Housing Benefit Circular

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

HB A8/2016

ADJUDICATION AND OPERATIONS CIRCULAR

WHO SHOULD READ	All Housing Benefit staff
ACTION	For information
SUBJECT	The Secondary Annuities Market and Housing Benefit

Guidance Manual

The information in this circular does affect the content of the Housing Benefit Guidance Manual. Please annotate this circular number against BW1 paras W1.180 vii, xxii and xxii, W1.160; BW2 para W2.500; BP1 paras P1.181 xii and xiii, P1.210; BP2 paras P2.11(c), P2.671, P2.684, P2.685 and P2.687.

Queries

extra copies of this circular/copies of previous circulars can be found at https://www.gov.uk/government/collections/housing-benefit-for-local-authorities-circulars

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Introduction

1. From April 2017, pensioners will be able to exchange the income they receive from their annuity for a cash lump sum. This circular explains the changes and actions required. You may also find it helpful to refer to Circulars HB A4/2015 and A7/2015, both of which contain more information about pension flexibilities.

Background

2. Since April 2015, people aged 55 and over have been able to withdraw money from their 'defined contribution' pension fund on a flexible basis, without restriction and at their marginal income tax rate. However, these pension freedoms did not include people who had already purchased an annuity before April 2015. The Chancellor therefore announced that the 'Secondary Market for Annuities' will be available to those people from April 2017; where they will be given the opportunity to assign (i.e. sell) their annuity to a third party, in exchange for a cash lump sum or alternative form of annuity.

3. Most people who purchased an annuity before April 2015 are likely to be over 65, so the majority of activity in relation to benefit recipients is expected to be within Pension Credit and Housing Benefit (HB).

4. The benefit rules are not changing. However, it is possible that some people might expect to access benefits (or keep their existing benefits) by giving up their annuity income, whilst obtaining potentially large sums of capital. The government's policy is that people should use their own resources before seeking support from the state. Whilst people should be able to use their pensions flexibly, they should not be able to substitute their pension income for benefits. Therefore, you should continue to apply the existing rules around tariff income and deprivation, treating each case on its own individual circumstances.

5. There may be circumstances in which it is appropriate to award (or increase) benefits after someone has assigned an annuity, for example, if they use their cash lump sum to repay a debt, or to pay for urgent home repairs.

Example 1 – applying tariff income

HB claimant is 67 years old and single. He bought an annuity in July 2014 and receives £50 per week from it. He has £5,000 in savings. He receives Pension Credit Guarantee Credit.

In May 2017, the customer assigns his annuity to a pension provider. They give him a cash lump sum of £31,500, and in return the pension provider will receive the income from the annuity. He now has savings of £36,500 and tariff income is applied to his Pension Credit claim.

The customer's Pension Credit Guarantee Credit is reduced but remains in payment. This means HB remains passported and in payment.

The figures used are for illustration purposes only.

Example 2 – considering the deprivation rules

HB claimant is 67 years old and single. He bought an annuity on his 65th birthday in July 2014 and receives £20 per week from it. Together with his State Pension of £200 per week his total income is £220 per week. His rent is £100 per week and his HB award is currently £66.66 per week.

In May 2017 the customer assigns his annuity for a cash lump sum of £15,000.

The customer's income has reduced to £200 per week. However, his total capital is now above the HB lower capital threshold and will attract tariff income of £10 per week. The customer's new HB award is £73.16 per week.

The Decision-maker should also consider whether the customer deliberately deprived himself of the annuity income in order to increase his benefit award. If there is sufficient evidence that this is the case the customer should be treated as still receiving the original annuity income of £20 per week. Adding his £10 tariff income would reduce the HB award to £60.16 per week.

The figures used are for illustration purposes only.

Annex A

Q&A brief for staff dealing with claimant queries

Where can I get help to decide what to do with my annuity?

Guidance to help you consider your options in the Secondary Annuities Market can be obtained via the Pensionwise.Gov website.

Guidance is also available over the phone from the Pensions Advisory Service (tel. 0300 123 1047) and face-to-face from some Citizens Advice Bureau offices.

Will I be able to claim benefits if I sell my annuity?

We will need to look at your total weekly income (taking into account the income you are deemed to receive from the lump sum and any other capital you hold). We may also consider whether you deliberately deprived yourself of the income from the annuity to get benefits, or whether you have used (or intend to use) the lump sum in a reasonable way.

If we consider you did deliberately deprive yourself then we will take a notional amount of money into account when calculating your benefit entitlement.

Will my benefits increase if I sell my annuity?

If you exchange your annuity for a cash lump sum, we will need to consider what your new total weekly income will be (taking into account the income you are deemed to receive from the lump sum and any other capital you hold). We may also consider whether you deliberately deprived yourself of the income from the annuity in order to get benefits, or whether you have used (or intend to use) the lump sum in a reasonable way.

If we consider you did deliberately deprive yourself, then we will take a notional amount of money into account when calculating your benefit entitlement.

If you are thinking of cashing in your annuity, you should consider how it might affect your entitlement to benefits. You might think you will have less income in the means test but the resulting capital may still be assumed to provide you with an income. Depending on your wider circumstances, this might mean a reduction in your benefits.

What happens if I sell my annuity and spend all the lump sum, and then don't have enough money to live on?

If you spend all your money and then claim benefit, we will need to consider if you deliberately deprived yourself of your pension and then your lump sum in order to get benefit (or more benefit).

If we consider you did deliberately deprive yourself, then we will take a notional amount of money into account when calculating your benefit entitlement.

If people can sell their annuities, why punish those in receipt of benefits who choose to do so?

The Government wants retired people to have a choice about how they use their pension pots. It recognises that some people receiving benefits may have pressing financial needs and consequently will use their cash lump sums in a reasonable way to meet those needs. However, people should utilise all forms of income available to them before claiming means-tested benefits. It would not be right to automatically replace someone's annuity income with taxpayer-funded benefits.