

Department for Work and Pensions

DECISION MAKING AND APPEALS

Decision Makers Guide

Volume 6

Amendment 52 – February 2019

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 on the Internet (see link below). These can be printed with the amended pages being reproduced in full. Each page will contain the amendment number in the footer.

<https://www.gov.uk/government/publications/decision-makers-guide-vols-4-5-6-and-7-jobseekers-allowance-and-income-support-staff-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 33. The changes:

incorporate DMG Memo 11/17 at 33019 & 33025; remove paragraphs dealing with mortgage interest direct and 3rd party deductions for mortgage arrears (33345 to 33383); amend 33387 and removes 33390 covering prioritising of 3rd party payments for housing costs as prioritising is no longer relevant - DMG Memos 4/18 & 5/18; amend benefit rates used in calculations in 33413 & 33420.
4. If 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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33009 – 33038 (2 pages)
33311 – 33330 (2 pages)
33345 – 33428 (7 pages)

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Chapter 33

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When entitlement begins

33009 JSA and IS are weekly benefits that are normally paid for complete weeks (benefit weeks). See DMG 33100 - 33238 for guidance on when payment may be made for part-weeks.

Meaning of benefit week

33010 A benefit week is always a period of seven days. The law says which seven days this should be. This will depend on which benefit is claimed.

JSA

33011 For JSA a benefit week means¹ a period of seven days ending with the day determined by the last two digits of the claimant's NINO as is shown in the following table unless the Secretary of State arranges otherwise.

NI No.	Day
00 – 19	Monday
20 – 39	Tuesday
40 – 59	Wednesday
60 – 79	Thursday
80 – 99	Friday.

1 JSA Regs, reg 1(3)

33012 - 33017

IS

33018 Benefit week for IS means¹

1. the week for which any relevant SS benefit
 - 1.1 is payable, if there is entitlement to such a benefit **or**
 - 1.2 would be payable but for
 - 1.2.a the failure to satisfy contribution conditions **or**
 - 1.2.b exhaustion of entitlement **or**
2. in any other case, a period of seven days beginning or ending on a day decided by the Secretary of State.

1 SS (C&P) Regs, Sch 7, para 4

33019 Relevant SS benefit means¹

1. IB **or**
2. SDA **or**
3. RP **or**
4. WB **or**
5. WPA.

1 SS (C&P) Regs, Sch 7, para 4

Period for which benefit is calculated

33020 The period for which benefit is calculated depends on whether it is paid in arrears or advance.

33021 When benefit is paid in arrears, the period up to and including the BWE is used. That is the seven days ending on the last day of the benefit week.

33022 When benefit is paid in advance the seven days starting on the BWC day is used.

JSA

33023 JSA is normally paid in arrears¹. The amount payable is worked out for the period up to and including the BWE day.

1 SS (C&P) Regs, reg 26A(1)

IS

33024 IS can be paid in arrears or in advance¹. When it is paid in arrears the amount of benefit is worked out for the period up to and including the BWE day. The BWE day is

1. the SS BWE day, where IS is paid as well as, or instead of, a relevant SS benefit **or**
2. if 1. does not apply, and there is any other weekly paid income, that income pay day. For example, where SSP is in payment, the BWE day would be the employer's payday **or**
3. if 1. and 2. do not apply, and the date of claim is a Monday, Monday should be used **or**
4. if 1., 2. or 3. do not apply, the seventh day of the claim should be used. For example, if the claim is made on a Wednesday, the BWE day would be the following Tuesday.

1 SS (C&P) Regs, Sch 7, para 1 & 2

33025 When IS is paid in advance the seven days starting on the BWC day is used. The BWC day is

1. the RP, WB or WPA BWC day, where IS is paid as well as, or instead of, either of those benefits **or**
2. if 1. does not apply, the date of claim.

Date entitlement begins

33026 The date entitlement begins depends on

1. which benefit has been claimed **and**
2. if IS, whether it is paid in arrears or advance.

JSA

33027 A person is not normally entitled to JSA for the first seven days (waiting days) at the beginning of a JSP¹. Please note that special rules regarding waiting days apply in the case of joint-claim couples (see DMG 20903). This means that entitlement to JSA does not start until the day after those seven waiting days.

1 JS Act 95, Sch 1, para 4; JSA Regs, reg 46(2)

IS

33028 Where IS is payable in arrears entitlement begins on the date of claim¹.

1 SS (C&P) Regs, Sch 7, para 6(1)

33029 Where IS is payable in advance, entitlement normally begins on¹

1. the date of claim, if that day is a BWC day **or**
2. the first BWC day after the date of claim.

