

Benefits Newscast March 2024

David Stickland: [00:00:05] Hello. Welcome to our March Newscast. As you can probably tell, I'm joined by Will Hadwen as usual. And this month, happy to say that we're joined by Michael Chambers. We're going to be discussing stuff that which we think is important stuff that is changing, developments, bits and pieces that might have come across our desk that we want to share with you. So I'll start with Will. Will, I wonder if you could tell us what's first on your list of items this month?

Will Hadwen: [00:00:38] Yes. Well, I've got some good news for starters. And that is that the case about whether someone with pre-settled status should be awarded Universal Credit, if they would otherwise be at risk of not being able to live in dignified conditions. Is not going to be appealed any further. So that means that if you've got someone who doesn't have a qualifying right to reside, to get Universal Credit, their only right to reside being that they have pre-settled status, and then they can potentially argue that because they wouldn't be able to get adequate resources from elsewhere, they're at risk of not being able to live in dignified conditions. There is still various things that you've got to show, including that they're not able to work. But what you shouldn't find anymore is DWP stockpiling those decisions or tribunals staying the case of the hearings. So overall good news for people in that situation.

David Stickland: [00:01:43] That's great Will, isn't it so nice to have some good news. It's not always the case. So that's marvellous. And, so this is a bit of an update, isn't it? Because we've talked about this before a few months ago, I think and like you say we now know it's not going to be there's no this is the end of the case. And so we can accept it. And there's no more stockpiling, like you say. So let's just be clear. It's always good to for me to double check and help people identify what we should be looking out for here and you'll be able to correct me if I'm wrong. So it's, um, people with pre-settled status only. So it will be people who have had less than five years of residence. That's right, isn't it? No qualifying right to reside. Um, so we're usually looking for, things connected to work, former work, retained worker status, links to family members, etc., etc.. So we might have explored all of those things. And there are no qualifying rights under that legislation. So then we're looking at potentially, as you say, looking out for, cases where people might not be in work. So do you want to say a bit more about why the work is important?

Will Hadwen: [00:03:00] Yes because this is about a risk that someone won't have adequate resources. And so we really are talking about what, where that level should be set and if someone is able to work, it may mean that they could manage to live in something that would approach dignified conditions. So we ideally, we need to be able to show that they can't work, for example, because they have a very young child or because there's a disability. It might be some of the situations where we could argue that. But those are the main two that spring to mind. And also that they don't have adequate resources from elsewhere, for example, family, charities. What the judgment does say as well, which is really helpful, is that you can't assume that Children Act support will be available. And even if it is, it may not be adequate.

David Stickland: [00:03:54] Okay. Great. Thank you. Will and I imagine that we should encourage people to be looking out for decisions which are negative because presumably, we're not likely to see the DWP proactively looking for these cases or what do you think about.

Will Hadwen: [00:04:14] And yeah, that's a really good point. I'm not sure that I have an awareness yet. What we do know is that the DWP have been applying the judgment in some decisions. But I think I don't know that those have been without some representation from a client who's had advice that they are covered by the judgment. Because what you need is, is to show that you don't have the adequate resources. So unless the client has represented that, it's unlikely that it would be applied. CPAG have done a really great advice. Note to advisors is very thorough. It can be a bit daunting and realize that. So people can always approach us for support as well, and we can talk them through it a bit.

David Stickland: [00:05:00] Of course. Great. So as always, check, check, check decisions and get in touch if, uh, you might need some further help. Lovely. Thanks, Will. Michael so I'm wondering what you might have to bring with you this month.

Michael Chambers: [00:05:17] Well, I'm back to my favourite topic, Universal Credit managed migration. I'm in an area that has just started on this, so, I thought it would be useful just to have a look at that managed migration, what you can do with these notices if you know that there are any problems with them. Right. I did, if I can allow a shameless plug, though, we did attend some, some brilliant half day training delivered by Lindsay at the Benefit Training

Company. I'd really recommend that to anybody. Yes. So working with people affected by this. So, I mean, they've started, obviously, as we know, with Tax Credit only, um, claimants, but this year they are going to be widening this out to other legacy benefit claimants and the DWP said recently that the process had gone smoothly so far with very few complaints and most problems were resolved swiftly. But I did notice that their own figures for the period from 2022 to 2023 December, said it's just a quarter of those people sent to managed migration notices, had actually made a claim for, for Universal Credit. So I think there are obviously problems with this. And later on this summer, in August, they're going to start writing to Tax Credit only claimants who are over State Pension age and asking them to apply for either Universal Credit or Pension Credit, okay, depending on their circumstances. I mean, fairly straightforward. If you're, you know, single person who's reached pension age, should make a claim for Pension Credit. But we're back to the problem with mixed age couples, right? Most of whom are going to have to make a claim for Universal Credit. Um, um, and I wasn't clear from the DWP statement, how are they going to identify those mixed age couples who can make a claim for Pension Credit? Um, you know, for example, if the older member of the couple's been in receipt of Housing Benefit since since 2019. So I think there's going to be a few more problems as well when they start contacting that that group. I don't know what's what.

