MAY 2023 Newscast Transcript

David: [00:00:06] Hello. It's our May Newscast. Welcome to both Will Hadwen and Liam Casey, who are joining me today. Will, I wonder if you could start by running through the three, briefly tell us the headlines of the three areas that you've brought with you today, if you wouldn't mind?

Will: [00:00:31] So, I thought we could usefully look at Managed Migration again. Also very topically Cost of Living payments, which should start to be paid tomorrow (25/04/23). And my item (which is stuff that's been on my desk recently) is about UC claimants reaching pension age.

David: [00:00:50] Okay, fabulous. Thank you. Liam, what's on your agenda?

Liam: [00:00:55] Oh okay. So I'd like to talk about changes to the childcare costs element in Universal Credit. That's some upcoming changes that we'll probably see this Summer. Also, April benefits upratings, specifically the Benefit Cap - the increase to that and when we'll see that take effect in people's awards as well. And then, lastly, I notice that there was some recent stats published on substantial risk outcomes in ESA. So if we've got time, we can maybe talk about that as well.

David: [00:01:31] Okay, great. Really important. Yeah, I had a couple of those. The thing that I brought with me is something that's been coming up in my work recently when working with families and young people, young people growing up, is the issue of housing cost contributions in Universal Credit non-dependant deductions. So if we have time, I might mention some of those things. Okay, Will, why don't we go with your sort of preferred option first, then what's that? Managed Migration. Should we go with it?

Will: [00:01:59] It is Managed Migration? Yes, yes. So it's really happening now. And we know that this year, 2023-24 (so this tax year), they're going to try to send migration notices to people who get tax credits only. When they say tax credits only, we think they mean not receiving any other legacy benefits. So they might be receiving other things, but that would be the only legacy benefit working tax credit and or child tax credit. And so that's already started in parts of the south-west of England (Avon, Somerset and Gloucestershire). And according to my source over there, about 9000 people are due to be migrated and they've already sent out 5000 letters. They're starting with single tax credit claimants and then they'll move on to couple claimants later.

David: [00:02:48] Okay.

Will: [00:02:50] So there are several things that then come out of that, which is understanding what a migration notice means, that you'll have a deadline which will be approximately three months after your notice (it shouldn't be within that three months), that you've got to claim by that deadline to get a qualifying claim or within a month of that deadline, your UC claim will then be backdated to your deadline. And that your tax credits will terminate whether or not you claim, that, of course, is the important message that you're going to lose your tax credits, whether or not you claim UC. And then there are some important other messages to do with the fact that you can claim UC even if you have more than £16K in capital, you will get a transitional element if your tax credits are less than your UC. But we do need to watch out for people who might be subject to the Benefit Cap, and that if you're a student on tax credits who wouldn't normally be able to get UC, you'll be able to get it until the end of your course. So hopefully the more that we talk about this, the more familiar it will become to people when they start to have to advise people.

David: [00:03:59] So different types of transitional protection. You mentioned capital. Obviously, that's going to be particularly relevant to many of the people that are first in all of this being tax credits - tax credits not having a capital limit. The transitional element, or the amount which is included to make sure that your regular payment is no less than it will have been before under legacy benefits, and students as well. Am I right in thinking that it's those three broad areas? Have I missed anything?

Will: [00:04:30] Yes. So those are the three specific areas of transitional protection for people who move to UC under Managed Migration.

David: [00:04:40] And, in terms of the timescales involved, for somebody that gets a notice. So this is a letter which people are going to receive. And I think on training what I've been saying to people is if anybody says, I've been told I have to claim Universal Credit, one of the things we really need to check now is whether people have had the letter or whether it's simply kind of advice from the job centre, right?

Will: [00:05:04] Or the local authority, yeah.

David: [00:05:05] Or the local authority, wherever it might be.

Will: [00:05:06] Or their friend.

David: [00:05:08] So, and if you get the letter, the deadline is three months or not less than...

Will: [00:05:15] So not less than three months. So they can't have a deadline that is within three months of the issue of the migration notice. So depending on how long they take to land on your doormat, you shouldn't have too much less than three months. But, there is the potential to extend your deadline. We don't know how easy it will be to get this, and evidence so far suggests it may not be that easy. If you've got circumstances which mean that you would benefit from a longer deadline, you've got a good reason and you can always ask. And that's a discretionary decision. Okay, so we can't challenge that or not easily anyway if it's not successful.

David: [00:05:59] Okay, great. So look out for the notice. You should be advising people on the importance of the deadlines. There's probably a whole bunch of other things to check, aren't there, which I know you're covering on our course (our Managed Migration course), which is up and running now so people can come on that as well. Great. Thanks, Will. Your top item, Liam, am I right in thinking you're going to talk about childcare costs? That was the first thing you mentioned or something else?

