Benefits Newscast November 2024

David Stickland: [00:00:04] Hello, everyone. Welcome to our November Newscast. It's our regular monthly news update of all things welfare benefits, things that are changing, things that we'd like to share, things that we've been coming across which we think are important. As usual, I'm joined by Will Hadwen and also very happy to introduce everybody to Kate Anstee, who started working with us earlier this year, and it's her first Newscast with us. So welcome, Kate. Kate, I'll turn to you in a moment, but as I often do, I'm going to first turn to Will and invite Will to share with everybody. Your first item Will.

Will Hadwen: [00:00:43] So my first item is one of the budget changes. And I think this is a good change for claimants. I think anybody on Universal Credit will be relieved to hear about this. Debt repayments that are made from your Universal Credit, which can really reduce your UC considerably. They're currently 25% of the standard allowance it can be that high, and that's going to be capped further at 15% of the standard allowance from April. So that's April 2025. It's still, I think, too much of somebody's monthly budget. If you think that the standard allowance is for basically all the costs of an adult apart from housing, but nevertheless, it's welcome. It doesn't mean you'll pay back any less over time, you've still got to pay back the whole debt. So, you know, still you're not better off overall. But from a budgeting perspective i think people will really welcome this. And I'm certainly very, very pleased to hear it because it's just one of those basic questions that you get all the time, you know, am I getting the right amount? Why is it so low?

David Stickland: [00:01:48] Yes, so very welcome, I think. Still, I mean, it's like you say, it's still a significant amount. 15% is still a lot, isn't it, of your sort of regular, what would otherwise be for your regular costs. And a lot more than it used to be let's face it. You know, I mean, not that, you know, we can go back to the pre Universal Credit days, but when Universal Credit was introduced and it suddenly became 25% or in fact, I think at one point it was more than that wasn't it.

Will Hadwen: [00:02:17] It was 40. To begin with. I mean, it was it was daft, but I think not. It's a very long time since I did any debt advice, but I think if you're a debt advisor, you would never offer 15% of somebody's living costs after housing to a creditor. So even though that that's all your debt. So it's not just one of your debts. It's all the debts that can be deducted from UC i think it's still considerable and still something that people should be campaigning on, which I know that they are. But, you know, the other side of it is, should all of these things be repayable, like, should a UC advance be repayable? And I know that CPAG and many others would say, no, it shouldn't be. So it's not ideal, but it's it's better than it was before.

David Stickland: [00:03:01] And it includes advances, universal credit advances. It could include other things as well right?

Will Hadwen: [00:03:06] Yeah. So as far as I can make out, it's all the debts that could be deducted from UC. So it includes, for example, child support arrears, rent arrears, council tax arrears. Okay. Court fines they haven't specified, but they made a reference to child support in another document that's going to be bringing that up the priority list. So that leads me to believe that it is all of them.

David Stickland: [00:03:33] Right. And all of those things combined can total no more than 15% from April, from April. So it won't be immediate.

Will Hadwen: [00:03:45] No, it won't be immediate.

David Stickland: [00:03:48] Cool. Thanks. Will. Kate, perhaps I can turn to you. I know you've brought with you three items, and perhaps you can share with us your first one.

Kate Anstee: [00:04:02] Thank you David. Yes, so this first one is something that we're seeing a little bit of an increase in, in practice of recent times. So basically, we've been noticing for a while that, claimants who are in the LCW, Limited Capability for Work group and not the Limited Capability for Work Related Activity group, will apply for a review i.e. a referral for a Work Capability Assessment and then they do not hear anything back for months and months, much longer than an initial claim for an LCWRA or initial claim for a WCA Work Capability Assessment. Okay, so what we've noticed is that, once the change of circumstances has been reported on the client's health journey, and there are usually no further requests to submit fit notes and or complete any actions on their to do list that might have been attached to the LCW actions. And so it's evidently been accepted by UC as that referral for a new WCA. And often the work coach will say, yes, we've accepted it. It's in the process of. But then nothing happens and the client is often left in limbo for many months. And what we've heard recently from an advisor or an officer of the Centre for Health and Disability Assessment, CHDA, that they are receiving referrals for people who are in the LCW for a Work Capability Assessment that say non-priority on them.

David Stickland: [00:05:42] Right.

Kate Anstee: [00:05:45] So we've done a little bit of digging and our partnership manager, has confirmed that there is nothing in guidance in internal procedures that confirm that this is something that they're doing. As a matter of course, but that's certainly the length of time that we're waiting, I feel may reflect that that is possibly what's happening, or if not, if it's not been stated, it's certainly been treated in that way, so yeah.

David Stickland: [00:06:20] And Kate, from a sort of a practice point of view, how do you tackle this? You know, how long, how when should people become sort of concerned or alarmed ?

