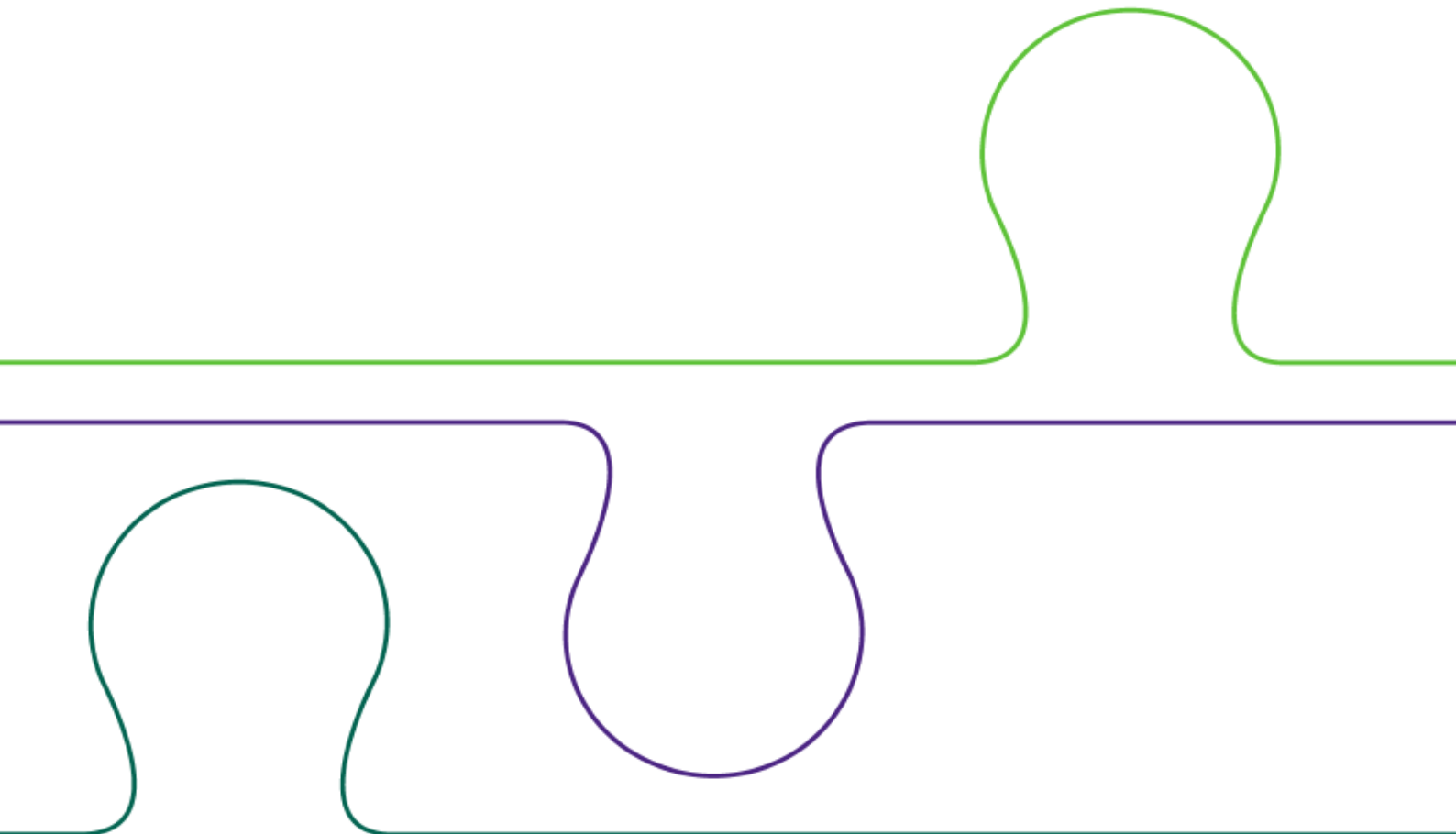
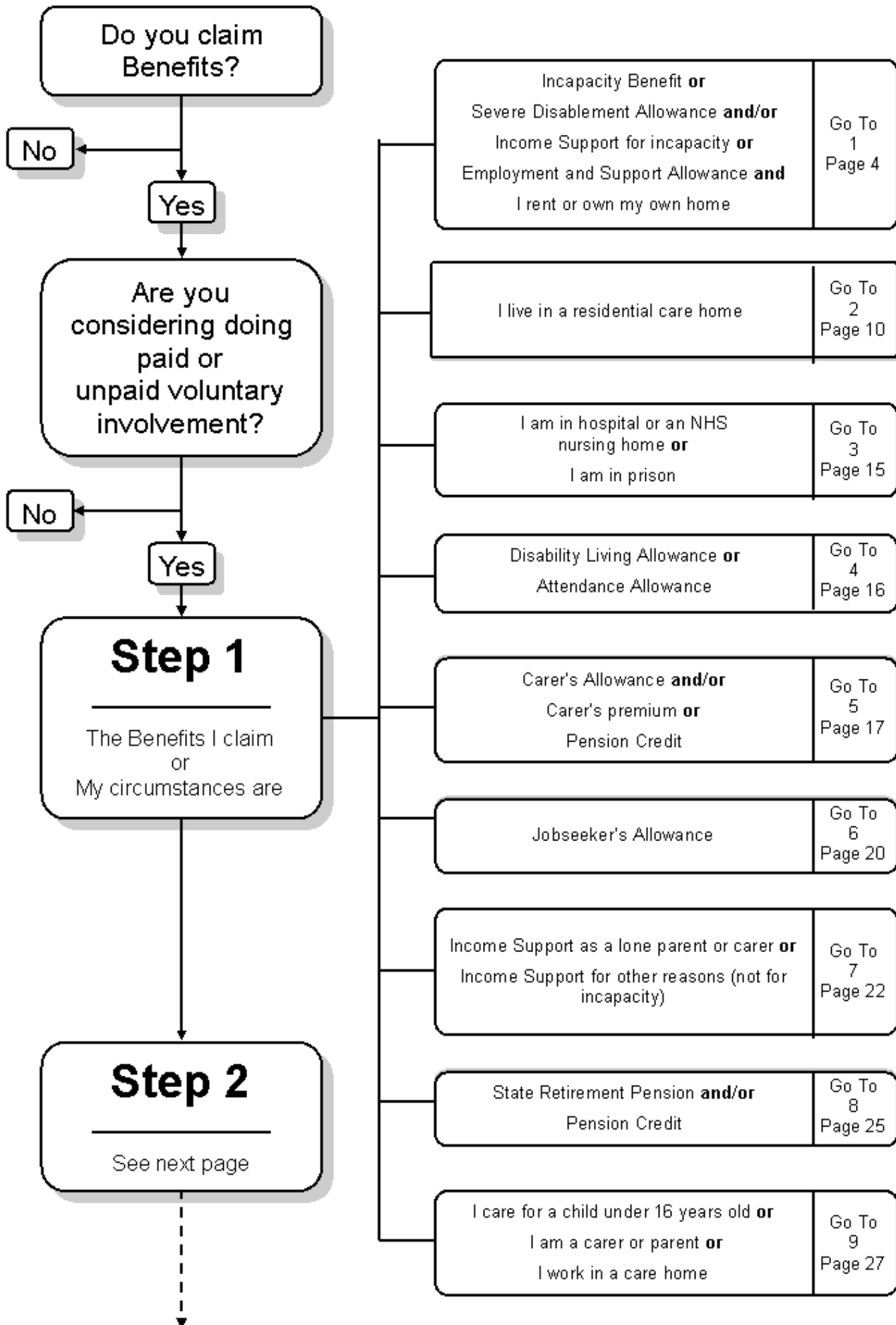


