Housing Benefit Circular

Department for Work and Pensions
Caxton House, Tothill Street, London SW1H 9NA

HB A7/2015

ADJUDICATION AND OPERATIONS CIRCULAR

WHO SHOULD READ	All Housing Benefit staff
ACTION	For information
SUBJECT	Pension Flexibilities – Further Guidance

Guidance Manual

The information in this circular does affect the content of the HB Guidance Manual. Please annotate this circular number against: A2 para 2.350; BW1 paras W1.700, W1.180 vii, xxii and xxiii, W1.660; BW2 para W2.500; BP1 paras P1.700, P1.181 xii and xiii, P1.210; BP2 paras P2.11(c), P2.671, P2.684, P2.685 and P2.687.

Queries

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Pension Flexibilities

Background

1. From 6th April 2015, there are a number of changes being introduced to non-state pensions which will allow individuals to access their pension savings from age 55. These are generally known as “pension flexibilities” and were announced in the 2014 Budget. Circular A4/2015 gave notification of these reforms. Although there are no changes to Housing Benefit legislation at this stage, this Circular provides guidance on how pension flexibilities affect Housing Benefit from April.

2. The flexibilities allow an individual to choose what they want to do with their defined contribution fund or money purchase benefits scheme (referred to in this circular as “pension pot”). If they want to they can:

   - draw out all of the pension pot;
   - purchase an annuity;
   - opt for a drawdown arrangement (where lump sums or regular amounts can be drawn down) without any restriction either in the form of a cap or a minimum income amount;
   - do nothing and leave the pension pot untouched.

3. As these are new flexibilities, as part of gathering further information (see Chapter A2 of the HB guidance at Para 2.350) you may wish to clarify with the claimant the position with their pension pot.

Effects on claimants below Pension Credit qualifying age

Income and Capital Drawdowns

4. While a claimant’s pension pot is held by the pension provider, it falls to be disregarded as capital (HB Reg 49(2), Schedule 6 paras 31 & 32) and no notional income is assumed from the pot (HB Reg 42(2)).

5. Under pension flexibilities, there will be greater opportunity to withdraw money from a pension pot. This is known as a drawdown. If the claimant has drawn down money from their pension pot, then a decision has to be made on how it is to be treated.

6. Where a claimant chooses to take ad-hoc withdrawals or take the whole sum; then the money falls to be treated as capital. Depending on the claimant’s resources, this may result in: no change to the claimant’s entitlement; tariff income being imposed or increased; or disentitlement on capital grounds.

7. Where a claimant chooses to draw down amounts on a regular basis, then the money falls to be treated as income and should be taken into account as such.

8. Any amount remaining in the pension pot held by the pension provider following drawdowns should be disregarded as capital, and no notional income should be assumed from the remaining pot (see paragraph 4 above).

Annuities

9. A claimant may choose to use their pension pot to purchase an annuity. Annuities provide a regular income. HB Guidance Manual (BW1, Para W1.660) provides guidance on the treatment of income from annuities. There is no change to this guidance on the treatment of actual income from annuities.

Effects on claimants who are of Pension Credit qualifying age

Notional Income

10. While a claimant's pension pot is held by the pension provider, notional income should be assumed from it.

11. The rules on retirement pension income available upon application apply to claimants who have a pension pot but do not apply to make use of that income (HB (SPC) reg 41(4)).

12. The HB Guidance Manual advises that the amount of notional income to be taken into account is the maximum amount of income that may be withdrawn from the pension pot. From 6th April 2015, you 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) table (HB Guidance Manual, Chapter BP2, paras 2.680 to 2.687).

13. Where rates of annuity are required from pension providers, you should ensure that any request contains the requirement for the 100% rate of the annuity.

Income and Capital Drawdowns

14. Under pension flexibilities, there will be greater opportunity to withdraw money from a pension pot. This is known as a drawdown. If the claimant draws down money from their pension pot, then a decision has to be made on how it is to be treated.

15. Where a claimant chooses to take ad-hoc withdrawals or take the whole sum; then the money falls to be treated as capital. Depending on the claimant's resources, this may result in: no change to the claimant's entitlement; tariff income being imposed; or disentitlement on capital grounds.

16. Where a claimant chooses to draw down amounts on a regular basis and/or purchases an annuity with it, then the money falls to be treated as income and taken into account as such.

17. Where the pension pot is held by the provider and notional income is assumed, **but** the claimant also draws down income from their pension pot, then you should decide 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 (ie. the notional) figure should be taken into account, and vice versa.

18. For the purposes of notional income, the claimant's pension pot should be re-valued after:

    - every drawdown of capital;
    - every drawdown of income which exceeds the notional income amount; or
    - upon the claimant's request.

    Examples are provided in Appendix A.

Deprivation rules: working age and Pension Credit qualifying age

19. These should continue to be applied as they are currently, so that where there is evidence that someone has taken action to deprive themselves of income or capital with the intention of securing or increasing benefit, notional income or capital should be taken into account, as appropriate.

20. Money drawn down from a pension pot and then spent may lead you to consider the notional capital rules. The advent of pension flexibilities does not change the guidance on deprivation. Each case must be considered on its facts. The guidance on the deprivation of capital is in Chapter BW1 para W1.700 and onwards, and Chapter BP1 para P1.700 and onwards.

Further information

21. Further information can be found at:

    www.gov.uk/government/publications/pension-flexibilities-and-dwp-benefits

Appendix A

Revaluation following draw down: examples

Example 1

John is in receipt of HB only. He has a pension pot of £40,000 which he 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 £38.46 per week. This is based on 100% of the rate of annuity that the pension pot would generate. This amount is taken into account as a notional income in the HB assessment. John then decides to draw down £8,000 as capital, leaving £32,000 in his pension pot. As this is a drawdown of capital, 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.

Example 2

Jason and Sarah are a couple in receipt of HB only. Jason has a pension pot of £50,000 which he 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 £2,500 per annum or £48.07 per week. This is based on 100% of the rate of annuity that the pension pot would generate. This amount is taken into account as a notional income in the HB assessment.

Jason and Sarah then later decide buy an annuity with the pension pot. This yields actual income of £50 per week. The decision maker now decides that the amount of income to take into account each week is £50. There is no notional amount to take into account.