Kate Anstee: [00:06:35] So I mean, obviously individual advisors are dealing with it differently. We're becoming aware of it within a kind of supervisory capacity when we're looking at casework in general and how long people have been waiting. And I've made some notes about what advisors can do. Basically, be alert to this potential issue now. Now we know that it's potential that it can happen.

Will Hadwen: [00:06:58] I don't think it's a new issue myself, I've seen it pretty much every time I've tried to get someone from LCW to LCWRA. But I think what we're seeing is more people need to do that. Right.

Kate Anstee: [00:07:10] Yeah, absolutely. Absolutely. And I think what's interesting is because I agree with you, Will, because I was making some notes about when I used to have claimants in the WRAG group, work related activity group for ESA, the same thing would happen. And DWP advisors would actually say, well, they're already on it. We've not prioritized it because, you know, etc. That would always be problematic for people who are on time limited claims for contributory ESA and things like that. But anyway, here we are with Universal Credit. So it's not an old thing. I think the thing that struck us was the fact that somebody from the CHDA had said that it was recorded as a non priority.

Kate Anstee: [00:07:48] Yeah, absolutely. Yeah. Sorry. Go on.

David Stickland: [00:07:51] So should we sort of expect this to happen, then if you're working with somebody that's, like you say, already has Limited Capability for Work, but considers that that could be changed to Limited Capability for Work Related Activity requests for that to happen. And then basically is going to have to sort of proactively sort of keep on to the DWP for that to be actioned. How should people sort of tackle that?

Kate Anstee: [00:08:17] I think I think unfortunately it's about being proactive. That's unfortunate for people who don't have welfare rights advisers or anybody that they can seek support from. One of the things that I do think is really important is, um, that advisers are on it. And when I say that I feel that it's really useful to remember that although there isn't a specific time frame. Yeah, unreasonable delay is challengeable. Okay, whether it's, you know, letters before action, pre-action protocol, etc.. Complaints. And I think it's about obviously everybody's managing huge caseloads, but I think it's about not letting those cases drift, because if you do, you end up with people who've not had that Work Capability Assessment for nine months, 12 months, and, you know, they're in a situation. So I think. Just going to drag on. Yeah, don't try not to let it drift and also be alert, be alert to where these could arise. Set tasks for yourself to I mean, personally I work from a perspective that if anything over three months I start looking at unreasonable delay grounds.

David Stickland: [00:09:26] All right.

Will Hadwen: [00:09:26] I think you could probably get in touch with the CPAG Judicial Review Project. They've got a delayed WCA template letter already, and it wouldn't take much adapting for these people because some of these will be appropriate for pre-action letters.

David Stickland: [00:09:43] Yes. And like you said, Kate, maybe a complaint as well. Yes. Starting with a complaint, you know, early doors kind of thing to get that, get that going. All right.

David Stickland: [00:09:53] Okay. Thanks, Kate. It's helpful and not something that I was very aware of and I'm sure lots of people, too. So good to know. Thank you. Will, I think it's number two.

Will Hadwen: [00:10:05] So number two is more good news. I think most people would have maybe heard about, um, in the budget news, which is the big rise in the Carer's Allowance earnings limit. So that's going to be based on 16 times the national minimum wage. So if we know the national minimum wage is going to be £12.21 from April, so that's about £195 a week. It's a huge, huge increase. So it's not until April that's important to know. We don't know what will happen with Scotland. They've not said yet. They have been asked to make a decision on that because from I think today, 4th November, if you're making a new claim in Scotland, it has to be for Carer Support Payment. It has to be for the Scottish Benefit, now that's fully rolled out. So that puts carers there who want to work in a bit of a bind, but hopefully the Scottish Government will follow. And anyway, for the rest of this financial year, there's no change. Um, so that's good news. Uh, yeah. Obviously there are various other knock on effects when it comes to means tested benefits for those people, but it's broadly good, I think.

David Stickland: [00:11:19] Yes. It caught my attention, of course, as one of the, one of the things that sort of jumps out of the budget when I saw it, I thought, very good. It's a big jump, like you say, it's £151 currently. Yeah, something like that so it's a big jump. And then I thought, oh, but is it just shifting the sort of problem down the road kind of thing for people that will then be approaching that new earnings level? But I'm right in thinking or saying that it will continue to be linked to the national living wage, right? So as that goes up, you could basically keep doing the same number of hours. Um, and not get caught by breaching the limit. Right. Which was many of the cause of many of the overpayments from previous years.

Will Hadwen: [00:12:07] It gives people an understanding that if they if they're paid for 16 hours minimum wage, they shouldn't go over. Obviously there are lots of ifs and buts there, but I think that's really important because people, often they've heard about the 16 hour rule, even though for most of the rest of the benefit system that's gone. But I think it's a good place to put it. So that people can remember it and they're less likely to be overpaid.