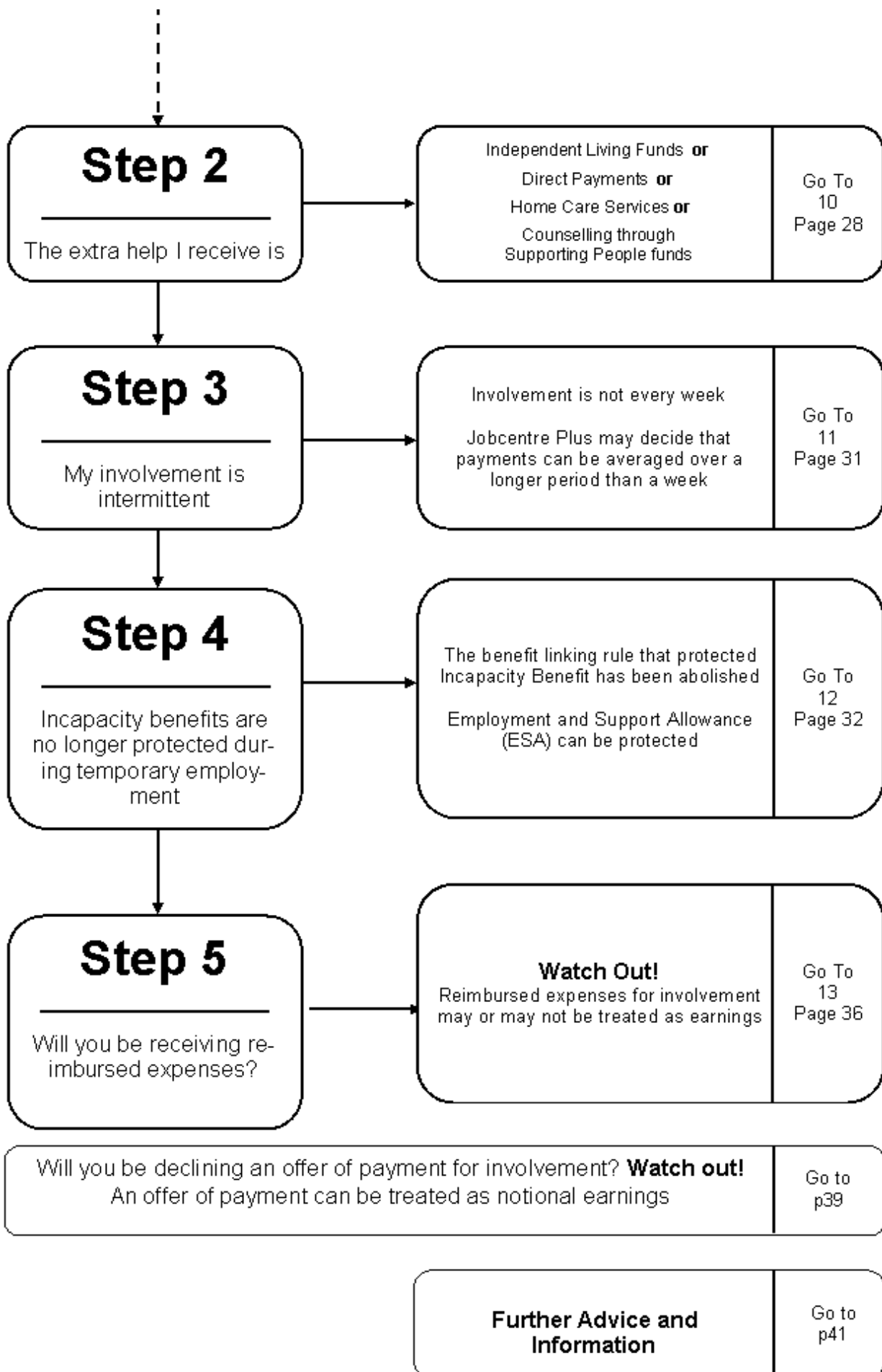
MHRN Service Users & Carers Payments Policy

Benefits Conditions and Systems around Paid and Voluntary Involvement

January 2012







Benefit conditions for paid or voluntary involvement

Step 1

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| 1 | <p>Do you claim Incapacity Benefit, or Severe Disablement Allowance, and/or Income Support for incapacity, or the Employment and Support Allowance?</p> <p>Do you rent your own home or pay mortgage interest?</p> <p>Are you considering paid involvement for less than 16 hours a week?</p> <p>Are you considering voluntary involvement?</p> |
| <p>If so read on:</p> | |

1. Permitted Work

1.1 Introduction: what is Permitted Work?

Permitted Work is part-time paid work that people on incapacity-based benefits are allowed to do. Jobcentre Plus treats involvement that is paid in the same way as work that is paid. The benefit rules are the same. 'Involvement' covers participation in research and participation in monitoring and improving health and social care services. People who participate are people with experience of using health and social care services.

Jobcentre Plus have issued guidance to staff about involvement. The guidance explains that involvement is not the same as work and refers to people who are involved as service users. The Department of Work and Pensions have confirmed that carers are included in their definition 'service users'. Further guidance also explains about changes to the benefit rules on the treatment of reimbursed expenses and the application of 'notional earnings'. For this reason it is now important to let Jobcentre Plus know if you have been asked to be involved because you are a service user or carer (rather than do paid work). This should avoid misunderstandings over capacity issues. See Appendix V of the MHRN Model Payment Policy for Service Users and Carers a standard format letter that organisations that involve people can use.

Excerpt from Jobcentre Plus memo to staff April 07

'People are not invited to become involved because they are capable of work. They are invited because of their relevant experience of using health and/or social care services.'

The full memo is at the end of this guide.

1.2. Who do the Permitted Work rules apply to?

Permitted Work rules apply to people who are in receipt of:

- Incapacity Benefit, or
- Severe Disablement Allowance, and/or
- Income Support for incapacity (with a disability premium).
- Employment and Support Allowance contribution based (Work related group and Support group)
- Employment and Support Allowance income based (Work related group and Support group)

The rules also apply to people getting:

- NI credits for incapacity,
- Housing Benefit or Local Housing Allowance with a disability premium, and
- Council Tax Benefit with a disability premium.

1.3. What are the basic rules for Permitted Work?

There are three basic rules:

Earnings must be within the lower limit of £20 a week or the higher limit of £97.50 a week from 3 October 2011. (The higher limit is increased each October in line with the minimum wage. Prior to 3 October 2011 the limit was £95 a week).

Hours of paid work or involvement must be less than 16 hours a week.

People starting part-time paid work or involvement must notify Jobcentre Plus that they are doing Permitted Work as soon as practicable preferably in advance, on a form

headed PW1. The frequency (weekly/monthly etc) and expected duration of involvement activity should also be notified.

If people do not keep to these rules the work doesn't count as Permitted Work and benefits can be stopped.

If Local Housing Allowance or Housing Benefit and Council Tax Benefit are claimed, people must notify Permitted Work to the local authority/council, at the same time as notifying Jobcentre Plus.

Providing Permitted Work is agreed by Jobcentre Plus neither Incapacity Benefit, or Severe Disablement Allowance or Employment Allowance or Local Housing Allowance or Housing Benefit or Council Tax Benefit will be affected by earnings within the set limits. This change to housing benefit rules was introduced April 2010. But see below for Income Support.

1.4. What are the options in Permitted Work?

There are now four options in Permitted Work.

a) Permitted Work, lower limit

People can earn up to £20 a week for as long as they want.

b) Supported Permitted Work

People can qualify to earn up to £97.50 a week for as long as they want if the following circumstances apply. But see below for the catch that applies to people claiming Income Support.

People must either be supported/supervised by:

- a nominated support worker employed in a voluntary organisation or a public or local authority whose job it is to help disabled people find work, or
- an employee of a Community Interest Company (a profit making business restricted to using its profits for benefit of the community and registered as a Community Interest Company).

The support/supervision can be provided in the form of meetings at or outside of the part-time work or involvement. It must be regular. Jobcentre Plus advise that *'Supported Permitted Work is work that is appropriate for people whose health condition has stable and established effects with a significant impact on their ability to learn or sustain a traditional job'*. When the PW1 form is filled in there is a place for the support worker to provide their details and the name of the organisation that they work for, or to state that it is a Community Interest Company and give the name. There is a question on the form about the level of support that will be provided. If the amount of support seems minimal Jobcentre Plus may not accept that it is Supported Permitted Work.

If you are doing paid involvement with a public authority the organisation may well have a staff member who could act as a support worker but it must be someone who also helps people find work.

Supported Permitted Work also applies to people who:

- work within a sheltered employment scheme, or
- work under medical supervision as part of hospital treatment

The PW1 form must provide the details of the sheltered employment scheme or the hospital treatment arrangements.

c) Supported Permitted Work exempt

Supported Permitted Work exempt means Permitted Work for people who are exempt from the Personal Capability Assessment because of a severe condition and who are in receipt of Incapacity Benefit, Severe Disablement Allowance or Income Support with a disability premium. The same Permitted Work exempt rules apply to people who are claiming the Employment and Support Allowance and are in the Support group. This is because people who are in the Support group do not have to attend reviews of their condition.

People can earn up to £97.50 a week for as long as they want. But see below for the catch that applies to people claiming Income Support .

When people fill in the PW1 form to notify Jobcentre Plus of Permitted Work they should say if they are either in receipt of:

- Incapacity Benefit or Severe Disablement Allowance or Income Support for incapacity and are exempt from the Personal Capability Assessment, or
- Employment and Support Allowance and are in the Support group

d) Permitted Work, higher limit

People can earn up to £97.50 a week for 12 months only. See below for the catch that applies to people claiming Income Support.

After one year, people must stop earning up to £97.50 a week. They can earn up to £20 a week. After one year has elapsed (whether or not they were earning £20 a week) they are allowed to earn up to £97.50 a week in Permitted Work, higher level again, for a further 12 months.

The year of earning starts when Jobcentre Plus are notified. If a person just earns up to £97.50 only once or twice it makes no difference. Once the hourglass has been turned over, it cannot be turned back again.

1.5 The catch for people who claim Income Support for incapacity (with a disability premium)

People who claim Income Support for incapacity (with a disability premium) are allowed to earn up to £97.50 a week if they follow the Permitted Work rules but any earnings over £20 a week are deducted from Income Support (earn £30 a week and Income Support will be reduced by £10 a week) . People who get any of the other incapacity based benefits and who claim as well for help with their mortgage interest will be getting this paid by Income Support. In the same way earnings over £20 are deducted from Income Support paid as mortgage interest.

The only exception to this catch would be where earnings are intermittent (not every week) and can be treated as averaged by Jobcentre Plus. See Step 3 page 31.

2. Voluntary involvement for people claiming Incapacity Benefit or Severe Disablement Allowance, Income Support for incapacity or the Employment and Support Allowance

- People claiming Incapacity Benefit, Severe Disablement Allowance, Income Support for incapacity, or the Employment and Support Allowance can volunteer for non-profit making organisations for as many hours a week as they wish. Volunteering for profit making organisations is not allowed. Non-profit making organisations include Charities, Voluntary organisations, NHS Trusts, Local Authorities, Universities.
- Volunteers are free to come and go as they wish and may not sign contracts. They can be asked to keep to a volunteer's agreement about keeping to arrangements made or advising if they cannot come in.
- Volunteering should be notified to Jobcentre Plus.

3. Turning down an offer of paid involvement?

Watch out! If you choose to volunteer for involvement rather than be paid, Jobcentre Plus might be able to apply the notional earnings rule. This means that they can assume that you received the money that was offered even though you chose to volunteer. It all depends on the type of organisation that is paying you for involvement. Go to Step 5, page 39 for more information.