1 SS (C&P) Regs, Sch 7, para 6(2)

33030 There is an exception to these rules, when IS is awarded for a definite period which is not a benefit week or a multiple of such a benefit week. Entitlement then begins on the date of claim regardless of whether it is paid in arrears or advance¹.

1 SS (C&P) Regs, para 6(2A)

33031 - 33035

Claimant not entitled immediately

33036 A claimant may not be entitled to benefit immediately because of their failure to satisfy all the conditions of entitlement. In such a case, entitlement cannot begin until those conditions are satisfied.

33037 In JSA the claimant is not normally entitled for the first three days of a JSP (DMG 20901). So once the conditions are satisfied, entitlement will start on the day after those three waiting days¹.

1 JS Act 95, Sch 1, para 4

33038 In IS entitlement normally begins on the first day that the conditions of entitlement are satisfied¹. But that is not the case where IS is paid in advance, when entitlement begins on

1. the first day that the conditions of entitlement are satisfied, if that day is a BWC day **or**
2. the first BWC day after the day that they are satisfied.

1 SS (C&P) Regs, Sch 7, para 6(3)

Example 1

Henri stops remunerative work and claims JSA on Monday 3.11.14. He has holiday pay which means he is treated as engaged in remunerative work up to and including Thursday 6.11.14.

The conditions of entitlement are satisfied as from Friday 7.11.14. His waiting days are Friday 8.11.14 to Thursday 13.11.14. Entitlement to JSA starts on Friday 14.11.14.

Example 2

Gina is a lone parent who stops remunerative work and then claims IS on Monday 14.10.96. IS is payable in arrears. She has holiday pay which excludes her from IS up to and including Thursday 17.10.96. Entitlement to IS begins on Friday 18.10.96.

IS and JSA(IB)

33311 The full range of third party deductions is available in both IS and JSA(IB).

JSA(Cont) - underlying entitlement to JSA(IB)

33312 The full range of third party deductions is available where, if there was no entitlement to JSA(Cont), there would be entitlement to JSA(IB) at the same rate.

JSA(Cont)

33313 Where JSA(IB) is not an issue, only three categories of third party deductions are available. These are

1. CC/CT arrears
2. fines
3. arrears of CSM under the old scheme (see DMG 33640 - 33645).

Training allowances

33314 Third party deductions can be taken from training allowances.

Example

Steve receives training allowance of £59.05 and JSA(IB) of 10p. He is in arrears with his rent and a deduction of £3.00 is implemented for rent arrears. His benefit is then made up of training allowance of £56.05 and JSA(IB) of £3.10. The deduction is taken from the JSA(IB) so the amount actually paid to the claimant is £56.05 training allowance and 10p JSA(IB).

33315 - 33317

Amount of benefit to be left for claimant

Specified benefit

33318 The claimant should be left with at least 10p **specified benefit** after third party deductions have been made¹. No deduction should be made if it would leave the claimant with less than 10p. But see DMG 33388 and DMG 33423 for when the deduction may be adjusted instead of not being made.

1 SS (C&P) Regs, Sch 9, para 2(2); Council Tax (Deductions from IS) Regs 93, reg 5(1)(b); Community Charges (Deductions from IS) (No. 2) Regs 90, reg 3(1); Fines (Deductions from IS) Regs 92, reg 4(1)(b)

JSA(Cont)

33319 Where JSA(IB) is not an issue, the claimant need not be left with any JSA(Cont) after a deduction has been made. A deduction can be made if the amount of JSA(Cont) payable before the deduction is at least one third of the appropriate age-related amount. This is so even where the claimant would be left with nothing¹.

1 SS (C&P) Regs, Sch 9, para 7B; Council Tax (Deductions from IS) Regs 93, reg 5(2); Community Charges (Deductions from IS) (No. 2) Regs 90, reg 3(2); Fines (Deductions from IS) Regs 92, reg 4(2)

Maximum amount for payment of debts (arrears only) IS, JSA(IB) and JSA(Cont) where underlying entitlement to JSA(IB)

33320 There is a maximum amount¹ for payment of **arrears** to third parties. That is 3 x 5% of the personal allowance for a single claimant aged 25 or over (see DMG Chapter 23). The total amount deducted for arrears should not exceed this amount. Arrears deductions include

1. arrears of
 - 1.1 housing costs
 - 1.2 rent
 - 1.3 fuel
 - 1.4 water **and**
2. CT (but not CC) **and**
3. fines **and**
4. CSM under the old scheme (see DMG 33626 - 33645) **and**
5. eligible loans **and**
6. integration loans.

