

Department for Work and Pensions

DECISION MAKING AND APPEALS

Decision Makers Guide

Volume 5 Amendment 52 – October 2017

1. This letter provides details on Amendment 52; the changes have already been incorporated in to the Intranet and Internet versions of the DMG.
2. PDF amendment packages are also available. These can be printed with the amended pages being reproduced in full. Each page will contain the amendment number in the footer

PDF amendment packages can be found on the **Intranet** at:

<http://intranet/1/lg/acileeds/guidance/decision%20makers%20guide/index.asp>

or on the **Internet** at the 'Amdt Packages' tab on the following link:

<http://www.dwp.gov.uk/publications/specialist-guides/decision-makers-guide/>

Note: When printing PDF packages set the print properties to Duplex/Long Edge in order to produce double sided prints.

3. Amendment 52 affects chapter 28; The changes make amendments to
 - Para 28124 – minor amendment
 - Para 28286 – minor amendment
 - Paras 28350, 28419, 28468-28529, 28670, 28681 – incorporation of DMG memo 14/17
4. The last two amendment packages amending Volume 5 were
Amendment 51 [June 2017]

Amendment 50 [February 2017]
5. Using a PDF amendment package remove the sheets as stated in the left hand column of the Remove and Insert table below and insert the new sheets as stated in the right hand column (note the record of amendments at the back of the Volume).

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Abbreviations

AA	Attendance Allowance paid under s 64 of the SS (CB) Act 92
"AA"	Attendance Allowance as defined in IS (Gen) Regs, reg 2(1) or JSA, reg 1(3)
ADC	Actual Date of Confinement
ADF	Adviser Discretion Fund
ADI	Adult Dependency Increase
AFIP	Armed Forces Independence Payment
AIP	Assessed Income Period
AMG	Appropriate Minimum Guarantee
AP	Additional Pension
APP	Adoption Pay Period
Art	Article
ASE	Actively seeking employment
AT	Appeal Tribunal
AWT	All Work Test
BA	Bereavement Allowance
BACS	Bankers Automated Clearing System
BB	Bereavement Benefits
BL	Board and Lodging
BP	Basic Pension/Bereavement Premium
BPT	Bereavement Payment
BSP	Bereavement support payments
BTEC	Business and Technology Education Council
BWC	Benefit Week Commencing
BWE	Benefit Week Ending
CA	Carer's Allowance
CAA	Constant Attendance Allowance
Cat	Category
CB	Contributory Benefit
CC	Community Charge
CDI	Child Dependency Increase
CECSC	Council of European Social Charter
CHB	Child Benefit
CHB(LP)	Child Benefit for Lone Parents
CJEU	Court of Justice of the European Union
CMB	Child Maintenance Bonus
CMP	Child Maintenance Premium
CP	Carer Premium
CPen	Civil Penalty
CSM	Child Support Maintenance

CT	Council Tax
CTA	Common Travel Area
CTB	Council Tax Benefit
CTC	Child Tax Credit
CTF	Community Task Force
CTM	Contribution to Maintenance
CWP	Cold Weather Payment
CwP	Community work Placements
DCP	Disabled Child Premium
DCT	Direct Credit Transfer
DH	Department of Health
Dis G	Disablement Gratuity
Dis P	Disablement Pension
DLA	Disability Living Allowance
DM	Decision Maker
DMA	Decision Making and Appeals
DMG	Decision Makers Guide
DO	District Office
DP	Disability premium
DPTC	Disabled Persons Tax Credit
DWA	Disability Working Allowance
DWP	Department for Work and Pensions
EC	European Community
ECHR	European convention for the Protection of Human Rights and Fundamental Freedoms
ECJ	European Court of Justice
ECSMA	European Convention on Social & Medical Assistance
EctHR	European Court of Human Rights
EDP	Enhanced Disability Premium
EEA	European Economic Area
EFC	Earnings factor credits
EFTA	European Free Trade Association
ELDS	Eligible loan deduction scheme
Emp O	Employment Officer
EO	Employment Option of New Deal for young people
EO(E)	Employed Employment Option
EO(S/E)	Self-Employed Employment Option of the New Deal for young people
EPP	Enhanced Pensioner Premium
ERC	Employment Rehabilitation Centre

ERA	Employment Retention and Advancement
ESA	Employment and Support Allowance
ESA(Cont)	Employment and Support Allowance (contributory allowance)
ESA(IR)	Employment and Support Allowance (income-related allowance)
ESA(Y)	Employment and Support Allowance for those with limited capability for work in youth
ESDA	Exceptionally Severe Disablement Allowance
ET	Employment Training
ETFO	Environment Task Force Option of New Deal for young people
EU	European Union
EWC	Expected Week of Confinement
EZ	Employment Zone
FamC	Family Credit
FAS	Financial Assistance Scheme
FND	Flexible New Deal
FP	Family Premium
FP(LP)	Family Premium (Lone Parent Rate)
FRIY	Flat Rate Introduction Year
FRM	Flat Rate Maintenance
F/T	Full-Time
FTE	Full-Time Education
FTET	Full-Time Education and Training Option
FtT	First-tier Tribunal
GA	Guardian's Allowance
GB	Great Britain
GC	Guarantee Credit
GCE	General Certificate of Education
GCSE	General Certificate of Secondary Education
GMP	Guaranteed Minimum Pension
GNVQ	General National Vocational Qualification
GP	General Practitioner
GPoW	Genuine Prospect of Work
GRB	Graduated Retirement Benefit
GRC	Gender Recognition Certificate
GRP	Gender Recognition Panel
HA	Health Authority
HB	Housing Benefit
HBS	Housing Benefit Supplement
HCP	Health care professional
HWC	Health and Work Conversation

Hep C	Hepatitis C
HIV	Human Immunodeficiency Virus
HM	Her Majesty
HMF	Her Majesty's Forces
HMRC	Her Majesty's Revenue and Customs
HO	Home Office
HPP	Higher Pensioner Premium
HRP	Home Responsibilities Protection
IA	Industrial Accident
IAP	Intensive Activity Period for those aged 25 and over and under 50
IAP for 50+	Intensive Activity Period for those aged 50 or over
IB	Incapacity Benefit
IBLT	Long-term Incapacity Benefit
IBS	Infected Blood Schemes
IBST	Short-term Incapacity Benefit
IBST(H)	Higher rate of short-term Incapacity Benefit
IBST(L)	Lower rate of short-term Incapacity Benefit
IB(Y)	Incapacity Benefit for those incapacitated in youth
IC	Intermittent Custody
IDB	Industrial Death Benefit
IFM	Immediate Family Member
IfW	Incapacity for Work
II	Industrial Injury(ies)
IIDB	Industrial Injuries Disablement Benefit
Incs	Increments (of Retirement Pension)
IND	Immigration and Nationality Department
IPC	International Pension Centre
IPPIW	Immediate Past Period of Incapacity for Work
IS	Income Support
IT	Industrial Tribunal (now Employment Tribunal)
IVA	Invalidity Allowance
IVB	Invalidity Benefit
IVP	Invalidity Pension
IVS	Invalid Vehicle Scheme
JSA	Jobseeker's Allowance
JSA 18-21 Pilot Scheme	Jobseeker's Allowance 18-21 Work Skills Pilot Scheme
JSA(Cont)	Contribution based JSA
JSAg	Jobseeker's Agreement
JSA(IB)	Income based JSA
JSD	Jobseeker's Direction

