New support for those with a drug or alcohol dependency

Jobcentre Plus has launched a new range of support for those with a drug or alcohol dependency. Further to the publication, in December 2010, of the government’s drug strategy, Reducing demand, restricting supply, building recovery: supporting people to live a drug-free life, the government is to test the estimated one in 15 people on benefits who are dependent on drugs or alcohol, and includes -

- people claiming JSA being able to volunteer for the Work Programme with the agreement of their adviser after just 13 weeks of their current benefit claim, subject to availability, with advisers tailoring the Jobseeker’s Agreement to take account of any treatment commitments they might have;

- in England, advisers being able to refer claimants whose dependency is a barrier to work for a voluntary discussion with a treatment provider; and

- in England, if a claimant is not receiving support from an adviser as part of the Jobcentre Plus intervention regime (for example, people receiving incapacity benefit, industrial injuries disablement benefit or disability living allowance) and they seek help and advice about their dependency, them being directed to local treatment where available.

NB – in addition, Minister for Employment Chris Grayling has announced that the government is to extend the Work Programme to include a payment by result scheme specifically tailored to people with addictions.

Government publishes personal independence payment draft assessment criteria

The government has published draft assessment criteria for the personal independence payment (to replace disability living allowance from 2013), which it intends to test over the summer.

The draft Social Security (Personal Independence Payment) (Assessment) Regulations set out the activities included within ‘daily living activities’ and ‘mobility activities’ and the descriptors which will determine whether a claimant is to be assessed as having ‘limited ability’ or ‘severely limited ability’ to carry out those activities. The draft regulations also set out the six month required period condition, an increase from the three month condition attached to entitlement to disability living allowance.

The activities in relation to the daily living component are –

- planning and buying food and drink;
- preparing and cooking food;

(continued at foot of page 4)

Professor Harrington pleased with DWP progress in improving WCA

Professor Malcolm Harrington, who was commissioned by the government last year to review the operation of the work capability assessment (WCA), has said that he is pleased and gratified to see the progress that has been made by the DWP in introducing improvements.

In an interim report to Work and Pensions Minister Chris Grayling on the DWP’s progress in implementing the recommendations in his November 2010 report, An Independent Review of the Work Capability Assessment, Professor Harrington says that he has detected a real enthusiasm for change at the Jobcentre Plus/Benefit Delivery Centre level, and a real commitment from senior officials at the DWP to

(continued on page 4, column 3)
Transfer of social fund functions to local authorities will lead to abolition of essential safety net

The transfer of social fund functions to local authorities will lead to a radical reduction or abolition of an essential safety net for the most vulnerable, according to a group of 15 organisations.

The 15 organisations, including Citizens Advice, Shelter, the Child Poverty Action Group and the TUC, have written to Pensions Minister, Steve Webb in April to express their ‘extreme concern’ about the government proposal to abolish community care grants and most aspects of crisis loans, and to transfer responsibility for meeting the needs they currently address to local authorities from 2013.

Highlighting that, in a report on community care grants, the Public Accounts Committee said that ‘responsibility should only be handed to local authorities if there is a clear business case to do so, and if local authorities are properly resourced to do the job’ the organisations say, that, in the context of current spending pressures on local authorities, they are concerned that these proposals will result in radical reduction or abolition of social fund provision on a wide scale.

The organisations conclude by saying that it is important that the DWP should provide further evidence to explain how the proposals would meet the needs of the most vulnerable and to justify the withdrawal of an essential part of the welfare system.

Stop press – the government’s response to the call for evidence on the transfer of social fund functions to local authorities, published on 23 June 2011, is available at www.dwp.gov.uk/docs/social-fund-localisation-response.pdf

Government goes ahead with proposal to remove welfare benefits from scope of legal aid

The government has gone ahead with its proposal to remove a number of areas of social welfare law, including welfare benefits, from the scope of legal aid.

Despite the Ministry of Justice having received over 5,000 responses to its consultation on legal aid reform, 90 per cent of which were against the proposed changes, the Legal Aid, Sentencing and Punishment of Offenders Bill 2011, published on 21 June 2011, removes from the scope of legal aid a number of areas of law including employment, housing except in cases involving homelessness or risk to health and safety, debt except in cases relating to certain proceedings where the home is at risk, and all welfare benefits cases.

In its response to the consultation on legal aid reform, published at the same time as the Bill, the Ministry of Justice says, in relation to welfare benefits, that it does not consider that most cases before the tribunal will be sufficiently complex, and, compared with cases involving safety, liberty or homelessness, it considers these cases to be a lower priority for funding.