David Stickland: [00:07:37] Shockingly low those statistics aren't they. That's a quarter just jumped out at me when you say.

Michael Chambers: [00:07:44] Yeah, I mean, I mean, some of them, some of those I mean, it might improve because some of those people might still be going through the process of requesting and extension, which I'll talk about in a minute. But it I found that quite alarming, really. Um, to be honest, it's not automatic, as we know. I don't know, you know, but clearly people either, you know, don't have the support or you know, just for whatever reason, they're not making these claims.

David Stickland: [00:08:12] Yeah really low. Um, yes and I suppose, you know, some of that is on us, isn't it, to be looking out for our clients who might be affected and to make sure that we are offering support? The other thing that jumps out at me in all of this is the the developments over the next few months. So you mentioned, I think from April, there are going to be new sort

of groups brought into the process. So am I right in thinking that that's including other legacy benefits from April? And it's a sort of staggered introduction. Is that right?

Michael Chambers: [00:08:47] It is. Yeah. I mean, they're going to so if you're getting Income Support, Income Based Jobseeker's Allowance, Housing Benefit only, you might expect to notice ESA claimants with Child Tax Credit will get them. But they're pushing ESA claimants only or ESA and Housing Benefit claimants through to the very end. And oddly, this is the group who obviously might be better off in a lot of cases on Universal Credit, but they've been pushed to the end of the queue for this. So. Okay but what I mean, one of the things I think, you know, just just a quick reminder of what you can do if you receive a managed migration notice and you know, you can ask for an extension. I think that's probably the most common. You can ask for a deferment or for it to be cancelled. So I think asking for an extension is probably the most common reason and DWP are saying that, you know, if people have got a good reason, need more time to get their documentation, evidence, information or get support to make the claim, then they can request an extension, which is usually sort of four weeks long as request is made a week before the deadline date. So that's what their guidance says. But there's no limit on the number of times a deadline can be requested or allowed.

Will Hadwen: [00:10:14] Okay. And in fact, the guidance doesn't quite say that. And the guidance has changed, to be fair, since it was first requested, the freedom of information. So it's not automatically in the public domain, but it is by a freedom of information request. And what it says is a claimant can still be granted an extension if they call less than one week before the deadline, but they prefer that people contact them more than one week, because that will give the DWP the best chance of providing support, as they put it. So right. I think if you look at both the law and the guidance, it's clearly technically possible to get an extension quite near to the deadline. But you're pushing, they prefer it, you're pushing your chances. Of obviously, if you can request it more than a week beforehand, that is preferable.

David Stickland: [00:11:01] Yeah, yeah. Makes sense. Thanks both and I guess we can we'll include in our, in our links the schedule, which is coming up because I must admit, it's only fairly recently that I've got my head around this. And I think it's helpful to know which groups might be included over the, over the coming months. So we'll certainly be able to do that. Thanks, Michael. Will what's second on your list this month?

Will Hadwen: [00:11:28] Well, I've got something else. It's sort of good news. It's not really news, but it's a good top tip. And that is if you identify that somebody is entitled to Pension Credit and it doesn't matter how much Pension Credit, it could be a tiny little bit. And you can backdate that into last year. Then you can potentially get them the last Cost of Living Payment, which is worth £299. And you would need to make that backdated claim for Pension Credit by the 5th March, okay, this year and be asking for the maximum three months backdating for given, when I discovered that people are entitled to Pension Credit, they often have gone without for some time, could apply to a lot of people, and it's just a really nice extra to get for them if you can.

David Stickland: [00:12:16] Great, thanks. And yes, I was asked this morning about backdating and, you know, can all benefits be backdated was the question that was put to me. And of course, Pension Credit is one of the few that has. I mean, it's it's still only three months, isn't it? But it's a lot better than no months. And you don't have to have special reasons. That's the key thing isn't it. Which for many reasons you do. Yeah.

Will Hadwen: [00:12:42] Yeah. Doesn't matter what. You don't have to have reasons. You just have to show that you had entitlement.

Michael Chambers: [00:12:48] That's correct. Yeah.

David Stickland: [00:12:49] And so that deadline is effectively 5th March I think you said.

Will Hadwen: [00:12:53] The 5th March. Yeah.

David Stickland: [00:12:54] Right. So any cases we can identify before then will be worth not just the backdating but the extra Cost of Living Payment, which I think you said is £299 great. Well, this will be going out before then. So if you're listening to this before the 5th March, then obviously look out for those cases. Great. Thanks. Will. Michael let's turn back to you. I wonder what's next.

Michael Chambers: [00:13:16] Yeah. I don't know where you found all this good news from Will. I think this might be good news. I'm not sure. I'll see what you think. Success rates at appeal for PIP. They've always been high and The Tribunal Service, you know, we usually ask them why usual reasons and new evidence, you know, either verbal or written, being made to the tribunal. But the latest stats are that more than 60% of overturned cases the tribunal just reached a different conclusion to the DWP on substantially the same facts. Okay, so yeah, I think that's a polite way of saying that they just thought the DWP decision was wrong. It's good news, I guess, as I say, given the success rates at appeal. But it's worth bearing in mind, you know, if you're struggling with, you know, PIP decisions being turned down or not being successful at reconsideration, just hanging on in there and taking it through to an appeal sometimes just to get the right decision.

