Department for Health – Northern Ireland

Consultation on changes to eligibility criteria for help with health costs
Response from the Low Incomes Tax Reform Group

1 Executive Summary

1.1 We welcome the opportunity to respond to this consultation document on the eligibility criteria for help with health costs following the introduction of Universal Credit (UC) in Northern Ireland.

1.2 It is disappointing that so far each Department has established their own earnings threshold or proposal in relation to their own passported benefits in isolation, without deeper consideration of the intricacies of UC or thought about a cohesive passporting regime that addresses some of the points raised by the Social Security Advisory Committee in 2012[1].

1.3 We understand that until new legislation is in place, all UC recipients will be passported to full help with health costs and that this, from a cost perspective, is not sustainable going forward as the numbers of claimants increase through roll-out of UC in Northern Ireland.

1.4 Given the importance of passported benefits to low income claimants, we welcome the Department's confirmation that their intention is not to restrict access to passported benefits by narrowing the eligibility criteria or cutting the budget available to fund help with health costs.

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[1] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/214611/ssac-rev-of-pass-bens.pdf

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1.5 We also recognise the challenge for all departments that administer passported benefits in designing eligibility rules that ensure as many people as possible retain their entitlement to support. It is inevitable, as explained in the consultation document, that there will be some winners and losers in terms of qualifying for passported benefits as a result of the introduction of UC. However, we think it is important that those who are set to lose out are transitionally protected as far as possible.

1.6 We do not think that option 1 – an annual threshold – has merit due to the difficulty in comparing an annual threshold with a monthly assessed benefit. A single annual income threshold does not take account of responsibility for children or reflect disability in a household as the current system does.

1.7 Whilst option 2 – a monthly threshold – fits better with the monthly assessment periods of UC and attempts to reflect some additional needs, there are a number of other issues that need to be given further consideration.

1.8 The monthly earnings thresholds are similar to the annual threshold in that they create a cliff edge which means that working an extra hour, or earning a few pence an hour more, could leave the person considerably financially worse off, thereby negating the principle that work will always pay under UC. We recommend that further thought is given to a run-on or other alternatives that could alleviate the harshness of this cliff edge.

1.9 The consultation document says that the two monthly thresholds will be based on net earnings because that is the information that the UC award notice will contain. For UC purposes, earned income also includes tax refunds and it is not clear how this will feed through to the earnings thresholds for help with health costs.

1.10 If the proposed threshold is based only on earned income, some claimants who are not entitled to help with health costs now will be entitled under the new criteria. This will lead to potential unfairness between families, as those whose household income contains a significant unearned element might qualify whereas those whose income is wholly earned might not. Again, this seems to go against the general UC policy aim of making work pay.

1.11 The consultation document lacks detail about the evidence requirements for claimants under UC. Under UC, claimants are not automatically sent paper award notices and instead their award is shown on the online system. It is not clear whether there will be a feed of data from the UC system that will enable health costs to be awarded automatically or whether claimants will need to show something confirming their eligibility.

1.12 Finally, the consultation document is silent on how those who are subject to the minimum income floor as self-employed UC claimants will be treated for the purposes of these passported benefits and how the surplus earnings rules will fit with the earnings threshold definitions.

2 Introduction

2.1 The Low Incomes Tax Reform Group (LITRG) is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998 LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes. Everything we do is aimed at improving the tax and benefits experience of low income workers, pensioners, migrants, students, disabled people and carers.

2.2 LITRG works extensively with HM Revenue & Customs (HMRC) and other government departments, commenting on proposals and putting forward our own ideas for improving the system. Too often the tax and related welfare laws and administrative systems are not designed with the low-income user in mind and this often makes life difficult for those we try to help.

2.3 The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities

2.4 We welcome this opportunity to respond to the consultation document on help with health costs. All passported benefits are important for low incomes families and can impact on work incentives of the underlying benefit, in this case UC.

2.5 We have, for many years, been concerned with the complexity for claimants caused by the various qualifying criteria for passported benefits and the impact of their withdrawal on work incentives. This response focuses on how the threshold is defined, calculated and evidenced rather than what particular level the threshold should be set at.

2.6 In the Government's response to the SSAC's 2012 report[1] on passported benefits, it was noted that the introduction of UC presents not only a challenge for Departments with responsibility for passported benefits, but also a unique opportunity to consider more fundamental reform to simplify and streamline some passported benefits in the future.

