

Benefits Newscast June 2023 Transcript

David: [00:00:05] The sun is out, so it must be our June Benefitscast. It's Will and I and Charlotte Richards, who, when she's not working for us, works for a local authority welfare rights unit. Maybe I can start with you. Could you sort of summarise the three things you've brought? And I'm going to make a note of them.

Charlotte : [00:00:32] New digital claims for Child Benefit was the first one.

David: [00:00:37] Okay. Thanks.

Charlotte : [00:00:39] Cost of Living Payments for people on disability benefits.

David: [00:00:45] Okay.

Charlotte : [00:00:46] And a change to the Sure Start Maternity Grant for people coming from Afghanistan and Ukraine.

David: [00:00:56] Got it.

David: [00:00:57] Thanks. And Will, what's yours this month?

Will: [00:01:01] So I have Managed Migration, but specifically for Tax Credit claimants moving to Universal Credit who might be worried about whether they're going to get anything. I also have some updates about people from Sudan and special rules for the presence and residence tests for them. And finally, I've got some thoughts about the limited capability for work related activity element, where there have been gaps in sick notes.

David: [00:01:33] Okay, cool. Got it. Right. Thanks. So maybe Will, I can ask you about Tax Credits claimants and Managed Migration first because that's, you know, it's very topical. It's starting to happen isn't it, so it feels very real. Let's start with that one.

Will: [00:01:50] Yes, absolutely. So what we've been hearing recently is that Tax Credit claimants aren't always claiming Universal Credit when they get a Managed Migration notice. And that mirrors what happened in the pilot process last year. So there's still quite a large percentage of people who are missing out. Now that could be for a number of reasons, but one reason that springs to mind is they think they're not going to get anything, and that could be because they've got capital of more than £16,000. So the first reminder is to say that anything above that £16,000 is going to be disregarded for up to 12 months. And the second thing is they might think, oh, I've got too much income that counts for UC, but maybe didn't wipe out my Tax Credits, and just to remind people that the transitional element of UC is worked out in a special way in cases where UC would otherwise be zero by adding the excess income to the transitional element. So they should still get the same in UC pretty much that they got in Tax Credits with the exception of some people who will be benefit capped, which I think is going to be pretty rare for people in this situation. So I think the more we can do to encourage Tax Credit claimants who may also not be used to using advice services, to come forward and share any concerns they've got, and above all, to make these UC claims.

David: [00:03:24] Got it right. Okay. It's complicated, isn't it? That whole thing about when your income might be too high or when you think your income might have been too high, is a really complicated one, isn't it, particularly in the way that you described there? In fact, could you say it again? Because I want to get this right.

Will: [00:03:49] So the transitional element has two ways of calculating it. One way is quite simple. If you would be entitled to Universal Credit, then your transitional element is going to take your Universal Credit up so that it is the same as your legacy benefits. That's fairly straightforward. There is one major exception, which is people affected by the benefit cap, which I'm not going to go into today. Then there might be situations where your indicative UC - your UC based on your circumstances on migration day, ignoring the cap of £16,000, is nil because with the tariff income from the £16,000 and maybe other income accounts for UC, your UC ends up being nil. Now, in that situation, the excess income (so above the bit that wipes out your UC, any other income) is added back to the amount of your legacy benefits, that becomes your transitional element. So that when your actual UC is calculated, that excess just comes off again and you are left with your legacy benefit award.

David: [00:05:03] Okay.

Will: [00:05:04] Explaining that without any visual aids, it's probably impossible.

David: [00:05:07] But that was, do you know, that was really good. And I think what I take from that is it's not just as simple as doing a calculation for Universal Credit to see if you qualify.

Will: [00:05:20] No. And people who go and use the online calculators, which are great, will end up seeing the result that they're not entitled to UC and think, oh, I won't bother, but actually you should bother.

Charlotte : [00:05:33] I think that might be something that's putting a lot of people off because they'll think, is it worth me bothering? And then they'll go on to that, and presumably on none of the gov.uk things yet does it have a warning to say this won't necessarily be correct if you're Managed Migrated?

