

Local Authority Circular

LAC (DH) (2010) 2

To: The Chief Executive
 County Councils }
 Metropolitan District Councils } England
 Shire Unitary Councils }
 London Borough Councils
 Common Council of the City of London
 Council of the Isles of Scilly

Copy to: The Director of Social Services
 Chief Executive - Care Trusts
 Chief Executive - Strategic Health Authorities

Date: 19 March 2010

Gateway reference: 13880

CHARGES FOR RESIDENTIAL ACCOMMODATION – CRAG AMENDMENT NO 29

The National Assistance (Sums for Personal Requirements and Assessment of Resources) Amendment (England) Regulations 2010 (S.I. 2010/211)

1. Summary

This circular:

- I. Sets out the revised Personal Expenses Allowance (PEA) of £22.30, which comes into force on 12 April 2010.**
- II. Sets out the revised capital limits of £14,250 (lower capital limit) and £23,250 (upper capital limit), which comes into force on 12 April 2010.**
- III. Sets out the revised savings disregards of up to £5.75 per week for individual supported residents aged 65 and over and up to £8.60 per week for couples, which comes into force on 12 April 2010.**
- IV. Sets out changes to entitlement to the £20 disregard as a consequence to the rise in women's pension age from 60 to 65 between 6 April 2010 and 5 April 2020.**

- V. **Alerts councils that the age qualification to property disregard for relatives will remain at 60 and will NOT change as a result of the rise in women's pension age.**
- VI. **Alerts councils to an amendment to the regulations to bring the property disregard for partners into line with Government policy and existing custom and practice.**
- VII. **Alerts councils to changes to the Charging for Residential Accommodation Guide (CRAG).**
- VIII. **Provides guidance on the valuation of shared properties for residential charging.**

The Annex contains fuller details.

CRAG is only available electronically, changes are marked-up on the internet version to aid readers. A revised copy of CRAG is available at: ***

A copy of S.I. 2010/211 is available at:
www.opsi.gov.uk/si/si2010/uksi_20100211_en_1

2. Action

A summary of the amendments to CRAG is given in the Annex to this circular.

This circular is issued under section 7(1) of the Local Authority Social Services Act 1970.

3. Enquiries

Enquiries about this circular should be made by email to:
SCPI-Enquiries@dh.gsi.gov.uk

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I. PERSONAL EXPENSES ALLOWANCE (PEA)

Legal basis

1. The PEA is the weekly amount that councils must, in the absence of special circumstances, assume that residents will need for their personal expenses. The PEA is specified in regulations made under section 22(4) of the National Assistance Act 1948 ("the 1948 Act"). This amount is increased each April, in line with the increase in average earnings.
2. The PEA applies in relation to all persons whose accommodation is arranged by a council under Part 3 of the 1948 Act, including residents of care homes with nursing on the premises, residents of council run homes and homes run by the private and voluntary sector.

New PEA amount from 12 April 2010

3. The National Assistance (Sums for Personal Requirements and Assessment of Resources) Amendment (England) Regulations 2010/211 provides for PEA to increase from £21.90 to £22.30. Paragraph 5.002 of CRAG has been amended accordingly.

The purpose of the PEA

4. The PEA is intended to allow residents to have monies for personal use. Councils, providers of accommodation and residents are again reminded that the PEA should not need to be spent on aspects of board, lodging and care that have been contracted for by the council and/or assessed as necessary to meet individuals' needs by the council or the NHS. Councils should therefore ensure that an individual resident's need for continence supplies or chiropody is fully reflected in their care plan. Neither councils nor providers have the authority to require residents to spend their PEA in particular ways and, as such, should not do so. Pressure of any kind to the contrary is extremely poor practice. See LAC (2002)11 for fuller guidance.

II. CAPITAL LIMITS

Residential care charges from 12 April 2010

5. The capital limits have increased from £14,000 to £14,250 (lower capital limit) and from £23,000 to £23,250 (upper capital limit) with effect from 12 April 2010. These amounts are increased each April in order to ensure that capital limits keep pace with inflation. The National Assistance (Sums for Personal Requirements and Assessment of Resources) Amendment (England) Regulations 2010/211 provide for the new capital limits. The relevant paragraphs of CRAG have been revised accordingly.

6. Tariff income from capital between the upper and lower capital limits is shown in the revised Annex B of CRAG.

Home care charges

7. With respect to charging for home care, savings and other capital should be treated no less generously than under the rules for assessing residential care charges. Councils should note that the new capital limits set out in this circular will apply automatically as minimum requirements for treatment of savings in relation to home care charges.