2.7 In June 2017, we responded[2] to a similar consultation issued by the Department for Education in Northern Ireland about passporting for free school meals following the introduction of UC.

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[1] https://www.gov.uk/government/publications/universal-credit-the-impact-on-passported-benefits

[2] http://www.litrg.org.uk/latest-news/submissions/170605-changes-eligibility-criteria-free-school-meals-and-uniform-grants

2.8 It is disappointing so far that each Department has established their own earnings threshold or proposal in isolation, without deeper consideration of the intricacies of UC or thought about a cohesive passporting regime that addresses some of the points raised by SSAC.

3 Comments on the proposals

3.1 *General comments on passporting*

3.1.1 As we said in our response to the Department of Education (NI) on free school meals passporting[1], it is important any new criteria be clear and easily understood by the public. In our response to the SSAC review of passported benefits, we identified transparency as one of the three key principles that should drive reform of passported benefits. Some complexity is inevitable, but the burden of dealing with this should fall on those responsible for delivering the benefit, rather than those receiving it. It is also important to ensure that the public should not only understand the passported benefit itself, but also how that passported benefit entitlement is linked to income and the impact that changes will have on the person's overall financial situation.

3.1.2 As well as being clear and easily understood, the scheme should be as straightforward as possible to access in order to ensure take-up of eligible claimants is as high as possible. This will ensure that proper thought is given to the evidence requirements and burdens placed on claimants as part of the claims process.

3.1.3 The second principle we highlighted in our 2011 response to SSAC was that the impact of passported benefits must be included in any calculation or presentation of marginal deduction rates under UC – both in general terms and to claimants. The loss of passported benefits as income rises should not come as a shock. Any criteria needs to ensure that the work incentives that exist under UC are preserved and further work should be done to analyse the impact of these proposed threshold on work incentives under UC.

3.1.4 We do recognise that there may be some difficulties in putting a value on help with health costs when trying to calculate the loss to a particular claimant if the benefit is taken away from them. However, we feel the department could help claimants better quantify that loss by providing some yardstick measurements (for example by comparing the value of the benefit with the annual cost of a prepayment certificate). At the very least, the loss of the benefit needs to be made clear when a claimant increases their income, even if it is more difficult to quantify how much will be lost.

3.1.5 The third principle we highlighted to SSAC was to ensure that passported benefits are delivered in a way that is non-stigmatising for claimants. We think this is a particularly important principle for passported benefits and this should be considered when establishing the new criteria.

[1] https://www.litrg.org.uk/sites/default/files/files/170605-LITRG-response-free-school-meals-uniform-NI-FINAL.pdf

3.2 ***Comments on Options 1 and 2***

3.2.1 Our response to the Department of Education (NI) regarding free school meals and uniform entitlement was strongly against an annual net earnings threshold for UC claimants. Neither that consultation, nor this consultation document, mentions how a net annual earnings threshold will be converted to compare to the monthly net earnings shown on the UC statement. For example, would the annual threshold be broken down over 12 months to produce a fixed monthly threshold or would the UC earnings from that month be scaled up to an annual figure and would this be done on a monthly basis? Neither method would accurately reflect real income if there were an uneven pattern of income from month to month.

3.2.2 Before finalising the figure, or indeed deciding to move forward with an annual net income threshold, detailed consideration must be given to which mechanism would be used to reconcile an annual earnings threshold with a monthly assessed benefit and we repeat the recommendation made to the Department for Education (NI) that further evaluation be carried out to:

- Understand how the chosen mechanism affects the estimated numbers of people entitled to help with health costs as compared to other alternatives. Ideally, this information would be published
- Determine whether there are any equality impact issues of the chosen mechanism – for example disabled claimants are more likely to have fluctuating income because of their health conditions and so could be disadvantaged
- Understand the additional costs that will be faced in potentially converting the monthly figure into an annual figure or in changing from a yearly assessment to a monthly assessment and on whom those costs and burdens will fall.

3.2.3 Two monthly thresholds under Option 2 align better with the monthly assessment system of UC and offer some recognition of the additional needs of some households. However, it does mean that people will move in and out of entitlement from month to month and therefore it may be administratively quite burdensome on both the Department and claimants depending on what evidence will be required from claimants.