Will: [00:05:49] Not that I have noticed. The last time I used one of those free to public access ones, policy and practice last week, and I didn't notice anything. Obviously, you could manipulate it to work it out, but if you didn't know, you wouldn't know.

David: [00:06:04] Okay, thanks both. So I just want to understand this even better in terms of the basic advice, because of course people could come on our Managed Migration course and they could look at the calculations and you'd take them through that and everything. But what if people just want to get a sense of what to do, what the basic principles are? I mentioned one of them, which you agreed with, which is you can't just rely on getting the Universal Credit calculation done. Am I right in thinking that the sort of basic principle is if you get some Tax Credits, then you're likely going to get some UC?

Will: [00:06:35] Yep, you're very, very likely to get some UC. If you get some Tax Credits, the probability is that you will be entitled to some UC of the same amount following your claim for UC. It won't last forever. In the case of disregarding your capital above £16,000, that disregard only lasts for 12 months and there's lots of other ifs and buts in there. So if your capital goes down during that time and then goes up again, you could lose out. You could lose the disregard

early or you could perhaps come off UC due to earnings, and then go back into UC and the disregard can start again. So, there are a number of complications there. But generally speaking, if you are on Tax Credits now and you get a migration notice, you are entitled to UC of the same amount, with the only exception being some people who could be affected by the benefit cap. As I say, I think they're going to be in the minority.

David: [00:07:28] Okay, that's really good. I'm so glad we raised that because I think that sort of lays it all out. So thanks again. Okay, Charlotte, the first thing you mentioned was, I think, digital claims to Child Benefit. I wonder if you can tell us a bit more about that?

Charlotte : [00:07:44] Yes, This is a relatively simple one. Following Will's. Yeah, it's just a new way of claiming Child Benefit now, traditionally it's always been you had to make a paper claim and these claims were taking a really long time as well to come through (several weeks, if not a couple of months as the last one I did a few months ago). But now you can make a claim online and you can do it as soon as 48 hours after you've registered the birth. So you've got to register the birth first, of course, and then you can do the whole thing online. And there's an HMRC app apparently (I haven't actually seen this) that you can use then to get proof of your Child Benefit if you need that for claiming other things as well. So it's just an easier way of claiming in theory for those who are quite digitally aware, and presumably, hopefully you should get paid quicker as well. And that's been in since the 12th of May.

David: [00:08:41] Okay. Since 12th May. Right, lovely. Yeah, I think it's been for a bit of a while hasn't it, that they've made it possible for you to get proof of your Child Benefit online so you don't have to get a letter sent out by the actual office. So that's perhaps going to be easier for lots of people but not everyone. Presumably it's still possible to make the paper application the same way, that's going to remain, right?

Charlotte : [00:09:07] Yes. Yes, it is. So it's just another option for people. I mean, I think the research has shown that they think up to 20% of people still wouldn't be able to manage to do it online. But as I say, there still is that other option anyway.

David: [00:09:21] Great. Thanks.

David: [00:09:23] I made note of a Child Benefit one that I've brought with me, which is to do with National Insurance credits for people who would claim Child Benefit. So a child under 12, if you get Child Benefit in respect of a child under 12, you're credited with National Insurance contributions and that can help you get the State Pension at a later date, of course. Lots of people not doing that, not claiming Child Benefit when they have a partner, or if they are a higher rate taxpayer, because of the high income Child Benefit charge. And for lots of people, of course they'll be put off because otherwise your claim just increases your tax burden. You pay it all back through the tax system. But you can, of course make a claim to Child Benefit just to get the credits, which we talk about quite a lot on our Newscast and also on training. So the revenue has committed, or it's announced (don't know about committed), but it said that it will provide a fix for people that have missed out on those credits over the years and they've suggested that they'll fill the gaps retrospectively for people who didn't actually make the claim.

