



News in Brief

Considering that it is August, it's been a surprisingly busy week for benefit news!

Extension of Bereavement Support Payment and Widowed Parents Allowance

Employment minister Mims Davies has confirmed that the government plans to issue a remedial order to extend eligibility of BSP and WPA to couples cohabiting with children. She was responding to a written question in parliament which asked what progress had been made following the Supreme Court decision in August 2018 ([2018] UKSC 48) and the High Court decision in February 2020 ([2020] EWHC 183 (Admin)).

This is a long-awaited change and we will keep you updated as further details become clear.

www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2020-07-20/76930/

Government tightens Universal Credit eligibility for disabled students

Those of you that work with students will be well aware that getting Universal Credit as a disabled student is difficult. Not only do you have to have a disability benefit in payment, but you also need to have already been assessed as having a limited capability for work through the work capability assessment. There have been two workarounds to this; either the student claims credits-only Employment and Support Allowance to allow them to go through the WCA before making a UC claim, or they claim UC with the DWP effectively putting the claim on ice until the WCA is carried out.

From 5/8/20, new legislation has come into force which puts an end to the second of these. Limited capability for work **MUST** be established prior to any claim for UC. Although this isn't technically a change, more of a clarification, it still comes as a massive blow, especially at the time of year when prospective students are considering their options.

Further details and the explanatory memorandum can be found here:

www.legislation.gov.uk/uksi/2020/827/made

Statutory Sick Pay

The period that you must self-isolate for if you have symptoms or have tested positive for COVID-19 has been extended from 7 days to 10 days. New regulations, in force from 5th August, amend the SSP rules in line with this, ensuring that people affected don't have a gap of 3 days.

For more information see the open access Rightsnet article:

www.rightsnet.org.uk/welfare-rights/news/item/extending-eligibility-for-ssp-to-cover-people-who-are-selfisolating-in-line-with-new-guidance-from-public-health-england

Payment of ESA pending appeal – new High Court judgment

The High Court has ruled that the current situation, where an ESA claimant must have a mandatory reconsideration notice and have submitted an appeal before ESA pending appeal can be put into payment is unlawful. The case concerned a man who submitted an MR but had to wait for four months before he received the MR notice which allowed him to appeal and have ESA put back into payment.

The ramifications of this case are significant, and we will keep you updated with how things develop.

<https://www.bailii.org/ew/cases/EWHC/Admin/2020/1999.html>

Changes on the horizon

The DWP has issued guidance regarding the future changes that are expected to the minimum income floor and the severe disability premium gateway.

Minimum income floor – from 23 September 2020, the 12-month exemption period will be extended to cover claimants who naturally migrate to Universal Credit. The exemption currently only covers claimants who are managed migrated. It will also apply to all existing UC claimants who become gainfully self-employed.

Severe disability premium – as previously announced, the guidance confirms that the severe disability premium gateway will be removed from 27 January 2021. The effect of this is that receipt of the severe disability premium will no longer mean that claimants can make new claims for legacy benefits when they have a change in circumstances that would otherwise have triggered a claim for UC.

The full guidance is available here:

assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/903312/adm15-20.pdf