FOR STAFF AND STAKEHOLDERS

CITY OF WOLVERHAMPTON COUNCIL

Benefits Bulletin
Universal Credit Update…

21st January 2019

Issue 1 [2019]

Amber Rudd, the new Secretary of State for Work and Pensions made a 'Fresh approach to Universal Credit', announcement on 11th January. This Benefits Bulletin brings you details of the key parts of the announcement. It also brings news on other important, recent Universal Credit developments.

Contents:

Note: The Universal Credit and Pension Credit amounts used in this edition of the Benefits Bulletin have been taken from information provided by the DWP on the proposed amounts that will apply from April this year for **2019/2020**.

1. Amber Rudd…

Amber Rudd confirmed in her announcement that she believed in the three fundamental principles of Universal Credit, that:

- those that can work should and that those that cannot should be 'protected from poverty'
- work should 'always' pay
- the system should be fair to the tax payers that pay for it and fair to those that are supported by it.

She said that Universal Credit was there to help people through difficult times - at times of unemployment, failing health and bereavement.

Amber Rudd: appointed Secretary of State for Work and Pensions on 16th November 2018.

Amber Rudd said in her announcement that it had been widely recognized that the old system was 'broken' and that this could be evidenced by the fact that under it some 700,000 people (some being the most vulnerable in society) were underclaiming benefit by on average £285.00 per month.

She acknowledged that whilst Universal Credit was succeeding 'in many areas', for example, in helping more people into work 'through the help of 'Work Coach support', there was room for improvement. She said that it was important to ensure that Universal Credit met the 'different needs of different claimants'.

She announced that the three areas of Universal Credit that could be improved were:

1. Managed Migration

This is the name given to the process under which claimants getting 'legacy benefits'* will be expected to transition on to Universal Credit.

Amber Rudd said that:

- her priority was to ensure that the transition is done well and with 'utmost care' - she did not want to see the process rushed into
- she wanted to see that every individual is 'thoroughly supported' to access Universal Credit quickly and successfully with the onus being on the DWP to deliver 'managed migration' in a way that 'meets everyone's needs'
- the process would begin in July 2019 with a pilot which carefully migrates up to 10,000 claimants
- the lessons learnt from the pilot migration would dictate what follows
- the 'managed migration' would be completed by 2023 as planned.

It was stated that even after the 10,000 claimant pilot, only small numbers would be migrated on to Universal Credit with this number increasing and adjustments made along the way as lessons are learnt.

Amber Rudd said that she would only proceed with the process when it was known that it could deliver the 'best possible service for everyone' who relies on it.

*The 'legacy benefits' are Income-based Jobseeker's Allowance, Income-related Employment and Support Allowance, Income Support, Child Tax Credit, Working Tax Credit and Housing Benefit.

2. Alternative Payment Arrangements

In her announcement Amber Rudd said that the premise of Universal Credit was that it mirrored the world of work - where payments were made monthly, in arrears and the money went straight to the claimant.

However, whilst this worked for some it was recognised that it did not work for others. For some, budgeting month-to-month was challenging, even impossible.

She confirmed that:

- 60% of new Universal Credit claimants apply for Advanced Payments to help them make ends meet during the five-week period until the first Universal Credit payday
- only 2% of Universal Credit claimants are getting their payments weekly or fortnightly due to vulnerability or poor budgeting concerns

- 20% of Universal Credit claimants had their rent paid direct to their landlord due to vulnerability or special needs
- 33% of Universal Credit claimants in social housing had their rent paid direct to their landlord compared to 5% of private tenants

She acknowledged that the Alternative Payment Arrangement provisions were not helping as many claimants as they could.

She announced that something needed to be done to make it easier for tenants in the private sector to 'find and keep a good home'. As a response she announced that she had asked the DWP to build an online system for private landlords, so they can request (where necessary) for rent direct payments.

She said that other measures would be explored to 'keep people in their homes' and support those who found monthly payments hard to manage.

3. Women's Economic Empowerment

Amber Rudd said that she believed that women could 'never be truly free' until they had 'economic independence' and that whilst 1.6 million women had entered employment since 2010, 'economic empowerment' remained the 'final frontier'.

She said that whilst Universal Credit operates on the same basis as historic benefits, in so far as payment is made as one payment to the household, this 'penalised' women and that she recognised the 'valid' concerns about this.

For these reasons she was committed to ensuring that household payments go to the 'main carer' - which would usually be the woman.

Childcare Choices

Amber Rudd said also that she viewed childcare provision as being 'essential' to enable parents to work. She said that she fully understood how the current arrangements of paying childcare in arrears and only after the costs were known caused financial difficulties. Therefore, she had instructed JobCentres to use the **Flexible Support Fund** to support parents with the initial cost of childcare, thereby supporting the transition into work for that group.

