

PS(PH)

From: Ted Goff
Cleared: Jonathan Stopes-Roe
Date: 23rd February 2011
Copied: Bill Morgan
Jenny Jackson
Una O'Brien
Sir David Nicholson
Paul Macnaught
Thomas White
Officials – see below

Contaminated blood - Revised payments under HIV and Hepatitis C ex-gratia schemes – Exemption from tax and benefit calculations

Issue

1. To ensure that we maintain the established arrangements which exempt HIV and Hepatitis C ex-gratia payments made by the Macfarlane Trust, the Eileen Trust and the Skipton Fund etc from tax and benefit calculations

Recommendation

2. That you send letters to Exchequer Secretary and Minister for Income Related Benefits seeking their formal approval.

Timing

3. Inter-Ministerial letters should be sent out as soon as possible.

Background

4. Following the Secretary of State's announcement of the outcome of the review in the House on 10 January officials have held productive discussions with their counterparts in HM Treasury, HM Revenue and Customs and the Department of Work and Pensions, on the requirement to maintain the established arrangements which exempt HIV and Hepatitis C ex gratia payments from tax and benefit calculations. This requires Statutory Instruments to be made, and officials are ready to set this in train. The formal approval of HMT and DWP Ministers is needed.

Conclusion

4. You are asked to:
 - Agree the letters to Exchequer Secretary and Minister for Income Related Benefits (**Annex A**)

E Goff, Ext **GRO-C**

CC

David Harper - HIP

Helen Shirley-Quirk - Health Protection Head

Yemi Fagun APS/PS(PH)

Nannerl Herriott – Health Protection

Jonathan Stopes-Roe – Health Protection

Ailsa Wight – Health Protection

Debby Webb – Health Protection

Rowena Jecock – Health Protection

Ben Cole – Health Protection

Chris Young - PSFD-GFD(DFMR)

Annex A

David Gauke MP
Exchequer Secretary
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

XX February 2011

Government review of payments under the HIV and Hepatitis C ex-gratia schemes

I am writing to seek you to ask you to maintain the established arrangements which exempts tax to ex gratia payments to people who are infected with Hepatitis C and HIV as a result of treatment with NHS blood or blood products

Lord Archer's *Report on NHS Supplied Contaminated Blood and Blood Products*, published in February 2009, made a number of recommendations concerning the arrangements for making *ex gratia* payment to people who were infected with HIV and Hepatitis C as a result of treatment with NHS blood or blood products.¹ At present, such payments are disregarded for consideration of DWP benefits and are not liable to income tax.

The Government published its response to the Archer report on 14 October 2010,² and subsequently announced that it would be conducting a review of a number of aspects of the support available to those who had been affected by contaminated blood.

As you know, Andrew Lansley's letter of 10 December sought HA Committee clearance for a number of changes to the ex-gratia payment regime following our internal review. Clearance was received on 10 January 2011. Copies of these letters are attached, and the changes agreed are set out in an annex to this letter. Andrew Lansley subsequently announced these changes to the House on 10 January 2011.³

1. Lord Archer report

2. Govt response

3. Andrew Lansley' WMS of 10 January 2011

Following this announcement, we now need to ensure that we maintain the established arrangements which exempt these payments from tax. I am therefore seeking your approval for the necessary regulations to be made to achieve this. This will allow payments under the new regime to be made in certainty of their status for income tax purposes.

My officials have started initial discussions with their HM Treasury and HM Revenue and Customs counterparts. Based on these discussions, I understand that prior to any payments being made, regulations need to come into effect. I would be grateful for your agreement to the completion of this process.

I am writing in similar terms to Lord Freud, Minister for Welfare Reform, to seek approval for the necessary legislative changes to be made to ensure the payments are not taken into consideration for benefit purposes.

Anne Milton
Minister for Public Health

Copies to:
Rt Hon Danny Alexander MP
Sarah Gravenstede APS/Exchequer Secretary
Jackie McGeehan, HMT
Judith Diamond HMRC
David Ashton HMRC
Jonathan Stopes-Roe DH

ANNEX: EX GRATIA PAYMENT ARRANGEMENTS

Background

- Ex gratia payments are currently provided by the Macfarlane Trust (for haemophiliacs), the Eileen Trust (for non-haemophiliacs) and the Skipton Fund (for Hepatitis C).

