

## INFECTED BLOOD AND THALIDOMIDE REGULATIONS

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### INTRODUCTION

- 1 This memo provides guidance on the Social Security (Infected Blood and Thalidomide) Regulations 2017 ([SI 2017/870](#)) which come into force on 23.10.17<sup>1</sup>.

*1 The Social Security (Infected Blood and Thalidomide) Regulations 2017*

### BACKGROUND

- 2 In the UK five payment schemes have provided financial support to people infected with HIV and/or hepatitis C as a result of contaminated NHS blood or blood products. These schemes are run by: The Eileen Trust, The Macfarlane Trust, MFET Ltd, The Skipton Fund and The Caxton Foundation.
- 3 Payments from these schemes are fully disregarded in certain circumstances for the purposes of calculating awards of income-related legacy benefits. Entitlement to contributory benefits is not affected by such payments.
- 4 The Thalidomide Health Grant is administered on behalf of the DH by the Thalidomide Trust (TT) for the purpose of giving relief and assistance to disabled people whose disabilities were caused by their mothers having taken the drug known as Thalidomide during pregnancy.

## NEW INFECTED BLOOD SCHEMES AND TT PAYMENTS

- 5 The Scottish Infected Blood Support Scheme replaced the schemes in paragraph 2 from 1.4.17 ([SI 2017/329](#)) in Scotland.
- 6 Equivalent Infected Blood Schemes (IBS) for England, Wales and Northern Ireland will now replace those schemes from 2.10.17. No payments will be made from these new schemes until 23.10.17.
- 7 These regulations ensure that payments made:
1. under or by certain schemes or trusts established for the purpose of providing compensation to those who have been infected from contaminated blood products, **or**
  2. under or by certain trusts established for the purpose of giving relief and assistance to disabled people whose disabilities were caused by the fact that during pregnancy their mother had taken the drug known as Thalidomide **and**
  3. approved by the Secretary of State for such purposes

are disregarded for the purposes of calculating awards of income-related legacy benefits in certain circumstances. The IBS specified in paragraph 5 and payments from the TT in paragraph 4 have been approved by the Secretary of State for these purposes.

- 8 In addition, a person who receives a payment from IBS is added to the definition of a qualifying person<sup>1</sup> (see DMG 28471, 29465, 51363, 52465 and 84490).

*1 IS (Gen) Regs, reg 2(1), JSA Regs, reg 1(3), ESA Regs, reg 2(1), SPC Regs, reg 1(2)*

## EFFECT ON INCOME

- 9 Fully disregard<sup>1</sup>
1. any income from IBS in IS, JSA(IB) and ESA(IR) **and**
  2. any income from capital that was received from IBS in IS, JSA(IB), ESA(IR) and SPC.

*1 IS (Gen) Regs, Sch 9, para 39(1) & 39(7), JSA Regs, Sch 7, para 41(1), ESA Regs, Sch 8, para 41(1), SPC Regs, Sch V, para 15(1)*

**Note:** IBS is not a prescribed income for SPC.

10 Payments from IBS are also disregarded for the following purposes:

1. Income in Kind<sup>1</sup>
2. Payments to a Third Party in respect of a claimant or their partner<sup>2</sup>
3. Non-dependants gross weekly income for the purposes of calculating deductions for allowable housing costs<sup>3</sup>

*1 IS (Gen) Regs, Sch 9, para 21(2), JSA Regs, Sch 7, para 22(2), ESA Regs, Sch 8, para 22(2); 2 IS (Gen) Regs, reg 42(4ZA)(a), JSA Regs, reg 105(10A)(a), ESA Regs, reg 107(5)(a); 3 IS (Gen) Regs, Sch 3, para 18(8)(b), JSA Regs, Sch 2, para 17(8)(b), ESA Regs, Sch 6, para 19(8)(b), SPC Regs, Sch II, para 14(8)(b)*

11 Payment(s) from the TT are also disregarded for 10 **3.** above<sup>1</sup>.

See DMG Chapters 23, 28, 44, 51, 77/78 and 85 for more details.

*1 IS (Gen) Reg, Sch 3, para 18(8)(d), JSA Regs, Sch 2, para 17(8)(d), ESA Regs, Sch 6, para 19(8)(d), SPC Regs, Sch II, para 14(8)(d)*

## **EFFECT ON CAPITAL**

12 For

1. IS, JSA & ESA, any one off payment of capital<sup>1</sup> **or**
2. SPC, any one off payment of capital<sup>2</sup>

made from IBS and TT is disregarded indefinitely.

*1 IS (Gen) Regs, reg 48(10)(c), Sch 10, para 22(1), (7) & 73; JSA Regs, reg 110(10)(c), Sch 8, para 27(1) & 66; ESA Regs, reg 112(8), Sch 9, para 27(1) & (7) & 61; 2 SPC Regs, Sch 5, para 15(1) & (7) & 23F*

13 For IS, JSA & ESA, any payment in kind<sup>1</sup> made from IBS is disregarded indefinitely.

*1 IS (Gen) Regs, Sch 10, para 29, JSA Regs, Sch 8, para 31, ESA Regs, Sch 9, para 31*

## **Notional capital**

14 For IS, JSA & ESA, capital paid

1. to a third party for the claimant or their partner **or**
2. to the claimant or their partner for a third party

is **not** to be treated as notional capital where the payment is made under IBS<sup>1</sup>.

See DMG Chapters 29, 52 and 84 for more details.

*1 IS (Gen) Regs, reg 51(3A)(a); JSA Regs, reg 113(3A)(a); ESA Regs, reg 115(5)(a)*

## **ANNOTATIONS**

Please annotate the number of this memo (DMG 20/17) against DMG paragraphs:

23775, 28350, 28419, 28450, 28468, 28471, 28477, 28479, 28515, 28670, 28681, 29418, 29450, 29861, 29862, 44611, 51210, 51299, 51341, 51360, 51363, 51384, 51418, 51598, 51606, 52418, 52450, 52729, 52861, 52862, 78524, 84475, 85370

## **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 03/13](#) - Obtaining legal advice and guidance on the Law.

**DMA Leeds: September 2017**

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