III. SAVINGS DISREGARD

8. LAC 2003(22) mentioned the introduction of a new savings disregard from October 2003, in response to the introduction of Pension Credit. From 12 April 2010 the savings disregard increased from up to £5.65 a week to up to £5.75 for individual supported residents aged 65 and over, and from up to £8.45 to up to £8.60 a week for couples. The National Assistance (Sums for Personal Requirements and Assessment of Resources) Amendment (England) Regulations 2010/211 provide for the new savings disregards. Paragraph 8.025 of CRAG has been revised accordingly.

IV. CHANGES TO ENTITLEMENT TO THE £20 DISREGARD AS A CONSEQUENCE TO THE RISE IN WOMEN'S PENSION AGE FROM 60 TO 65 BETWEEN APRIL 2010 AND APRIL 2020

9. The National Assistance (Assessment of Resources) Regulations 1992 closely follow the Income Support Regulations 1987. There is one consequential amendments related to the rise in the pension age for women from 60 to 65 in the IS regulations.
10. The IS regulations make changes to the qualifying age for receiving a £20 disregard for people who get a disability premium. This will rise in stages from 60 to 65. This is one of the IS regulations the AOR Regulations imports directly, so no amendment is needed to the AOR Regulations. However, the £20 disregard also applies to people who are otherwise ineligible for the disability premium but satisfy a number of conditions, principally linked to the receipt of other benefits. The AOR regulations have been amended so that both groups continue to be treated in the same way, so that people receiving the disability premium are not made worse off compared to other care home residents entitled to the £20 disregard. Paragraph 9.018 of CRAG has been amended accordingly and a table setting out how the qualifying age will change between 2010 and 2020 has been inserted at Annex J.

V. AGE QUALIFICATION TO PROPERTY DISREGARD FOR RELATIVES

11. One of the DWP changes to reflect the rise in pension age, is the phased increase in the age qualification for the relatives property disregard in the IS regulations. This is used for assessing entitlement to IS. This is not imported into the AOR regulations.
12. Generally, the Department's residential charging regulations follow the IS regulations. The disregard is used in the AOR regulations so that where a resident's property is lived in by one of the resident's relatives who is aged over 60 the property is disregarded. However, raising the relatives property disregard from 60 to 65 would result in properties, that would have been disregarded under the current AOR regulations, being taken into account and, possibly, having to be sold to pay for residential care, forcing the relative to move.
13. Therefore, Ministers have decided to leave the age qualification in the residential charging regulations at 60.

VI. PROPERTY DISREGARD FOR PARTNERS

14. Departmental guidance has always said that where a resident's property was occupied by their partner, the property should be disregarded from the financial assessment for residential charging.
15. It came to light that the regulations on this disregard were in conflict with the guidance and Government policy. The disregard in the regulation only applied to partners who were over 60 or incapacitated.
16. We were not aware of any councils that were not following the guidance. However, Ministers wrote to all 152 local councils in England, on 29 October 2009, asking for their views on the proposal to amend the regulations to bring them into line with Government policy and CRAG. In the meantime councils were asked to exercise their discretion and continue to disregard a property occupied by the resident's partner.
17. We received five responses, all of which supported the change. However, one of these is from the National Association of Financial Assessment Officers (NAFAO), which represents the officers who carry out financial assessments for residential charging. NAFAO's has members in 130 of the 152 English local authorities.
18. The information gathering exercise, confirmed that councils are following the guidance. The regulations are being amended with effect from 6 April 2010.

VII. CHANGES TO CRAG

19. The CRAG document has been subject to many amendments over the years and, as a result, it has become rather messy. The Department asked the National Association of Financial Assessment Officers (NAFAO) to review the document overall to improve its layout and make appropriate amendments. The 2010 CRAG is based on the amended version developed by NAFAO. The Department would like to extend its thanks to all those who contributed to the redraft. In particular, we are grateful to the late Trevor Harding, President of NAFAO, for co-ordinating the exercise.

VIII. VALUATION OF SHARED ACCOMMODATION FOR RESIDENTIAL CHARGING

20. Paragraphs 7.017 to 7.020 of CRAG provide guidance on the treatment of shared property in the financial assessment for residential charging. As part of this guidance CRAG says that if the local authority is unsure about the resident's share, or their valuation is disputed by the resident, again a professional valuation should be obtained.
21. Where a valuation is disputed, it is desirable the dispute should be resolved quickly. We would expect councils to obtain an independent valuation of the resident's beneficial share of the property and try to establish an agreed valuation within the 12-week disregard period. This will enable councils to work out what charges a resident should pay and enable the resident, or their representative, to consider whether to seek a deferred payments agreement with the council.