Govt proposes work-focused interview concession for carers

The Social Security Advisory Committee (SSAC) has been asked to consider draft regulations that will mean, from October 2005, that a work-focused interview (WFI) will no longer be a condition for claiming carer’s allowance.

Welcoming the draft regulations, that will mean that carers will no longer face a potential sanction for refusing to attend an interview, Imelda Redmond, Chief Executive of Carers UK, said -

‘This change demonstrates the importance of campaigning for change and shows that carers’ voices are being heard by government. It recognises that for many of the UK’s six million carers going out and finding paid work isn’t a realistic option, not when they have a sick or disabled person relying on them being at home to look after them.’

The draft regulations - the Social Security (Work-focused Interviews Amendment) Regulations 2005 - will also remove bereavement benefits from the list of specified benefits that have WFI conditionality, but introduce -

● a WFI for incapacity benefit claimants eight weeks after their initial claim;
● mandatory action plans as an integral part of a WFI for lone parents and sick and disabled claimants; and
● quarterly WFIs for lone parents with a youngest child aged at least 14 years of age.

A copy of the draft regulations is available from the SSAC website @ www.ssac.org.uk

New measures to ‘significantly improve’ tax credit administration

Despite having announced a series of measures aimed at ‘significantly improving’ the administration of tax credits, a series of critical reports - from the independent Adjudicator’s Office, the Parliamentary Ombudsman and Citizens Advice - have resulted in the Prime Minister giving an apology to families affected by the ongoing problems with the tax credit system, and the Paymaster General being forced to give an emergency statement in the Commons.

With new figures showing that a third of all claimants awarded tax credits were overpaid in 2003/2004 (and the government confirming that, in consequence, the number of staff dealing with disputed overpayments has increased five-fold in the last year), in a written ministerial statement to Parliament on 26 May 2005, the Paymaster General, Dawn Primarolo, said that she is ‘determined that the tax credit system will do the job it was designed for’.

In consequence, she set out six new measures designed to ‘improve significantly the tax credits system’, that will involve HM Revenue and Customs (HMRC) -

● reviewing the effectiveness of information provided to claimants, and reducing the unnecessary duplication of award notices;

(continued on page 2)

DWP on course to miss pension credit take-up target

New government figures show that the DWP is still struggling to meet its own targets for take-up of pension credit.

The DWP has announced that in March 2005 nearly 3.29 million people (2.7 million households) were receiving pension credit, and that an additional 65,000 individuals (50,000 households) started to receive pension credit in the first quarter of the year.

However if the DWP maintains take-up at the current rate it will have missed its Public Service Agreement (PSA) target - that by March 2006, it will be paying pension credit to 3 million pensioner households - by 100,000 households.

NB - The new figures were issued in the same week that the DWP published its 2005 Annual Report in which it said that ‘excellent progress’ had been made in encouraging take-up of pension credit and that it was ‘broadly on course’ to meet its PSA target.
New measures to ‘significantly improve’ tax credit administration (continued from page 1)

- testing out new methods of reminding tax credit claimants of the importance of providing up-to-date information on changes in their income and circumstances;
- developing options to improve the quality of service on the helpline, in particular to ensure that helpline operators can track the progress of individual cases in the system;
- improving the speed with which it identifies IT system problems and processing errors so that they can be resolved more quickly;
- developing ‘innovative ways of working’, and consulting with the voluntary sector, in relation to the effectiveness of the information given to claimants and how best to support them in understanding the responsive nature of the system, to reduce the risk of overpayments, and to target more active support on vulnerable families; and
- reviewing the operation of the code of practice on overpayments, and ensuring that in genuine cases of hardship, where recovery of an overpayment is disputed, repayment is suspended while the dispute is resolved.

However, the Paymaster General gave no indication of the timescale for the new measures to be introduced, and the publication of three critical reports on the tax credit system within a month of her announcement, brought her back to the House to make an emergency statement.