Note: CC arrears do not count towards the 3 x 5% maximum.

1 SS (C&P) Regs, Sch 9, para 8(1)

JSA(Cont)

33321 Where JSA(Cont) is in payment and JSA(IB) is not an issue (see DMG 33313), the maximum total amount deducted for

1. CC/CT arrears **or**
 2. fines **or**
 3. arrears of CSM under the old scheme (see DMG 33640 - 33645)
- cannot exceed one third of the appropriate age related amount payable.

Consent required

33322 Unless the claimant consents¹, third party deductions cannot be made for

1. housing costs arrears
2. rent arrears and service charges for fuel and water
3. fuel costs (including arrears)
4. water charges (including arrears)
5. eligible loans²
6. integration loans

where the total deduction for that item, or any combination of those items, exceeds 25% of the family's applicable amount. Any housing costs included in the applicable amount should not be taken into consideration.

1 SS (C&P) Regs, Sch 9, para 8(2); 2 para 7C(12)(b)

33323 From 2.10.06 the amount of CTC and CHB entitlement should be added¹ to the applicable amount when deciding if deductions exceed 25% of the total.

1 SS (C&P) Regs, Sch 9, para 8(4)

33324 - 33325

Consent not required

33326 The claimant's consent is not required if a deduction, or a combination of deductions, for

1. CC or CT arrears **or**
2. fines **or**
3. CSM under the old scheme **or**
4. current housing costs **or**
5. care home or independent hospital charges (see DMG 33327) **or**
6. hostel charges not included in HB

makes the total amount deducted exceed 25% of the applicable amount for the family¹.

1 SS (C&P) Regs, Sch 9, para 8

Definition of independent hospital

33327 Where independent hospital appears in guidance this means in

1. England, a hospital that is not a health service hospital as defined in relevant legislation¹ **or**
2. Wales, a hospital which is not a health service hospital as defined in legislation² **or**
3. Scotland, an independent healthcare service as defined in legislation³.

*1 National Health Service Act 2006, sec 275; 2 Care Standards Act 2000, sec 2;
3 Regulation of Care (Scotland) Act 2001, sec 2(5)(a) & (b)*

Priority between debts

33328 The claimant may satisfy the criteria for third party deduction of more than one debt. But the amount of benefit may not be enough to meet all those liabilities. The deductions should then be given a particular order of priority¹.

1 SS (C&P) Regs, Sch 9, para 9

33329 For IS, JSA(IB) and JSA(Cont) with underlying entitlement to JSA(IB), the order of priority is

1. housing costs
2. miscellaneous accommodation costs
3. hostel payments
4. rent arrears and service charges for fuel
5. fuel costs
6. water charges
7. CC or CT arrears
8. fines
9. CSM under the old scheme (see DMG 33626 - 33645)
10. integration loans¹
11. eligible loans.

1 SS (C&P) Regs, Sch 9, para 9(1B)(ga)

33330 Where JSA(Cont) is in payment and JSA(IB) is not an issue the order of priority is

1. CC/CT arrears
2. fines
3. arrears of CSM under the old scheme (see DMG 33640 - 33645).

Third party deductions for housing costs

33345 Housing costs for which the claimant has a liability may be deducted from the specified benefit and paid direct where¹

1. the claimant or partner is in debt for a housing cost that is included in the applicable amount **and**
2. it is in the interests of the family to do so.

1 SS (C&P) Regs, Sch 9, para 3(1)

33346 Third party deductions for housing costs can include¹

1. a deduction for current housing costs **and**
2. an arrears deduction.

1 SS (C&P) Regs, Sch 9, para 3(2)

33347 Third party deductions should be considered for housing costs if the debt is at least half the amount due yearly¹

Note: Third party deductions should be considered earlier if it is in the interests of the claimant or their family.

1 SS (C&P) Regs, Sch 9, para 3(4)

33348 - 33378

Interests of the family

33379 It will normally be in the interests of the claimant or their family to introduce third party deductions if there is

1. a history of persistent mis-spending **and**
2. a threat of eviction or repossession **and**
3. no other suitable method of dealing with the debt.

33380 Third party deductions will not normally be in the interests of the claimant or their family if they

1. show evidence of determination to clear the debt **or**
2. undertake to clear the debt themselves.

Definition of housing costs

33381 For third party deductions purposes housing costs are¹

1. rent or ground rent connected to long tenancies
2. service charges
3. rent charges, but only when paid with service charges
4. payments under co-ownership schemes

5. payments relating to a tenancy or licence of a Crown tenant.

Note: Ground rent should only be paid direct when paid with service charges.