JSP	Jobseeking Period
LA	Local Authority
LCW	Limited capability for work
LCWA	Limited capability for work assessment
LCWRA	Limited capability for work related activity
LEA	Local Education Authority
LEC	Local Enterprise Council
LEL	Lower Earnings Limit
LETS	Local Exchange Trading System
LPP	Lone Parent Premium
LPRO	Lone Parent run-on
LQPM	Legally Qualified Panel Member
LRP	Liable Relative Payment
LSC	Learning and Skills Council
LT	Linking Term
LTACP	Living Together as Civil Partners
LTAMC	Living Together as Married Couple
LTAHAW	Living Together as Husband And Wife
MA	Maternity Allowance
MAP	Maternity Allowance Period
MB	Maternity Benefit
MG	Maternity Grant
MID	Mortgage Interest Direct
MIRO	Mortgage Interest run-on
MP	Member of Parliament
MPP	Maternity Pay Period
MSC	Maximum Savings Credit
MSP	Member of the Scottish Parliament
NASS	National Asylum Support Service
NCET	National Council for Education and Training
NCIP	Non-Contributory Invalidity Pension
ND	New Deal
NDLP	New Deal for Lone Parents
NDP	New Deal for Partners
NDYP	New Deal for Young People
ND18-24	New Deal for 18-24 year olds
ND25+	New Deal for claimants aged 25 years and over
NHS	National Health Service
NI	National Insurance
NINO	National Insurance Number

NMW	National Minimum Wage
NRP	Non-Resident Parent
NVQ	National Vocational Qualification
OOT	Own Occupation Test
OPB	One Parent Benefit
PA	Personal Adviser
PAYE	Pay As You Earn
PB and MDB	Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefits scheme
PCA	Personal Capability Assessment
PD	Prescribed Disease
PETA	Personal Expenses Transitional Addition
PFA	Person(s) From Abroad
PIE	Period of Interruption of Employment
PILON	Pay In Lieu Of Notice
PILOR	Pay In Lieu Of Remuneration
PIP	Personal Independence Payment
PIW	Period of Incapacity for Work
PLCW	Period of limited capability for work
PLCWA	Period of limited capability for work assessment
PO	Post Office
POAOB	Payment on Account of Benefit
POA	Power of Attorney
PP	Pensioner Premium
PR	Preserved Right
PSIC	Person Subject to Immigration Control
P/T	Part-Time
PW	Pay-Week
“PW”	Permitted work as defined in ESA Regs, reg 45(4)
PWC	Person With Care
PWHL	Permitted Work Higher Limit
PWHLs	Permitted Work Higher Limit subsequent period
PWK	Permitted Work
PWLL	Permitted Work Lower Limit
PWP	Permitted Work Period
QB	Qualifying Benefit
QBP	Qualifying Benefit or Pension
QD	Qualifying Days
QEF	Qualifying earnings factor
QI	Qualifying Income

QP	Qualifying Period
QRW	Qualifying remunerative work
QW	Qualifying Week
QWfl	Quarterly Work-focused interview
RA	Retirement Allowance
RBD	Reduced Benefit Direction
RCH	Residential Care Home
REA	Reduced Earnings Allowance
Reg(s)	Regulation(s)
Res A	Residential Allowance
RISWR	Redundant Iron and Steel Employees re-adaptation scheme
RMPS	Redundant Mineworkers Payment scheme
RP	Retirement Pension
RQC	Relevant Qualifying Condition
RVU	Relationship Validation Unit
S	Section (of an Act)
S2P	State Second Pension
SAP	Shared Additional Pension
SAYE	Save As You Earn
SB	Sickness Benefit
SC	Savings Credit
Sch	Schedule (as in an Act)
SCT	Savings Credit Threshold
SDA	Severe Disablement Allowance
SDM	Sector Decision Maker
SDP	Severe Disability Premium
S/E	Self-Employed
Sec	Section (of an Act)
SED	Scottish Education Department
SERPS	State Earnings Related Pension Scheme
Sev DP	Severely Disabled Person
SF	Social Fund
SFFP	Social Fund Funeral Payment(s)
SFO	Social Fund Officer
SHA	Special Hardship Allowance
SI	Statutory Instrument
SIR	Standard Interest Rate
SJP	Supervised Jobsearch Pilot Scheme
SMG	Standard Minimum Guarantee
SMP	Statutory Maternity Pay
SP	State Pensions

SPC	State Pension Credit
SpTA	Special Transitional Addition
SPW	Supported Permitted Work
SRPS	Shipbuilding Redundancy Payment Scheme
SS	Social Security
SS benefits	Benefits payable under SS(CB) Act 92
SSMG	Sure Start Maternity Grant
SSP	Statutory Sick Pay
STCP	Skills Training Conditionality Pilot
Supp B	Supplementary Benefit
SVQ	Scottish Vocational Qualification
TA	Transitional Addition
TAW	Temporary Allowance for Widow(ers)
TBI	Total Benefit Income
TD	Trade Dispute
TE	Transitional Element
TEC	Training and Enterprise Council
TFEU	Treaty on the Functioning of the European Union
TS	Tribunals Service
TT	Thalidomide Trust
TU	Trade Union
UB	Unemployment Benefit
UC	Universal Credit
UCP	Urgent Case Payment
UEL	Upper Earnings Limit
UK	United Kingdom
US	Unemployability Supplement
UT	Upper Tribunal
VAT	Value Added Tax
VSO	Voluntary Sector Option of New Deal for young people
WA	Widow's Allowance
WB	Widow's Benefit
WBLA	Work Based Learning for Adults
WBLfYP	Work Based Learning for Young People
WBTfA	Work Based Training for Adults
WBTfYP	Work Based Training for Young People
WC	Workmen's Compensation
WC(S)	The Workmen's Compensation (Supplementation) Scheme
WC (Supp)	Workmen's Compensation (supplementation) scheme

WCA	Work capability assessment
WDisP	War Disablement Pension
WFHRA	Work focused health related assessment
Wfl	Work-focused Interview
WFP	Winter Fuel Payment
WFTC	Working Families Tax Credit
WMA	Widowed Mother's Allowance
WMA(C)	WMA payable where late husband entitled to Cat C retirement pension
WP	Widow's Pension
Wp	Work programme
WPA	Widowed Parent's Allowance
WP(C)	Widow's Pension payable where late husband entitled to Cat C retirement Pension
WPT	Widow's Payment
WRAC	Work-related activity component
WRAG	Work-related activity group
WTB	Work and training beneficiary(ies)
WTC	Working Tax Credit
WtWB	Welfare to Work Beneficiary
WWP	War Widow's Pension/War Widower's Pension
YT	Youth Training

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Income tax refunds

28121 Income tax refunds shall be taken fully into account as income if

1. in JSA cases, a member of the family **or**
 2. in IS cases, the claimant or a member of the family
- is involved in a TD¹.

1 JSA Regs, reg 110(2); IS (Gen) Regs, reg 48(2)

28122 In IS cases only, income tax refunds should be taken fully into account as income during the 15 days following the end of a TD¹, when IS continues in payment despite the claimant being back at work.