Liam: [00:06:24] Yeah, that sounds good. Okay. Um, so, yeah, I wanted to talk about this. I think we haven't discussed it that recently on our newscast. So it's two changes really to the childcare cost element of Universal Credit. So, there's an increase to the maximum cap of childcare costs (the maximum amount that you can get), and also a change to when you can get the childcare costs, pretty much a change to being able to get those upfront. So, let's just discuss firstly what the childcare costs are in UC and then a bit more about those two changes if that's okay? So, you might be entitled to a childcare cost element in Universal Credit if you're in paid work or you're about to start paid work and you've paid some childcare costs for relevant childcare. So currently you can get about or you can get 85% of your childcare costs - up to £646 a month for one child or £1,108 per month for two children, repaid to you (that's two or more children, I should say), repaid to you for via this childcare cost element. So that's the current situation. So how is that changing? Well, from Summer 2023, the maximum amount of childcare cost element will increase to £951 a month for one child and £1,630 per month for two or more children. So that's an increase of almost 50% - you know, a significant increase there, though we do have to put that in the context of the fact that they've been frozen since, I think, 2016. And so maybe about time that we have had that increase. So that's the first change. The second change is something that people have been calling for for quite a long time.

Liam: [00:08:15] So there's going to be help now to pay for these childcare costs upfront. So currently, childcare costs are paid in arrears (the childcare cost element is paid in arrears) and that leaves parents to pay the first month's childcare costs upfront before they can actually get the childcare cost element. So if people can't afford to do that, what they can do currently is claim a Flexible Support Fund payment from the Jobcentre. That's a discretionary payment that they should be able to get to help them with those costs. But the issue has been that if you do that, you can't then get a childcare cost element to kind of pay you back for the Flexible Support Fund money that you use to pay your childcare costs. So the next month along, you're sort of in the same position - having to find that money to pay for your childcare costs. So what they said is they want to change that, and I think the way that they are going to change it now is basically by changing this rule around the Flexible Support Fund Payment. So, I saw some updates that said that basically now if you get a Liam: Flexible Support Fund Payment to pay for your childcare costs upfront, you'll still be able to get a childcare costs element, despite the fact that you've used this Flexible Support Fund money to pay towards the costs. So, in effect, that should mean that people aren't having to try and find hundreds of pounds when they're starting work to pay childcare costs upfront. So I hope that made sense?

David: [00:09:48] Yeah it does. And I hadn't appreciated all of that if I'm honest. So thank you, that's enlightened me. And yeah, it is such a large amount isn't it? So just to recap on those amounts, you said 85% of what you're liable to pay to the childcare provider, up to currently, the amounts are up to £646 for one child, but that will be rising in the summer up to a maximum, I think you said £951?

Liam: [00:10:12] Exactly, yeah, that's right.

David: [00:10:13] Okay. And if it's two or more children that you're responsible for and paying childcare costs for, it's 85% of what you pay. Currently that's capped at £1,108, I think you said, and that's rising in the Summer to £1,630.

Liam: [00:10:28] Yes.

David: [00:10:29] Okay. And like you say, we've got this Flexible Support Fund but I hadn't appreciated that that's how they're going to go about it. But it kind of makes sense, doesn't it? And it does beg the question, why didn't they do that before?

Will: [00:10:40] Yeah, because Northern Ireland has already done exactly that. But the problem with it is it doesn't help those people who are still carrying a debt. So some advisers have asked me, what about my clients who are still carrying a debt from month to month, and they're not increasing their hours or starting a job, and so they won't be able to help them.

David: [00:10:59] Yeah, fair point. Okay. Thanks, Liam. That's great. We'll probably have time to do one more of yours, Will, I'm not sure, but would you like to pick the one that you're most keen to share? The other one.

Will: [00:11:10] Yes. So I'm going to share my frequently asked issue at the moment. Wish it wasn't, which is about clients on Universal Credit reaching pension age. So I've had maybe, I don't know, 3 or 4, anyway too many in a short space of time, people who are in what we call a mixed age couple. So there's somebody of pension age and someone who is younger and they're on Universal Credit. And what's happening to these people is when the younger partner reaches pension age, they're able to claim Pension Credit and their UC should stop at the end of the assessment period in which the younger partner reaches pension age. So there's a small overlap during which they can get UC and Pension Credit and then they proceed on Pension Credit. However, what's happening is that UC is not stopping when it should do. And these people don't necessarily realise they need to claim Pension Credit. In two of the cases that I've seen, they also didn't realise that you have to claim your state retirement pension. I think they thought it was automatic. And, so they're ending up with an overpayment of UC and then having to try and backdate their Pension Credit and probably some housing benefits as well. And then if that doesn't cover the gap, trying to argue the overpayment of UC shouldn't be fully recovered because there's no loss to the public purse, because if they hadn't been claiming UC, they would have been claiming Pension Credit. And it's all got very messy.