David Stickland: [00:12:32] And again, thank you. And again, this isn't until April, I think I saw some reports in the media suggesting that it was immediate. I saw a reference to £183, which I think is the current minimum wage times 16 hours. But that's wrong, isn't it? It's not. There's no change until April. I think.

Will Hadwen: [00:12:49] To the best of my knowledge, I will double check when I do the sources but I think that's right. I think when you look, I think Kate, Kate's right. Because when you look at when how much it's going to cost them and there's all these tables in the budget that shows you that it shows the cost in coming from April. Okay. So that's my answer.

David Stickland: [00:13:11] So no change until April. We will double check that. And if we have got that wrong we'll put a note in our sources. But we think we've got it right okay.

Kate Anstee: [00:13:17] And the rules around offsetting from, from you know, when you can offset your expenses if you're having to pay for your uniforms and your related things to do with work that you can offset for the Carer's Allowance, that's all the same. The rules are the same all the same.

Will Hadwen: [00:13:35] So just to remember on that, net earnings. Yes. But the net earnings rules are different from UC. Yeah. So it's yes it's earnings after tax, National Insurance and half of your pension contributions. But yes if you're self-employed, there are those expenses that you can take off. Yeah.

David Stickland: [00:13:52] Great. And I know we've spoken about this in previous Newscasts, but the issue of overpayments of Carer's Allowance from the past, because of the earnings limit there's going to be a review into those, right? Am I right in thinking that's what I've seen. So if you're working with people that have had overpayments previously, it may be worth keeping your eye on that to see what.

Will Hadwen: [00:14:16] Yeah. I don't think it changes the approach just now, which is, you know, try to check the amount of the overpayment, consider whether it is recoverable, because it may not always be recoverable. If somebody reported they were in work, but they weren't sure what their exact earnings were, for example.

David Stickland: [00:14:31] Great. Thanks very much. That was all really valuable. Kate, we've definitely got time for one more. So let's find out what that is.

Kate Anstee: [00:14:40] Okay. Will be able to help me with this one as well. So this one is about the wording is I've tried to find the right wording. Termination of practice to allow cancellations or deferments and managed migration notices. Okay. So this is this is the practice where if somebody had an appointee or they weren't able to make a claim for Universal Credit under Managed Migration, because, for example, they had a severe sight impairment and they required the correspondence in, um, you know, in a particular format and there was adjustments to be made according to their disability. So, they were often offered cancellation or a deferral deferment, if you like to at some point in the future when Universal Credit would be able to make the provision for them to be able to make the claim. Okay. So there was the amended regulations in June which was under regulation 44 of the Universal Credit Transitional Provisions regs and the regulation 44(3)(A), was the amendment or the or the additional reg which says in these cases. But where a Migration Notice is issued after cancellation of a previous migration notice of, of a Tax Credit closure notice, the deadline day may be within such shorter period as the Secretary of State considers appropriate. Now, this is what I think people need to be aware of because as Will knows, I had a case where my client was offered this deferral. Yeah they got they got they got that confirmed in writing. Yeah. And then almost immediately, they received a new managed migration notice because Universal Credit had decided within basically a week that they could now make the provisions for this person to make the claim successfully, but the deadline was only a week later. Okay, so we challenged that and it got extended for a month. But the thing to be cautious about is that, that regulation provides that provides the Secretary of State with, with the powers to issue it with a, with a much shorter deadline. And I think if you're in a position where you might be advising somebody and you've and you've and you've got this kind of you've, you've got this three months plus one day and then you've got this kind of deferral and it's and you, you're feeling like you've got time to help them sort things out, particularly if it's Tax Credits and it's closure and it's an end of claim and you want to make sure it's all correct, and then suddenly it's sprung upon you that you haven't got any time at all.

David Stickland: [00:17:34] Okay. So it's that's a confusing message then, because you think you've got the deferral and like you say, you've got time to sort of get things in order and a little bit of time to spare. And then suddenly it's upon you again. So the message, the key message that we're giving people, I'm thinking, is for those people that have had a deferral or might receive a deferral, don't necessarily assume that that gives you, you know, a sort of lengthy window. It could you need to be paying attention, looking for new notices and checking the dates very carefully on those.

Kate Anstee: [00:18:09] Definitely, and I think we're going to see that increase significantly over the next couple of months, because the ultimate aim is to get every Tax Credits claimant on Universal Credit by April 2025. So I think we're all suddenly seeing an escalation on the back of those regs being implemented in June.

David Stickland: [00:18:29] Yeah, more and more of those. It's been sped up like you say okay.

Will Hadwen: [00:18:33] And you're much, much less likely to get a cancellation. So if you're asking for a cancellation now chances of getting one have gone down hugely. And if it's Tax Credits they're probably just going to say no. Say no. No. They might. You might get an extension and you should get an extension. If the problem is that you need support to claim and you can't get it until later on. But a cancellation. Yeah, much less likely.