NB - The three reports, published within 48 hours of each other, were from -
- the independent Adjudicator - responsible for dealing with complaints against HMRC, amongst others - who in her 2004/2005 annual report expressed disappointment that, of the complaints her office received last year, more than half concerned tax credits, with the overwhelming majority upheld in the complainant’s favour;
- the Parliamentary Ombudsman who, in her report, Tax credits - putting things right, recommended that consideration should be given to writing off all tax credit overpayments that have arisen in the last two years; and
- Citizens Advice who, in its report, Money with your name on it?, called urgently for a new approach for dealing with overpayments which recognises that tax credit payments should not be withheld to leave families in poverty.

And so, on 22 June 2005, the Paymaster General came to the House to make an emergency statement. Following Prime Minister’s Question Time, in which the Prime Minister accepted that the situation some families have found themselves in is ‘unacceptable’, and apologised to families who have suffered financial hardship as a consequence of the failings in the tax credit system, the Paymaster General said that the series of changes outlined in her earlier statement to Parliament were already underway to improve the system. However, she also added that she had asked HMRC to consider suspending recovery of overpayments where they were disputed, and to ensure hardship payments were made -

‘On 26 May, I announced to this House a series of measures to build upon the reforms that we have already made to the tax credits system. Those include measures to streamline procedures for recipients to inform Her Majesty’s Revenue and Customs of the changes in their income during the course of the year, and to simplify the information provided to families in award notices. I also announced a review so that we could make changes in the procedures for dealing with disputed awards.

The Department is improving the helpline so that families receiving tax credits can have all their queries dealt with in one go and all their changes processed with one call to the helpline. Where there is a dispute, I have asked HMRC to consider suspending recovery of excess payments until the dispute is resolved. Where there is hardship, I have asked it to ensure that the additional payments in the system are made.’

However, despite the Ombudsman’s call for overpayments to be written off, the Paymaster General said that she was ‘not attracted to a complete amnesty’, and that where a claimant accepts ‘excess payment’ has been made, and is prepared to give it back, ‘there is no dispute’.

Stop press - as we go to press, the Child Poverty Action Group has renewed its call for an amnesty on tax credit overpayments, urging the Paymaster General ‘to go further and act faster ... so that government can start with a clean slate to restore public confidence in the system and so that no family is plunged into hardship.’

Credit debts & direct deductions from benefits

Citizens Advice voices concerns about government proposals

The government’s plans to allow direct deductions to be made from benefits in respect of credit debts could cause hardship, and will not necessarily guarantee repayment of loans, Citizens Advice has warned.

In a recent meeting with DWP and HM Treasury officials to discuss the recommendations of its evidence briefing - Take it away - Citizens Advice was advised of how the proposals for direct deductions for credit debts will work -
- the scheme will be administered centrally, rather than by individual Jobcentre Plus offices;
- there will be stringent criteria for lenders wishing to join the scheme, that will be likely to dissuade most if not all mainstream lenders from joining. (In practice, credit unions and community finance development initiatives are likely to be the only lenders joining the scheme);
- borrowers will be asked for permission for their data from the DWP to be disclosed to the lender as part of the application process for a loan;
- where the borrower is in arrears, the lender can ask the DWP to make deductions without the need for consent. However the lender would be expected to make reasonable attempts to negotiate repayment arrangements with the borrower before asking for deductions; and
- deductions for credit debts will be at the bottom of the priority list where the borrower has more than three deductions, although the amount of the deduction will still be £2.80 per week.

However, Citizens Advice reports that it is not clear whether the government will consult publicly on these changes, and repeats its concerns, outlined in Take it away, that the new proposals could cause significant hardship. In consequence, Citizens Advice suggests that advisers with concerns write to the relevant DWP and HM Treasury ministers - James Plaskitt MP and John Healey MP.
A ‘significant and exciting milestone’ for the Appeals Service

The Appeals Service has set out its plans for the year ahead as it prepares for its transfer from the Department for Work and Pensions to the Department for Constitutional Affairs (DCA) in April 2006.

In its 2005/2006 Business Plan, the Appeals Service says that its move to the DCA is ‘a significant and exciting milestone in our organisation’s history’ and that it ‘will work closely with colleagues in both the DWP and the DCA during the coming year to ensure joint planning activities result in a smooth transfer’.

