine the term ‘employee’, by removing the requirement for a person to be 16 or over to be an employee; and amend the statutory sick pay and statutory maternity pay regulations, to redefine the meaning of earnings to include employees under 16, by allowing their earnings to be taken into account even though national insurance contributions would not actually be payable because of the person’s age.
Notional income rules to be used to encourage take-up of state pension

The DWP has begun a ‘special exercise to invite claims to state pension’ that could lead to reductions in claimants’ guarantee credit entitlement under the notional income rules.

In new guidance issued to local authority housing benefit departments, the DWP advises that the exercise involves the Pension Service contacting people on pension credit who have some entitlement to state pension but who have not claimed it.

However, the guidance – HB/CTB General Information Bulletin G9/2006 – adds that –

‘As state pension is a contributory benefit and takes precedence over an income-related benefit such as pension credit, customers will need to be advised that if they do not claim state pension and want to continue to claim pension credit then an amount of ‘notional state pension’ equal to the amount of state pension which would be paid, if claimed, will be deducted from the guarantee credit element of the pension credit award.’

Whilst the bulletin reassures that –

‘… there will be no pension credit over-payments for the past period, (since) customers will have been paid pension credit when they should have been paid state pension’

– it goes on to highlight that if the award of state pension changes the rate of savings credit in payment, awards savings credit for the first time, or ends entitlement to guarantee credit –

‘… the customer will be advised that where HB or CTB is in payment that notification of the change will be sent to their local authority in order for them to review the HB/CTB award.’

NB – If the claimant is aged 75 or over (unless they have a younger appointee), is in receipt of DLA/AA, or the rate of state pension will extinguish entitlement to the guarantee element of pension credit, the case will be referred first for a Local Service visit to invite a claim for state pension and explain why the rate of pension credit will need to be adjusted and, when HB or CTB is in payment, that notification of the change will be sent to their local authority for it to review the HB/CTB award. At the same time a full benefits check will be undertaken to ensure they are receiving all the benefits to which they might be entitled.

Government issues new regulations in response to Jobcentre Plus contact centre telephone problems

Following ongoing problems with people often being unable to contact Jobcentre Plus by telephone the government has issued new regulations that, from 2 October 2006, extend the time for claiming income support and JSA.

Previous rules provided for a claimant’s date of claim to be the date they made actual contact with a benefit office. However, amongst other measures, the Social Security (Miscellaneous Amendments) (No. 3) Regulations 2006 (SI.No.2377/2006) provide that the time for claiming income support or JSA may be extended by 1 month where the claimant was unable to notify the appropriate office of their intention of making a claim because the telephone lines were ‘busy or inoperative’.

Homeless people and entitlement to the disability premium

New High Court judgment

In R (on the application of RJM) v Secretary of State for Work & Pensions [2006], the High Court has considered whether the failure to award the disability premium to a homeless claimant discriminated against him in the enjoyment of his possessions under Articles 1 and 14 of the European Convention on Human Rights (ECHR).

NB – Article 1 provides that every person is entitled to the peaceful enjoyment of their possessions, and that no one shall be deprived of their possessions except in the public interest. Article 14 provides that the enjoyment of the rights and freedoms set forth in the ECHR shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

However, dismissing the application for Judicial Review, the High Court held that –

• whilst income support and the disability premium are capable of being possessed, in order for Article 14 to be applicable any difference in treatment must be based on a personal characteristic, and that ‘having or not having something, even something as basic as accommodation is not a personal characteristic’;

• even if it were, the differential treatment in any event would be justified since ‘the Secretary of State and Parliament were entitled to adopt a broad approach, draw the line in the way they did … and to prioritise other measures for addressing the vulnerable position in which the disabled homeless find themselves above giving them enhanced monetary benefits’.

NB – the claimant has applied to the Court of Appeal for permission to appeal against the High Court’s judgment.
Revenue warns people to think carefully before making voluntary NI contributions

People should think carefully before making voluntary national insurance contributions in light of the government’s proposed pension reforms, the Revenue has warned.

The pensions white paper, published in May 2006, includes a proposal to reduce the number of qualifying contribution years needed to qualify for a full basic retirement pension to 30 years for both men and women reaching pension age on or after 6 April 2010 (at the moment women need between 39 years and 44 years depending on their date of birth, and men 44 years).

However, the Revenue advises that if the proposals become law – ‘...you may not need to pay voluntary contributions, if you are due to reach state pension age on or after 6 April 2010 and have already paid enough contributions to qualify for a full basic state pension under the proposed new rules, or anticipate working and paying enough contributions to qualify for a full basic state pension under the proposed new rules.’

If a person nevertheless decides to pay, they might not be able to get a refund if it turns out at a future date that they did not need to have paid, the Revenue adds.

Medical services IT firm to manage Tribunals Service computer system

Atos Origin awarded £350m contract

Atos Origin – the private company contracted to manage the DWP’s medical assessment services – has been awarded a new multi-million pound government contract that includes responsibility for the provision of a ‘modern and effective IT infrastructure’ for the Tribunals Service.

Under the new £350m contract with the Department for Constitutional Affairs (DCA), Atos Origin will replace the current IT systems with ‘a unified IT infrastructure across the department … to provide more effective communications and improved services.’

Atos Origin will also provide a single point of contact for support across all services delivered over the infrastructure.

