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Guidance

A1/2019 (revised) HB gateway: Severe Disability Premium and claimants with 3 or more children

Updated 10 July 2019

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Revisions

We apologise for any inconvenience caused but this circular is being reissued with an additional paragraph 7 and heading Regulations.

Who should read

All Housing Benefit staff

Action

For information

Guidance Manual

The information in this circular does not affect the content of the HB Guidance Manual.

Queries

Extra copies of this circular and copies of previous circulars can be found on our Housing Benefit for local authorities: adjudication circulars (<https://www.gov.uk/government/collections/housing-benefit-for-local-authorities-circulars>) page.

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Introduction

1. The announcement on 7 June 2018 by the then Secretary of State for Work and Pensions set out the government's plans to make provision for those claimants who are or were receiving the Severe Disability Premium (SDP) as part of their income-related benefits.
2. Once the regulations become lawful, they will ensure that, from 16 January 2019, existing claimants entitled to an award of an existing benefit that includes the SDP are prevented from naturally migrating to UC following a change of circumstances. In addition, claimants who have a short break in their legacy benefit that received an SDP in the last month, and continue to satisfy the conditions of entitlement to the premium, will be prevented from naturally migrating to UC.
3. These claimants will continue to receive the relevant legacy benefit(s) appropriate to their change of circumstance and will only move to UC via managed migration and will, therefore, at that time be eligible for transitional protection; safeguarding their existing benefit entitlement.
4. However, until these regulations come into force, claimants who have a change of circumstances that would previously have resulted in them making a claim to an existing benefit that Universal Credit (UC) is replacing, in other words, Jobseeker's Allowance (Income Based) (JSA(IB), Employment and Support Allowance (Income Related) (ESA(IR), Income Support (IS), Tax Credits and Housing Benefit (HB), have been legally required to make a new claim to UC.

Background

5. The SDP is an amount paid to severely disabled people as part of the following legacy benefits:
 - JSA(IB)
 - ESA(IR)
 - IS
 - HB
6. These claimants also need to be in receipt of one of the following disability benefits, and live alone (or be classed as living alone) and no one must be in receipt of Carer's Allowance (CA) or the UC Carer Element for caring for them:
 - Disability Living Allowance (DLA) care component at the middle or higher rate
 - Personal Independence Payment (PIP) daily living component at the standard or enhance rate
 - Attendance Allowance or Constant Attendance Allowance
 - Armed Forces Independence Payment (AFIP).
7. If the claimants are in a couple, they get the higher amount of severe disability premium if the claimant and partner are eligible.

8. Claimants who receive a legacy benefit which includes the SDP, will no longer receive SDP or any other premium once they make a claim to UC. These premiums are not payable under UC regulations.

Regulations

9. Amendments have been made to the Universal Credit (Transitional Provisions) regulations to allow for the changes for SDP to be paid by the LA.

10. The Universal Credit (Transitional Provisions) (SDP Gateway) Amendment Regulations 2019 No. 10 (<http://www.legislation.gov.uk/uksi/2019/10/contents/made>) has been published to legislation.

11. No changes have been made to the HB regulations.

HB gateway

12. From the 16 January 2019 any claimants who are entitled and remain entitled to SDP (including those who have had a break in claim but have been entitled within the last month) will remain on their existing legacy benefit or can claim another legacy benefit relevant to their change of circumstance. Where the claimant is no longer entitled to SDP then they would have to contact UC to make a claim (other exceptions permitting – see paragraph 15).

13. Therefore, if a claimant moves to a new local authority (LA) area but they are in receipt of SDP with their HB this change of circumstance will no longer trigger natural migration to UC and they will remain on legacy benefits. From 16 January 2019 this would be a new HB claim as long as the claimant remains entitled to SDP. If the claimant is to remain on legacy benefits, then the transitional payment should not be made. This payment is to help claimant transition from legacy to UC, so would not be appropriate.

Example 1

John is living in Blackpool and in receipt of the HB and ESA(IR) with SDP. He moves house to Liverpool and, therefore, out of the current LA area. Blackpool LA would need to check the Customer Information System (CIS) when closing down the claim to see if John was entitled to SDP. If so, Blackpool LA should not pay the transition to UC housing payment as the claimant will be claiming HB in the new area.

14. See standard SDP rules (<https://www.gov.uk/disability-premiums-income-support>) that apply to a claimant's entitlement. Examples of when a claimant may lose their entitlement to SDP would be, losing entitlement to a qualifying disability benefit, another person claiming Carer's Allowance or forming a new couple.