1 IS (Gen) Regs, reg 41(4)

28123 Refunds of Schedule D or E income tax payments should be treated as capital if the claimant or members of the family are not involved in a TD. DMG Chapter 32 gives full guidance on when income tax refunds should be taken into account as income because of a TD.

Income from certain disregarded capital

28124 Generally income from capital is not treated as income but as capital and goes towards increasing the amount of a claimant's capital. DMs should, however, take into account, subject to any appropriate income disregards, income derived from the following types of capital for as long as the value of the capital is disregarded¹

1. trusts set up from money paid because of a personal injury while disregarded (see DMG 28498, 28513, and DMG Chapter 29)
2. assets of a business partly or wholly owned by the claimant while disregarded (see DMG Chapter 29)
3. the dwelling occupied as the home while disregarded - (see DMG Chapter 29) (but not income from boarders or sub-lets which is partially disregarded).

1 JSA Regs, Sch 7, para 23; IS (Gen) Regs, Sch 9, para 22

28125 - 28149

Payments for care home, Abbeyfield Home or independent hospital charges

Introduction

28281 DMG 28282 - 28305 gives guidance on the treatment of payments of income towards accommodation charges for

1. a care home **or**
2. an Abbeyfield Home **or**
3. an independent hospital.

28282 The treatment of the income depends on

1. the type of payment
2. whether the LA has sponsored the claimant in their accommodation.

Care homes and independent hospitals

28283 In England and Wales a care home means¹ a home, other than a hospital, an independent clinic or children's home, which provides accommodation along with nursing or personal care for persons who

1. are or have been ill including mental illness **or**
2. are disabled or infirm **or**
3. are or have been dependent on alcohol and drugs.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); Care Standards Act 2000, s 3

28284 In Scotland a care home means¹ a home care service which provides accommodation along with nursing, personal care or personal support but does not include

1. hospitals
2. schools
3. independent health care services.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); Public Services Reform (Scotland) Act 2010, Sch 12, para 2

28285 An independent hospital means¹ in

1. England, a hospital that is not a health service hospital as defined in legislation² **or**
2. Wales, a hospital which is not a health service hospital as defined in legislation³ **or**
3. Scotland, an independent healthcare service as defined in legislation⁴.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); 2 National Health Service Act 2006, s 275;

3 Care Standards Act 2000, s 2; 4 NHS (Scot) Act 78, s 10F(1)(a) & (b)

Types of payment

28286 The payments for accommodation may be

1. charitable or voluntary (see DMG 28492 et seq) **or**
2. other payments.

The DM should decide what type of payment is being made.

28287 - 28302

Payments to claimants not in Local Authority sponsored accommodation

28303 This disregard applies where a claimant is residing in

1. a care home, Abbeyfield Home, or independent hospital **and**
2. accommodation that has not been provided by an LA under certain legislation¹.

Note: This disregard does not apply to charitable or voluntary payments which are fully disregarded - see DMG 28513.

1 NA Act 48, s 26; SW (Scot) Act 68, s 59

28304 The DM should disregard from any payment intended and used for accommodation charges the difference between the

1. claimant's applicable amount **and**
2. actual charge made by the home or hospital¹.

1 JSA Regs, Sch 7, para 32; IS (Gen) Regs, Sch 9, para 30A

Example

Andrew receives IS. He lives in an independent hospital which provides treatment for drug and alcohol dependency. The LA are not sponsoring Andrew under National Assistance legislation. The weekly charge for the hospital is £300. Andrew receives a payment of £250 a week from a Trust Fund towards his accommodation charges.

The DM calculated Andrew's applicable amount as follows

personal allowance	£54.65
DP	£23.30
	£77.95

The difference between £77.95 and the charge by the hospital is the amount of the disregard.

Income fully disregarded

Types of income fully disregarded

[See DMG Memo IS/JSA 64] [\[See memo DMG 20/17\]](#)

28350 The following incomes should be fully disregarded when calculating income for IS and JSA(IB)

1. any payment from and/or some payments from money that originally came from
 - 1.1 the Macfarlane Trust
 - 1.2 the Macfarlane (Special Payments) Trust
 - 1.3 the Macfarlane (Special Payments) (No. 2) Trust
 - 1.4 the Independent Living Fund (2006) – see note at 28351.
 - 1.5 the Fund
 - 1.6 the Eileen Trust
 - 1.7 the Skipton Fund
 - 1.8 MFET Limited
 - 1.9 the Caxton Foundation
 - 1.10 the Scottish Infected Blood Support Scheme (SIBSS)
 - 1.11 the London Emergencies Trust (LET)
 - 1.12 the We Love Manchester Emergency Fund (WLMEF)
2. any payment for a reduction of CT
3. AAs
4. AFIP
5. the Bereavement Support Payment (see DMG 28354))
6. certain payments due to be paid before the date of claim
7. child maintenance
8. Christmas Bonus
9. compensation for loss of HB
10. concessionary payments
11. cost of conversion of foreign money
12. CTB
13. dependant's or non dependant's contributions to accommodation and living costs
14. DLA
15. discretionary housing payments (DHPs)

16. Education maintenance allowance and the 16 - 19 Bursary Fund
17. Employment Retention and Advancement (ERA) Scheme payments
18. EZ, self-employed route
19. GA
20. gallantry awards
21. HB
22. income frozen abroad
23. income in kind
24. income tax refunds
25. income treated as capital
26. increases in SS benefits for absent dependants
27. jurors' or witnesses' court attendance allowance
28. local welfare provision
29. Mobility supplement
30. ND IAP, expenses and top-up payments
31. payments for foster children
32. payment for a person temporarily in the care of the claimant
33. payments from an LA in lieu of Community Care Services
34. payment by an employer of employee's expenses
35. payment of expenses to voluntary workers
36. payment of expenses to service users
37. payments to help disabled people get or keep employment
38. payments from the SF under SS legislation
39. payments from the Supporting People programme
40. certain payments made under employment and training law
41. payments made under the Return to Work Credit Scheme
42. payments made under the Repayment of Teacher's Student loans Scheme
43. PIP
44. resettlement benefit
45. special educational needs payments and budgets
46. special guardianship payments
47. training premium and expenses

- 48. travel or any other expenses in respect of the MWA Scheme or a prescribed scheme for assisting persons to obtain employment
- 49. vouchers including child care cheques
- 50. war widows/widowers, surviving civil partners supplementary pensions
- 51. welfare foods, NHS supplies, travelling expenses and assisted prison visits.

Note: See DMG 28450 et seq for further guidance on the payments listed at 1..

28351 For IS only any income paid to a person to whom DMG 20530 (MIRO) applies should be disregarded¹.

1 IS (Gen) Regs, Sch 9, para 74

Note: The Independent Living Fund (2006) closed on 30.6.15. Payments made under any of the replacement schemes (ILF Scotland (including NI), Welsh Independent Living Grant & Local Authorities in England) are not covered by this legislation and will be taken fully into account.

Income frozen abroad

28417 The DM should fully disregard income which is

1. payable in a foreign country **and**
2. cannot be transferred to the UK

for as long as it is frozen abroad¹. Income will usually be frozen when the foreign country does not allow its currency to be transferred to the UK.