David Stickland: [00:14:21] Yeah. An important reminder to to explore the possibility of an appeal, like you say, very high success rates. Obviously. Yeah. 60 -70%, and once again, it's something that we can help with. We've also got our Preparing for an Appeal Tribunal course, which is regularly run by Maria, one of our other trainers, and she'll be delighted to see people there. Great. Thanks, Michael. I think we've just got time, Will, to cover the last couple of items. So I wonder what you've got third up.

Will Hadwen: [00:14:57] Well, my last bit of good news and regular viewers will know that I'm not always full of good news this month. It's spring nearly.

David Stickland: [00:15:06] Maybe you've got you're welcoming in spring.

Will Hadwen: [00:15:09] Early spring? Well, it is. It's quite topical for spring, I suppose. It's about new parents and Statutory Paternity pay. Right now, they're not making it more generous. They're not making it longer. I wish, but they are making it more flexible. Okay, so if you have a baby or an adoption that is expected on or after the 6th April this year, then you'll have longer to take your two weeks. Instead of having to take the two weeks fairly early on, you've got a whole year in which you can take those two weeks at some point, so that's considerably more flexible and then in addition, your notice period is shorter as well. You still have to give notice that you're expecting a baby or are expecting to adopt. And that is quite far in advance, 15 weeks before the baby's due, for example. Okay. But in terms of booking your

pay and leave, you can leave that until four weeks beforehand. Now, the good thing about that is the child might have arrived and maybe things aren't quite as you envisaged and there's more sleepless nights than you expected and that kind of thing. And you can decide nearer the time what's the reality when the child is here, what you want to do, rather than having to make that decision to take it very early on and give notice beforehand. So overall I don't think it's putting us on the level of many of the Scandinavian countries, but but it's still, it's a flexibility that, it just might make that little bit of difference to get more people to take it.

David Stickland: [00:16:55] Okay, great. So and so more flexibility, no changes to the qualifying rules. All of that stays the same. No changes to the extent of the entitlement and so on. Yeah. Um, great. And you mentioned.

Will Hadwen: [00:17:08] Flexibility and notice and when. Yeah.

David Stickland: [00:17:12] And so for those people who may not be so familiar, this includes, sort of birth parents, it includes adopters. And it could. And the partners of and partners. That's what I was wondering. Yeah. Yeah.

Will Hadwen: [00:17:28] So partners of someone who's having a child or adopting as well. Right. Um, and yeah, the criteria are the same as before. So for example, you have to have been employed by the same employer. Um, pretty much throughout the pregnancy. Uh, and you have to be an employee and you have to earn enough. So from that point of view, no more generous, but just that, that flexibility, I think, especially the flexibility of when to take it, it's going to help people.

David Stickland: [00:17:56] Thanks for sharing. That, Will we haven't got very long, Michael, but just long enough, I think, to mention your final item. I wonder what that is.

Michael Chambers: [00:18:05] Oh, well, um, again, Universal Credit started with UC, so I'll finish off, and again, it was I mean, as you know, managed migration continues and UC levels rise. 6.4 million people currently getting it. People with no work related requirements. Um, the only group that can't be sanctioned, sort of, for failing to look for work, but, 21,000 people had a claim closed in 2023 because they didn't accept a claimant commitment. And it's odd that

because it's part of the online claim and you just have to accept it, but people obviously don't know what it is at that stage. It's going to be personalised and tailored when they speak to the work coach, but if they don't accept it at that stage the claim, you know, is not going to go any further. So it's just a reminder, I think I always say to people and again, if you're not going to be claiming for the first time when you're getting a managed migration, when it asks you, do you accept a claimant commitment on if you're claiming online, you have to accept it. You have to say yes in order to for the claim to go on and not to say no at that point.

Will Hadwen: [00:19:23] Right. Most of the cases that I've seen have been people who've been refused during an award where the claimant commitments been not necessarily even definitely going to be revised, but they've been, it's been suggested that there's been a change of circumstance that that might mean it has to be changed and that has raised issues because they've missed it. So there's a number of you have to tread quite carefully there because if they've missed an appointment to talk about it, that should be a sanction and not a closed claim. I think we may have talked about this on the previous Newscast, but I did notice that statistic as well. And I think it's really worrying that there's that many people. Yeah, yeah, it's a lot. There's a lot.

David Stickland: [00:20:04] So it's one of those sort of classic examples of how the system doesn't it doesn't necessarily respond well. And there's all these sort of points at which things can break down. It may amount to a sort of paper exercise, but if it gets missed then it can be a fairly sort of catastrophic issue for that problem for that particular claim. Okay, well thanks both. I think that brings us to the end for this month. And it's good to see you both. Uh, thanks, everybody for listening. Of course, we have our advice service, so do use that, if you've been on training with us recently. If not, you can find those courses on our website. Thanks both again. Thanks, everybody. Goodbye.

Michael Chambers: [00:20:46] Bye bye bye.