See the government's Childcare Choices website which provides details on free childcare provision and how people may be assisted with the cost of childcare.

www.childcarechoices.gov.uk

Amber Rudd also made an important announcement about the future application of the 'two child limit'. This provision limits the award of extra Universal Credit (the so called 'child element' worth up to 231.76 per month) to a maximum of two children. See 3. Families with 3 Plus Children for more information on this particular issue.

2. Protection for the SDP…

The DWP have introduced new rules which mean that from **16th January 2019** those getting the 'severe disability premium' will not be expected to apply for Universal Credit under 'natural migration' and so will not lose out.

The Universal Credit (Transitional Provisions) (SDP Gateway) Amendment Regulations 2019 Statutory Instrument 2019 No. 10

Since details of Universal Credit first emerged back in November 2010, it became clear that within the Universal Credit assessment there was no equivalent to the 'severe disability premium' (SDP) meaning that large numbers of severely disabled people stood to lose out. The SDP is paid to severely disabled people** who receive a 'legacy benefit', who have been deemed to live alone and who have no one getting Carer's Allowance for looking after them. To most severely disabled claimants it will typically represent between 25% and 45% of their overall income for day-to-day living, depending upon individual circumstance.

What also became clear was that in light of this, people who were expected to apply for Universal Credit under 'natural migration'*** would, in doing so, lose out because they would lose any SDP previously paid. This was because unlike 'managed migration'**** under 'natural migration' claimants would get no protection against losing money due to the different way 'legacy benefits' and Universal Credit operate.

Example: Henry is aged 47 and is disabled. Henry gets Employment and Support Allowance (ESA) because he is too sick to work. He also gets PIP for his care needs/ daily living. He lives alone and has no one to look after him. Under ESA Henry gets £168.00 per week for his day-to-day living. He moves home from Dudley to Wolverhampton. In consequence he is required to apply for Universal Credit under the 'natural migration' scheme. Under Universal Credit he would get £443.93 per month (£102.45 per week). His income would be reduced by £65.55 per week. He would not qualify for any transitionally protected amount and the reduction in his overall income would be immediate.

When tested in the High Court by those losing the SDP, the High Court ruled that the practice was unlawful and irrational. In final analysis it was held wrong that there were two systems ('natural migration' vs. 'managed migration') whereby under one people lost out and under the other people were to receive 'transitional protection' payments to ensure they did not lose out.

This was even more so the case considering that the DWP had promised 'cash protection' to all those who would find themselves worse off when moving on to Universal Credit.

In effect the new rules not only protect those getting the SDP by preventing them from the requirement to apply for Universal Credit under 'natural migration', but they also provide protection to those who have been getting a 'legacy benefit' with the SDP who have a break in their claim. The new rules mean that providing the break is no more than one month, they can return to the 'legacy benefit' regime under which the SDP would remain payable rather than apply for Universal Credit.

When the DWP lost in the High Court it promised to compensate those claimants who had been affected. It is understood that a trawl of potential cases will be undertaken. No further news on this has been forthcoming.

Anyone who thinks that they have lost out on the SDP due to being required to apply for Universal Credit should contact the DWP and point this out. If nothing develops from this then they should seek further information and advice.

** Severely disabled people here meaning people who get Personal Independence Payment (PIP) daily living component or Disability Living Allowance (DLA) care component at the middle or higher rate or Attendance Allowance.

*** Natural migration is the process under which people are required to move from 'legacy benefits' on to Universal Credit when triggered to do so by a relevant change of circumstance. For example, when moving home, when obtaining employment or following a determination that they are fit for work.

**** Managed Migration is the process under which people are required to move from 'legacy benefits' and Universal Credit when selected to do so. The process is due to start from sometime in July 2019.

3. Families with 3 Plus Children…

It has been a longstanding rule that families with 3 or more children have been prevented from applying for Universal Credit as it has been steadily rolled out across the country.

However, this restriction will be lifted from **1st February 2019**. This means that from this date, families with 3 or more children will no longer be required to apply for 'legacy benefits' at times of unemployment or sickness. Instead they will be required to apply for Universal Credit for the first time.

Whilst this news will remove the current two-tier system for families and thereby hopefully put an end to confusion and conflicting advice (we have seen a number of cases where families with 3+ children have been wrongly advised that they must apply for Universal Credit not 'legacy benefits'!), it must be not be forgotten that the 'two-child limit' still applies.

The '**two-child limit**' is a provision that was introduced from **6th April 2017** and serves to restrict the amount of Universal Credit (and Child Tax Credit but NOT Child Benefit) paid by way of child allowances for a maximum of two children.

The measure was introduced in an attempt to ensure that those on benefits face the same financial choices around the number of children they can afford as people who do not receive benefits.