1 JSA Regs, Sch 7, para 24; IS (Gen) Regs, Sch 9, para 23

Income in kind

28418 The DM should fully disregard any income in kind except

1. support provided to a claimant under specific immigration and asylum law **and**
2. notional income **and**
3. income paid to a claimant or member of the family because of involvement in a TD¹ **and**
4. payments made to a third party in respect of the claimant which are used by the third party to provide benefits in kind to the claimant².

Note 1: Credits received from participating in a LETS scheme (see DMG Chapter 27) are not income in kind. Credits should be taken into account in the appropriate way.

Note 2: See DMG 28670 **2.** for the treatment of concessionary coal.

1 JSA Regs, Sch 7, para 22(1); IS (Gen) Regs, Sch 9, para 21(1)

2 JSA Regs, Sch 7, para 22(4); IS (Gen) Regs, Sch 9, para 21(4)

Example 1

The claimant recently separated from her partner and claimed JSA.

The claimant's mother works in a shop and the shop owner gives the mother £10 of groceries each week for the claimant.

The DM decides the £10 a week is income in kind and should be fully disregarded.

Example 2

The shop owner (in example 1 above) then changes the arrangement and gives the claimant's mother £10 a week to buy groceries for the claimant.

The claimant's mother uses the £10 to buy food each week for the claimant.

The DM decides the £10 a week cannot be disregarded as income in kind and it should be taken fully into account as notional income.

28419 [\[See memo DMG 20/17\]](#) The exceptions at DMG 28418 do not apply¹ when the income in kind comes from

1. the Macfarlane Trust
2. the Macfarlane (Special Payments) Trust
3. the Macfarlane (Special Payments) (No. 2) Trust
4. the Fund
5. the Eileen Trust
6. the Independent Living Fund (2006) see note at DMG 28351
7. the Skipton Fund
8. the Caxton Foundation
9. MFET Limited
10. the Scottish Infected Blood Support Scheme
11. the London Emergencies Trust (LET)
12. the We Love Manchester Emergency Fund (WLMEF) **or**
13. the partner who is subject to immigration control and is receiving support under specific immigration and asylum law and the income in kind is support provided in respect of the essential living needs of the partner of the claimant and his dependants (if any).

1 JSA Regs, Sch 7, para 22(2) & (3); IS (Gen) Regs, Sch 9, para 21(2) & (3)

Income tax refunds

When should tax refunds be treated as capital

28420 The DM should treat the following types of income tax refund as capital¹

1. PAYE refunds
2. refunds of tax deducted from a student's income
3. refunds of tax on business profits
4. refunds on tax on interest received on capital or an annuity.

1 JSA Regs, reg 110(2); IS (Gen) Regs, reg 48(2)

When should tax refunds be treated as income

28421 Income tax refunds may be taken into account in full as income¹ if the claimant or a member of the family

1. is involved in a TD **or**
2. in IS cases only has
 - 2.1 been involved in a TD **and**
 - 2.2 is entitled to IS after returning to work.

(See DMG Chapter 32 for guidance on TDs).

Note: The rule in IS that allows people who are working to receive IS for the first 15 days after a TD does not exist in JSA.

1 JSA Regs, reg 110(2); IS (Gen) Regs, reg 41(4)

Income treated as capital

28422 The DM should fully disregard as income any income that is treated as capital¹.

1 JSA Regs, Sch 7, para 34; IS (Gen) Regs, Sch 9, para 32

Jurors or witnesses court attendance allowance

28423 The DM should fully disregard any payment to a

1. juror **or**
2. witness

for attending court. But payments for loss of earnings or benefits¹ should not be disregarded.

1 JSA Regs, Sch 7, para 43; IS (Gen) Regs, Sch 9, para 43

Payments in lieu of community care services and payments in lieu of health care

28424 The DM should disregard any payments which are made

1. under relevant legislation¹ **and**
2. in lieu of²
 - 2.2 community care services **or**
 - 2.2 health care.

Note: These types of payments are sometimes known as “Direct Payments for Health Care” or “Direct Payments for Community Care”.

*1 SW (Scot) Act 68, s 12B; Health and Social Care Act 2001, s 57; National Health Service Act 2006, s 12A - 12D;
2 JSA Regs, Sch 7, para 56; IS (Gen) Regs, Sch 9, para 58*

Example

Agnes is in receipt of IS. She receives money from her LA so that she can pay someone to be her home help. The DM

1. finds out that the money received from the LA is paid under the correct legislation **and**
2. decides that the money received from the LA should be disregarded.

Payments made under employment and training law

28425 DMs should disregard¹ any payment made under employment and training law² except any payment³

1. made as a substitute for
 - 1.1 IS **or**
 - 1.2 JSA **or**
 - 1.3 IB **or**
 - 1.4 SDA **or**
 - 1.5 ESA
2. of a bridging allowance paid under specific legislation⁴
3. intended to meet the cost of living expenses while a person is participating in
 - 3.1 an education **or**
 - 3.2 training **or**
 - 3.3 other

scheme to enhance employment prospects unless the payment is a Career Development Loan paid under employment and training law and the period of education, training or the scheme, which is supported by the loan, has been completed.
4. made in respect of the cost of living away from home to the extent that the payment relates to rent for which HB is payable in respect of accommodation which is not normally occupied as the home.

1 JSA Regs, Sch 7, para 14; IS (Gen) Regs, Sch 9, para 13;

2 E & T Act 73, s 2; Enterprise and New Towns (Scotland) Act 1990, s 2;

3 JSA Regs, Sch 7, para 14(1); IS (Gen) Regs, Sch 9, para 13(1);

4 E & T Act 73, s 2(3); Enterprise and New Towns (Scotland) Act 1990, s 2(5)

28426 Payments made under employment and training law¹ include

1. training allowances paid to young people in non-waged work based training (see DMG Chapter 26)
2. bridging allowance (see DMG Chapter 30)
3. ND allowances (see Jobcentre Plus operational guidance)
4. allowances for people on WBLA (Training For Work in Scotland) (see Jobcentre Plus operational guidance)
5. Career Development Loans (see DMG 28542 - 28549)
6. ERA payments (see DMG 28410)
7. return to work credit scheme (see DMG 28429).

This list is not exhaustive and DMs should obtain evidence that a payment is made under employment and training law.

1 E & T Act 73, s 2; Enterprise and New Towns (Scotland) Act 1990, s 2

What is the Skipton Fund

28460 The Skipton Fund administers an ex-gratia payment scheme for the benefit of people suffering from Hepatitis C. It includes people infected as a result of NHS blood products and other people eligible for payment in accordance with the scheme's provisions¹.

Note: Payments from the Skipton Fund will be payments of capital (see DMG Chapter 29).

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1)

The London Bombings Relief Charitable Fund

28461 The London Bombings Relief Charitable Fund¹ was set up to relieve the needs of victims, including families or dependants of victims, of the terrorist attacks in London on 7.7.05. Interim payments were made to relieve the immediate needs of victims followed by further lump sum payments. Recipients may receive more than one lump sum payment.

Note: Payments made from the London Bombings Relief Charitable Fund will be payments of capital (See DMG Chapter 29).

1 JSA Regs, reg 1(3); IS (Gen) Regs, Reg 2(1)

MFET Limited

28462 MFET Limited¹ is an organisation funded by DH. The purpose of MFET Limited is to make payments to people who have acquired HIV as a result of treatment by the NHS with blood or blood products.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1)

Income from MFET Limited

28463 Fully disregard¹

1. any income from MFET Limited **and**
2. any income from capital that was received from MFET Limited.

