



## **Clarification on disability benefit / premiums lump sums and on-going income in relation to DROs**

After receiving a large number of enquiries to our service, we have sought clarity from the DRO Team on how disability benefits and premiums shall be viewed in DROs. This guidance details the position the DRO Team will take on lump sums and income.

It is important to remember an increase in income and/or the receipt of any lump sum during the moratorium period, must be reported to the DRO Team in accordance with [s251J of the Insolvency Act 1986](#). The following guidance indicates how these will then be treated.

### **Personal Independence Payment (PIP), Disability Living Allowance (DLA) and other equivalent benefits**

- Lump sums of PIP, DLA and Attendance Allowance (AA) are disregarded as an asset both pre and post DRO
- On-going payments of PIP, DLA and AA can be offset under adult care costs
- Constant Attendance Allowance under the Industrial Injuries or War Pensions Schemes, War Pensioners Mobility Supplement under the War Pensions Scheme or grants for the use of a vehicle or Armed Forces Independence Payment are treated the same as PIP, DLA and AA

### **Legacy benefits and disability premiums**

- There are six legacy benefits:
  - Working Tax Credit
  - Child Tax Credit
  - Housing Benefit
  - Employment and Support Allowance (ESA)
  - Job Seekers Allowance (JSA)
  - Income Support

- Lump sums of disability premiums within these benefits are disregarded as assets both pre and post DRO
- The on-going payment of premiums can be offset under adult care costs
- Lump sums of ESA that do not include premiums are not disregarded as an asset or income

If the client receives a lump sum of any these benefits and part of this relates to a backdate of disability premium, advisers and intermediaries should request a breakdown in order to establish what can be disregarded. A breakdown will also help to identify how much of their on-going monthly benefit income can be offset under adult care costs. Evidence of this should be kept on file in case the DRO Team have any questions.

If a client receives DLA for a child, they may also receive the disabled child element/premium within a legacy benefit.

- A lump sum of either the disabled child element or premium will be disregarded as an asset pre and post DRO
- On-going payment of the element/premium can be offset under child care costs

Again, advisers and intermediaries will need to see a breakdown to work out how much can be offset under child care costs.

### **Universal Credit and Limited Capability for Work Elements**

Essentially, the Limited Capability for Work (LCW) element is the equivalent of a client who is claiming ESA and is in the work-related activity group and the Limited Capability for Worked Related Activity (LCWRA) element is the equivalent of a client who is claiming ESA and is in the support group.

After speaking with benefit advisers, it is our understanding that it is not possible to receive disability premiums relating to these elements. Therefore:

- Both the LCW and LCWRA are not disregarded as income or an asset pre or post DRO
- The asset limit applies pre DRO
- The property protocol will apply during the moratorium
- The on-going income should not automatically be offset under care costs unless the client can display evidence of this.

### **Universal Credit and transitional payments**

As a result of not being able to claim the severe disability premium in UC, some clients may receive transitional payments. The DRO Team have confirmed:

- Lump sums are disregarded as an asset pre and post DRO
- On-going payments can be offset under adult care costs

### **Pension Credit**

We are also aware that clients in receipt of Pension Credit can receive a severe disability premium. The DRO Team have confirmed:

- Lump sums are disregarded as an asset pre and post DRO
- On-going payments can be offset under adult care costs

Whilst we are not benefit experts, we hope that this will clarify any confusion advisers may face when determining whether a lump sum/increase in income may affect an application or DRO that has already been made.

If you have any questions or would like a second opinion, please contact our consultancy service. To advise appropriately we may require a copy of the breakdown, therefore please try to obtain this before contacting us.

The Specialist Debt Advice Service can be contacted by phone on 0330 0580 404 Monday to Friday from 9:00am – 5:00pm. Alternatively, you can submit an enquiry via our [webform](#).