Announcing the award of the contract, DCA permanent secretary Alex Allan said – ‘The DCA welcomes the new contract which will offer greater value for money to the taxpayer and enable better services to the public [and] will allow for future IT development and present an opportunity for the department … and the Tribunals Services to exploit new technology to ensure that we continue to improve the service we offer.’

NB – The government has also awarded Atos Origin a £46.7million contract to take over the design, build and operation of the service and development of the Government Gateway, the centralised registration service that enables people to sign up for any of the government’s services that can be carried out over the internet – including those delivered by the DWP, Revenue and local authorities – from a single point of entry @ www.gateway.gov.uk

For more information on all these changes see – www.rightsnet.org.uk

the welfare rights website for advice workers

DWP post opening and switchboard operations outsourced

The DWP’s office support services – that include post opening and switchboard operations – have been outsourced under a single national, seven-year contract, the government has announced.

Inviting bids for a single national contract for the supply of office services from the private sector allows the government to harness the benefits afforded by new technology, organisational efficiencies and the agility to respond to changing needs as the DWP is modernised and reformed, Mr Purnell said, and will help support the DWP’s overall goal of moving to a leaner and fitter organisation delivering world-class services to its customers.

Whilst services such as post opening and despatch, messenger, work, switchboard operations, and typing and secretarial services are currently delivered through a range of external suppliers and in-house teams as well as forming part of the tasks of staff who serve the public directly, Mr Purnell said that these methods of delivery no longer provide best value for money and would not provide the best service in the future.

Whilst the award of the contract to Haden Building Management – a part of the Balfour Beatty Group – will mean that some jobs currently undertaken by DWP staff and existing external providers will transfer to the new supplier, Mr Purnell added that proposals put forward by Haden provide more efficient ways of working and take account of the Department’s modernisation programme, and that this is therefore likely to result, over time, in a reduction in the number of staff required to deliver office service contract arrangements.
New maternity and adoption pay rules from April 2007

New regulations have been issued in relation to statutory maternity pay, maternity allowance and adoption pay.

For women whose ‘expected week of confinement’ falls on or after 1 April 2007, or where the expected date of placement of the child is on or after this date, the new regulations principally –

- extend the maternity pay and adoption pay periods to 39 weeks; and
- allow a claimant to work for up to 10 days during their maternity or statutory adoption pay period and still retain entitlement to benefit during the week(s) that the work is carried out.

NB – on the Work and Families Act 2006 receiving Royal Assent earlier this year the government said that it intends to increase the maternity and adoption pay periods to a year by the end of this Parliament. In addition it is proposed that a new right to an additional period of paternity leave for fathers will be introduced at the same time, that will enable them to benefit from leave and statutory pay if the mother returns to work after six months but before the end of her maternity leave period.

Further information on the government’s ‘work and families’ policies is available @ www.dti.gov.uk/employment/workandfamilies

Transforming the Personal Capability Assessment
(continued from page 1 column 3)

Detailed in an appendix to the report, the proposed new areas of mental, cognitive, or intellectual function are –

- Learning tasks; understanding instructions; memory and concentration; forward planning; coping with change; execution of tasks; initiation of tasks; appropriate behaviour with other people; forming relationships with other people; ability to communicate appropriately with other people; emotional resilience; and maintaining appearance and hygiene.

And the proposed new areas of physical function are –

- Mobility in a workplace environment (ability to walk, and to negotiate one or two steps); ability to remain in one place (ability to sit or stand); bending and kneeling, (as if to reach low places); manual dexterity (including ability to use a computer keyboard and mouse); picking up and moving light objects (at table top level); reaching upwards; ability to communicate by speech; hearing; vision; remaining continent; and remaining conscious.

In addition, the report proposes a new scoring system for both mental and physical function –

- a change from individually-scoring mental function descriptors and a benefit entitlement threshold of 10 points, to groups of ranked descriptors reflecting different levels of functional limitation, each scoring 6, 9 or 15 points, and a benefit entitlement threshold of 15 points; and
- to identify more accurately the overall level of functional limitation at which it is unreasonable to expect a person to engage in work, individual physical descriptors scoring 6, 9, or 15 points (with the benefit entitlement threshold remaining at 15 points).

NB – no mention is made of being able, as now, to combine scores from the mental and physical aspects of the assessment. Instead, the report states that –

‘...the concept of a single functional assessment that takes into account both physical and mental function ... has a number of attractions, but would require extensive work to develop, which has not been possible in the timescale. Nevertheless, it remains worth considering as a development for the longer term.’

Atos Origin Medical Services doctors will begin trialling the proposed new test this month, by completing an assessment according to the new descriptors and scores alongside the current PCA. This, the report suggests, will ensure that the proposed new assessment fairly and more accurately identifies those people whose mental or physical functional limitation is such that it is unreasonable to require them to engage in work.

NB – other proposals in the report include –

- revising the IB50 to include a more structured, user-friendly questionnaire in place of the current blank page asking claimants to describe their mental health problems;
- reviewing the content of the current medical certificates completed by GPs that ‘frequently contain little more than the concept of a single functional assessment that takes into account both physical and mental function’; and
- developing a work-focused health-related assessment, to assess what a person can do despite their limitations and what interventions might help to overcome health-related barriers to work.

‘Transformation of the Personal Capability Assessment – Report of the Physical Function and Mental Health Technical Groups’ is available @ www.dwp.gov.uk/welfarereform/tpca.pdf