4. Might incapacity benefits be reviewed by Jobcentre Plus after notifying Permitted Work or voluntary involvement?

Jobcentre Plus staff are no longer told to consider sending people for a medical review when they notify an activity that appears to indicate that their health condition may have improved. Jobcentre Plus staff have also been issued with a guide on involvement that states categorically that people are recruited for involvement because of their experience of using health and social care services rather than because they now have a capacity to work. See the excerpt from the Jobcentre Plus memo top of page 5 and the full memo at the end of this guide.

It is therefore unlikely that involvement will lead to your incapacity being reviewed. It is sensible to ensure that Jobcentre Plus are advised that you are asked to help because of your experience as a service user or as a carer and that the activity is involvement. See the standard covering letters in the MHRN Payment Policy Appendix V that the Mental Health Research Network can provide for you to use if you wish when you send in your PW1 form notifying Permitted Work earnings for your involvement or when you notify voluntary involvement.

5. Do you need to claim the cost of travel expenses or for a personal assistant, support worker or a facilitator for involvement?

Watch out – some reimbursed expenses may be treated as earnings. It all depends on the type of organisation that is paying you for involvement.

But if the changes to benefit rules on reimbursed expenses apply to your involvement all of the reimbursed costs of travel and/or a personal assistant, support worker or facilitator and other necessary expenses will be ignored. See Step 5, page 36.

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| 2 | <p>Do you live in a residential care home?</p> <p>Do you claim Incapacity Benefit or Severe Disablement Allowance and/or Income Support for incapacity</p> <p>Or</p> <p>the Employment and Support Allowance?</p> <p>Do you claim State Pension and/or Pension Credit?</p> <p>Are you considering part-time or full-time paid or voluntary involvement?</p> |
| <p>If so read on:</p> | |

1. Introduction

People who live in residential care homes, who are funded by the local authority/council, either registered or unregistered, can do part-time paid involvement or voluntary involvement. (People who live in care homes funded by the NHS are treated as hospital patients. See section 3. Page 15) Full-time paid work or involvement is also allowed. Only a small proportion of the care charges are funded through benefits. People whose benefits stop when they do paid work for 16 hours or more in a week can stay in the care home and work and earn full-time; so can people who claim Pension Credit. People living in a care home can also claim Working Tax Credit to top up low wages.

The tax payable may be affected where benefits are taxable or a State Pension is claimed.

However, there is a catch. The local authority or council has the right to take any earnings over either £5 or £20 a week, whether from part-time or full-time work or involvement as a contribution towards care home charges. A resident may be no better off whether they earn £5 or £20 a week or a full-time wage.

A resident can negotiate to keep more of their earnings over £5 or £20 a week. The Department of Health gives local authorities discretion to consider a request on an individual basis. The local authority or council can decide to allow a resident to keep a greater proportion of their earnings if this would further their independence. See more below.

People who live in residential care homes say that local authority staff responsible for care home charging may need to be advised about the Department of Health guidance and their discretion to vary charging policy as they may be unaware of their discretionary powers.

2. Part-time paid work or involvement

If people claim Incapacity Benefit, Severe Disablement Allowance and/or Income Support for incapacity, or the Employment and Support Allowance they may only do paid work or involvement if they follow the Permitted Work rules. (See page 4). It makes no difference if people live in a residential care home or not. This means that they must keep to earnings of either £20 or £97.50 a week and hours of less than 16 hours a week.

If people receive a State Pension they can do paid work or involvement without any procedures or earning limits for any number of hours. State Pension is unaffected by work and earnings. Because a State Pension is taxable, earnings may have tax deducted.

If people claim Pension Credit earnings over either £5 or £20 a week may lead to a reduction of Pension Credit. If they receive a Savings Credit, earnings may not be affected. It is advisable to check.

Your earnings may be treated as averaged over several weeks or longer. See 7 below.

However the local authority has the right to require the resident to contribute any earnings over £5 or £20 a week towards the cost of the care charges. This will be because their benefit has been reduced. People who are allowed to earn up to £97.50 a week who have followed Permitted Work rules will be asked to contribute £77.50 towards the cost of care charges. See 5. below on negotiating to keep more of your earnings.

This applies to people who are in receipt of Incapacity Benefit or Severe Disablement Allowance, as well as those on Income Support for incapacity and the Employment and Support Allowance.

All paid involvement must be notified to Jobcentre Plus.

3. Voluntary involvement

People who are offered voluntary involvement can accept Benefits cannot be affected.
People must notify Jobcentre Plus.

If you are offered paid involvement and decide to decline payment and volunteer instead, first go to Step 5 page 36 to see if notional earnings might be applied.

4. Do you need to claim the cost of travel expenses or for a personal assistant, support worker or a facilitator for involvement?

Watch out – some reimbursed expenses may be treated as earnings. It all depends on the type of organisation that is paying you for involvement. But if the changes to benefit rules on reimbursed expenses apply to your involvement all of the reimbursed costs of travel and/or a personal assistant, support worker or facilitator and other necessary expenses will be ignored. See Step 5 page 36.

5. Full-time paid work or involvement

When people work and earn for more than 16 hours a week, incapacity benefits or the Employment and Support Allowance are stopped so the Permitted Work rules no longer apply. People can be involved or do paid work and earn any amount. People can claim the Working Tax Credit to top up low wages. People can be involved or work for as many hours as you want. People can continue to live in the care home.

State Pension is unaffected by work and earnings. Pension Credit is unaffected by work but earnings over £5 or £20 a week may lead to it being reduced.

But if you live in a care home and plan to do some paid involvement for more than 16 hours a week on a regular basis and want to keep more than £20 a week of what you are paid, you will need to negotiate with the local authority.

Watch out! The Department for Work and Pensions have abolished the linking rule that previously protected your incapacity benefits such as Incapacity Benefit (IB), Severe Disablement Allowance (SDA) and Income Support for incapacity (IS) during a temporary period of work. If you stop claiming during a period in work then make a new claim to benefits you will have to claim Employment and Support Allowance instead. You may not qualify as the criteria for entitlement is different to the criteria for IB/SDA/IS. You may have to claim Jobseeker's Allowance instead. This should not affect your personal expenses allowance while you live in a care home. However if you start to live in independent housing again this could make a big difference to your benefit income. See Step 4, page 31.

6. Negotiating with the local authority (your local council) to keep more of your earnings

- The local authority or council is required by the Department of Health to consider allowing a resident living in unregistered care home who earns some money to keep more or all of their earnings and any Working Tax Credit, if this promotes their independence.
- The Department of Health also requires the local authority or council to consider allowing a resident living in a registered residential care home to keep more of their

earnings and any Working Tax Credit to allow for in-work expenses and promote their independence.

You will need to use two documents for negotiation with the local authority:

- The local authority's or council's policy on charging for residential accommodation,
- The Department of Health's guidance to local authorities and councils, on <http://www.dh.gov.uk/en/Home>: 'Charging for Residential Accommodation Guide'. Type in CRAG .11 in the search box on the DH website.

The local authority or council can decide to increase the level of the personal expenses allowance in recognition of the resident's need to be more independent if they are in non-registered residential care home. If they live in a registered care home the local authority or council can allow the resident to keep more of their earnings for work related expenses. It may be possible to argue that work related expenses include travel, work clothes, subsistence, contributions to work events, cost of social activities with colleagues.

The local authority or council is given discretion by CRAG .11 to vary the amount of the resident's earnings that can be retained.

7. Averaging earnings when you live in a residential care home

The Department of Health guidance to local authorities says:

Payments for regular periods

Where the earnings are paid at regular intervals the weekly amount should be calculated as follows:

- a) earnings paid for periods of a week or less should be taken into account for one week.
- b) earnings paid for a calendar month should be multiplied by 12 and divided by 52 to arrive at the weekly amount.
- c) earnings paid annually should be divided by 52.
- d) earnings paid at other regular intervals should be multiplied by 7 and divided by the number of days for which the payment is made.

If you want the local authority or council to treat earnings from involvement as averaged you will probably need to draw their attention to this guidance.

8. Does the £5 or the £20 a week earning disregard apply?

The residential care home will disregard £20 a week of earnings where people are in receipt of the following benefits:

- Incapacity Benefit
- Severe Disablement Allowance
- Income Support for incapacity
- Employment and Support Allowance
- Pension Credit following a claim for one of the above, with a disability premium or entitlement to Disability Living Allowance or Attendance Allowance or a mobility vehicle or a carer's premium or as a lone parent.

Only £5 a week of earnings is disregarded when people claim any other benefits than those listed above. It is best to check with Jobcentre Plus or the Pension Service.

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| 3 | <p>Are you in hospital or an NHS funded nursing home?</p> <p>Are you in prison?</p> <p>Do you claim benefits?</p> <p>Are you considering part-time paid or voluntary involvement?</p> |
| <p>If so read on.</p> | |

1. If you still receive benefits then the same benefit rules apply in hospital or an NHS funded nursing home

If you are receiving benefits of any description, the same benefit rules on hours of work and earnings apply in exactly the same way if you are in hospital or an NHS funded nursing home. If benefit rules allow you to earn some money without benefit deductions, you can keep the earnings. You are not liable for charges as this is an NHS establishment.

2. If you are detained in a secure institution or prison

You may or may not be entitled to benefits if you count as a prisoner. You may, for instance, still get Incapacity Benefit, Severe Disablement Allowance and/or Income Support for incapacity or the Employment and Support Allowance and housing cost benefits.