Kate Anstee: [00:19:00] Okay. Yeah. Yeah. Yeah, definitely. I was just going to agree with that.

David Stickland: [00:19:04] So it's a very limited sort of further period or window. Yeah. That's the key message. Right.

Kate Anstee: [00:19:11] It's getting shorter and shorter. Yeah.

David Stickland: [00:19:12] Okay. Got it. Thank you both. All right. Not very long left for us, but I am keen to find out what your remaining topics were. Um. Very briefly Will, perhaps I can turn to you first.

Will Hadwen: [00:19:25] Okay. I'll try and make this one as quick as possible, even though it's quite technical. So, hidden away in the budget there was something about changing the law to help people who get the Transitional Severe Disability Premium and move from temporary or supported accommodation into mainstream accommodation. And the reason for that is there was a court case that said, and when that happens to somebody and your Transitional Element would otherwise erode by the amount of the housing element, because the housing element is a new element, that shouldn't happen because it's not like you have a new cost. You've had rent to pay before. It's just it was met by Housing Benefit. Now in fact your rent has probably gone down and so you shouldn't lose out overall. So we're expecting to see that soon. Now, the question that then arises is surely that should apply just as much to the transitional element in managed migration as it does to those who get the Transitional Severe Disability Premium. It would be really odd if they didn't do that, and if they didn't do it for both, it would be very challengeable. And so that's all extremely interesting. And then along with that, the court case that's just been heard is about a similar issue for people who start to get the LCWRA element. It replaces the carer element. So we're talking about disabled carers and what happens at the moment is that also erodes the transitional element. So they lose out by the amount of the carer element. And we we don't have the result of that case. But there are a lot of people out there affected. We do know that.

David Stickland: [00:21:02] So the first one, which has been at least partially implemented, I think you said, is around people moving from temporary accommodation to mainstream accommodation. And finding that the Transitional SDP amount was eroded by the increase in the Universal Credit housing element that's being addressed.

Will Hadwen: [00:21:27] That's being addressed for those people. Yeah. Moving from either supported or temporary accommodation. So suddenly having a housing element for the first time.

David Stickland: [00:21:34] And and but we're not entirely sure about whether that will also be addressed under managed migration. Is that. Yes.

Will Hadwen: [00:21:40] Yes. Exactly. Because it doesn't say in the budget. It only talks about the Severe Disability Premium, but it would be very odd to do it for one and not the other, because it would be a sort of own goal. Yeah.

David Stickland: [00:21:52] And of course, that. Sort of for those people that, you know, may not be familiar with the Severe Disability Premium, that's where people have got a disability benefit. They have been living on their own. No one's claiming Carer's Allowance or Universal Credit Carer's element. So it's that extra amount that was in legacy benefits which can sort of transfer into Universal Credit. Okay. And that other one hasn't been addressed necessarily, but we need to keep an eye out for that for further developments around the carer element.

Will Hadwen: [00:22:19] And yeah if you've got cases then ask for a mandatory reconsideration. Just say this looks unfair which clearly it does. Okay. And get those in as quickly as you can. Yeah.

David Stickland: [00:22:29] Right. And that's, just to reiterate that's for people with Limited Capability for Work Related Activity element and potentially a Carer Element because they're they're caring for somebody else as well as having their own health needs themselves.

Will Hadwen: [00:22:44] And they can't have both. So once they're assessed as having lcra and they've had the waiting period, the LCWRA removes the carer element and reduces the transitional element at the same time. So that's why there's a loss.

David Stickland: [00:22:57] Okay. Yeah, really complicated stuff. Well that's important. So thank you for sharing that. And Kate very briefly perhaps what's the third item that you've got. And we'll certainly include links.

Kate Anstee: [00:23:11] I'll choose my briefest one. Don't worry. Okay. So the very brief one is I'm sure everybody's seen this is, there are huge delays in PIP reviews, so lots of people are being granted multiple extensions, year extensions, or simply receiving letters and saying thank you for your for your review form. We're not going to give you a decision until July 2025. That's somebody who reviewed in January 2024, not a problem for a lot of people, but for those that were waiting to be reviewed to add those extra changes of circumstances that they didn't want to risk before being left in limbo again now, because they don't want to risk reporting anything in that review period until they get a decision next year. Some people are okay with it, some aren't. It's just something to be mindful of that there's huge delays with PIP reviews and multiple extensions being granted.

David Stickland: [00:24:06] Yeah. Which hopefully will be improved but perhaps not for some time. Maybe. Thank you both. Thank you Kate. It's great to have you with us in our team and on our newscast. Thanks as usual, Will. Thanks everyone for listening. Until next month. Take care. Bye bye.

Kate Anstee: [00:24:31] Bye bye.