Update on limiting child tax credit and universal credit to a maximum of two children

General Features

01 March 2017

LITRG responded to a DWP led consultation on exceptions to the limiting of the individual child element of child tax credit and universal credit to a maximum of two children and the Government have now responded.

Child tax credit (CTC) is paid by HMRC to support families with children. It is paid in addition to child benefit and can be claimed whether someone is working or not. CTC, as well as working tax credit and some other means-tested benefits, are gradually being replaced by universal credit (UC). Currently, you receive a child element for each child or young person you are responsible for in the calculation of your maximum amount of CTC and a similar element is payable in UC.

In the summer Budget 2015, the Government announced that the child elements in CTC and UC would no longer be awarded for third or subsequent children or qualifying young persons in a household who are born on or after 6 April 2017. The limit will also apply to all third or subsequent children or young people for the first time UC claims after 6 April 2017.

The rationale for introducing the policy was because currently benefit entitlement automatically adjusts to family size, whilst families supporting themselves solely through work do not see their incomes rise in the same way when they have more children. In recognition of the fact that some parents or carers of children are not in the same position to make choices about the number of children in their family, the Government confirmed there would be some exceptions to the policy and in October 2016 a consultation was launched to consider the exceptions in more detail.

The Government broadly proposed four categories of exception where the third or subsequent child is:

- part of a multiple birth;
- living long term with family or friends because they are unable to live with their parents and could otherwise be at risk of entering the care system;
- born as a result of rape; or
- adopted.

It would be beyond LITRG's remit to make representations about whether it is right in principle to limit support in this way. However, we did recommend that if the rationale for the exceptions policy is about choice, then it is important that those without some element of choice are exempt from the limit in all cases. Whilst the Government's broad exceptions cover some of the possible scenarios, we believe there is a strong case for having a general exception that applies where it would be unreasonable for the two child limit to apply in a particular case.

The other issues raised in our response were around the practical implementation of the policy in tax credits and we highlighted particularly difficult situations that need some further thought – for example where a family have two biological children (one born before 6 April 2017 and one born after) and adopt a third child born before 6 April 2017. The Welfare Reform and Work Act 2016, which introduces the policy by amending the Tax Credits Act 2002, states that an exception is only relevant for a child born after 6 April 2017. Any child born before that date is entitled to the child element of CTC, so a child element would be received in respect of the older adopted child but this displaces the second born biological child who then will need to qualify for an exception in order to retain the child element. We await the draft regulations to see how such situations will be dealt with and most importantly how they will be explained to claimants.

The LITRG response can be read in full on the LITRG website.

The Government's response can be found on GOV.UK.