

Chapter D3: Deductions from benefit in respect of FRM & CMD UC, JSA & ESA

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Chapter D3: Deductions from benefit in respect of FRM & CMD UC, JSA & ESA

Introduction

D3001 Guidance within this section deals with deductions made under the 2003 scheme and the 2012 scheme.

D3002 Deductions from a specified benefit under the 2003 scheme are referred to as a FRM deduction.

D3003 Deductions from a specified benefit under the 2012 scheme are referred to as a CMD.

D3004

Definitions

Meaning of Fee

D3005 Fee¹ means any collection fee under specified legislation² which is payable by the NRP.

1 UC, PIP, JSA & ESA (C&P) Regs, Sch 7, para 1; 2 Child Support Fees Regulations 2014, part 3

Meaning of Beneficiary

D3006 Beneficiary¹ means a person who has been awarded a specified benefit.

1 UC, PIP, JSA & ESA (C&P) Regs, Sch 7, para 1

Meaning of Maintenance

D3007 Maintenance, with the exception of D3020 to D3023, means¹ child support maintenance which a NRP is liable to pay at a flat rate (or would be so liable but for a variation having been agreed to), and that rate applies (or would have applied) because the NRP falls within specified legislation².

1 UC, PIP, JSA & ESA (C&P) Regs, Sch 7, para 1; 2 CS Act 91, Sch 1, para 4(1)(b), 4(1)(c) or 4(2), Child Support, Pensions and Social Security Act 2000, s 29(3)(A)

Meaning of non-resident parent

D3008 Non-resident parent¹ means

1. that parent which is not living in the same household with the child **and**
2. the child has his home with a person who is, in relation to him, a person with care.

1 CS Act 91, s 3(2)

Meaning of Person with Care

D3009 A person is a person with care¹ as defined within specified legislation².

1 UC, PIP, JSA & ESA (C&P) Regs, Sch 7, para 2(5); 2 CS Act 91, s 3

Meaning of specified benefit

D3010 Specified benefit¹ means

1. UC **or**
2. new style JSA (hereafter referred to as JSA) **or**
3. new style ESA.(hereafter referred to as ESA)

Note 1: ADM chapter M1 contains guidance on the meaning of new style JSA and new style ESA.

Note 2: The term specified benefit has a different meaning under this section to the CTM scheme detailed in D2225 et seq.

1 UC, PIP, JSA & ESA (C&P) Regs, Sch 7, para 1

Deductions from specified benefit

D3011 The CMS will decide under which scheme the child maintenance liability is to be assessed.

D3012 Where the CMS DM determines that the NRP is liable for a CMD, the CMS DM will also determine whether that deduction is at a standard or non-standard rate.

D3013 Requests for FRM deductions or CMD and any fee will be sent

1. electronically, to the relevant DWP IT system, **or**
2. manually, to the relevant DWP benefit centre.

The request may be on behalf of a NRP who is in receipt of a specified benefit, or is the partner of a claimant who is in receipt of a specified benefit, and paid to the PWC¹.

Note 1: From 11.8.14, any collection fee payable by a NRP may be deducted and retained in discharge of the NRP's liability to pay that fee.

Note 2: Charging of any collection fee will only apply to new applications made under the 2012 scheme.

1 UC, PIP, JSA & ESA (C&P) Regs, Sch 7, para 2(1)

D3014 A deduction for maintenance and any fee may only be made from one specified benefit in respect of the same period¹.

1 UC, PIP, JSA & ESA (C&P) Regs, Sch 7, para 2(2)

D3015

Amount of specified benefit to be left after a deduction of FRM or CMD

D3016 No amount may be deducted from the claimant's award of ESA or JSA, if it would reduce the amount of benefit payable to the claimant to less than 10 pence¹.

1 UC, PIP, JSA & ESA (C&P) Regs, Sch 7, para 2(3)

D3017 No amount may be deducted from any UC awarded to the claimant, if it would reduce the amount payable to the claimant to less than 1 penny¹.

1 UC, PIP, JSA & ESA (C&P) Regs, Sch 7, para 2(4)

D3018 – D3019

Arrears

D3020 No deduction will be made for arrears of child maintenance under the 2012 scheme.

D3021 Except where UC is awarded to the beneficiary, a FRM deduction of £1.20 per week may be made from ESA or JSA which the beneficiary has been awarded, and subject to D3022, paid to the PWC, to discharge the beneficiary's liability to pay arrears of maintenance. Any amount deducted in respect of a fee may be retained in discharge of any liability to pay that fee¹.

1 UC, PIP, JSA & ESA (C&P) Regs, Sch 7, para 3(1)

D3022 Where deductions are made under D3021, the deductions may be retained by the Secretary of State¹ in circumstances set out in specified legislation².