1 SS (C&P) Regs, Sch 9, para 1(1)

33382 - 33383

Service charges

33384 Service charges can be made for many items including fuel and water. But not all such charges are housing costs for the purposes of third party deductions.

33385 A service charge for communal water charges is a housing cost for these purposes¹. For example a charge to cover the communal supply of water for central heating. But water charges for the claimant's home which are paid with rent are not housing costs for these purposes. They are covered by separate provisions (see DMG 33450).

1 SS (C&P) Regs, Sch 9, para 1 & 3; JSA Regs, Sch 2, para 1; IS (Gen) Regs, Sch 3, para 1

33386 A service charge for fuel paid with rent is also not a housing cost for the purposes of deductions (see DMG 33381 3.)¹. Deductions for water and fuel charges paid with rent are covered by separate provisions (see DMG 33450 et seq)².

*1 SS (C&P) Regs, Sch 9, para 1 & 3; JSA Regs, Sch 2, para 16; IS (Gen) Regs, Sch 3, para 17;
2 SS (C&P) Regs, Sch 9, para 5*

Amount of benefit to be left for claimant

33387 The DM determines

1. whether there is enough benefit in payment to make a deduction **and**
2. the specified amount to be deducted.

33388 The amount deducted for housing costs may leave the claimant with less than the minimum amount (see DMG 33318). The amount of the deduction should then be adjusted so that 10p of the award is payable to the claimant¹.

1 SS (C&P) Regs, Sch 9, para 3(3)

Housing costs payments in arrears

33389 If claimants are in arrears with their housing costs payments, a standard deduction should be made and paid direct with the housing costs. The standard deduction is 5% of the personal allowance for a single person aged not less than 25¹. But deductions should only be made where the DM is satisfied that there are in fact arrears² of housing costs. In cases of dispute the DM should give the claimant the opportunity to provide evidence to support any claim that they are not in arrears.

1 SS (C&P) Regs, Sch 9, para 3(2); 2 R(IS) 14/95

33390 - 33399

Third party deductions for miscellaneous accommodation costs

Meaning of miscellaneous accommodation costs

33400 Third party deductions for miscellaneous accommodation costs can be made¹ where the claimant has an award of IS or JSA and is living in²

1. a care home **or**
2. an independent hospital (see DMG 33327) **or**
3. an Abbeyfield Home **or**
4. the Ilford Park Polish Home³.

1 SS C&P Regs, Sch 9, para 4(1)(b); 2 IS (Gen) Regs, reg 2(1), JSA Regs, reg 1(3); Polish Resettlement Act 1947, s 3(1) and Part 2

Rules for third party deductions

33401 Where the claimant is living in accommodation mentioned at DMG 33400, part of the specified benefit (see DMG 33310) may then be deducted and paid to a third party. This can happen where¹

1. the claimant has failed to budget for the charges **and**
2. it is in the interests of the family that third party deductions be made.

1 SS (C&P) Regs, Sch 9, para 4(1)

33402 There may be circumstances in individual cases when third party deductions would be in the claimant's interest.

33403 Where a person enters a private home without any LA involvement any payment of third party deductions must be made to the home. Where the accommodation has been provided by the LA any third party deduction should be paid to the LA. This is so whether the person is in LA or non LA premises. However if the LA requests it, third party deductions can be paid to the home.

33404 Apart from the cases mentioned in DMG 33406, third party deductions can be considered **only** where the claimant has failed to budget for the accommodation charges. They cannot be made because of an expected debt. They also cannot be made where the landlord or claimant requests them simply for administrative convenience.

33405 A claimant may change address and be in debt to the former landlord. If so, any direct payments for that debt must stop. Third party deductions at the new address cannot be considered unless the claimant fails to pay the new weekly charge.

Polish homes and homes run by voluntary organizations

- 33406 The claimant may be living in accommodation
1. in the Polish home (Ilford Park) **or**
 2. run by a voluntary organization
 - 2.1 for purposes similar to those for which resettlement units are provided **or**
 - 2.2 providing facilities for alcoholics or drug addicts.

33407 Part of the specified benefit (see DMG 33310) may then be deducted and paid direct. In this type of accommodation failure to budget and the family's interests need not be considered.

33408 The claimant should be left with a minimum of 10p after the deduction has been made (see DMG 33318)¹.

1 SS (C&P) Regs, Sch 9, para 2(2)

33409 - 33410

Amount deducted - complete weeks

- 33411 The amount to be deducted from the specified benefit and paid direct in respect of miscellaneous accommodation costs¹ is the award of IS or JSA less either
1. where the claimant is not living in an independent hospital (see DMG 33400
 - 2.) an amount which, when added to any other income of the claimant, equals the personal expenses rate (see DMG 33413) **or**
 2. in any other case, an amount in respect of personal expenses.