However the Ministry of Justice says that, as set out in its consultation, legal aid will be retained for judicial review of welfare benefit decisions, and for claims about welfare benefits relating to a contravention of the Equality Act 2010 that are currently funded.

The Legal Aid, Sentencing and Punishment of Offenders Bill 2011 is available on the parliament website.

The Ministry of Justice response to the consultation on Legal Aid Reform and related impact assessments are available at www.justice.gov.uk/consultations/legal-aid-reform.htm response

Time limit of 42 days for appeals response should be introduced ‘without delay’

A time limit of 42 days for the DWP and HMRC to respond to appeals should be introduced ‘without delay’, according to the Administrative Justice and Tribunals Council (AJTC).

In his foreword to Time for Action – A report on the absence of a time limit for decision makers to respond to social security appeals, AJTC Chair Richard Thomas highlights that delays are currently running at their highest levels – due largely to the high numbers of appeals against decisions on employment and support allowance (ESA) – and says that the situation is likely to deteriorate further in the future with the migration of incapacity benefits claimant to ESA and as a result of the proposed longer term welfare reforms.

Mr Thomas goes on to say – ‘It is unacceptable to expect DWP customers simply to put up with ever longer delays to get their appeals heard in order, in many cases, to obtain the benefits they should have received from the outset of their claim. Never was the old legal maxim ‘justice delayed is justice denied’ more apt. The AJTC believes that the time has come to consider ways of streamlining the decision making and appeals process to ensure that only those cases that need to go to an appeal do so, and at the earliest possible opportunity.’

Time for Action – A report on the absence of a time limit for decision makers to respond to social security appeals is available from ajtc.gov.uk
Role of Atos work capability assessment ‘downgraded’

The role of the Atos work capability assessment has been ‘downgraded’ in the employment and support allowance (ESA) decision making process, according to Minister for Employment Chris Grayling.

Speaking in a debate on ESA in Westminster Hall on 10 May 2011, Mr Grayling said that the government had implemented all but two of the 25 recommendations made by Professor Harrington in his Independent Review of the Work Capability Assessment published in November 2010, with the last two to be implemented by June 2011.

Mr Grayling went on to say that the most important of Professor Harrington’s key recommendations was about the decision-making process, with the situation ‘until a few months ago’ that decision makers tended to think that Atos work capability assessments ‘just had to be rubber-stamped’ –

‘We have changed that totally and have created a process through which the decision makers are told not only that it is their decision, but that they have to look at other evidence – for example ... GPs’

In addition, Mr Grayling confirmed that, following another of Professor Harrington’s key recommendations, the DWP has appointed ‘about 50’ mental health champions to whom assessors can turn for advice ‘if they are uncertain how to react to a particular response’, and that, by the time the process is finished, there will be one champion ‘for about every two to two-and-a-half assessment centres’ with someone constantly on call, either in person or by telephone.

80 per cent of claimants to make claims for jobseeker’s allowance online by 2013

By 2013, the DWP hopes that the majority of claimants will make claims for jobseeker’s allowance, and changes to existing claims, online, according to Minister for Welfare Reform Lord Freud.

Speaking in a House of Lords debate on the Social Security (Electronic Communications) Order 2011 (SI.No. 1498/2011), which amends social security legislation to allow electronic communication and storage and will also develop the DWP’s use of electronic signatures, Lord Freud said that –

‘... the order will mean that our customers will not only be able to make a claim for jobseeker’s allowance online, but they will also be able to notify us of other changes in their circumstances, such as changes to their income or a change of address. In addition, they will be able to provide their signature using an electronic pad. This would replace current paper signing and would mean signatures collected from people confirming that they meet the conditions of entitlement for jobseeker’s allowance, or agree to the conditions of a jobseeker’s agreement, could be electronically stored.’

Lord Freud went on to say that the DWP hopes that, by 2013, 80 per cent of claimants will make changes and claims for jobseeker’s allowance online. He added, however, that claimants would still be able to contact Jobcentre Plus in writing or by using the telephone and that there was no intention to make online services compulsory.

SI.No.1498/2011 is available from legislation.gov.uk

Government to establish new Social Mobility and Child Poverty Commission

The government is to establish a new Social Mobility and Child Poverty Commission through the Welfare Reform Bill 2011.