David: [00:10:39] So this is a good thing, but they haven't actually said how they're going to do it or when they're going to do it. So I wanted to raise it, not least because we should remind people that you can make the claim to Child Benefit without being paid so it doesn't increase your tax burden. And people should do that as soon as possible in order to protect their future State Pension. And it gets more complicated because some people will have made Class 3 contributions (you make voluntary contributions to fill the gaps) but that's quite expensive. The Low Income Tax Reform Group have taken this up and on their website, they've pointed out that to fill a year's worth of contributions, it costs currently on the current rates about £900 to fill each year. So I'm not sure that would necessarily be the thing that you want to do right now, especially given that government has said that they're going to look at fixing this retrospectively. Maybe go and see your MP as well to make sure they do actually do it, is probably a good idea, right?

Will: [00:11:36] Yeah, yeah, definitely. It's such a weird one and it's so complex for people. And another thing, a related issue that's come up recently, which I think the Low Income Tax Reform Group may have also spoken about, is that some people can be in a situation where they would if they claimed and received Child Benefit, have to pay the tax charge, but they're eligible for UC. And I've got a client at the moment in that situation who, due to high rent and childcare

costs, is eligible for UC but earns more than £50,000. Yeah, it's it's a ridiculous situation - they can't believe what I'm telling them. Yeah, it doesn't make a lot of sense.

David: [00:12:22] It doesn't make a lot of sense, but then it kind of isn't surprising as well at the same time, because with inflation and people getting paid more and the tax thresholds having been frozen, more people, as we know, are being brought into higher tax bands, aren't they? So we will see more people in this situation, which is one of the reasons why I wanted to mention it. But it hadn't occurred to me that that Universal Credit issue would also be at play. Some of those same clients.

Will: [00:12:48] Yeah. Especially in in cities like London and Edinburgh, perhaps not so much outside. Yeah.

David: [00:12:58] Okay. Thanks. Will, could you choose one of your other ones? I'm not sure we're going to get time to go through all of them. So maybe you could choose your next sort of preferred one?

Will: [00:13:08] Yeah. Okay, so this is a quick one, which is people who were in Sudan before the 15th of April and then fled Sudan in connection with the violence that escalated there. They've changed the Habitual Residence Test and the Past Presence Test for disability benefits and Carer's Allowance. And that's absolutely across the board in Northern Ireland and Great Britain and for the Scottish disability benefits as well. So if you happen to have a client in that situation, it's just well worth remembering that.

David: [00:13:43] Ok. So, you mentioned disability benefits and Carer's Allowance. So it's mostly the Past Presence Test, which is an issue there, right?

Will: [00:13:51] The Past Presence Test, but also treating people as Habitually Resident for benefits like Universal Credit and Pension Credit.

David: [00:13:58] So it basically means that people who are arriving in the UK under those circumstances can claim benefits from day one, pretty much. Is that right?

Will: [00:14:06] That's the intention of the change, Yeah. Absolutely, yeah. Emergency legislation was passed to do that and then Scottish Government followed and Northern Ireland mirrored the regulations as well.

David: [00:14:16] Okay. Very good. Thank you, Will, Charlotte, which was the other one that you might like to mention? We might have time to come back to the others, but let's choose your next one.

Charlotte : [00:14:29] We've got the disability Cost of Living payments coming through. So that was just announced last week - the relevant dates for that. So the people who are on qualifying disability benefits, that might be PIP, DLA for children or maybe for older people, Attendance Allowance and various other disability benefits. As long as you are in receipt of one of those benefits on the 1st of April this year, then you should qualify for the £150 Cost of Living payment that goes alongside all the other Cost of Living payments. And that's going to be issued sometime between the 20th of June and the 4th of July. So people should get it automatically, and they are saying that more than 6 million people will qualify for that. You shouldn't have to make a claim or anything, it should just arrive seamlessly in your account.

David: [00:15:25] Okay, good. So in terms of the message we want to be giving to members of the public, to claimants, to people we might be working with, the key date when you will need to have been in receipt of a disability benefit will be the 1st of April, I think you said. And then the payment will be made between 20th of June and 4th of July. So for people that were getting a disability benefit at that time, it may be as late as 4th of July. People shouldn't necessarily be chasing it up until after that time, but I suppose it could also include some people who are waiting for a decision to be made on their disability benefit as well, which I guess is going to be a bit more delayed - it will be made after a decision is made on their disability benefit, right?