1 JSA Regs, Sch 7, para 41(1); IS (Gen) Regs, Sch 9, para 39(1)

The Caxton Foundation

28464 The Caxton Foundation was established on 28.3.11. It administers funds provided by DH for the benefit of certain persons suffering from hepatitis C and other persons eligible for payments¹.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1)

Income from the Caxton Foundation

28465 Fully disregard¹

1. any income from the Caxton Foundation **and**
2. any income from capital that was received from the Caxton Foundation.

1 JSA Regs, Sch 7, para 41(1); IS (Gen) Regs, Sch 9, para 39(1)

The Scottish Infected Blood Support Scheme

28466 The Scottish Infected Blood Support Scheme (SIBSS)¹ became operational from 1.4.17, although no payments will be made until 3.4.17. It is administered by NHS National Services Scotland (NSS), legally known as the Common Services Agency. NSS is an NHS Board accountable to Scottish Ministers. SIBSS combines the existing blood support schemes into one scheme in Scotland.

1 JSA Regs, reg 1(3), IS (Gen) Regs, reg 2(1)

Income from the Scottish Infected Blood Support Scheme

28467 Fully disregard¹

1. any income from the Scottish Infected Blood Support Scheme **and**
2. any income from capital that was received from the Scottish Infected Blood Support Scheme.

1 JSA Regs, Sch 7, para 41(1); IS (Gen) Regs, Sch 9, para 39(1) & 39(7)

The London Emergencies Trust

28468 [\[See memo DMG 20/17\]](#) The London Emergencies Trust (LET)¹ was set up to alleviate hardship for those who have been bereaved or injured as a result of the terror attacks in London on 22.3.17 and 3.6.17. Beneficiaries of the LET may receive lump sum and/or regular payments.

1 JSA Regs, reg 1(3), IS (Gen) Regs, reg 2(1)

Income from the London Emergencies Trust

28469 Fully Disregard¹

1. any income from the London Emergencies Trust **and**
2. any income from capital that was received from the London Emergencies Trust.

1 JSA Regs, Sch 7, para 41(1) & 41(7); IS (Gen) Regs, Sch 9, para 39(1) & 39(7)

The We Love Manchester Emergency Fund

28470 The We Love Manchester Emergency Fund (WLMEF)¹ was set up to alleviate hardship for those have been bereaved or injured as a result of the terror attack in

Manchester on 22.5.17. Beneficiaries of the WLMEF may receive lump sum and/or regular payments.

1 JSA Regs, reg 1(3), IS (Gen) Regs, reg 2(1)

Income from the We Love Manchester Emergency Fund

28471 [\[See memo DMG 20/17\]](#) Fully Disregard¹

1. any income from the We Love Manchester Emergency Fund **and**
2. any income from capital that was received from the We Love Manchester Emergency Fund.

1 JSA Regs, Sch 7, para 41(1) & 41(7); IS (Gen) Regs, Sch 9, para 39(1) & 39(7)

Payments from money which came from the Trusts

Meaning of the Trusts

28472 "The Trusts"¹ is the term that describes

1. the Macfarlane Trusts **and**
2. the Fund **and**
3. the Eileen Trust **and**
4. the Skipton Fund **and**
5. the London Bombings Relief Charitable Fund **and**
6. MFET Limited **and**
7. the Caxton Foundation **and**
8. the Scottish Infected Blood Support Scheme **and**
9. the London Emergencies Trust **and**
- 10 the We Love Manchester Emergency Fund.

1 JSA Regs, Sch 7, para 41(1); IS (Gen) Regs, Sch 9, para 39(7)

What payments should be disregarded

28473 Income passed to another person from money from a Trust payment should be disregarded in the cases described in DMG 28474 - 28487. In these cases, the person receiving the income is not the person who qualified for the Trust payment. In any other circumstances, payments of income from a Trust payment should be treated under normal rules.

Person with HIV

28474 In this guidance the term "person with HIV" is used to describe

1. people with haemophilia **or**

2. other people

who qualify for Trust payments.

Qualifying person

28475 In this guidance a qualifying person means¹ a person in respect of whom a payment has been made from

1. the Fund **or**
2. the Eileen Trust **or**
3. the Skipton Fund **or**
4. the London Bombings Relief Charitable Fund **or**
5. MFET Limited **or**
6. the Caxton Foundation **or**
7. the Scottish Infected Blood Support Scheme **or**
8. the London Emergencies Trust **or**
9. the We Love Manchester Emergency Fund.

Note: A person in respect of whom a payment has been made from the Macfarlane Trust is not included above but is included in the definition at DMG 28474.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1)

Payments by a qualifying person or person with HIV to partners, children and young people

28476 Disregard any payment made by or on behalf of a qualifying person or person with HIV from money from a Trust payment made to or for the benefit of

1. their partner or their former partner if they are **not**
 - 1.1 estranged **or**
 - 1.2 divorced **or**
 - 1.3 former civil partners **or**
 - 1.4 estranged, divorced or had their civil partnership dissolved at the date of death if the qualifying person or person with HIV has died¹ **or**
2. any child or young person who
 - 2.1 is a member of the family of the qualifying person or person with HIV **or**
 - 2.2 was at any time a member of the family of the qualifying person or person with HIV and is now a member of the claimant's family².

Note: DMG 28483 - 28484 explains for how long the payment is disregarded.

*1 JSA Regs, Sch 7, para 41(2)(a); IS (Gen) Regs, Sch 9, para 39(2)(a);
2 JSA Regs, Sch 7, para 41(2)(b); IS (Gen) Regs, Sch 9, para 39(2)(b) & (c)*

Payments by the partner or former partner of the qualifying person or person with HIV

28477 [\[See memo DMG 20/17\]](#) Fully disregard any payment from a Trust payment made by or on behalf of a partner or former partner of a qualifying person or person with HIV, providing the qualifying person or person with HIV and partner or former partner are **not**

1. estranged **or**
2. divorced **or**
3. former civil partners **or**
4. estranged, divorced or had their civil partnership dissolved at the date of death of either
 - 4.1 the qualifying person or person with HIV **or**
 - 4.2 the partner or former partner.

28478 This disregard applies if the payment is made to or for the benefit of

1. the qualifying person or person with HIV¹ **or**
2. any child or young person² who
 - 2.1 is a member of the family of the qualifying person or person with HIV **or**
 - 2.2 was at any time a member of the family of the qualifying person or person with HIV and is now a member of the claimant's family.

Note: DMG 28483 - 28484 explains for how long the payment is disregarded.

1 JSA Regs, Sch 7, para 41(3)(a); IS (Gen) Regs, Sch 9, para 39(3)(a);

2 JSA Regs, Sch 7, para 41(3)(b); IS (Gen) Regs, Sch 9, para 39(3)(b)

Payments by a qualifying person or person with HIV to parents, step parents or guardians

28479 [\[See memo DMG 20/17\]](#) Fully disregard any payment from a Trust payment by a qualifying person or person with HIV to their

1. parent **or**
2. step parent¹ **or**
3. guardian² if the qualifying person or person with HIV has no parent or step parent and is a
 - 3.1 child **or**
 - 3.2 young person **or**
 - 3.3 student in FTE.