Announcing a new clause within the Bill to establish the Commission, Minister for Disabled People Maria Miller said –

‘We need to be sure that we have the right structures in place to hold the government to account on child poverty. The previous government attempted to do that by enshrining in law a child poverty commission... We supported and still support the concept of an arm’s length body to provide such an external challenge to government. However we do not believe that the child poverty commission, as currently defined in legislation, has the necessary remit or power to perform that function effectively.

First, the commission cannot assess or comment on the progress made by government on child poverty, meaning that it has no power to hold the government to account. Secondly, we believe that the commission’s advisory role undermines accountability and provides Ministers with a means to delegate decision making to an arm’s length body. For a government to consult on an important policy matter is absolutely proper, but responsibility should ultimately rest with Ministers. Finally, the scope of the commission is simply too narrow and does not cover issues that are crucially related to child poverty, such as life chances and social mobility.’
All overpayments of ESA, JSA and universal credit to be recoverable

Employment Minister Chris Grayling has given details of a new power to recover all overpayments of employment and support allowance, jobseeker’s allowance and universal credit.

Speaking to the parliamentary Welfare Reform Bill Committee in a debate on Clause 102 of the Welfare Reform Bill 2011, which was passed unamended by the Committee, Mr Grayling said –

‘The clause will allow all overpayments of universal credit, jobseeker’s allowance and employment and support allowance to be recoverable. Similarly, all payments on account and certain hardship payments will be recoverable. The clause will ensure that overpayments of all other benefits remain recoverable, as they are now, but only in circumstances in which there has been a mis-representation or failure to disclose.’

However, Mr Grayling said that there would be an exception to the rule for the housing credit element of state pension credit or housing credit itself.

In addition, confirming that there will be the discretion not to recover in official error cases, Mr Grayling said that there will be an ‘absolutely clear’ code of practice on recovery ‘to ensure consistent, considered decision making’ and that –

‘With recovery of all overpayments, a number of factors will be considered. We will consider not only whether the claimant received the money in good faith but whether recovery … is likely to cause the claimant or their immediate family significant hardship or threaten their health or welfare.’

In addition, responding to concerns that there might be different treatment between offices and regions, Mr Grayling said that the government was seeking to ensure that decisions would be made by ‘quality, well trained decision makers’ with the freedom to take ‘the right decisions in sensitive areas, against clear guidelines on the things they should be looking for’.

Professor Harrington

Professor Harrington pleased with DWP progress in improving WCA

(converted from page 1 column 3)

convert his recommendations into real and lasting policy changes

Positives highlighted in Professor Harrington’s new report include that –

● new scripts and letters have been designed to improve the telephonic and written communications with claimants;

● decision makers are already beginning to feel empowered to make decisions that do not simply ‘rubber stamp’ Atos recommendations;

● managers are providing greater scope for staff to be innovative and self motivated, with fewer ‘boxes to tick’ and more opportunity to take control of smoothing the claimant’s progress through the WCA by information, advice and support;

● greater use of the reconsideration procedure is underway, making it more likely that decision makers have all the additional information about a claimant’s condition before recourse to the Tribunals Service in cases of dispute;

● the Atos Customer Charter is now in place and being displayed at all Assessment Centres;

● a pilot of the audio recording of face-to-face assessments has been completed; and

● a review of the LIMA system is underway, to explore whether it drives the assessor’s behaviour or whether the assessor drives the IT.

However Professor Harrington does express concern at the apparent ‘silo’ mentality in some quarters of Jobcentre Plus where some staff do not have an understanding of the whole WCA process, but only their section. In addition Professor Harrington reports that there is some ‘cultural inertia’ in middle management, although he notes that the DWP have said that it is working to change the prevailing ethos and attitude. This change, Professor Harrington says, will be critical in supporting his recommendations and their success.

Government publishes personal independence payment draft assessment criteria

(continued from page 1 column 3)

● taking nutrition;

● managing medication and monitoring health conditions;

● managing prescribed therapies other than medication;

● washing, bathing and grooming;

● managing toilet needs or incontinence;

● dressing and undressing; and

● communicating with others.

The activities in relation to the mobility component are –

● planning and following a journey; and

● moving around.

The DWP sought initial comments on the draft assessment by 6 June 2011 and says that it will consider comments received by 1 August 2011 – after it has tested the likely impact of the draft criteria over the summer – when it will seek to refine the criteria further, as necessary.

The draft assessment regulations are available on the DWP’s personal independence payment webpage.