Note: Any other income is net income, for example after any disregards.

1 SS (C&P) Regs, Sch 9, para 4(2)

33412 The claimant should be left with a minimum of 10p after the deduction has been made¹.

1 SS (C&P) Regs, para 4(4)

Personal expenses

- 33413 The amount in respect of personal expenses¹, referred to in DMG 33411 above is, for a
1. single person £25.00
 2. couple where both members are in such accommodation, £25.00 each
 3. polygamous marriage where more than one member is in such accommodation, £25.00 for each member who is in such accommodation.

1 SS (C&P) Regs, Sch 9, para 4(2A), SS Benefits Up-rating Regulations 2018

Example 1

Dorothy lives in a care home, has an applicable amount of £101.35 and has no income.

She must be left with the amount of personal expenses (£25.00). The amount to be paid direct is £76.35 (£101.35 - £25.00).

Example 2

William lives in a care home, has an applicable amount of £101.35 and net income of £6.00. The amount to be paid direct is

applicable amount	£101.35
less William's income	£6.00
IS award	£95.35
less payment to William (personal expenses minus income)	£19.00
amount to be paid direct	£76.35

William is left with £25.00 (£6.00 + £19.00), the amount of the personal expenses.

Example 3

Simon lives in a care home provided, owned and managed by the LA, and has an income of £6.00 per week. He receives IS of £95.35 (applicable amount £101.35 less income of £6.00). £70.35 is deducted and paid direct to the third party (IS of £95.35 - £25.00 personal expenses). Simon retains £25.00 of his IS for personal expenses.

33414 - 33418

Amount deducted - part-weeks

33419 Third party deductions for part-weeks (see DMG 33100 - 33238) can be made for miscellaneous accommodation costs¹. The amount deducted and paid direct for a part-week depends upon

1. whether the accommodation in which the claimant lives is described at DMG 33411 **1.** or **2. and**
2. whether the claimant has any income.

1 SS (C&P) Regs, Sch 9, para 4(3)

33420 In order to calculate the amount to pay direct to the third party for a part-week, the DM should calculate the amount of IS/JSA due for the part-week and deduct¹

1. an amount which equals the appropriate proportion of the personal expenses
or
2. an amount equal to the difference between the appropriate proportion of the claimant's income if any and an appropriate proportion of the amount allowed for personal expenses.

This will result in the claimant retaining a proportion of the weekly personal expenses amount.

1 SS (C&P) Regs, Sch 9, para 4(3A)

Example 1

Dilys lives in a care home. Her IS is £101.35 and she has an income of £11.50 per week. She is due a part-week payment for 6 days.

The DM first calculates the part-week payment (see DMG 33100 et seq) as follows:

IS £101.35 less £11.50 = £89.85 divided by 7 and multiplied by 6 = £77.02 due for the part week.

The amount of the third party deduction is then calculated as follows:

£77.02 (the IS due for the part-week) - £11.57 (the difference between 6/7ths of £11.50 and 6/7ths of £25.00) = £65.45. This is the amount paid to the third party.

Personal expenses of £11.57 are paid to the claimant.

Example 2

Morris lives in a care home which is provided, owned and managed by the LA. His IS is £101.35 and he has a weekly income of £15.00. A part-week payment of 4 days is due.

The DM first calculates the amount of IS due for the part-week:

IS £101.35 less £15.00 = £86.35, divided by 7 and multiplied by 4 (the number of days in the part-week) = £49.35 IS due for the part-week.

The DM then calculates the amount to pay to the third party as follows:

£49.35 (the amount of IS due for the part-week) - £14.29 (4/7ths of £25.00) = £35.06.

£35.06 is the amount paid to the third party. Morris retains personal expenses of £14.29.

- 33421 No deduction will be made for a part-week period if the DM certifies that it would be impracticable to do so. See DMG 33100 for full guidance on part-week payments.

Amount of benefit to be left for claimant

- 33422 It may be that if the full amount is deducted for miscellaneous accommodation costs the claimant would be left with less than 10p. This can happen where the deduction is being taken for a complete week or for a part-week and the claimant has income equal to or greater than the weekly personal expenses amount.

- 33423 Under the normal rules (see DMG 33318) no deduction should then be taken. But there is a special rule that applies in such circumstances. The amount of the deduction can be adjusted so that 10p of the award is payable to the claimant¹.

1 SS (C&P) Regs, Sch 9, para 4(4)

33424 - 33428