If you get any benefits, you will be subject to the benefit rules on hours of work and earnings. There is only one difference. The minimum wage rate does not apply to people who do paid work or involvement whilst detained in a secure hospital such as Broadmoor and Rampton or in prison.

The hospital or prison may also have rules on the amount that an inpatient or prisoner is allowed to receive and to keep.

3. Change in the law, again.

A High Court judgment in 2009, on persons who have been sentenced to a term of imprisonment meant that some people were entitled to benefits.

The Court identified a category of prisoner/patient termed a “technical lifer”. This judgment has now been superseded and no longer applies.

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| 4 | Do you claim Disability Living Allowance or Attendance Allowance? Are you considering part-time paid or voluntary involvement? |
| If so read on. | |

1. Payments for involvement do not affect Disability Living Allowance or Attendance Allowance

Disability Living Allowance and Attendance Allowance are non-means tested benefits and are not affected by earnings. This means that you can be paid any amount and these benefits are not affected.

2. Disability Living Allowance or Attendance Allowance are paid because of care and/or mobility needs

Disability Living Allowance or Attendance Allowance are paid because of the care or mobility needs that you have. If these needs change and become more or less than before you should notify the Disability and Carers Centre that pays your benefit so that they can consider whether you should be paid more or less than before.

3. Involvement activity whether paid or voluntary does not have to be notified to the Disability and Carer's Centre

Jobcentre Plus have confirmed that paid or voluntary involvement does not have to be notified to the Disability and Carer's Centre unless the activity demonstrates that your needs have changed.

4. If you need to notify Permitted Work to Jobcentre Plus

If you are also claiming an incapacity benefit or the Employment and Support Allowance you will need to notify Permitted Work to Jobcentre Plus. If you have a health condition that makes getting about difficult, it is helpful to mention any help you get for travel to involvement. Equally, if you need a support worker to help with involvement it is important to let Jobcentre Plus know. This is in case Jobcentre Plus think your mobility or care needs have changed.

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| 5 | <p>Are you a carer?</p> <p>Do you claim Carer’s Allowance?</p> <p>Do you claim carer’s premium or Pension Credit as an additional amount for carers?</p> <p>Do you rent your own home or pay mortgage interest?</p> <p>Are you considering part-time paid or voluntary involvement?</p> |
| <p>If so read on.</p> | |

1. Do you claim Carer’s Allowance?

Carer’s Allowance is not affected by paid involvement provided that the carer continues caring for a disabled person for at least 35 hours a week (a carer’s week runs from Sunday to Saturday) and net pay (after tax deductions) do not exceed £100 in a week (the rate usually increases in April each year). But if you also get carer’s premium or Housing Benefit, check below for the lower earnings disregard.

As long as the total number of hours spent in caring amounts to 35 hours or more a week, the claimant does not need to care for the disabled person every day of the week.

If net pay is more than £100 a week, this is considered to be ‘gainful employment’ and the Carer’s Allowance is stopped.

Carer’s Allowance is taxable (except for increases for children) so earnings may be taxable.

Paid involvement must be notified to Jobcentre Plus. The frequency (weekly/monthly etc) and expected duration of involvement activity should also be notified. It is sensible to let them know that this is involvement of service users and carers (not paid work). This is because the changes to benefit rules on reimbursed expenses and notional earnings might apply to your involvement. See 7 below and see Step 5 on p36.

2. Do you also claim Carer’s Premium (which is Income Support)?

If you are a carer and you

- claim carer’s premium for your caring responsibilities, or
- you or your partner qualify for a disability premium

Payments for involvement of up to £20 a week do not affect entitlement. (The £20 is shared with a partner).

Payments of more than £20 a week will result in the carer's premium being reduced penny for penny over £20. Paid work or involvement for 16 hrs or more a week will lead to carer's premium being stopped.

3. Or do you also claim Pension Credit as an additional amount for a carer?

Check the rules for Pension Credit on page 25.

4. If you claim Income Support (but not Carer's Allowance or carer's premium or a disability premium)

Payments of more than £5 a week will result in Income Support being reduced penny for penny over £5.

5. Which benefit is reduced first?

If you are claiming Carer's Allowance and carer's premium plus Housing Benefit and Council Tax Benefit and if you are paid more than £20 a week:

- Carer's Allowance is unaffected providing earnings are less than £100 a week net;
- your carer's premium will be reduced by any amount over £20 a week.

If the payment is for more than £51.00 in a week then your carer's premium may be wiped out altogether (Carer's premium of £31.00 plus £20 disregard). Free prescriptions and other health benefits are lost if Income Support is no longer paid.

When your carer's premium is gone then Housing Benefit and Council Tax Benefit will be reduced next. Payments of more than £51.00 will result in Housing Benefit and Council Tax Benefit being reduced. Housing Benefit is reduced by 65 pence for every £1 over. Council Tax Benefit is reduced by 20 pence for every £1 over.

If you are paid more than £100 net in a week then Carer's Allowance is stopped.

6. Do you need to claim the cost of travel expenses or the cost of a replacement carer?

Watch out – reimbursement for travel expenses may be treated as earnings. It all depends on the type of organisation that is paying you for involvement.

- the reimbursed costs of a replacement carer may be treated as partly or wholly as earnings. It all depends on the organisation that is paying you for involvement.

All of the reimbursed costs of a replacement carer may be treated as earnings if you claim Income Support. Half of the reimbursed costs of a replacement carer are treated as earnings if you claim only Carer's Allowance. But it all depends on the type of organisation that is paying you for involvement.

But if the changes to benefit rules on reimbursed expenses apply to your involvement all of the reimbursed costs of travel and a replacement carer and other necessary expenses will be ignored. See Step 5 on page 36.

7. Voluntary involvement

People who are offered voluntary involvement can accept Benefits cannot be affected. People must notify Jobcentre Plus.

If you are offered paid involvement and decide to decline payment and volunteer instead, first go to Step 5 page 39 to see if notional earnings might be applied or not.

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| 6 | Do you claim Jobseeker's Allowance? Do you rent your own home or pay mortgage interest? Are you considering paid or voluntary involvement for less than 16 hours a week? |
| If so read on. | |

1. General benefit rules for Jobseeker's Allowance

Jobseeker's Allowance (JSA) is a benefit for those who are deemed capable of work, are available for work and who are actively seeking work. A 'jobseeker's agreement', made with Jobcentre Plus, will set out the conditions.

These requirements mean that any involvement activity, whether paid or voluntary, should not be seen to get in the way of availability for work or prevent actively seeking work.

Any proposed paid or voluntary involvement must be agreed in advance with Jobcentre Plus.

2. Jobseeker's Allowance and paid involvement

People who claim Jobseeker's Allowance (JSA) can only be paid £5 a week before benefits are reduced, penny for penny.

A couple on Jobseeker's Allowance, can be paid £10 a week before their benefits are reduced. One partner can use the £10 if the other partner is not earning anything.

People who get Disability Living Allowance as well as Jobseeker's Allowance can be paid up to £20 a week before their benefits are reduced.

The minimum wage rate per hour is £6.08 from 1 October 2011 so unless the involvement is intermittent (not every week) and the averaging rule might apply, the low earning amounts before benefits are reduced may deter people from agreeing to be paid for involvement. For this reason many people who are in receipt of Jobseeker's Allowance prefer to volunteer for involvement rather than disrupt benefit continuity.

3. Jobseeker's Allowance and voluntary involvement

Voluntary involvement must be agreed in advance by Jobcentre Plus. Providing the number of hours per week of volunteering does not prevent availability for work nor prevent actively

seeking work, Jobcentre Plus should agree. If you are doing regular voluntary work you can give one week's notice to take up a job offer. 48 hrs notice is allowed for an interview.

If you are offered paid involvement and decide to decline payment and volunteer instead, first go to Step 5 page 39 to see if notional earnings might be applied or not.

4. Do you need to claim the cost of travel expenses or other costs for involvement?

Watch out – some reimbursed expenses may be treated as earnings. It all depends on the type of organisation that is paying you for involvement.

But if the changes to benefit rules on reimbursed expenses apply to your involvement all of the reimbursed costs of travel and other costs will be ignored. See Step 5 page 36

5. Housing Benefit, Local Housing Allowance, Council Tax Benefit and mortgage interest, and involvement

These benefits will not be affected by paid or voluntary involvement providing Jobseeker's Allowance continues to be paid. If Jobseeker's Allowance is wiped out the housing cost benefits are reduced next.

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| 7 | <p>Do you claim Income Support as a lone parent or a carer?</p> <p>Or do you claim Income Support for other reasons (not for incapacity)?</p> <p>Do you rent your own home or pay mortgage interest?</p> <p>Are you considering paid or voluntary involvement for less than 16 hours a week?</p> |
| <p>If so read on.</p> | |

1. Do you claim Income Support as a lone parent or carer?

The benefit rules

Income Support is not affected by paid involvement as long as it is for less than 16 hours a week on average. Earnings up to £20 a week do not affect Income Support if you claim because you are a lone parent. Earnings over £20 lead to Income Support being reduced penny for penny.

Unlike people who claim Carer's Allowance there are no separate rules about the hours that must be spent looking after the children or as a carer.

Unlike people who claim incapacity based benefits there are no separate rules about qualifying for Income Support that could be affected by a work related activity.

Jobcentre Plus must be advised about any paid involvement. The frequency (weekly/monthly etc) and expected duration of involvement activity should also be notified. Income Support will be reduced if the weekly average payment will be above £20. It is sensible to let them know that this is involvement of service users and carers (not paid work). This is because the changes to benefit rules on reimbursed expenses and notional earnings might apply to your involvement. See 6 below.