In simple terms, claimants of Universal Credit receive a 'child element' (worth up to £277.08 for the first or eldest child and £231.67 per month for other children) for each child they have. This is in addition to any Child Benefit paid for that child. However, under the 'two-child limit' provision families would only get payment for a third child (or any further number) if they were born before 6th April 2017.

Example 1: Terry and Helen live together. They have four children all born before 6.4.2017. Therefore, when applying for Universal Credit they will get a 'child element' for each child built into their overall Universal Credit assessment.

Example 2: Anna is a lone parent. She has three children. Her first two children were born before 6.4.2017. However, her third child was born on 10th July 2017 (i.e. after 6.4.2017). Therefore, when applying for Universal Credit she will only get a 'child element' for two children. She will not get an increase for her third child.

An exemption can apply in some situations. For example, if the third child was born as one child in a multiple birth (twins) to a family where there were less than two qualifying children already or where a child was born as a result of rape or non-consensual sex.

Go to the following link for further information:

https://www.gov.uk/guidance/universal-credit-and-families-with-more-than-2-children-information-for-claimants

The original intention was to apply the 'two-child limit' retrospectively as Universal Credit was made available to families with more than two children. This would have meant that even children born before 6.4.2017 would have been included in the two-child count.

However, Amber Rudd (Secretary of State for Work and Pensions) in her announcement made on 11th January 2019 confirmed that this would no longer be the case.

She said that whilst she felt that it was fair to limit the number for whom support under Universal Credit would be provided, she believed that it would be unfair to apply the limit to families retrospectively.

Benefit Cap: Remember that the benefit cap limit for families in Wolverhampton is now £384.62 per week. Therefore, irrespective of the two-child limit, families (unless exempt because they are working or getting certain disability benefits) whose value of welfare benefits is greater than this will see the level of their Universal Credit payments capped to this level. This could lead to large families being worse off under Universal Credit than when the Benefit Cap was applied purely through a reduction in Housing Benefit. This is because when the Benefit Cap has been applied through Housing Benefit it is only the overall amount of Housing Benefit that can be restricted. Whereas, under Universal Credit it is the whole amount of Universal Credit that would otherwise be paid that can be withheld. In cases involving families with 5+ children this could be a much greater amount than the value of any formerly paid Housing Benefit. Any family affected by the Benefit Cap under Universal Credit should check to see if they should be exempt from the provision. They should also see if they can qualify for a Discretionary Housing Payment from the City of Wolverhampton Council in the same way that Housing Benefit claimants may. Do seek further information and advice as necessary.

Note: Please be aware that whilst Universal Credit rules have prevented families with 3+ children from applying for Universal Credit, this does not mean that such families could not get Universal Credit in any circumstances. Two children families who have gone on to have a third child or more children have not been expected to move off Universal Credit. Also, if two families merged where one has already been getting Universal Credit, they will be expected to remain on Universal Credit even if together they have 3 or more children.

4. Two Wages…

In Benefits Bulletin 20 [2018] we explained that because of the way Universal Credit rules operate those getting Universal Credit could lose out financially if they were to be treated as having received two wage payments within the same 'assessment period'.

We explained that this could happen when people were paid wages early due to Christmas. We also explained how this could happen should wages be paid early at other times of the year because the otherwise natural payday falls on a Bank Holiday or another non-working day. We explained that given the wording of the regulations the DWP did not need to do things this way.

At the time we highlighted that a legal challenge to this practice was taking place in the High Court. That challenge was heard in the High Court last November and the High Court judgement was made on 11th January 2019.

The High Court held that in the instances involving three lone parents that the DWP:

"*wrongly assumed that where salaries for two different months were received during the same assessment period, the combined salaries from the two months were to be treated as earned income in respect of that assessment period.*"

The High Court held that the correct interpretation of the Universal Credit rules meant that the DWP can and should adjust its calculation of Universal Credit entitlement when it was clear that the wages paid in an assessment period do not, in fact, reflect the wages payable in respect of that period.

Put simply, the DWP is obliged to allocate wages to the month in which they were earned, rather than to the 'assessment period' in which they were paid.

[2019] EWHC 23 (Admin)

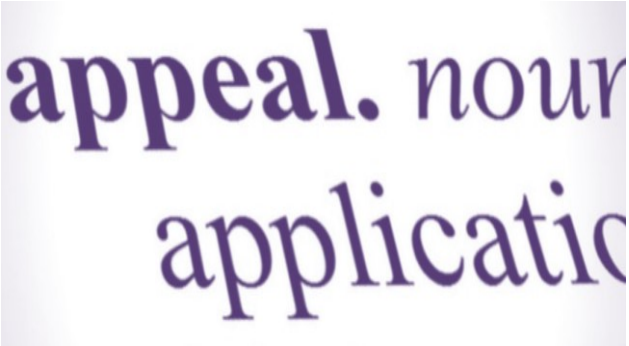
Go to the following link if you would like to see the full judgement:

https://www.bailii.org/ew/cases/EWHC/Admin/2019/23.html

Hansard: In relation to a question on this issue in the House of Commons, Amber Rudd (Secretary of State for Work and Pensions) confirmed: "We have recently updated the guidance for universal credit so that work coaches can adjust to ensure that where the situation he describes occurs, appropriate adjustments are made."

