

## **POLICY NOTE**

### **THE NATIONAL HEALTH SERVICE (PAYMENTS AND REMISSION OF CHARGES) (MISCELLANEOUS AMENDMENTS) (SCOTLAND) REGULATIONS 2017**

#### **SSI 2017/59**

The above instrument was made in exercise of powers conferred by sections 75A and 105(7), and paragraph 2A of schedule 11, of the National Health Service (Scotland) Act 1978. This instrument is subject to negative procedures.

#### **Policy Note**

The purpose of this instrument is to amend the National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998 (“the 1998 Regulations”) and the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No.2) Regulations 2003 (“the TERC Regulations”) to:

- make provision for the earnings thresholds to determine the eligibility of claimants in receipt of Universal Credit to receive “passported” entitlement to help with health costs to apply to the combined earnings of a couple, (this amendment is being made as a result of a defect in the National Health Service (Payments and Remission of Charges) (Miscellaneous Amendments) (Scotland) Regulations 2015);
- provide that those assessed as having limited capability for work are subject to the higher Universal Credit threshold;
- define the period by which a person’s relevant income is calculated for the purposes of Universal Credit thresholds;
- provide that those who pay a charge or travel expense while their Universal Credit entitlement is being determined will be able to claim back the relevant costs if they are later shown to be entitled.

#### **Background**

The 1998 Regulations and the TERC Regulations make provision to enable people in receipt of certain benefits to be automatically entitled to help with health costs including free NHS dental treatment, vouchers towards the cost of glasses and help with certain travel expenses. Since 1 November 2015, this has included people who are in receipt of Universal Credit with income below defined thresholds.

A lower earnings threshold of £435 per month applies to claimants without a dependent child or limited capability for work/limited capability for work related activities. A higher earnings threshold of £935 per month applies to claimants with a dependent child and/or limited capability for work/limited capability for work related activities.

Where the claimant is a member of a couple it should be the combined earnings of the couple that are considered when determining the relevant threshold.

The Universal Credit assessment periods run on a monthly basis. The earnings thresholds for help with health costs are intended to apply to the most recent complete claimant assessment

period, which is the assessment period immediately preceding the relevant NHS charge being due or when the relevant travel expense arose.

### **Regulation Amendments**

Regulation 2(2) and 3(3)(a) amends the 1998 Regulations and the TERC Regulations respectively to:

- provide that where a claimant is a member of a couple it will be the combined earnings of the couple that will be taken into account when determining the Universal Credit earnings threshold for eligibility for help with health costs;
- provide that those assessed as having limited capability for work group are subject to the higher Universal Credit threshold.

Regulation 2(3) and 3(2) amend the 1998 Regulations and the TERC Regulations respectively to:

- replace the current definitions of “LCW element” and “LCWRA element” with a new definition of “limited capability for work” for the purposes of the Universal Credit threshold;
- insert a new definition of “relevant assessment period” to make it clear that it is the most recent assessment period that should be used to determine eligibility to help with health costs.

Regulation 2(4) and 3(3)(b) amend the 1998 Regulations and the TERC Regulations respectively to provide that those who pay an NHS charge or travel expense while their Universal Credit entitlement is being determined will be able to claim back the relevant costs if they are later shown to be entitled to help with health costs.

Regulation 3(4) updates references to student support legislation in Table A in the Schedule to the TERC Regulations. It also makes provision for the way student loan income is taken into account in calculating a claimant's resources for the purposes of help with health costs under the NHS Low Income Scheme as a consequence of the abolition of maintenance grants in England.

In respect of the TERC Regulations, regulations 5 and 6 make savings provisions to ensure that persons whose entitlement to the reimbursement of a travel expense, remission of a charge or assistance with a cost which arose between 1 November 2015 and 31 March 2017, can obtain reimbursement or repayment after that period. In respect of the 1998 Regulations, regulation 4 allows for anyone who was issued with an optical voucher between 1 November 2015 and 31 March 2017 to be entitled to use the voucher if it has not been accepted before this date.

### **Consultation**

The Social Security Advisory Committee in England carried out a public consultation as part of a review on the impact of Universal Credit on passported benefits in 2012. No further consultation was considered necessary for this instrument.

## **Impact Assessment**

An Equality Impact Assessment has not been undertaken. Amendments are being made to ensure that our policy intentions are reflected in the 1998 Regulations and TERC Regulations in relation to Universal Credit.

## **Financial Effect**

The purpose of thresholds is to ensure as far as possible that the shift from passported benefits to Universal Credit is accomplished on a cost neutral basis. The amendments to the 1998 Regulations and TERC Regulations in respect of Universal Credit will deliver this policy intention and ensure that these Regulations align fully to the financial modelling for the introduction of thresholds for help with health costs.

Scottish Government  
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