2. What if payments for involvement exceed the total amount of Income Support?

If payments for involvement over £20 exceed the total payment of Income Support it will be wiped out altogether that week. Access to other entitlements can be lost also. These can include free prescriptions and other health benefits and free school meals.

3. Housing Benefit, Housing Allowance and Council Tax Benefit for lone parents

Lone parents who receive Income Support and Housing Benefit, Local Housing Allowance and Council Tax Benefit who earn above the disregard will have the Income Support reduced first. If and when Income Support is wiped out by earnings Housing Benefit and Council Tax Benefit are reduced next. Lone parents have £25 of earnings disregarded, before reductions of Housing Benefit, Local Housing Allowance and Council Tax Benefit.

4. Child benefit and paid involvement

Child benefit is not affected by earnings.

5. Child Tax Credit and paid involvement

Child Tax Credit is unlikely to be affected providing Income Support continues to be paid.

6. Do you claim Income Support for any reason and need to claim the cost of travel expenses and/or the cost of child-carer or a replacement carer?

Watch out – reimbursement for travel expenses may be treated as earnings. The reimbursed costs of replacement child-care or a replacement carer may be treated as partly or wholly as earnings. It all depends on the organisation that is paying you for involvement. But if the changes to benefit rules on reimbursed expenses apply to your involvement all of the reimbursed costs of travel and/or replacement child-care or a replacement carer will be ignored. See Step 5 page 36.

7. Do you claim Income Support for other reasons (not for incapacity)?

Income Support is not affected by paid involvement as long as it is for less than 16 hours a week on average. But usually only earnings up to £5 a week will not affect Income Support. Earnings over £5 a week will lead to Income Support being reduced penny for penny. For this reason many people on Income Support prefer to volunteer for involvement rather than disrupt the continuity of benefit payments. Couples have an earning disregard of £10 a week. Either partner can use this. Jobcentre Plus must be advised about any paid involvement. The frequency (weekly/monthly etc) and expected duration of involvement activity should also be notified. It is sensible to let them know that this is involvement of service users and carers (not paid work). This is because the changes to benefit rules on reimbursed expenses and notional earnings might apply to your involvement.

8. Voluntary involvement and Income Support

People who receive Income Support for any reason can do any amount of voluntary work and this will not affect their entitlement. Voluntary involvement should be notified to Jobcentre Plus. If you are offered paid involvement and decide to decline payment and volunteer instead, first go to Step 5 page 39 to see if notional earnings might be applied or not.

| | |
|----------------------|--|
| 8 | Are you claiming a State Pension? Are you claiming Pension Credit? Are you claiming Housing Benefit or Local Housing Allowance and Council Tax Benefit Are you claiming for mortgage interest? Are you considering paid or voluntary involvement? |
| If so read on | |

1. State Pension

State Pension is not affected by earnings. State Pension is not affected by any amount of work or involvement, whether paid or voluntary.

State Pension is taxable so people who are paid for involvement may be subject to tax deductions on earnings.

2. Pension Credit

Pension Credit is not affected by hours of work or involvement, whether paid or voluntary. There is no restriction to less than 16 hours of paid work.

Pension Credit may be affected by earnings.

People who get Pension Credit may be able to earn either £5 a week, or £10 a week or £20 a week before Pension Credit is reduced penny for penny. But if they get a savings credit, earnings may not reduce Pension Credit.

If you are only able to earn £5 a week and you have a partner, one of you can earn £10 a week without Pension Credit being affected.

If you had a disability premium before getting Pension Credit you might be able to earn £20 a week without Pension Credit being affected.

If in doubt, ask The Pension Service how much you can earn and keep. You must notify paid involvement. The frequency (weekly/monthly etc) and expected duration of involvement activity should also be notified.

3. Housing Benefit or Local Housing Allowance or mortgage interest and Council Tax Benefit

People who receive Pension Credit, and Housing Benefit (or Local Housing Allowance) or mortgage interest and Council Tax Benefit who earn above the disregard, will have the Pension Credit reduced first. If Pension Credit is reduced to nil, housing cost benefits are reduced next.

Housing Benefit or Local Housing Allowance is reduced by 65 pence for every £1 over the earning disregard. Council Tax Benefit is reduced by 20 pence for every £1 over the disregard. Mortgage interest is reduced penny for penny over the earning disregard.

4. Do you need to claim the cost of travel expenses or the cost of a replacement carer, a personal assistant, support worker or facilitator?

Watch out – reimbursement for travel expenses may be treated as earnings.

The reimbursed costs of a replacement carer, a personal assistant, support worker or facilitator may be treated as partly or wholly as earnings.

It all depends on the organisation that is paying you for involvement.

But if the changes to benefit rules on reimbursed expenses apply to your involvement all of the reimbursed costs of travel and/or a personal assistant, support worker or facilitator and other necessary expenses will be ignored. See Step 5, page 36.

It is sensible to let the Pension Service know that this is involvement of service users and carers (not paid work) if the changes to benefit rules on reimbursed expenses and notional earnings apply to your involvement.

5. Voluntary involvement

If you are offered voluntary involvement you can accept . Your benefits cannot be affected. You should notify Jobcentre Plus.

If you are offered paid involvement and decide to decline payment and volunteer instead, first go to Step 5 page 39.

| | |
|-----------------------------|--|
| 9 | <p>Is the child in your care considering part-time paid involvement?</p> <p>Is your child under 16 years old?</p> <p>Are you a parent or carer? Does your child live with you?</p> <p>Do you manage a care home?</p> |
| <p>If so read on</p> | |

1. Involving and making payments to young people

Young people of school age are only allowed to do work and work related activities (i.e. involvement) as long as it does not interfere with their education, health and physical development.

If a child in your care has been asked to help with paid involvement you will need to discuss it with the local educational welfare office. They may want the involvement to be registered and to carry out a risk assessment. The consent of both the parents or guardian and the school are required.

2. What happens if a child of school age is paid for involvement and has parents who are on benefits?

If Child Tax Credit is received and the amount of benefit for the child is not included in Income Support or Jobseeker's Allowance, the child's part-time earnings are ignored.

Parents and guardians who still get the amount of benefit for their child included in Income Support or Jobseeker's Allowance will have their benefits reduced if the child's earnings are over the parents' or guardian's benefits personal earnings disregard.

3. What happens if a child of school age who lives in a children's home is offered paid involvement?

The local educational welfare officer must be consulted as must the manager of the children's home. They must give their consent as above.

4. Vouchers, mobile phone top up cards, etc

Parents or guardians may prefer it if their child is offered vouchers or mobile phone top cards rather than cash. However, if the involvement is for more than one occasion, these will be treated as notional earnings, and as such may result in problems for parents on benefits. Even so, these may be preferred over cash for other reasons.

Step 2

| | |
|------------------------------|--|
| 10 | <p>Do you receive money from the Independent Living Fund?</p> <p>Do you have home care services?</p> <p>Do you have counselling provided through Supporting People funds?</p> <p>Are you considering paid involvement?</p> |
| <p>If so read on.</p> | |

1. If you claim the Independent Living Fund

1.1. Introduction

The Independent Living Fund works with local authorities to provide a package of care for severely disabled people in order that they may lead an independent life.

Independent Living Fund is paid on the basis of income but earnings are not taken in to account.

Involvement, whether paid or voluntary, will not affect entitlement to the Independent Living Fund.

1.2 If you claim other benefits as well

If you claim other benefits as well, such as Incapacity Benefit, Severe Disablement Allowance and/or Income Support for incapacity (with a Severe Disability Premium), Employment and Support Allowance, these benefits have limits on earnings and hours of work. Housing benefits have limits on earnings. See Stepped Pathways page 2.

See 4 below for information on volunteering and reimbursed expenses.

2. If you get Home Care services

2.1. Introduction

Local authorities provide home care services to people who are assessed as needing services such as for practical help with domestic tasks, personal care, dressing etc. The local authority will assess the income of the person assigned home care. Benefit income and savings are taken into account. Earnings are not taken into account. Involvement whether paid or voluntary will not affect entitlement to Home Care services.

2.2. If you get other benefits as well

If you claim other benefits as well, such as Incapacity Benefit, Severe Disablement Allowance and/or Income Support for incapacity (with a Disability Premium) or Employment and Support Allowance, these benefits have limits on earnings and hours of work. Housing benefits have limits on earnings. (See the Stepped Pathways page 2).

3. Supporting People services

3.1. Introduction

Supporting People services are provided by the local authority and other support agencies. The services are intended to complement the practical tasks of home care and provide vulnerable people with support and counselling in order to be more independent.

Guidance from the Office of Communities and Local Government is provided to local authorities on charging, but local authorities have discretion as to their policy. The guidance states that earnings are not chargeable where the Supporting People service is short-term (less than two years), part of a package of care under section 117 Mental Health Act or where Housing Benefit is paid.

However, earnings may be chargeable where the Supporting People service is long-term (more than two years), and no Housing Benefit is payable. This may vary between local authority policies because they have discretion on charging.

If you get Supporting People services and there is a possibility of keeping some earnings after your benefits have been reduced, you will need to use two documents for negotiation with the local authority:

- The local authority's policy on charging for Supporting People services,
- Guidance from the Office of Communities and Local Government local authorities on charging for Supporting People services.

3.2. If you get other benefits as well

If you claim other benefits as well, such as Incapacity Benefit, Severe Disablement Allowance and/or Income Support for incapacity, Employment and Support Allowance, these benefits have limits on earnings and hours of work. Housing benefits have limits on earnings. (See Stepped Pathways page 2).

4. Voluntary involvement (if you receive benefits for living costs).

People who are offered voluntary involvement can accept. Benefits cannot be affected. People must notify Jobcentre Plus.