Hansard 7.1.2019 Universal Credit: Transition (Volume 652)

Anyone who feels that they have lost out because the DWP has treated them as having two monthly wages in one month should contact their Work Coach and ask that their case is reviewed. It does not matter how long ago the event occurred, even if it was several months ago. This is because the error constitutes an 'error of law' and as such can be corrected at any time.



If the DWP refuses to change things, then the person involved should seek advice with a view to challenging and appealing the decision which refused to address the issue.

5. Mixed Aged Couples…

Currently, mixed aged couples (meaning: couples where one member is under the 'qualifying age for Pension Credit' and one member has reached or is over the 'qualifying age for Pension Credit' - see below) can chose whether they wish to claim Universal Credit or Pension Credit. However, from **15th May 2019** such couples will need to claim Universal Credit. They will only be able to apply for Pension Credit when both have reached the 'qualifying age for Pension Credit'.

This means that such couples will stand to lose up to £140.13 per week. This is because this is the difference between the basic couple amount of Universal Credit and the basic couple amount of Pension Credit.

Pension Credit £255.25 per week

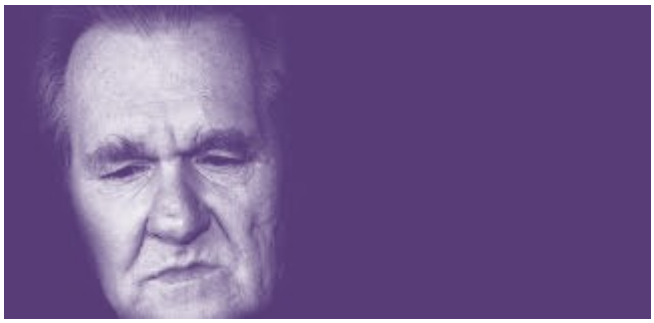
Universal Credit £115.12 per week

Loss £140.13 per week

All in all, mixed aged couples stand to lose as much as £7,300 per year.

It is thought that the average age gap between couples is 2.5 years. Therefore, this policy is set to cost couples up and down the country £18,200 during the period that they would otherwise be on Pension Credit.

The advice is that mixed aged couples should seek advice as soon as possible about their rights to claim Pension Credit. Couples failing to do so will be trapped. They will only be able to apply for Universal Credit.



New DWP figures show that almost 40 per cent of pensioner families entitled to receive Pension Credit do not claim the benefit. Nationally more than £3 billion in Pension Credit went unclaimed last year.

Source: This is Money Financial Website 24.11.2018

Mixed aged couples who currently get Pension Credit will not be affected. They will not be expected to move on to Universal Credit. However, should a pensioner set up home with a person of working age (or vice versa) then as a couple they would be expected to apply for Universal Credit. The pension age member of the couple would lose their right to get Pension Credit.

Even in a case where the pension aged member of a couple is disabled, the new measure will still apply. However, in such a situation, if the pension aged member is disabled and getting Attendance Allowance or Personal Independence (enhanced rate of the 'daily living component') or Disability Living Allowance ('care component') the impact will be lessened. This is because in such cases the Universal Credit award should include the 'limited capability for work-related activity element'. This element is worth £336.20 per month (£77.58 per week). This means that in such cases the overall loss will be reduced from £140.13 per week (£7,286.76 per year) to £62.55 per week (£3,252.60 per year).

The Work-related Requirement: Under Universal Credit rules people are expected to adhere to the 'work-related requirement' as part of the condition of getting Universal Credit entitlement. This means that depending on individual circumstances a claimant may be expected to attend Work-focused Interviews, look for work for up to 35 hours per week, attend work-related activity and/or be available for work. In the case of mixed aged couples, the 'working age' member would be subject to these rules. The member who has attained the 'Qualifying age for Pension Credit' would not.

This measure was first legislated for as long ago as 2012 under the Welfare Reform Act 2012. However, it will be from 15th May this year that new legislation will actually implement the provision.

The Welfare Reform Act 2012 (Commencement No. 31 and Savings and Transitional Provisions and Commencement No. 21 and 23 and Transitional and Transitory Provisions (Amendment) Order 2019 Statutory Instrument 2019 No. 37(C.1)

Qualifying Age for Pension Credit (QAPC): The QAPC is the age from which Pensions Credit Guarantee Credit may be claimed. It used to be 60 for both men and women. However, in recent years it has been gradually increased. You now have to be aged 65 or over to qualify for Pension Credit Guarantee Credit.

Welfare Rights Service
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