1 JSA Regs, Sch 7, para 41(4)(b)(i); IS (Gen) Regs, Sch 9, para 39(4)(b)(i);

2 JSA Regs, Sch 7, para 41(4)(b)(ii); IS (Gen) Regs, Sch 9, para 39(4)(b)(ii)

- 28480 This disregard applies if the qualifying person or person with HIV
1. has no partner or former partner from whom that person is **not**
 - 1.1 estranged **or**
 - 1.2 divorced **or**
 - 1.3 former civil partners **and**
 2. has no child or young person in the family **and**
 3. has never had a child or young person in their family¹.

Note: DMG 28485 explains for how long the payment is disregarded.

1 JSA Regs, Sch 7, para 41(4)(a); IS (Gen) Regs, Sch 9, para 39(4)(a)

Payments from the estate of a qualifying person or person with HIV to a parent, step parent or guardian

- 28481 Fully disregard any payment from the estate of a qualifying person or person with HIV to
1. a parent **or**
 2. a step parent¹ **or**
 3. a guardian² if at the date of death/the qualifying person or person with HIV had no parent or step parent and was a
 - 3.1 child **or**
 - 3.2 young person **or**
 - 3.3 student in FTE.

1 JSA Regs, Sch 7, para 41(5)(b)(i); IS (Gen) Regs, Sch 9, para 39(5)(b)(i);

2 JSA Regs, Sch 7, para 41(5)(b)(ii); IS (Gen) Regs, Sch 9, para 39(5)(b)(ii)

- 28482 This disregard applies if at the date of death the qualifying person or person with HIV had
1. no partner or former partner from whom that person is **not**
 - 1.1 estranged **or**
 - 1.2 divorced **or**
 - 1.3 former civil partners **or**
 2. no child or young person in the family **and**
 3. at no time had a child or young person in the family¹.

Note: DMG 28486 explains for how long the payment is disregarded.

1 JSA Regs, Sch 7, para 41(5)(a); IS (Gen) Regs, Sch 9, para 39(5)(a)

For how long should the payment be disregarded

Payments to a qualifying person or person with HIV and partners

28483 Disregard payments made to or for the benefit of

1. a qualifying person or person with HIV¹ **or**
2. the partner or former partner of a qualifying person or person with HIV²

for the lifetime of the person who received the payment. Breaks in entitlement to IS or JSA(IB) do not alter this disregard.

1 JSA Regs, Sch 7, 41(3)(a); IS (Gen) Regs, Sch 9, para 39(3)(a)

2 JSA Regs, Sch 7, para 41(2)(a); IS (Gen) Regs, Sch 9, para 39(2)(a)

Payments to children and young people

28484 Disregard payments made to or for the benefit of a child or young person as long as they remain

1. a child or young person **and**
2. in (or they were in) the family of¹
 - 2.1 the qualifying person or person with HIV **or**
 - 2.2 the partner or former partner of the qualifying person or person with HIV **and**
3. a member of the IS or JSA(IB) claimant's family.

1 JSA Regs, Sch 7, para 41(2)(b) and 41(3)(b); IS (Gen) Regs, Sch 9, para 39(2)(b) & (c) & 39(3)(b) & (c)

Payments to parents and guardians from a qualifying person or person with HIV

28485 Disregard payments to a

1. parent **or**
2. step parent **or**
3. guardian

from the date the payment is made until the end of two years after the qualifying person or person with HIV dies¹.

Note: In some cases this disregard may last for the length of the JSA(IB)/IS claim, because the person with HIV may not die whilst the claimant is on JSA(IB)/IS.

1 JSA Regs, Sch 7, para 41(4); IS (Gen) Regs, Sch 9, para 39(4)

Payments to parents and guardians from the estate of a qualifying person or person with HIV

28486 Disregard¹ payments to a

1. parent **or**
2. step parent **or**
3. guardian

for a period of two years from the date the qualifying person or person with HIV died.

Note: This disregard applies from the date of death not the date the estate makes a payment.

1 JSA Regs, Sch 7, para 41(5); IS (Gen) Regs, Sch 9, para 39(5)

Deciding if a disregard applies

28487 Once the claimant has declared any payments made from one of the Trusts the DM should decide

1. if the payment qualifies for a disregard **and**
2. the length of any disregard.

28488 Seek further evidence if there is doubt about the

1. source of the payment **or**
2. relationship of the person receiving the payment with the qualifying person or person with HIV **or**
3. extent that money from the Trust has been kept separately.

Trust payments invested with other money

28489 If a Trust payment is invested with other money to produce an income, disregard only the proportion that came from the trust payment¹.

1 JSA Regs, Sch 7, para 41(6); IS (Gen) Regs, Sch 9, para 39(6)

Example

Michael bought an annuity for £5,000. £4,000 came from the Eileen Trust. The balance came from his own savings.

The annuity produces an income of £50 a month.

The DM decides to disregard £40 a month. £10 a month is taken into account as income.

Qualifying person or person with HIV's relationship with former partners

28490 The DM should be satisfied that a former partner or civil partner is not estranged or divorced or had the civil partnership dissolved. Accept the claimant's statement unless it is considered to be improbable or self-contradictory.

Example

Joanne receives a payment of money from the Macfarlane Trust. She is divorced from her former partner Harold, who is a person with HIV.

The DM decides that the payment should not be disregarded.

Social fund funeral payments

28491 Trust payments will become part of a person's estate upon death. Any assets of a dead person including

1. payments of income from the Trusts including Variant Creutzfeldt-Jakob disease payments **and**
2. payments of income from money that originally came from the Trusts or from Variant Creutzfeldt-Jakob disease payments

are not taken into account as assets of the estate if a claim for a SFFP is made (see DMG Chapter 39).

Payments with special rules

Charitable and voluntary payments

What are charitable payments

28492 A charitable payment is a payment made under a charitable trust¹. A charitable trust must

1. be wholly and exclusively charitable **and**
2. promote a public benefit (that is, it must benefit a sufficient section of the public except where the purpose is the relief of poverty).

Payments from charitable trusts are made at the discretion of the trustees.

1 R(IS) 4/94; R v. Doncaster Borough Council, Ex Parte Boulton

28493 Charitable trusts do not have to be

1. registered **or**
2. administered by a registered charity.

The DM should treat payments from registered charities as charitable payments.

28494 Charitable trusts usually provide for

1. the relief of poverty
2. advancement of education
3. advancement of religion
4. other purposes which benefit the community.

What are voluntary payments

28495 A voluntary payment is a payment that

1. has a benevolent purpose **and**
2. is given without anything being given in return¹.

Note: Voluntary payments should not be confused with payments to volunteers.

Guidance on payments to volunteers is given at DMG 26195 - 26196.

1 R(IS) 4/94

28496 A voluntary payment is similar to a charitable payment but it will not usually be made from a charitable trust. Voluntary payments are usually paid for the benefit of an individual. But DMs should recognize that charitable payments may also be made to individuals

1. for the relief of poverty **or**
2. because a wider purpose is involved.

28497 The DM should consider

1. the background to **and**
2. reasons for

the payment when deciding if it is voluntary.

Example 1

Jim claims JSA. He declares that he gets a payment of £20 a week from his uncle, Peter, towards the cost of running his car.

Peter makes the payment because Jim has been receiving JSA for some time and needs a car to get around.