If you are offered paid involvement and decide to decline payment and volunteer instead, first go to Step 5 page 39 to see if notional earnings might be applied.

5. Do you need to claim the cost of travel expenses or for a personal assistant, support worker or a facilitator for involvement? (If you receive benefits for living costs).

Watch out – some reimbursed expenses may be treated as earnings. It all depends on the type of organisation that is paying you for involvement. See Step 5 page 36.

Step 3

| | |
|------------------------------|---|
| 11 | <p>Is the paid involvement that you do, intermittent (not every week)?</p> <p>Would it be helpful if Jobcentre Plus treated your payments for involvement as ‘averaged’ over several weeks or longer?</p> |
| <p>If so read on.</p> | |

1. When can earnings per week be averaged over several weeks or longer?

1.1. Introduction

Involvement is not usually every week. As a result it can be helpful to ask Jobcentre Plus if the benefit averaging rules could be used for payments from involvement.

All types of earnings can be treated as averaged – and providing the limit is not exceeded on average your benefits will not be affected. The limits may be Permitted Work £20 a week or Permitted Work £97.50 a week or Carer’s Allowance £100 a week or carer’s premium £20 a week or Income Support or Jobseeker’s Allowance £20 or £5 a week.

1.2. Jobcentre Plus rules on averaging earnings

The benefit rules on averaging are set out in the Jobcentre Plus guide for their staff:

The weekly amount of a person’s income may be averaged if the income varies or the regular pattern of work means that the claimant does not work every week.

The Decision Maker should average over:

- *A complete cycle if there is a recognisable cycle of work, **or***
- *Five weeks, **or***
- *Another period if this means a more accurate weekly amount can be calculated.*

Hours of work or paid involvement can be averaged as well.

Jobcentre Plus has in some instances agreed that people who are in receipt of Pension Credit can have earnings averaged over one year.

Jobcentre Plus can advise if averaging can be applied in individual instances. Do not assume that they will agree beforehand.

Step 4

| | |
|-----------------------------|--|
| 12 | <p style="text-align: center;">Are you considering regular paid involvement for 16 hours a week or more which will mean that your benefits will stop temporarily for several weeks or months?</p> <p style="text-align: center;">Do you claim Incapacity Benefit or Severe Disablement Allowance and/or Income Support for incapacity?</p> <p style="text-align: center;">Watch out! The benefit Linking rule that used to protect benefit entitlements has been abolished.</p> <p style="text-align: center;">Do you claim Employment and Support Allowance? See 3 below.</p> |
| <p>If so read on</p> | |

1. Introduction

Everybody who is in receipt of Incapacity Benefit, Severe Disablement Allowance and/or Income Support for incapacity is being sent for an assessment to see if they qualify for the replacement benefit, which is the Employment and Support Allowance. The process is taking place over several years. You could be re-assessed quite soon or it might not happen for two or more years.

As part of this process the Department of Work and Pensions have abolished the benefit Linking rule for people who in receipt of Incapacity Benefit, Severe Disablement Allowance and/or Income Support for incapacity.

2. Incapacity Benefit, Severe Disablement Allowance and/or Income Support for incapacity are not protected if you take a job

2.1 Benefits stop when you start work 16hrs or more a week.

If you are in receipt of Incapacity Benefit, Severe Disablement Allowance and/or Income Support for incapacity and take a job of over 16 hours a week or earn over the Permitted Work limit these benefits stop.

If the job then ends and you are not well enough to work you may want to claim benefits again. But because the Linking rule has been abolished you cannot claim the same benefits as before.

2.2 If the job ends and you want to claim benefits again

Jobcentre Plus will send you a form to apply for the Employment and Support Allowance. They will then send you for an assessment to see if you qualify for the Employment and Support Allowance.

Many people who were on incapacity benefits are failing the tests for a claim to Employment and Support Allowance because the Department of Work and Pensions has made the criteria for the level of ill-health or disability much harder to pass than before.

2.3 There may be benefit losses whether or not you pass the criteria for Employment and Support Allowance

If you do not pass the new criteria for ill-health or disability required for Employment and Support Allowance you will have to claim Jobseeker's Allowance instead. The rate will be much lower than the benefits you got before. As Jobseeker's Allowance is income based, people with a partner who is working or who have another source of income may lose out. They may not be entitled to an income based benefit.

If you do pass the new criteria and can claim the Employment and Support Allowance people with a partner who is working or who have another source of income may lose out also. Employment and Support Allowance contribution based is only paid for one year. After one year it stops.

After the transfer from incapacity based benefits only people who are entitled to claim Employment and Support Allowance income based, after one year, or people who are entitled to Jobseeker's Allowance will continue to receive benefits for living costs.

Disability Living Allowance will continue for the time being but there is a review planned.

If your claim to Housing Benefit and Council Tax Benefit was interrupted during your employment you may face further losses. Single people under 35 years who make a new claim to Housing Benefit are only paid the rate for a flat share. The maximum rate of Housing Benefit that will be paid for new claims is based on the lowest 30% of the housing market. People will have to pay any difference between their rent and the Housing Benefit from their benefit income.

3. Benefit linking rules that apply to Employment and Support Allowance (ESA)

3.1. What does an ESA linking rule protect?

The ESA 104 week linking rule can protect the Employment and Support Allowance benefit rates when you start paid work (or paid involvement) for **16 hours or more a week**, or training that takes you off your benefits and provides a training allowance instead.

If the job or paid involvement or training does not work out and you need to make a new claim to incapacity benefits again, you will get the same rates as before, providing you make the

claim before the 104 weeks are up, and your doctor will provide another sick certificate. You can self-certify for the first 7 days.

There is no need to register; only one qualifying period of 13 weeks on ESA is needed – there are no waiting periods to re-qualify.

There are a further two linking rules. See more below.

3.2. What benefits are protected by the ESA 104 week benefit linking rule?

The linking rule protects the current amount of:

- The Employment and Support Allowance (work related or support group, contributory or income based). But watch out: Employment and Support Allowance contributory is only available for one year. The linking rule will not extend the year.

and if you claim one of the above benefits the linking rule also protects:

- Housing Benefit
- Council Tax Benefit
- Income Support for mortgage interest (immediate reinstatement)

3.3. How do I qualify for the ESA 104 week linking rule protection?

You have to claim Employment and Support Allowance for 13 weeks to qualify for linking rule benefit protection. You have to start work (or training) within one month of your benefits stopping.

Once you have been on these benefits for a 13 week period for a first time you don't need to be on benefits for another 13 weeks if you want to use the linking rule again.

If you move off benefits into work or training and are protected by the 104 week linking rule, and then subsequently the work or training ends and you have to claim benefits again, the linking rule benefit protection will be available from the first day your benefits are paid again. You have another 104 weeks of benefit protection available immediately.

3.4. Will I be sent for a medical test of my incapacity if I have been off benefits and earning?

If your benefits were protected by the linking rule then when you make a new claim you cannot be sent for a medical test of your incapacity for 91 days.

3.5. What are the procedures to use the ESA 104 week benefit linking rule?

When you start work or regular paid involvement for 16 hours a week or more, you must let the Jobcentre Plus office that pays your Employment and Support Allowance know so that your benefits are stopped. Providing you qualify (see 3.3 above) you will qualify automatically for the 104 week linking rule. There are no forms to fill in.

If or when you want to make a new claim to benefits, you will still need a doctor's certificate. It might be helpful to discuss this with your doctor before coming off benefits.

3.6. Does the reason the work or paid involvement ended affect my entitlement to use the ESA 104 week benefit linking rule?

Providing your doctor will provide you with another medical certificate it doesn't matter why the work or paid involvement ended. It could have been a temporary contract, you could have resigned, and you could have been sacked. It doesn't matter.

3.7. Are all types of Housing Benefit protected?

When you become re-entitled to your previous rate of Employment and Support Allowance you should become re-entitled to your previous rate of Housing Benefit, or local Housing Allowance. See Memo HB/CTB A14/2010.

STEP 5

| | |
|------------------------------|--|
| 13 | <p>Will you be receiving reimbursed expenses? Watch out!</p> <p>Reimbursed expenses for involvement may or may not be treated as earnings.</p> |
| <p>If so read on.</p> | |

1. Introduction

Benefit rules say that some reimbursed expenses are in some circumstances treated partly or wholly as earnings. The Department of Work and Pensions has changed this rule for involvement with some organisations but unfortunately not for all the organisations that make payments for involvement with the MHRN.

2. Organisations that are required by law to involve service users and carers

Benefit rules on the treatment of reimbursed expenses for people who do paid involvement have changed in some circumstances. Reimbursement of expenses by organisations that are required by law to involve service users are ignored by Jobcentre Plus when calculating entitlement to benefits.

NHS Trusts are required by law to involve service users. When an NHS trust pays a service user or carer for involvement any reimbursement of necessary expenses will be ignored and will not affect benefits.

Reimbursements of expenses for involvement that are made by the following NHS Trusts should be ignored by Jobcentre Plus

| | |
|---------------------------|--|
| MHRN North West hub | Lancashire Care NHS Foundation Trust |
| MHRN West Hub hub | Avon Wiltshire Partnership Foundation Trust (NHS) |
| MHRN East Midlands hub | Nottingham Mental Health Trust (NHS) |
| MHRN East Anglia hub | Cambridgeshire and Peterborough NHS Foundation Trust |
| MHRN South London hub | SLAM NHS Foundation Trust |
| MHRN Heart of England hub | Birmingham and Solihull NHS Foundation Trust |

Reimbursements of necessary expenses will also be ignored if made by other organisations that are required by law to involve service users and carers. Jobcentre Plus have issued two sets of guidance for their staff:

<http://www.dwp.gov.uk/docs/m-37-09.pdf> (income based benefits)

<http://www.dwp.gov.uk/docs/m-34-09.pdf> (non-means tested benefits)

If you are to be paid for involvement and to be reimbursed your necessary expenses you should let Jobcentre Plus know if you are being paid by an NHS Trust or other organisation required by law to involve service users. .

