Department for Work and Pensions

DECISION MAKING AND APPEALS

Decision Makers Guide

Volume 14
Amendment 49 – June 2019

1. This letter provides details on Amendment 49; 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-13-and-14-state-pension-credit-staff-guide

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

3. Amendment 49 affects chapter 85. The changes:

   add a new legal reference to DMG 85459.

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).

Remove	**Insert**
Chapter 84 85456 – 85461 (1 page)	**Chapter 84** 85456 – 85461 (1 page)

fund or money purchase benefits scheme (sometimes referred to as a “pension pot”). If they want to, they could

1. draw out all of the funds in the pension pot

2. purchase an annuity (see DMG 85143)

3. opt for a drawdown arrangement (where lump sums or regular amounts can be drawn down from the pension pot) without any restriction either in the form of a cap or a minimum income amount

4. do nothing and leave the fund untouched.

Income and Capital Drawdowns

85456 Whilst a claimant’s pension pot is held by the pension provider then that sum falls to be disregarded as capital. If the claimant has withdrawn money from their pension pot (known as a “drawdown”) then a determination has to be made as to how this is to be treated. Where a claimant chooses to withdraw amounts on a regular basis then those amounts fall to be treated as income and taken into account as such.

85457 Where a claimant chooses to

1. take ad-hoc withdrawals **or**

2. take the whole sum

then the amount withdrawn falls to be treated as capital (see DMG Chapter 84).

85458 For the purposes of notional income for claimants, or their partners as appropriate, who have reached the qualifying age for SPC (see DMG 77032), the claimant’s pension pot is required to be re-valued

1. after every drawdown of capital

2. after every drawdown of income which exceeds the applicable notional income amount (see DMG 85460) **or**

3. upon the claimant’s request.

Example

John is in receipt of SPC. He has a pension pot of £40,000 which he doesn’t wish to access at the moment but might do at a later stage. The DM calculates that as an annuity income, this would produce £2,000 per annum or £38.46 per week. This is based on 100% of the rate of annuity that the fund would generate (see DMG 85456). The figure of £38.46 is taken into account as notional income. John then decides to draw down £8,000 as capital, leaving £32,000 in his pension pot. The DM reassesses the notional income figure based on 100% of the rate of annuity that the remaining amount in the fund would generate.

Personal pensions/occupational pensions where income withdrawal is allowed - notional income

85459 Treat a person who has reached qualifying age for SPC (see DMG 77032) who

1. is entitled to money purchase benefits under a personal pension or occupational pension scheme that allows income withdrawal **and**

2. has not bought an annuity **and**

  2.1 has deferred taking all or part of the income from the fund **or**

  2.2 has failed to do everything necessary to get all the income from the fund that would be payable if he applied for it

as having a notional income[1].

1 SPC Regs, reg 18(2)(a)(i) & (ii), SSWP v Goulding [2019] EWCA Civ 839

Amount of notional income

85460 The amount of the notional income is

1. where no income is drawn, 100% of the rate of the annuity that could be generated by the fund[1] (see DMG 85469 et seq) **or**

2. where some income is drawn, the difference between the rate of annuity and the income actually withdrawn.

1 SPC Regs, reg 18(3)

Example

Jason and Sarah are a couple in receipt of SPC. Jason has a pension pot of £50,000 which he doesn’t wish to access at the moment but might do at a later stage. The DM determines that as an annuity income, this would produce £2,500 per annum or £48.07 per week. This is based on 100% of the rate of annuity that the fund would generate. This amount is taken into account as a notional income and is deducted from the award of SPC. Jason and Sarah then later decide to put the £50,000 into a flexi draw down fund and take an actual income of £50 per week. The DM now decides that the amount of income to take into account each week is £50. There is no notional amount to take into account.

From what date should the DM take notional income into account

85461 Take notional income into account from the date that the person could expect to get the income if an application was made[1]. To calculate this date

1. assume that an application was made on the date that there is sufficient evidence to show that a notional income should be calculated **and**

2. add the estimated time it would take the pension fund holder to process an application for 100% of the rate of annuity that the fund would generate.

1 SPC Regs, reg 18(2)