Memo ADM 13/15

PENSION FLEXIBILITIES AND UNIVERSAL CREDIT

Contents

INTRODUCTION

1 From 6.4.15 there are a number of changes being introduced to non-state pensions (NSPs) which will allow individuals to access their pension savings more flexibly from age 55. These are generally known as “pension flexibilities” and were announced in the 2014 Budget. Although there are no changes to SS legislation, this memo provides guidance on how this will impact UC claimants and, where applicable, their partners, who have reached the qualifying age for SPC.

BACKGROUND

2 The flexibilities allow an individual to be able to choose what they want to do with their defined contribution fund or money purchase benefits (referred to in this guidance as “pension pot”). If they want to, they could

1. draw out all of the funds in the pension pot

2. purchase an annuity

3. opt for a drawdown arrangement (where lump sums or regular amounts can be drawn down from the pension pot) without any restriction either in the form of a cap or a minimum income amount

4. do nothing and leave the fund untouched.

INCOME AND CAPITAL DRAWDOWNS

3 Whilst a claimant's pension pot is held by the pension provider then the value of the right to that sum falls to be disregarded as capital for the purposes of UC[1]. Under pension flexibilities, there will be greater opportunity to withdraw money from their pension pot. This is known as a drawdown. If the claimant has withdrawn money from their pension pot then a determination has to be made as to how this is to be treated for the purposes of UC.

1 UC Regs, Sch 10, para 10

4 Where a claimant chooses to

1. take ad-hoc withdrawals **or**

2. take the whole sum

then the amount withdrawn falls to be treated as capital. Depending on the claimant's resources, this may result in no change to the claimant's UC entitlement, assumed yield being imposed or disentitlement on capital grounds. The normal rules on the determination of the claimant's capital apply (see ADM Chapter H1).

5 Where a claimant chooses to withdraw amounts on a regular basis then those amounts fall to be treated as income and taken into account as such[1].

1 UC Regs, reg 46 (3)

6 For the purposes of notional income for UC claimants who have reached the qualifying age for SPC (see paragraph 9 of this memo), the claimant's pension pot is required to be re-valued

1. after every drawdown of capital

2. after every drawdown of income which exceeds the applicable notional income amount (see paragraph 11 of this memo) **or**

3. upon the claimant's request.

The ADM at E1071 provides guidance on the qualifying age for SPC.

Example

John is in receipt of UC. His partner, Lisa, who is of SPC qualifying age, has a pension pot of £40,000 which she doesn't wish to access at the moment but might do at a later stage. The decision maker calculates that as an annuity income, this would produce £2,000 per annum or £166.67 per month. This is based on 100% of the rate of annuity that the pension pot would generate (see paragraph 11 of this memo). The figure of £166.67 is taken into account as notional income. Lisa then decides to draw down £8,000 as capital, leaving £32,000 in her pension pot. The decision maker reassesses the notional income figure based on 100% of the rate of annuity that the remaining amount in the pension pot would generate.

ANNUITIES

7 A claimant may choose to use their pension pot to purchase an annuity. Annuities provide a regular income. ADM H5087 provides guidance on the treatment of income from annuities. There is no change to this guidance on the treatment of actual income from annuities.

NOTIONAL CAPITAL

8 Money withdrawn from a pension pot and then spent may lead the DM to consider the notional capital rules[1]. The advent of pension flexibilities does not change the guidance on deprivation of capital for UC purposes. Each case must be considered on its facts. The guidance on the deprivation of capital is in ADM Chapter H1.

1 UC Regs, reg 50(1)

NOTIONAL INCOME

9 Claimants aged 55 or over, but below the qualifying age for SPC, may choose not to access their pension pot, and this will have no effect on their benefit entitlement. The question of potential income being available but not made use of will not arise. However, where there is a joint UC claim and one partner has reached the qualifying age for SPC then there may be the question of notional income to consider in respect of that partner's pension pot.

10 The rules on retirement pension income available upon application (“notional income”) apply to a person who of SPC qualifying age who has a pension pot but does not apply to make use of that income[1]. The ADM at paragraph H5171 et seq provides guidance on notional income.

1 SPC Regs, reg 18 (2)

11 The guidance in the ADM at paragraph H5173 advises that the amount of notional income to be taken in to account is the maximum amount of income that may be withdrawn from the pension pot[1]. From 6.4.15, DMs should take this to mean 100% of the rate of annuity that the pension pot would generate in line with the Government Actuary’s Department (GAD) tables.

1 SPC Regs,reg 18(3)

12 Where the claimant fails to purchase an annuity – and so is subject to notional income - but also withdraws income from their pension pot then the DM should determine how much income is to be taken into account. If the actual income received by the claimant is less than the notional income amount, then the higher notional figure should be taken into account.

13 If, on the other hand, the actual income withdrawn from the pension pot is higher than the notional income figure, then it is the actual income that should be taken into account.

Example

Jason and Sarah are a couple in receipt of UC. Jason, who has reached the qualifying age for SPC, has a pension pot of £50,000 which he doesn’t wish to access at the moment. The DM determines that as an annuity income, this would produce £2,500 per annum or £208.33 a month. This is based on 100% of the rate of annuity that the pension pot would generate. This amount is taken into account as notional income and is deducted from the award of UC as unearned income. Jason then later decides to ask his pension provider to put the £50,000 into a flexi draw down fund and pay him £200 a month. The DM continues to take only the amount of £208.33 a month income into account.

ANNOTATIONS

Please annotate the number of this memo (ADM 13/15) against the following ADM paragraphs:

H1795, H2046, H5171, H5173

CONTACTS

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, 1S25, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in Memo DMG 3/13 - Obtaining legal advice and guidance from DMA Leeds.

DMA Leeds: March 2015