3. Organisations that are not required by law to involve service users and carers

Universities are not required by law to involve service users and carers in research studies.

Reimbursements of expenses for involvement in research that are made by the following Universities are likely to be treated as earnings if these are refunded via a claim:

| | |
|--------------------------|--|
| MHRN Coordinating Centre | King's College London |
| MHRN North London hub | Imperial College London (the University not Imperial NHS Academic Trust) |
| MHRN North East hub | Newcastle University |

If you are considering paid involvement with these universities it is best to ask for travel expenses or costs of a replacement carer or child care or a personal assistant, support worker, or facilitator to be paid directly. See below.

4. Avoiding problems with reimbursed expenses

If the total of the payment for involvement with the University MHRN plus the amount of reimbursement for the necessary expenses exceeds the weekly limit allowed by benefit rules, the excess is deducted from benefits. People who have high expenses could find that they are financially worse off because they helped the MHRN in their work.

However where the MHRN covers the costs of the expenses directly benefits are unaffected.

Jobcentre Plus will ignore:

- Provision of travel cards or tickets
- Provision of transport (cabs)
- Payments made directly to a replacement carer
- Payments made directly to a child carer
- Payments made directly to a personal assistant, support worker, facilitator, communicator
- Payments made directly to cover the cost of necessary subsistence and overnight accommodation

5. Some expenses can be reimbursed without benefits being affected.

People who are paid for involvement and people who volunteer for involvement can be reimbursed out of pocket expenses such as for phone calls and stationery and their benefits are not affected.

6. People who are not paid for their time who are volunteering can be reimbursed necessary travel expenses

Volunteers can be reimbursed their exact travel costs including mileage and their benefits will not be affected.

If the costs of a replacement carer, child care, personal assistant, support worker, or facilitator are required, these should be paid directly, as Jobcentre Plus has no relevant benefit rules for these expenses.

| | |
|-----------|--|
| 14 | <p>Will you be declining an offer of payment for involvement? Will you be choosing to volunteer? Watch out!</p> <p>An offer of payment can be treated as ‘notional earnings’</p> |
| | <p>If so read on.</p> |

1. Introduction

Benefit rules say an offer of payment that is declined or diverted to a third party should be treated as earnings received. This means that if you are offered a payment for involvement but decline the payment or ask it to be made to a charity, and go ahead and volunteer your help, Jobcentre Plus will treat your entitlement to benefits as if you had received the money. This is called ‘notional earnings’.

The Department of Work and Pensions has changed this rule on notional earnings for involvement with some organisations but unfortunately not for all the organisations that make payments for involvement with the MHRN.

2. Notional earnings will not be applied for involvement with organisations that are required by law to involve service users and carers

Benefit rules on the application of ‘notional earnings’ for people who are offered payment for their involvement have changed where the organisation offering payment for involvement is required by law to involve service users. The application of ‘notional earnings’ has been abolished by Jobcentre Plus in these circumstances when calculating entitlement to benefits.

NHS Trusts are required by law to involve service users and carers. When an NHS Trust offers a service user or carer payment for involvement and the person declines the payment or asks for the payment to be made to a charity and volunteers their help, Jobcentre Plus will not apply notional earnings.

Notional earnings rules will not be applied where payments for involvement are administered by the following NHS Trusts:

MHRN North West
MHRN West hub
MHRN East Midlands hub

Lancashire Care NHS Foundation Trust
Avon Wiltshire Partnership Foundation Trust (NHS)
Nottingham Mental Health Trust (NHS)

| | |
|---------------------------|--|
| MHRN East Anglia hub | Cambridgeshire and Peterborough NHS Foundation Trust |
| MHRN South London hub | SLAM NHS Foundation Trust |
| MHRN Heart of England hub | Birmingham and Solihull NHS Foundation Trust |

Notional earnings rules will not be applied if the involvement is with another organisation that is required by law to involve service users and carers. Jobcentre Plus have issued guidance for their staff:

<http://www.dwp.gov.uk/docs/m-37-09.pdf> (income based benefits)

(Notional earnings do not apply to non-means tested benefits)

7. Notional earnings will be applied when organisations are not required by law to involve service users and carers

Universities are not required by law to involve service users and carers in research studies.

Notional earnings are likely to apply when service users or carers decline an offer of payment for involvement and either ask for it to be made to a charity or get involved without payment with the following:

| | |
|--|---|
| MHRN Coordinating Centre | King's College London |
| MHRN North London hub Academic Trust) | Imperial College London (the University not Imperial NHS) |
| MHRN North East hub | Newcastle University |

These Universities should not make a formal written offer of payment for involvement without prior discussions with the service user or carer. This is because the offer of payment could lead to the person having their benefits reduced by an amount of money that they have not received.

Further advice and information on benefits

1. The Involvement Helpline for benefits advice

The Mental Health Research Network subscribes to this free specialist telephone advice for service users and carers who are considering involvement.

The Involvement Helpline is run by Milton Keynes Citizens Advice Bureau. It was developed and set up by the Social Care Institute for Excellence, the Commission for Social Care Inspection – now the Care Quality Commission, the General Social Care Council and Skills for Care. It has been providing advice on involvement and benefit conditions to service users and carers for over two years. The advisors are specially trained in benefit conditions for involvement. The advice is entirely confidential.

Service users or carers are provided with access to the Involvement Helpline according to individual circumstances on:

- how much can be paid for involvement, without benefits being affected;
- how to keep to benefit conditions and let Jobcentre Plus know about involvement without causing problems;
- how to get Jobcentre Plus to agree that earnings can be averaged;
- making sure that Jobcentre Plus understand that involvement is different to work;
- how to avoid reimbursed expenses being treated as earnings.

Referrals to the Involvement Helpline can be made through your local MHRN hub or by contacting the Service Users in Research Coordinator (for service users) or the FACTOR Coordinator (for carers) on 0207 848 0644 if you do not know where your local hub is.

2. Citizens Advice Bureaux (CAB)

The CAB Bureaux are based in most parts of the UK and can provide free legal advice and free benefits advice to the public.

If your organisation wishes to discuss arranging an involvement benefits advice service locally, the national CAB office on 020 7833 2181 can provide the number of your local CAB office manager. A local CAB will usually need some additional staff training in order to provide specialist advice on benefits and involvement. Alternatively the web site provides general information on <http://www.citizensadvice.org.uk>

3. Community Legal Services

Community Legal Services provide free legal advice and free general benefits advice to people on benefits or other low income. If you want advice on your benefits phone 0845 345 4 345 and you will be put through to an advisor. This is not a specialist benefits and involvement advice service, but a general advice service. Alternatively the website provides general information on <http://www.clsdirect.org.uk/index.jsp>

4. Department of Health guidance to local authorities: Charging for Residential Accommodation Guide

Go to www.dh.gov.uk and search for CRAG .11

Memo issued to Jobcentre Plus staff for Income Support and Jobseeker's Allowance (a similar memo was issued for non-means tested incapacity benefits)

Summary

| | | | |
|------------------|---|-----------------------|--|
| Series No | 08-07 | Date Published | 19-4-07 |
| Contact | Live Support Advice Line 01253-848000 | To | For all IS and JSA Benefit Processing staff and Advisors |

Managers' Action: Ensure all IS and JSA Benefit Processing staff and Advisors are aware of the contents of this bulletin.

The 23 day rule does / does not apply to this bulletin

The contents of this bulletin can be made available to the public on request.

| Classification | Subject | Action |
|-----------------------|---|---|
| | Guidance on "involvement" or "public participation" | For all IS and JSA Benefit Processing staff |

Introduction

A number of national social care organisations wrote to Lesley Strathie in July 2006 about how we treat payments made to JC Plus customers who have agreed to take part in a range of activities with public organisations.

Definitions

Involvement - the range of activities undertaken by service users with public organisations to advise on service standards and delivery.

Service user - a person who uses public services relating to their ill-health, disability or caring responsibilities

Public organisation - a public, not-for-profit or charitable or educational body concerned with providing or influencing services for people with ill-health, disability or caring responsibilities.

Background

There is a form of voluntary or paid activity that is described as "involvement" or "public participation". The legislative basis for this is Strengthening Accountability Involving Patients and the Public: Policy Guidance Section 11 of the Health and Social Care Act 2001".

Best practice guidance was issued by the Dept. of Health in 2002, "Getting over the Wall: How the NHS is improving the patient's experience". "The Requirements for Social Work Training", issued in the same year, specifies that service users and carers who use social care or health services must be involved in all parts of the design and delivery of social work education and training.

The Disability Equality Duty came into force on 1.12.06. This requires all public authorities to actively look at ways of ensuring that disabled people are treated equally, requiring them to produce a Disability Equality Scheme, which includes the involvement of disabled people.

Overview of involvement

The purpose of involvement is to improve the quality of health and social care services by asking those who use the services about their experiences and involving them with the development of improved services. Many people who are consulted and involved in health and social care services have significant levels of chronic ill-health or a disability, have mental health problems or a learning difficulty. They are often in receipt of benefits.

Involvement takes various forms and these are set by the functions performed by the public authority. For example, participation in focus groups and conferences, health and social care staff recruitment and training, and representation via public appointments to NHS Trusts.