Peter makes the payment because of family ties and affection for Jim. Peter does not expect or receive anything in return.

The DM decides that the £20 is a voluntary payment.

Example 2

Frances claims IS. She is retired and receives a payment of £4.50 a week from her former employer in addition to her occupational pension.

The payment of £4.50 is paid to all former employees who worked for the company for over 20 years.

The payments were awarded by the board of directors following criticism by shareholders of the treatment of former employees with long service.

The DM decides the payment is not voluntary. This is because

1. the directors of the company are receiving in return for the payment greater satisfaction from the shareholders
2. the company's image is improved
3. the payments are not made to help needy employees. Many of the people receiving payments are quite well off.

Meaning of relevant payment

28498 A relevant payment¹ for the purposes of the disregard at DMG 28513 means

1. a charitable payment
2. a voluntary payment
3. a payment (other than in 1. or 2.) from a trust whose funds derive from a personal injury award to the claimant (this includes a trust whose funds derive from the Children's Memorial Trust - see DMG 28505)
4. a payment under an annuity purchased as a result of
 - 4.1 any agreement or court order to make payments to the claimant **or**

4.2 funds that derive from a payment made as a consequence of a personal injury award to the claimant **or**

5. a payment (other than a payment covered by **1. - 4.**) received as a result of any agreement or court order to make payments to the claimant as a consequence of a personal injury award.

Note: The agreement referred to in **5.** must be reached **after** the date that the injury occurred².

*1 IS (Gen) Reg, Sch 9, para 15(5A), JSA Regs, Sch 7, Para 15(5A);
2 Malekout v. Secretary of State for Work & Pensions [2010] EWCA Civ 162*

Certain types of payments

Cash in lieu of concessionary coal

28499 Payments originally made by British Coal to

1. retired miners **and**
2. widows of retired miners

in lieu of concessionary coal are not voluntary¹. The payments were made because of a national agreement between British Coal and the trade unions. The purpose of the agreement was to ensure good labour relations and the willing services of the workforce. Treat these payments as other income with no disregard.

1 R(IS) 4/94

Civil list pensions

28500 Treat civil list pensions as voluntary payments. They are

1. paid at the discretion of the Queen **and**
2. voted annually by Parliament.

28501 They are awarded for distinguished service to the nation in

1. the arts
2. science
3. literature.

Payments from trust funds

28502 Claimants may receive payments from trust funds. If income from a trust fund is paid at the discretion of the trustees it should be treated as a voluntary payment. Treat a payment from a charitable trust as a charitable payment.

28503 Income from any trust fund set up with money from a personal injury award is treated in the same way. DMG 28513 gives guidance on the disregard appropriate to relevant personal injury trust payments.

Structured settlements

28504 A structured settlement may include a contingency fund that would be treated in the same way as any other personal injury lump sum award. However most of the award is used to provide an annuity making periodical payments to the claimant. Payments from these annuities are capital treated as income¹ which fall within the definition of relevant payment at DMG 28498.

1 IS (Gen) Regs, reg 41(7), JSA Regs, reg 104(6)

Children's Memorial Trust

28505 The Children's Memorial Trust was set up as a result of Court action by the parents of deceased children whose organs had been retained by the Alder Hey hospital without parental consent.

28506 Where people can show that they have received a payment from the Children's Memorial Trust under the "Heads of Agreement" in relation to the Court action, that payment will be made in consequence of a personal injury to **them**. Income from a trust set up with money that derived from the Children's Memorial Trust is a relevant payment. DMG 28513 - 28515 gives guidance on the disregard appropriate to relevant personal injury trust payments.

28507 - 28509

Regular charitable or voluntary payments

What are regular payments

28510 Regular charitable or voluntary payments are those that are

1. made regularly **or**
2. due to be made regularly, even if they are not actually made.

Note: Voluntary payments should not be confused with payments to volunteers.

Guidance on payments to volunteers is given at DMG 26195 - 26196.

28511 Regular payments include those paid or due to be paid at recurring intervals such as

1. weekly
2. monthly
3. annually (for example every Christmas)
4. any other pattern.

When is a payment due to be made

28512 A payment is due to be paid where there is a promise or agreement to make a payment.

Disregard for relevant payments

28513 Fully disregard¹ any relevant payment unless one of the exceptions at DMG 28514 - 28515 apply.

1 JSA Regs, Sch 7, para 15(1); IS (Gen) Regs, Sch 9, para 15(1)

Relevant payments that should be taken fully into account

28514 The disregard in DMG 28513 does not apply to

1. a person affected by a TD¹ **or**
2. LRPs² **or**
3. maintenance, that is not an LRP for
 - 3.1 a member of the family **or**
 - 3.2 a former partner **or**
 - 3.3 the childrenof the person making the payment³ **or**
4. a student's covenant or grant income⁴ **or**
5. in JSA cases only, any payment made to a member of the family because another member of the family is involved in a TD⁵ **or**
6. in IS cases only, to a person entitled to IS during
 - 6.1 a TD **or**
 - 6.2 the first 15 days after returning to work after a TD⁶.

Note: JSA can not be paid to claimants involved in a TD. Special rules apply if a member of the family of a JSA claimant is involved in a TD.

1 JSA Regs, Sch 7, para 15(3)(b)(i); IS (Gen) Regs, Sch 9, para 15(3)(b); 2 JSA Regs, reg 89 & 90; IS (Gen) Regs, reg 25 & 25A; 3 JSA Regs, Sch 7, para 15(3)(a); IS (Gen) Regs, Sch 9, para 15(3)(a); 4 JSA Regs, reg 134; IS (Gen) Regs, reg 65; 5 JSA Regs, Sch 7, para 15(3)(b)(ii); 6 IS (Gen) Regs, Sch 9, para 15(3)(b)

Relevant payments paid in kind

28515 [\[See memo DMG 20/17\]](#) Fully disregard relevant payments that are paid in kind¹ unless one of the exceptions at DMG 28418 applies. The exceptions at DMG 28418 do not apply when the income in kind comes from

1. the Macfarlane Trust
2. the Macfarlane (Special Payments) Trust

3. the Macfarlane (Special Payments) (No. 2) Trust
4. the Fund
5. the Eileen Trust
6. the Independent Living Fund (2006) but see DMG 28351
7. MFET Limited
8. the Caxton Foundation **or**
9. the Skipton Fund
10. the Scottish Infected Blood Support Scheme
11. the London Emergencies Trust
12. the We Love Manchester Emergency Fund

as explained at DMG 28419.

1 JSA Regs, Sch 7, para 22; IS (Gen) Regs, Sch 9, para 21

28516 - 28529

2. neither the person for whom the payment has been made nor another member of the family has actual or notional income apart from that payment¹.

1 IS (Gen) Regs, reg 42(4ZA)(d); JSA Regs, reg 105(10A)(d)

28668 **[See DMG Memo IS/JSA 64]** A claimant is also not treated as possessing a payment under DMG 28665 where

1. the estate of the person for whom the payment is made
 - 1.1 is subject to a sequestration order **or**
 - 1.2 has a judicial factor on it **and**
2. the payment is made to a person acting on behalf of the creditors **and**
3. neither the person for whom the payment has been made nor another member of the family has actual or notional income apart from that payment¹.