Looking to the year ahead, the Appeals Service outlines that it will continue to develop proposals to establish fewer, better-equipped venues, to ‘optimise the geographical distribution of our tribunal venues and to upgrade them to ensure they are better equipped, more secure and better utilised’, and that it will use new technology, including a new IT system, designed to provide increased flexibility in the processing and management of appeals, and due to go-live in January 2006, to help it meet its strategic objectives.

The Appeals Service website will also be redesigned to make it more interactive and user-friendly for appellants and representatives, and voice recognition software will be provided to salaried judicial members to reduce the time taken to produce statements of reasons. In addition, video-conferencing pilots in Cardiff and Southampton will be evaluated and consideration given to rolling the technology out to other main venues. This will facilitate Presenting Officer ‘attendance’ at hearings, and may also be extended to welfare rights organisations and appellants to enable them to participate in oral hearings and reduce the number of adjournments.

The Appeals Service also outlines that it plans to pilot ‘proactive telephony contact’ with appellants during the appeals process to assist them with venue directions or advise them on the progress of their appeal, and will work to reduce the volume of adjournments and postponements by ensuring that interpreter services are identified and sourced, and that the appropriate paperwork and evidence prepared by DWP agencies and requested by the Appeals Service is available to the tribunal in time.

Consideration will also be given to extending the use of local tribunal user groups and the National Customer Representative Liaison Forum to encourage their active involvement in identifying opportunities to improve the services provided, and, by July 2005, the Appeals Service intends to establish whether there is a need for a new forum within the agency for engaging representative organisations at a national level.


NB - The Council of Tribunals would welcome feedback from advisers to assist it in responding to the suggestion in last year’s DCA White Paper - Transforming Public Services: Complaints, Redress and Tribunals - that reliance on formal oral hearings should be reduced, and have published a consultation paper - The Use and Value of Oral Hearings in the Administrative Justice System - that is available @ www.council-on-tribunals.gov.uk. The closing date for responses is Friday 2 September 2005.

Record number of complaints against the CSA

The Child Support Agency has not done enough to place parents at the heart of its activities, and delay, negligence and poor process have led to increasing numbers of complaints, the Independent Case Examiner has said.

In her annual report for 2004/2005, the Independent Case Examiner - who provides a free, impartial complaint review and resolution service to customers of the CSA - acknowledges that this has been a ‘stormy year’ for the Agency, but that the problems it has faced have been of such magnitude that two years after the introduction of the child support reforms there is still no published date for the conversion of old scheme cases onto the new rules.

In light of the continuing problems, the Independent Case Examiner says that - ‘... in my view the Agency has not done enough to place parents at the heart of its activities. Consequently, in cases administered under both the old and new schemes, many customers have faced similar problems of delay, negligence and poor process.

Against this backdrop, unsurprisingly referrals to my office continued to rise for the second year in a row, to just under 3,000.’

The Independent Case Examiner reports that a satisfactory settlement was negotiated in approximately half of these cases, but that in cases where this was not possible, the great majority of complaints were nevertheless upheld.

NB - responding to the publication of the report, Work and Pensions Minister Lord Hunt accepted that it ‘highlights the amount of work the Agency still needs to do to improve its relationship with its clients’.

Government announce plans for three new welfare reform bills

Among more than forty Bills outlined in May’s Queen’s Speech, the government proposes to introduce three main Bills in relation to welfare reform -

- an Incapacity Benefit Bill - that will see incapacity benefit replaced by two new benefits, ‘rehabilitation support allowance’ and ‘disability and sickness allowance’.
- a Housing Benefit Bill - that will include replacing housing benefit with local housing allowances; provide powers for local authorities to investigate and prosecute fraud against DWP administered benefits; measures to enhance joined-up working; and the removal of ‘certain barriers to claiming benefits’.
- a Parental Rights Bill - that will extend statutory maternity leave and pay from six to nine months, and allow mothers to transfer some of their pay and time off work to the child’s father.

In addition, the government confirmed plans for a draft Pensions Bill, to overhaul the existing pension regime, and the reintroduction of an Identity Cards Bill that could see future access to social security benefits dependant on the production of an identity card.
Twenty one medical examination centres to close before the end of the year

Twenty one medical examination centres are to close before the end of the year as part of a rationalisation exercise by Atos Origin - the private company contracted by the DWP to provide medical assessments for incapacity and disability benefit purposes.