Special arrangements

The special arrangements that are made for involvement are similar to the support that Jobcentre Plus provides through Access to Work for people whose ill-health or disability could otherwise prevent them from entering employment. These vary according to need, e.g. a personal assistant to accompany the user on public transport or provision of a signer for people with loss of hearing.

Criteria for involvement

Public authorities seek to involve people with recent personal experience of requiring and using a service related to their health and/or social care needs. They look for people with relevant experience. For example, people with experience of being admitted to a psychiatric hospital on a section (compulsory admission) will be asked to give their views on the quality of the service. People are not invited to become involved because they are capable of work. They are invited because of their relevant experience of using health and/or social care services.

Patterns of involvement

There are many forms of involvement. Patterns can vary and involvement may be one-off events, intermittent or regular.

Payments for involvement and reimbursement of expenses

Each public authority forms their own policy for payments and reimbursed expenses for involvement; there is no standard policy. If the involvement is voluntary, expenses may be reimbursed. If it is not voluntary, participants will be paid the National Minimum Wage for the hours they are involved. The Department of Health has provided guidance on payments and reimbursing expenses. This makes recommendations for good practice in involvement and provides advice on benefit rules that has been approved by DWP and HMRC.

People who are asked to become involved:

- may offer their advice on a voluntary basis and be offered reimbursement of exact out of pocket expenses;
- may be offered payments in recognition of their contribution;
- may be reimbursed expenses
- may be reimbursed the costs of a personal assistant, support worker, facilitator or communicator.

The majority of people who are asked to become involved are in receipt of incapacity-based benefits, so Permitted Work rules will apply. They are also likely to be in receipt of income-related benefits.

How to treat payments other than expenses

Any payment other than reimbursement of allowable expenses is earnings and must be treated as such, subject to the usual disregard. Guidance on earnings can be found in [DMG Volume 5 Chapter 26](#).

Those who are entitled to payments other than expenses but choose to receive expenses only, or no payment at all, should not be treated as volunteers.

Where the rate of pay per hour x the number of hours of an event exceeds the disregard amount in that week, and there are several such events planned over several weeks, which prevents proper and adequate consultation with service users, some public authorities may seek Jobcentre Plus advice and agreement to use the averaging rules.

Where participants are paid for involvement, the remunerative work rules will apply where involvement exceeds 16 hours or more per week.

Additional information for JSA customers

If JSA customers are involved, you will need to determine whether they are entitled to be paid for their time. If they receive payment other than reimbursement for expenses they have incurred or will incur during their involvement, this money should be treated in the same way as earnings. They will need to provide details of the hours they were involved and the amount(s) paid. These customers will be subject to the 16 hour remunerative work rule for JSA (unless they are the partner of a JSA customer when the rule is 24 hours). These customers must still satisfy the normal conditions for receiving Jobseeker's Allowance, including actively seeking work and being available to take up the offer of work, a training opportunity or a New Deal within a specified period of time.

Payments for involvement will be at least at the minimum wage rate. If the participant is entitled to reimbursement of allowable expenses only, they will be treated as volunteering and can restrict their availability to being able to start work within 7 days or attend an interview in connection with work and training within 48 hours. A breakdown of the expenses reimbursed will be required. They will need to declare this and complete a form VW1.

Memo DMG 37/09 MISCELLANEOUS CHANGES TO THE INCOME RELATED BENEFITS - OCTOBER 2009 DEEMED INCOME FROM CAPITAL - SPC

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INTRODUCTION

1 This memo provides guidance for DMs on the changes to IS, JSA, ESA and SPC legislation introduced by the Social Security (Miscellaneous Amendments) (No. 4) Regulations 2009 (SI 2009/2655). The changes take effect from

1. 26.10.09¹ for paragraphs 8 - 10, paragraphs 17 - 18 and paragraphs 20 - 22
and

2. the first day of the first benefit week on or after 26.10.09² for paragraphs 4 - 7, paragraphs 11 - 16 and paragraph 19 **and**

3. the first day of the first benefit week on or after 12.4.10³ with regard to the amendments to the treatment of child maintenance and LRPs (see paragraphs 23 - 41).

1 Social Security (Miscellaneous Amendments) (No. 4) Regulations 2009, reg 1(1); 2 reg 1(2); 3 reg 1(6)

2 Guidance is also provided on changes to SPC and deemed income from capital introduced by the Social Security (Deemed Income from Capital) Regulations 2009 (SI 2009/1676). This change takes effect from 2.11.09¹ (see paragraph 42).

1 Social Security (Deemed Income from Capital) Regulations 2009, reg 1

THE CHANGES

The changes described in this memo

1. provide a disregard for expenses incurred by service users and exempts income associated with service users from the notional income rules

SERVICE USERS

4 A service user group means¹ any group of individuals that is consulted under certain legislation² by or on behalf of

1. in Scotland a Health Board, Special Health Board or Agency **or**

2. a landlord authority **or**

3. a public authority **or**

4. a best value authority **or**

5. in Scotland an LA landlord or registered social landlord **or**

6. a relevant English or Welsh health body **or**

7. a Local Health Board in Wales **or**

8. the Commission or the Office of the Health Professions Adjudicator **or**

9. the regulator or registered provider for tenants and social landlords **or**

10. an LA or public authority in GB as a result of a function provided for under an enactment

for the purposes of monitoring and advising on the policies affecting and services provided to users or potential users of those services.

Note 1: A public authority includes any person whose functions include functions of a public nature³.

Note 2: An enactment includes legislation made in or under an Act of the Scottish Parliament⁴.

1 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); SPC Regs, reg 1(2); ESA Regs, reg 2(1); 2 NHS (Scot) Act 78, s 2B; Housing Act 1985, s 105; Disability Discrimination Act 1995, s 49A; Local Government Act 1999, s 3; Housing (Scotland) Act 2001, s 53; National Health Service Act 2006, s 242; National Health Service (Wales) Act 2006, s 183; Health and Social Care Act 2008, s 4, 5 or 108; Housing and Regeneration Act 2008, s 98, 193 or 196; 3 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); SPC Regs, reg 1(2); ESA Regs, reg 1(2); 4 JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); SPC Regs, reg 1(2); ESA Regs, reg 2(1)

5 Any payment in respect of expenses received by a person participating in a service user group is not treated as earnings for the purposes of determining income for IS, JSA(IB), SPC or ESA(IR)¹. These expenses are income other than earnings but are disregarded when calculating the claimant's income².

1 JSA Regs, reg 98(2)(h); IS (Gen) Regs, reg 35(2)(f); SPC Regs, reg 17A(3)(f); ESA Regs, reg 95(2)(f); 2 IS (Gen) Regs, Sch 9, para 2A; JSA Regs, Sch 7, para 2A; ESA Regs, Sch 8, para 2A

Example 1

Asif is an out-patient at his local hospital and attends there on a regular basis for treatment. He is in receipt of ESA(IR). Asif has volunteered to take part in a Patients' Forum which discusses the services and care provided by the hospital. In order to attend the meetings, Asif needs to get a taxi. The expenses for this transport are paid to him by the local Health Trust. The DM decides that the expenses are not earnings and can be disregarded as income other than earnings when calculating Asif's entitlement to ESA(IR).

Example 2

Donna is in receipt of IS. She has volunteered to take part in a service user group at her local hospital. In order to attend, Donna needs a carer to take her there. The transport expenses that Donna's carer incurs taking her to the service user meeting are reimbursed to Donna by the hospital. The DM disregards these expenses when calculating Donna's entitlement to IS.

6 Payments other than expenses received for taking part in a service user group should be treated as earnings¹ for IS, JSA(IB), SPC and ESA(IR) and be attributed in the usual way with the appropriate weekly disregards. DMs will also need to consider whether the remunerative work rule applies (see DMG Chapters 20 and 41).

1 JSA Regs, reg 98(1); IS (Gen) Regs, reg 35(1); SPC Regs, reg 17A(2); ESA Regs, reg 95(1)

Example

Jenny is in receipt of JSA(IB). She is involved in a tenants association which discusses LA housing issues. In return for attending the meetings, Jenny receives £20 from the LA. The DM decides that the payment is a payment of earnings and falls to be taken into account when calculating Jenny's entitlement to JSA(IB). The payment is subject to the normal weekly earnings disregards.

7 The rules on notional income for IS, JSA(IB), SPC and ESA(IR) do not apply to payments of expenses or earnings paid as a result of a claimant's participation in a service user group¹. Where a DM might normally consider treating a claimant as possessing income which he doesn't actually have, such as in cases of

1. deprivation of income for the purposes of securing entitlement to benefit or increasing the amount of benefit payable
2. income upon application
3. income due but not paid
4. income paid to or in respect of a third party
5. notional earnings

then this will not apply where the possible income in question is payment arising from participation in a service user group.

1 JSA Regs, reg 105(15A); IS (Gen) Regs, reg 42(8ZA); SPC Regs, reg 18(7A); ESA Regs, reg 106(9), reg 107(8) & 108(5)

Example 1

Billy is in receipt of ESA(IR). He is also a member of a Patients' Forum which discusses services offered by the local NHS Trust. Billy catches the bus to attend the meetings. Although he is offered a payment by the Patients' Forum to reimburse him for his bus fares, Billy declines to take the payment. The Patients' Forum also offers to pay Billy a sum of money in recognition of his participation at the Forum. Again, Billy declines to accept the payment. The DM decides that the question of notional income does not arise because the possible income in question payments arising from participation in a service user group.

Example 2

Fiona is in receipt of IS. She attends meetings organised by her LA to discuss the services provided by the LA. Other attendees receive payment for attending the meetings but Fiona does not. The DM decides that the question of notional earnings does not arise because the possible income in question is earnings arising from participation in a service user group.