3.2.4 UC is a digital by default benefit and claimants' award notices are in their online account. Therefore, thought will need to be given as to what proof will be required in order to claim a passport to help with health costs via UC and whether this is practical given the digital nature of UC, or whether there will be a system similar to the current exemption certificate that is sent out to tax credit claimants.

3.2.5 Option 2 will require a very good communication strategy to ensure that claimants don't claim help with help costs incorrectly (if the process is not automated – for example by ticking a box on a form to say they are receiving UC). Given that people with fluctuating incomes are likely to move in and out of qualification via UC, the Department should ensure there is a strategy in place to raise awareness of the low income scheme as an alternative.

3.2.6 There are a number of other issues that are common to both options that should be considered further:

Cliff edges

Both options 1 and 2 include fixed thresholds (one annual and one monthly). The cliff edge created in both cases means that working an extra hour, or earning a few pence an hour more, could leave the person considerably financially worse off, thereby negating the principle that work will always pay under UC. We recommend that further thought is given to a run-on or other alternatives that could alleviate the harshness of this cliff edge.

Changing from a gross income threshold to a net income threshold

3.2.7 As noted in the consultation document, those entitled to tax credits that have a gross annual income below the current threshold (£15,276) but net annual earnings higher than the proposed net earnings threshold of £12,000-£13,000 may no longer qualify for help with health costs after they migrate (or indeed move earlier due to a change of circumstances) to UC. This will be a huge loss to those families and therefore consideration should be given to transitional protection for those who are migrated across from tax credits in view of the Government commitment that people will not be worse off if they are migrated to UC by HMRC/DWP (as opposed to moving due to a change of circumstances).

3.2.8 Pinning the income threshold to a net income figure means that changes to income tax allowances, such as the personal allowance, will have consequences for those qualifying for health costs under this option and should be borne in mind when considering whether and when the threshold should be reviewed. Also in the context of reviewing the threshold, as noted at 3.2.6 above, having a fixed threshold could mean that even an extra few pence an hour pay – perhaps from an increase in the National Minimum or Living Wage – could result in a loss of passported benefits. Consideration should therefore be given to annual uprating of the threshold in line with earnings inflation to supplement and strengthen the effect of a run-on as recommended above.

Definition issues

3.2.9 Under the Universal Credit Regulations 2013[1], the calculation of UC is done by reference to the claimant's 'earned income' and 'unearned income'. Page 14 of the Consultation document states '*The UC award notice will contain the benefit unit's net earnings as opposed*

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[1] http://www.legislation.gov.uk/uksi/2013/376/contents/made Regulations 51-64

to gross earnings therefore all earnings figures used are net amounts.' We assume that net earnings in this context is therefore the same as earned income in UC.

3.2.10 If it is, then there are some issues that require further consideration. Earned income for UC purposes not only includes income from work but also tax refunds. Tax refunds are often made directly to the taxpayer and so receipt of an unexpected tax refund could be enough to send someone over the threshold in a particular month with a loss of passported benefits.

Self-employed UC claimants

3.2.11 Self-employed UC claimants may be affected by the minimum income floor. After the first 12 months of trading, if they are in the all-work requirements group, their UC will be calculated using either their actual income or if that is lower than their minimum income floor (MIF) amount, the MIF figure will be used in place of their actual income.

3.2.12 The MIF is very harsh for self-employed claimants who have fluctuating income and expenditure patterns and it does not take account of pension contributions (whereas employed UC claimants have their award calculated after the deduction of all pension contributions).

3.2.13 There is no detail in the consultation document about whether it will be the self-employed UC claimant's actual income that will be assessed against the earnings threshold or whether it will be the MIF amount.

Surplus earnings

3.2.14 From April 2018, UC will have a concept of surplus earnings introduced for both employed and self-employed claimants. Surplus earnings are very complicated, but it means that where a claimant floats off UC because of a rise in income (for example due to a new job) but then returns to UC within 6 months (perhaps due to a loss of their new job) any 'surplus earnings' they have in the intervening period off UC will be added up and applied as earned income to their UC claim when they reclaim. Surplus earnings are the amount of income a person has above the point at which their UC is reduced to nil plus a £300 disregard.

3.2.15 We recommend that earned income is defined in such a way for passporting to ensure these surplus earnings are not included as income. Otherwise, people may find themselves in financial difficulty unless they can get support through the low income scheme as an alternative.

LITRG
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