1 IS (Gen) Regs, reg 42(4ZA)(d); JSA Regs, reg 105(10A)(d)

28669 **[See DMG Memo IS/JSA 64]** Income other than a benefit may be paid to a third party. The DM should treat this type of income as the notional income of the person for whom it is payable, to the extent it is used for that person's¹

1. food
2. ordinary clothing or footwear
3. fuel, for the household that the claimant normally occupies
4. housing costs covered by IS or JSA(IB)
5. rent for which HB is payable
6. water charges
7. CT.

Ignore any part of the income not used on these items.

Note: If the income paid to the third party in the first instance is a payment in kind it would be excluded from this notional income rule.

1 JSA Regs, reg 105(10)(a)(ii); IS (Gen) Regs, reg 42(4)(a)(ii)

28670 **[See memo DMG 20/17]** Disregard the payment to the third party¹

1. whatever it is used for, if it is made from
 - 1.1 the Macfarlane Trusts **or**
 - 1.2 the Eileen Trust **or**
 - 1.3 MFET Limited **or**
 - 1.4 the Fund **or**
 - 1.5 the Independent Living Fund (2006) see DMG 28351 **or**
 - 1.6 the Skipton Fund **or**

- 1.7 the Caxton Foundation **or**
 - 1.8 the Scottish Infected Blood Support Scheme **or**
 - 1.9 the London Emergencies Trust **or**
 - 1.10 the We Love Manchester Emergency Fund
2. if it is for the purchase and supply of concessionary coal under specified legislation². The Department of Energy and Climate Change is now responsible for the purchase and supply of concessionary coal. Coal is purchased through contracts and supplied to ex-coal workers and their families. The payment from the Department of Energy and Climate Change to the contractor is a payment to a third party and is disregarded.

1 JSA Regs, reg 105(10A)(a); IS (Gen) Regs, reg 42(4ZA)(a);

2 The Coal Industry Act 94, s 19(1)(a); JSA Regs, reg 105(10A)(b); IS (Gen) regs, reg 42(4ZA)(b)

Meaning of ordinary clothing or footwear

28671 The expression “ordinary clothing or footwear” means¹ clothing or footwear for normal daily use. It does not include

- 1. school uniforms **or**
- 2. clothing or footwear used solely for sport, for example football boots.

1 JSA Regs, reg 105(16); IS (Gen) Regs, reg 42(9)

28672 The DM should consider the wide needs of all claimants when applying the test of “for normal daily use”.

Example

Emma receives IS. She has a disabled son, Ben, who needs to wear orthopaedic shoes.

The DM decides that orthopaedic shoes may be normal for Ben but are not normal for children in general. The DM decides that the orthopaedic shoes are not for normal daily use.

28673 - 28675

Payments by a third party for care home, Abbeyfield Home or independent hospital charges

28676 **[See DMG Memo IS/JSA 64]** Treat payments made by a third party, who is not a member of the family, towards the cost of charges for a

- 1. care home **or**
- 2. Abbeyfield Home **or**
- 3. independent hospital

as the income of the claimant¹.

1 JSA Regs, reg 105(11); IS (Gen) Regs, reg 42(4A)

28677 This rule applies when the

1. claimant lives in or is temporarily absent from a care home, Abbeyfield Home or independent hospital **and**
2. payment is made to the care home, Abbeyfield Home or independent hospital.

The DM should calculate the amount of income and treat it as if it was actual income¹.

1 JSA Regs, reg 105(14); IS (Gen) Regs, reg 42(7)

Third party payments for care homes, Abbeyfield Homes or independent hospitals and National Health maintenance

28678 A payment is disregarded¹ if it is

1. made for
 - 1.1 after-care under specified legislation² **or**
 - 1.2 accommodation or welfare services referred to in specified legislation³**and**
2. treated as possessed under the notional income rule at DMG 28676⁴.

1 IS (Gen) Regs, Sch 9, para 66; JSA Regs, Sch 7, para 64; 2 MH Act 83, s 117; MH (C & T) (Scot) Act 03, s 25; 3 NA Act 48, Part III; SW (Scot) Act 68; 4 IS (Gen) Regs, reg 42(4A)

28679 Payments that satisfy DMG 28678 include payments or reimbursements by a LA for

1. persons who because of age, illness, disability or other circumstances are in need of care and attention which is not otherwise available to them **or**
2. expectant and nursing mothers¹.

1 NHS and Community Care Act 1990, s 42; NA Act 1948, s 21(4)

Income paid to a member of the family for a third party

28680 **[See DMG Memo IS/JSA 64]** Take into account in full any income paid to a member of the family for a third party who is not a member of the family if

1. the income is kept by **or**
2. is not paid over to the third party by

the person who received it. Ignore any income that is paid over to the third party¹.

Note: CHB is the personal income of the CHB claimant. Even if the child for whom the CHB is paid is not part of the claimant's family for IS or JSA it should be taken into account as the claimant's actual income.

1 JSA Regs, reg 105(10)(b); IS (Gen) Regs, reg 42(4)(b)

28681 **[See DMG Memo IS/JSA 64]** [\[See memo DMG 20/17\]](#) Fully disregard any payment from

1. the Macfarlane Trusts
2. the Eileen Trust
3. MFET Limited
4. the Fund
5. the Independent Living Fund (2006) but see DMG 28351
6. the Skipton Fund
7. the Caxton Foundation
8. the Scottish Infected Blood Support Scheme (SIBBS)
9. the London Emergencies Trust (LET)
10. the We Love Manchester Emergency Fund (WLMEF)

regardless of who keeps it or how it is used.

28682 **[See DMG Memo IS/JSA 64]** The DM should decide using, available evidence

1. whether **and**
2. how much

income has been kept by a member of the family.

28683 **[See DMG Memo IS/JSA 64]** Treat income as having been kept when

1. there is no intention of
 - 1.1 paying it over to **or**
 - 1.2 using it forthe third party **or**
2. if after having the income for a reasonable period of time the family member has
 - 2.1 not started paying it over **or**
 - 2.2 not started using it for the third party **or**
 - 2.3 has no plans for paying it over or using it for the third party.

28684 The DM should consider

1. the type of income **and**
2. how often the income is paid **and**
3. why the income is paid

when deciding if a reasonable period of time has passed.

Example 1

Rodney is a JSA(IB) claimant.

Rodney receives income for his cousin Roland who is a long-term patient in a local hospital.

The income is paid weekly and Rodney has been receiving it for four weeks.

Rodney has no good reason for not having passed the money to Roland.

The DM decides that in the circumstances four weeks was a reasonable period in which to expect that the money would have been handed over to Roland.

Rodney is treated as having the full amount of income.

Example 2

Peter receives IS. His partner, Rowena receives an income for her aunt.

She has received three monthly payments but has not passed any money to her aunt because she has been busy looking after an elderly person.

The DM decides that in the circumstances of the case that a reasonable time had passed for Rowena to have handed over the payments.

Rowena is treated as having the full amount of the income.

Example 3

Denis claims IS. He receives a weekly income on behalf of his sister Daphne.

Denis and Daphne live 30 km (20 miles) apart. Denis has not paid any money over to Daphne for ten weeks.

Denis has no private transport. He says he has not been well enough to travel by bus or post the money.

The DM decides in the circumstances of the case a reasonable period of time had not passed for Denis to have handed over the money.

He is treated as not having any of the income.