David: [00:12:41] Messy.

David: [00:12:44] Yeah. Gosh. Mean. It should be relatively straightforward, shouldn't it? You'd think. And I suppose the good news is within all of this, unlike other benefits, Pension Credit and Housing Benefit can be backdated without having to explain why (that's for three months), so obviously that provides a window. And I guess, it's always one of those issues, there are so many aren't there, where we kind of need to be raising awareness or looking at our caseload and thinking who's reaching state pension age and let them know of what to do and what to look out for so they don't fall foul of this.

Will: [00:13:20] Yeah. And I've been told by someone who recently worked for the DWP, but no longer does, that the problem is, you'd think this would be automatic, but apparently it isn't. And so that's what DWP staff are meant to do, is to look out for people reaching pension age and that's not always happening. I'd also recommend that if you get a case like this, you complain, especially if the overpayment isn't waived, and then go down the complaints route and get some further advice as well about challenging the refusal to waive it.

David: [00:13:51] Okay. So it's a good it's a good one to share. Can I just be clear on what should happen and how we should be advising people? The younger partner in a mixed age couple. Oh we should also say that State Pension age is 66. There's still a bit of confusion on that, I think.

Will: [00:14:07] Yes, and it is still rising. So there are people who will be pension age at 66 and a few months, for example.

David: [00:14:13] But not anytime soon, though I think, that's 2026 onwards, isn't it? So for the next couple of years, we ought to be clear that State Pension age is 66. So if you've got someone who's older than 66 in a relationship with somebody who's currently under 66, but approaching that age, then a Pension Credit and possibly Housing Benefit claim needs to be made, preferably in the run up to their 66th birthday (you can claim in advance). And then Universal Credit should run on to the end of the assessment period in which the younger person turns 66. That's what you said, isn't it? But the problem is it often just carries on and people don't know of the problem until it becomes a significant overpayment, etc etc. Alright. Thank you. Liam, can we turn to one of your other ones? Which would you like to pick?

Liam: [00:15:03] Sure. Okay, let's talk about Benefit Cap uprating. Okay, so we've known for a while that the DWP benefit amounts are increasing this April by 10.1%. And also, for the first time ever, the Benefit Cap amount is also increasing by 10.1% as well. So I wanted to flag just what the Benefit Cap is briefly, and then when people will see this change in their benefit awards. So the Benefit Cap is a limit on the total amount of certain benefits that you can get. So it says that if your benefits added together are more than a certain figure, they'll actually reduce your Housing Benefit or your Universal Credit so that you don't have more than that cap. So an example would be if you're a family living outside London, until now, your relevant benefits couldn't be more than £20,000 per year. But that cap is now going to go up by 10.1%. And there's different caps for single people, couples and families in London or outside of London. I should also say the cap only applies to people who are not in work or who are not earning enough from work. And there's also some exemptions as well for carers and people with health conditions and and disabilities if they're getting the right benefits. So what's actually happening and when is it going to happen? Well, the DWP recently published an Advice for Decision Making memo and that confirms that for Universal Credit, the Benefit Cap increase (and actually the increase to the Universal Credit components), is going to apply to monthly assessment periods that start on or after the 10th of April this year. So people who are affected by the Benefit Cap should see an increase in their monthly UC payments from, I think, about the middle of May onwards. So there may be some people out there who are thinking, well it comes in in April, you know, they maybe have been looking out for it in April - they'll probably be disappointed because they obviously, they won't have seen that increase. But people being paid from middle of May onwards certainly should do.

David: [00:17:15] Okay.

David: [00:17:16] That's helpful. So if we're working with people who arrive through our doors or on the phone or whatever, and say, how come I'm still seeing the same rates and the same cap, etc, for the payment that I've just received in April? That's because their assessment period (that that particular assessment period) will have begun before the 10th of April. So then it's going to be the next assessment period, which for most people is going to be, like you say, middle of May - it can't be before 9th of May then or plus the seven days for when you're going to be paid, whatever it is. Okay, great. And the exemptions are really important, aren't they? The benefit rates have gone up, the cap amounts have gone up. The amount you have to earn has gone up as well, isn't it? So for those people that are working and not affected by the cap because of their earnings, I haven't got a note of what that amount is, but it would be useful.

Liam: [00:18:12] I've got it here. It's I think it's going up to £722.45 per month. So yeah, that's a relatively big increase based on the increase in national minimum wage. So some people don't see that increase. They're paid differently, maybe working less hours then yeah, they could start becoming affected by the cap, unless that nine month grace period applies to them.