15. Where a claimant makes a claim for HB, the LA will need to ensure that they meet one or more of the following:

- living in specified accommodation
- living in temporary accommodation

- entitled to SDP
- have 3 or more children (only until 31 January 2019 – see paragraph 34)

16. The LA would also need to check if the claimant is entitled to SDP with another legacy benefit JSA, ESA or IS. This information can be found on CIS within the Award History details for the benefit. SDP will be displayed if it is in payment. The LA will need to ensure that UC is not in payment as if the claimant has migrated across to UC or claimed UC before 16 January 2019 we are not intending to move any of these claimants back to the legacy benefits.

UC hard gateway changes – The process

17. UC are changing the gateway and adding additional questions to prevent relevant claimants applying for UC. We are aware that most claimants do not know they are receiving SDP in their legacy benefit so there will be an 'I don't know' option (with additional guidance) as a claimant goes through their UC claim.

18. Where appropriate the claimant should be signposted to make a legacy benefit claim. Where the claimant makes a claim through the integrated claims process, the LA will continue to receive a Local Authority Input Document (LAID) or Local Authority Claim Information (LACI). Where the claimant has housing costs only they will be signposted directly to the LA.

UC claim made in error as claimant is in receipt of SDP

19. If a claimant does get through the gateway and makes a claim for UC, then a stop notice will be issued to all the legacy benefits in payment where the Interest marker is set in CIS.

20. If the LA receive a HB Stop notification and they confirm that the claimant is entitled to SDP with their HB, the HB claim should not be closed. The LA should complete the MGP1 with the new drop down option for 'Severe Disability Premium in payment – HB not closed' and return this to the email address on the form – see Appendix A.

21. The LA must select SDP where this is in payment before any of the other options on the MGP1 even if they do apply.

22. The LA should then return the MGP1 to the service centre and annotate the email heading to include 'SDP in payment'. Additionally, in the body of the email they should note if the claimant is single or part of a couple. If they are part of a couple they need to include the partner's full name.

23. On receipt of the MGP1 in UC, the agent should check whether there has been any change in the claimant's circumstances which would end their SDP entitlement. For example, they have separated from their partner and claimed UC as a single person. Where the change of circumstance would end entitlement to SDP the UC agent should email the LA to state that the HB claim does need to be closed down.

24. The LA would then need to complete a second MGP1 and return this to the service centre with any overlapping benefit included. This MGP1 should include if the claimant is living in temporary or specified accommodation and that the HB should remain in payment for this alternative reason.

HB closed in error as claimant is in receipt of SDP

25. As from 16 January 2019, once the HB claim has been closed, if it is then established that the claimant is entitled to any other legacy benefit with SDP then the LA will be contacted by the UC SDP team. Even if the claimant has received a UC payment after 16 January 2019, UC should move the claimants back to the legacy benefits. We only expect LAs to reinstate HB where they receive a Reinstatement of HB template for claimants in receipt of SDP' template (Appendix B) from the UC SDP team.

Example 2

An existing claimant entitled to HB and ESA has a change of circumstance so is sign-posted to UC. Stop notices will be issued to both the LA and ESA. The HB claim is then closed. ESA confirm SDP is in payment. Therefore, a Re-instatement of HB template should be sent to the LA to re-open the HB claim.

26. The LA would need to consider the transition to UC housing payment when reinstating the benefits and calculate any over/underpayments that could have occurred.

27. If a claimant has a change of address out of the LA area, then the LA will need to check CIS to see if SDP is in payment with the HB or other legacy benefits. If the claimant is entitled to SDP, then the transition to UC housing payment should not be made. This payment is in place for claimants migrating to UC and not moving to a different LA or legacy benefit.

No SDP entitlement

28. If the LA receives an HB Stop notification and they see that the claimant is not entitled to SDP with their HB, then they should close down the HB claim as per the normal 'business as usual' process instructions. This includes paying the transition to UC housing payment.

29. In the majority of cases the claimant will remain on HB with the SDP entitlement. There will be exceptions but the volumes of these will be minimal.

Data sharing

30. If the claimants make new claims to legacy benefits, then the information will continue to be shared through ATLAS (Automated Transfer to LA Systems).

31. Where the claimant is signposted back to the legacy benefits, if the claimant makes a claim for JSA, ESA or IS with an associated HB claim, then the claim data will come through on either LAID for JSA/IS claimants or LACI for ESA claimants. The LA should only receive a LAID or LACI where the claimant is entitled to SDP.

32. The HB stop notification will be issued and should be actioned as above.

New Burdens consideration

33. New Burdens are being considered and we will update you further about this shortly.

3 or more children

34. From 1 February 2019, the HB gateway for households with 3 or more children will be closed. All new claims should be signposted to UC to make a claim and no longer taken for legacy benefit. Exceptions still apply (see paragraph 15).