The changes agreed by HA Committee fall into three broad categories:

1. The first are a series of measures that brings the Hepatitis C payments in line with those made for HIV. They are:
 - Making annual payments of £12.8k to those people with most serious Hepatitis C related disease. Annual recurrent cost – c.£8.4m (this will be uprated for CPI each year).
 - Creating a new charity to distribute discretionary payments to those who have received payments via Skipton Fund in relation to Hepatitis C infection and who are in the greatest need, including their dependants. Initial recurrent costs – c.£2m, but this will be reviewed once we have a clearer picture of the likely need.
2. The second category reflects the clinical evidence on the greater ongoing suffering of those people with the most serious Hepatitis C related disease by making an additional lump sum payment of £25k. [The criteria for awarding the second stage payment has also been extended to include a very small number of people affected by B cell non-Hodgkins lymphoma]. This would be both prospective and retrospective. One-off cost of c.£19m, annual recurrent cost of c.£2m.
3. The third category corrects an anomaly in the current scheme where claims have not been allowed in respect of infected individuals who died pre-Aug 2003. One-off cost of c.£30m-£59m based on assumptions of the number of people who will apply and the number of people who will be successful.

There are also two other initiatives which potentially touch upon the tax and benefit position of individual persons:

- Providing the cost of a prescription season ticket for those people with Hepatitis C and HIV who are not already exempt from paying prescription charges. Annual recurrent cost of around £50k.

- The existing annual payments for HIV will be uprated in line with CPI annually to bring them in line with the new payments for hepatitis C.

Lord Freud
Minister for Income Related benefits

February 2011

Government review of payments under the HIV and Hepatitis C ex-gratia schemes

I am writing to seek you to ask you to maintain the established arrangements which affords a disregard in the income related benefits to ex gratia payments to people who are infected with Hepatitis C and HIV as a result of treatment with NHS blood or blood products

Lord Archer's *Report on NHS Supplied Contaminated Blood and Blood Products*, published in February 2009, made a number of recommendations concerning the arrangements for making *ex gratia* payment to people who were infected with HIV and Hepatitis C as a result of treatment with NHS blood or blood products ¹. At present, such payments are disregarded for consideration of DWP benefits and are not liable to income tax.

The Government published its response to the Archer report on 14 October 2010 ² and subsequently announced that it would be conducting a review of a number of aspects of the support available to those who had been affected by contaminated blood.

As you know, Andrew Lansley's letter of 10 December sought HA Committee clearance for a number of changes to the ex-gratia payment regime following our internal review. Clearance was received on 10 January 2011. Copies of these letters are attached, and the changes agreed are set out in an annex to this letter. Andrew Lansley subsequently announced these changes to the House on 10 January 2011.³

Following this announcement, we now need to ensure that we maintain the established arrangements which exempt these payments from benefit calculations. I am therefore seeking your approval for the necessary regulations to be made to achieve this. This will allow payments under the new regime to be made in certainty of their status for income tax purposes.

1. Lord Archer report

2. Govt response

3. Andrew Lansley' WMS of 10 January 2011

My officials have started initial discussions with their Department of Work and Pensions counterparts. Based on these discussions, I understand that the required legislative changes to cover the new discretionary payments will not be in place until October 2011. I would be grateful for your agreement to the completion of this process.

I am writing in similar terms to David Gauke MP, Exchequer Secretary, to seek approval for the necessary legislative changes to be made to ensure the payments are not taken into consideration for tax purposes. I have copied this letter to Maria Miller (Minister for Disabled) and Steve Webb (Pensions Minister).

Anne Milton
Minister for Public Health

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Judith Diamond HMRC
Jackie McGeehan, HMT
David Ashton HMRC
Jonathan Stopes-Roe DH

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- The existing annual payments for HIV will be uprated in line with CPI annually to bring them in line with the new payments for hepatitis C.