David: [00:18:38] Right.

David: [00:18:39] Great. Thanks. And we should say other exemptions do apply as well, don't they? Most importantly, lots of exemptions around health and disability benefits. I think you said Carer's Allowance and you mentioned those other ones. So lots of things to check there.

Liam: [00:18:52] I think Discretionary Housing Payments as well. Actually. Probably one more thing to mention on that. That discretionary payment, you know, you apply to the local authority for that. And I think in Scotland now as well, the Government has committed to mitigating the Benefit Cap in full through the DHP. So if you're working in Scotland, if you've got somebody who's affected by the Benefit Cap, then actually the local authority should be mitigating that in full now through the Discretionary Housing Payment scheme.

David: [00:19:22] Thank you, Liam. That's great. So the item that I've brought with me, most of my work is with adoptive families, parents, children and young people. And quite often where

I'm working with young people that are entering adulthood and getting older, of course they leave the benefit family (the benefit unit of the parent or the carer) and they become non-dependent. And recently I've had a few enquiries about non-dependant deductions or housing costs contributions and Universal Credit, which of course are going up as well as a result of the uprating. So until now it's been an amount of £77.87 per month, which is taken off of the, in my case, it's usually the parents' Universal Credit, where they're getting Universal Credit. If the young person becomes non-dependent and is basically expected to make a contribution towards the rent. So it's a loss of benefit for the parent effectively. And we've had this for years, of course, in Housing Benefit continues in Universal Credit. In Universal Credit, the amounts rising to £85.73, and that's not so much the issue that I want to focus on. It's on the exemptions because there's quite a lot of situations where there should be no deduction whatsoever and if and if there isn't currently an exemption in place, it's like the Benefit Cap. As you were mentioning, Liam, it may be that you can claim a benefit which then provides for an exemption.

David: [00:20:53] So for example, if you're paying rent of, let's say £485.73 per month (we're going to keep the maths easy) and you have a grown up child living with you (not part of your benefit family). Of course, it could be another family member, somebody else that's living with you. It wouldn't be another tenant or someone that's paying rent, but it would be somebody that's living with you sort of on an informal basis, let's say, then your housing element is reduced from £485.73 by the housing cost contribution amount (which is rising to £85.73, as I said). So that would leave a maximum housing element of £400. Basically, that leads to a shortfall potentially, but there are a number of exemptions and it's kind of helpful, I think, to split them into exemptions for the non-dependant and exemptions for the claimant because it can operate slightly differently. So if the non-dependant, let's say the grown up child in this case gets PIP daily living component, there's no housing costs contribution. It's nil. If the young person is under 21, it's nil. And there are a whole bunch of other ones as well.

David: [00:22:07] If they're getting Pension Credit, getting Carer's Allowance, on operations for the armed forces, in prison, responsible for a child under five. So there's a whole bunch of things to check, and Shelter have a really helpful factsheet on this, which we'll share. They've just updated it as well. And the other point to note is that if the claimant gets a disability benefit, so in my case, it will usually be the the adoptive parent. If the parent in my case gets a benefit like PIP daily living component or an equivalent benefit, then there's no prospect of a housing cost contribution or non-dependent deduction. So we'll include that Shelter factsheet in our list of resources because I think it's a really useful one to remember. So, I just wanted to share that before we finish. I think our time is up but the other two issues which we haven't spoken about, were let me remind myself, Cost of Living Payments, which we're not going to talk about now, but perhaps we'll include some resources and the substantial risk statistics. I saw those as well, Liam, and what struck me was the proportion that are Limited Capability for Work Related Activity rather than Limited Capability for Work. Massively, Massively.

Liam: [00:23:22] It's almost ten times as many, I think, had got Limited Capability for Work Related Activity on the substantial risk criteria than the LCW, which was, you know, I think that's to me, that's encouraging in terms of thinking about challenging decisions and appeals. You know, if you're thinking about looking at substantial risk, maybe looking at Limited Capability for Work, why not actually look also at Limited Capability for Work Related Activity ? So I think the conditionality risks that we're looking at are quite similar sometimes in terms of thinking about, well, comparing the risk of being asked to go to work, to maybe comparing the risk of being asked to do a work placement. So, yeah, that's what struck me about that.

David: [00:24:09] Really important isn't it. And stuff that we look at on our Work Capability Assessment course. Which brings me to our advice service. Of course you can email us with your cases. If you've been on a course in the last 12 months, use our advice@benefitstraining.co.uk email. We'll get back to you, either on the same day or by the end of the next working day. If you've not been on training with us recently, of course you can attend. You'll find details of our courses online. Thanks both. Very grateful as ever. Thanks, everybody for listening. We wish you well. Goodbye.