Whilst part of the DWP contract with Atos Origin stipulates that a claimant must not be expected to travel for more than 90 minutes using public transport to attend a medical, welfare rights organisations have reported that Atos Origin is using the 90 minute rule, not as a safeguard to prevent excess travelling, but as a bench mark, and has reviewed the current assessment centres not in the interests of claimants but for ‘administrative convenience and greed’.

NB - the following 21 sites throughout England and Scotland have been identified for closure -

- Barnsley, Bolton, Bradford, Cambridge, Catterick, Chesterfield, Colchester, Derby, Dorchester, Greenock, Hartlepool, Oxford and Stirling, to close by 31 August 2005; and

Following the announcement that the Chesterfield and Derby medical examination centres form part of the plans, organisations from across Derbyshire - including Derbyshire Unemployed Workers’ Centre, Trade Unions, CABx, Derbyshire County Council Welfare Rights Service, Community Mental Health, Social Services and Local Authority representatives and local MPs - have launched a campaign to oppose the closures. The closure of the only two centres in the county will mean claimants having to attend a medical will be forced to travel to Sheffield, Manchester, Mansfield or Nottingham.

For more information about the campaign, contact Colin Hampton of Derbyshire Unemployed Workers’ Centre (e-mail colin.hampton@duwc.org.uk).

New welfare rights news and caselaw service from rightsnet

Following a consultation with users, lasa’s website - www.rightsnet.org.uk - has launched a brand new welfare benefits and tax credit subscription service.

A subscription to the new service provides access to -

- every benefit and tax credit related news story published to the site each year (in the last year more than 750 news stories were published);
- the latest statutory instruments, DWP and Inland Revenue guidance, consultation and policy documents, brought together and summarised within 24 hours of their issue;
- user-friendly summaries of significant benefit and tax credit related caselaw - including Court of Appeal and House of Lords judgments; and
- fully searchable and cross referenced summaries of key commissioner’s decisions added to the Social Security and Child Support Commissioners’ website.

Annual subscriptions are now available from just £50 plus vat and more than 1,000 organisations have already signed up. To find out more, visit the rightsnet subscriptions page @ www.rightsnet.org.uk /subscribe

NB - Bulk subscriptions have been taken out by Citizens Advice; Citizens Advice Scotland; Rights Advice Scotland; The Appeals Service; and The Appeals Service Northern Ireland. Members of these bodies can therefore access the service using the organisational code issued to them by their umbrella body.

Subscriptions to review cost £19.00 a year (6 issues) for voluntary organisations, £24.00 a year for others.

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Medical diagnosis not needed to determine severe disability

A Tribunal of Commissioners in CDLA/1721/2004 has considered whether a medical diagnosis is needed to determine severe disability for Disability Living Allowance purposes.

In its decision, the Tribunal of Commissioners reject the previously held view, taken for example in R(A)2/92, that a definite diagnosis or recognised medical condition is necessary to ‘count’ as disabled for DLA/AA purposes. Instead, they adopt the World Health Organisation definition of ‘disability’ to mean ‘any restriction or lack of ability to perform an activity in the manner or within the range considered normal for a human being’. Accordingly, they conclude that the tests in Sections 72 and 73(1)(d) of the Social Security and Contributions and Benefits Act 1992 of a person being ‘severely disabled’ that they require attention or supervision, or have mobility difficulties, cannot be equated with ‘has such a serious medical condition that...’

The Tribunal of Commissioners also hold that behaviour, in cases of behavioural disorders, although not being of itself a disability, may be a manifestation of a disability. On this basis, the correct approach in R(A)2/92 should have been to ask whether it was in the claimant’s power to avoid behaving as they did, rather than to have looked for a specific diagnosis of a recognised mental disorder. The severity of any disability should then be tested, by asking, for example, whether a person requires attention for a significant portion of the day.

NB - In its decision, the Tribunal of Commissioners also give detailed guidance on the issues that should be considered when deciding whether to call a child to give evidence, and, in summary, its view is that the discretion to call a child should be exercised ‘with great care and caution.’