1 UC, PIP, JSA & ESA (C&P) Regs, Sch 7, para 3(2);

2 CS (Arrears, Interest, and Adjustment of Maintenance Assessments) Regs 92, reg 8

D3023 Within D3021, the meaning of maintenance¹ is periodical payments of CSM which are required to be paid in accordance with a maintenance calculation, as defined within specified legislation².

1 UC, PIP, JSA & ESA (C&P) Regs, Sch 7, para 3(3); 2 CS Act 91, s 3(6)

D3024 – D3026

Apportionment

D3027 Where maintenance is payable to more than one PWC¹, the amount deducted in respect of maintenance must be apportioned between the persons with care in accordance with specified legislation².

1 UC, PIP, JSA & ESA (C&P) Regs, Sch 7, para 4; 2 CS Act 91, Sch 1, paras 6, 7 & 8

D3028

Claimant and partner liable to pay maintenance

FRM deductions

D3029 An FRM deduction applies where the beneficiary and that person's partner are each liable to pay maintenance at a flat rate under the 2003 scheme, and either of them has been awarded UC, whether as a single claimant or as joint claimants¹.

1 UC, PIP, JSA & ESA (C&P) Regs, Sch 7, para 5(1)

D3030 An amount not exceeding an amount equal to the flat rate of maintenance may be deducted¹ from such an award in respect of the total liability of both partners to pay maintenance in the proportions described in specified legislation², and must be paid to discharge the respective liabilities to pay maintenance.

1 UC, PIP, JSA & ESA (C&P) Regs, Sch 7, para 5(2); 2 CS (MCSC) Regs, reg 4(3), CSMC Regs, reg 44(3)

D3031

CMD

D3032 An amount not exceeding an amount equal to the flat rate of maintenance and any fee may be deducted¹ from such an award in respect of the total liability of both partners to pay maintenance and any fee in the proportions described in specified legislation², and must be paid to discharge the respective liabilities to pay maintenance.

1 UC, PIP, JSA & ESA (C&P) Regs, Sch 7, para 5(2); 2 CS (MCSC) Regs, reg 4(3), CSMC Regs, reg 44(3)

D3033 In a case where the claimant **and** their partner are

1. both NRPs **and**
2. in receipt of a specified benefit **and**
3. both liable for a standard or non-standard rate of CMD and any fee

the total sum of the deduction for each NRP must not exceed the flat rate of maintenance and any fee¹.

Note 1: Where UC is awarded and the claimant and partner are both liable to pay a standard rate of maintenance, one deduction of £30.33 per month will be taken from the award of UC. CMG will then apportion that deduction between the persons with care³.

Note 2: the amount of any fee may be retained in discharge of any liability to pay that fee.

1 UC, PIP, JSA & ESA (C&P) Regs, Sch 7, para 5(2); CSMC Regs, reg 44(3); CS (MCSC) Regs, reg 6;

3 UC, PIP, JSA & ESA (C&P) Regs, Sch 7, para 4

D3034 In a case where the claimant and their partner are both NRPs, there could be a mix of CMDs at a standard and non-standard rate of deductions.

Claimant or partner liable to pay maintenance

CMD

D3035 In the case where the claimant **or** their partner is

1. a NRP **and**
2. in receipt of a specified benefit **and**
3. liable for a standard or non-standard rate of CMD and any fee

the amount of the standard rate deduction is £7.00 per week (£30.33 per month) and the non-standard rate deduction is any amount up to and including £6.99 per week (£30.29 per month). The amount of any fee may be retained in discharge of any liability to pay that fee¹.

1 UC, PIP, JSA & ESA (C&P) Regs, Sch 7, para 2(1); CS Act 91, Sch 1, part 1, para 4(1)

D3036 – D3040

Priority of deductions

D3041 FRM deductions and CMD are not subject to being Third Party Deductions (TPD). However they are included within the list showing the priority order for certain types of debt (D2043 **8.**). Therefore, where there is more than one deduction being made and there is insufficient UC in payment or all of the deductions, were they to be made would exceed the maximum 40% deduction rate, the priority order¹ listed at D2043 should be followed.

1 UC, PIP, JSA & ESA (C&P) Regs, Sch 6, para 4

Notice

D3042 When FRM or CMD deductions commence, the DM must notify the beneficiary in writing of the amount and frequency of the deduction and the benefit from which the deduction is made. Further notice must be given when there is a change to any of the particulars specified in the notice¹.

1 UC, PIP, JSA & ESA (C&P) Regs, Sch 7, para 6

Prevention of duplicate deductions

D3043 Where a deduction from benefit applies under specified legislation¹, no deduction from benefit will be made under alternative specified legislation² unless the amount of

1. new style ESA **or**
2. new style JSA **or**
3. UC

Is insufficient to meet the deduction (see DMG 33609 (IS/JSA(IB)), DMG 46421 (ESA(IR)), DMG 79895 (SPC)).

1 UC, PIP, JSA & ESA (C&P) Regs, Sch 7, para 5; 2 SS (C&P) Regs, Sch 9B, paras 5 & 6

D3044 – D3999

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