Charlotte : [00:16:11] Yes, that's right. And that's what happened, because the last payment of this was in September. Doesn't seem to have been much of an issue with people who've gone through appeals and things and getting the backdating. I haven't seen that in my work. They seem to just get that automatically, you know, when it's been backdated to a relevant date. So

if, you know, six months down the line, you then win an appeal and it's backdated to 1st of April or before then you should get it then as well.

David: [00:16:40] Great. Thank you.

David: [00:16:41] Some of these overlap in terms of, well, I was looking at the Policy in Practice report analysis on the problem of under claiming in the benefits system. So some of the headline statistics were £7.5 billion worth of under claimed Universal Credit by 1.2 million households who otherwise would qualify and £2.9 billion worth of Council Tax Reduction or Council Tax Support. And they talk about some of the possible reasons, particularly with the Universal Credit. They emphasise that lots of people in work don't realise that they might qualify. A lot of people think you have to be out of work to get Universal Credit, which of course you don't. So again, checking for entitlement, getting the calculation done, really important. And they talk about some of the reasons, and listening to your explanation of the Cost of Living payments, Charlotte, reminds me of some of what was in their analysis. They mentioned four reasons for there being such large amounts which are going unclaimed. Administrative complexity, lack of awareness, fragmentation of support and stigma were the main reasons that have been found to lead to such large sums being under claimed, and fragmentation of support, sort of Cost of Living payment is really important, but here we are explaining something which is being added on because people don't have enough in the first place, right? Which seems to be sort of indicative of the of the times that we're living through. And anyway, there's a lot more that could be said about that. And of course, we'll put those links on our website. So if you want to find out more, you can. Will, we haven't got very long. I wonder if we could just touch on your final issue quite briefly, if that's possible, is it?

Will: [00:18:41] This is not a news item as such. It's something that's been a problem for a long time and it crops up quite frequently in my advice practice and lots of other people's as well. And it's where people are trying to get a Work Capability Assessment and eventually they do and they have Limited Capability for Work Related Activity. And then the issue is how far back should their arrears of that LCWRA element go in Universal Credit. What the rules say is, there's a relevant period, three months of sick notes, and it's only in the assessment period after that that you get your element. But actually, if you dig down into the regulations a little bit more, doesn't necessarily have to be sick notes. If it was unreasonable to provide sick notes, it could

be other evidence. So one of the things that I see quite often is people who have gaps in their sick notes. Variety of reasons, not being able to get to see a healthcare professional or talk to one, not being asked for them by DWP, just falling through the net essentially. And I think in many of those cases it's often arguable that there was other medical evidence. Even an award for PIP could be evidence. And generally speaking, when you challenge the DWP in these situations, they do back down and they do revise the arrears. So as a result of that, we don't have any case law which may be purposeful, but it's just to say to people to don't give up. If you think that you've been telling the DWP since day one of your UC claim that you're not able to work or indeed do any work preparation, then you should argue for the maximum backdating of that element.

David: [00:20:16] Great. Sorry Charlotte.

Charlotte : [00:20:20] I was gonna say, yeah I've had cases like this where, and especially with the pandemic, because it's harder for people to get fit notes, as you say, for a variety of health related reasons people weren't handing them in. And then I think sometimes when people have had that backdated payment, they think, Oh well, I've got that and they've been waiting a long time. But in the case that I've had recently, it was going back to 2019. It was only because I came along and said, "hang on, why have you been handing in sick notes for all this time?" But it turns out I think there are gaps. So I think it is quite a common thing and people probably do give up challenging it, yeah.

David: [00:20:59] Thanks Charlotte. That's exactly what I was going to say. It can lead to significant payment of arrears. So it's worth a go. Yeah it's worth a go. It's not necessarily the case that you have to have had a sick note throughout that period. It may be that other evidence is available, so it's worth looking into it. Great. Thanks both. I think that brings us to the end of our time, so thank you both once again. A reminder to everybody that we have our advice email. You can use that if you'd like to get further questions answered from us, assuming you've been on training with us recently, of course. If not, you'll find details of our courses online. Thanks to you both once again. See you soon. All the best, everybody. Goodbye.