

**EXPLANATORY MEMORANDUM TO**  
**THE HEALTHY START SCHEME AND WELFARE FOOD (AMENDMENT)**  
**REGULATIONS 2016**

**2016 No. 985**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 This instrument grants eligibility to Healthy Start benefits to certain Universal Credit claimants or people living in their household. This puts these persons on the same statutory footing as claimants of other social security benefits.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

*Matters of interest to the House of Commons*

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 This instrument amends the Healthy Start Scheme and Welfare Food (Amendment) Regulations 2005 (S.I.2005/3262) (“the Principal Regulations”).
- 4.2 The Principal Regulations provide entitlement to Healthy Start benefits for pregnant women, certain mothers of young children, and children under the age of 4, who are either entitled to a “qualifying” social security benefit, or who are a member of the household of a person who is so entitled.
- 4.3 Universal Credit is not currently a qualifying benefit for the purposes of Healthy Start. This instrument therefore adds Universal Credit as a qualifying benefit in order that certain Universal Credit claimants, or members of their households, are also entitled to Healthy Start benefits.
- 4.4 Relevant information about people entitled to Universal Credit can be shared with the Department of Health by the Department of Work and Pensions (by virtue of s.131 of the Welfare Reform Act 2012 and regulations made under it) to determine entitlement to Healthy Start benefits.

**5. Extent and Territorial Application**

- 5.1 This instrument extends to Great Britain.
- 5.2 This instrument applies to Great Britain. The Department for Social Development in Northern Ireland will be producing its own legislation for Northern Ireland.

## 6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

## 7. Policy background

### *What is being done and why*

- 7.1 Healthy Start is a UK-wide statutory benefit funded by the Department of Health which aims to provide additional support to improve the diets of low income pregnant women, mothers with children under the age of 1 and children under the age of 4 to give them the best start in life. The Healthy Start vouchers issued to qualifying beneficiaries can be exchanged with registered retailers for fresh or frozen fruit and vegetables, plain milk, infant formula and vitamins.
- 7.2 All pregnant women below the age of 18 are entitled to Healthy Start. For other claimants, Healthy Start is means-tested with eligibility being linked to certain qualifying social security benefits. Healthy Start is referred to as a “passport benefit” because being in receipt of a qualifying benefit “passports” eligible people to Healthy Start benefits.
- 7.3 Universal Credit is already available to families with children in some parts of the country, and will gradually expand so that it will eventually replace all of the existing qualifying benefits for the scheme. This means that the Department of Health has to establish a way to provide Healthy Start benefits under Universal Credit. In 2012 the Social Security Advisory Committee (SSAC) published its report on the impact of the introduction of Universal Credit on passported benefits<sup>1</sup>. Following this report, there was agreement across Government to the use of earnings thresholds as a mechanism for identifying which Universal Credit claimants should be eligible for passported benefits and to target available support at those who need it most. It was accepted that this would enable the delivery of passported benefit schemes under Universal Credit in a way that is broadly cost neutral to Departments when compared to current arrangements under legacy benefits.
- 7.4 In line with the agreement across Government to adopt a system of earnings thresholds, this instrument introduces an earnings threshold to determine eligibility in Universal Credit for Healthy Start. In order that they, or a person in their household, may be entitled to Healthy Start benefits, a Universal Credit claimant must have earnings of less than £408 net a month, either as a single or joint claimant.
- 7.5 The amendments are designed to ensure Healthy Start entitlement is attached to the three main groups the benefit aims to support: pregnant women, mothers of children under the age of 1, and children under the age of 4. This instrument extends Healthy Start entitlement to the following people:
- Women over 18 who have been pregnant for more than 10 weeks, who are entitled to Universal Credit, or who are the responsibility of a person entitled to Universal Credit, whose net earnings are below the earnings threshold.
  - Mothers aged 16 and over who have parental responsibility for a child under the age of 1, who is entitled to Universal Credit, or are the responsibility of a

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<sup>1</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/214611/ssac-rev-of-pass-bens.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/214611/ssac-rev-of-pass-bens.pdf)

person entitled to Universal Credit, whose net earnings are below the earnings threshold.

- Children under the age of 4 who are the responsibility of a person entitled to Universal Credit whose net earnings are below the earnings threshold.
- Children under the age of 4, for whom a person under the age of 16, whose parent is entitled to a qualifying benefit (including Universal Credit) has parental responsibility. (Persons aged under 16 cannot be entitled to a qualifying benefit in their own right). Where the parent is entitled to Universal Credit, their net earnings must be below the earnings threshold.
- This instrument also amends the existing categories of entitled persons in the Principal Regulations so that mothers of children under the age of 1 who are entitled to a qualifying benefit, or who are a family member of a entitled to a qualifying benefit, can receive the Healthy Start mother's voucher at age 16 rather than age 18. This provides consistency of entitlement for young mothers regardless of whether they are entitled via legacy benefits or Universal Credit.

- 7.6 The earnings threshold of £408 net a month has been chosen because it is the point where the numbers who will no longer be eligible for Healthy Start are approximately equal to the numbers who will be newly eligible to Healthy Start, at the same time as being as close to cost-neutral as possible. When put together with the numbers who will keep entitlement to Healthy Start, this threshold is expected to lead to approximately 600,000 pregnant women and children in the UK receiving support from Healthy Start after full transition to Universal Credit is completed.
- 7.7 Some families with children will no longer be eligible for Healthy Start because they move from legacy benefits to Universal Credit and earn above the threshold. Some are no longer eligible because they are not entitled to Universal Credit.
- 7.8 The analysis carried out by the Department of Health using data received from the Department of Work and Pensions suggests that the majority of those newly eligible are children in families previously in receipt of legacy benefits that would not have qualified them for Healthy Start, but who will, when claiming Universal Credit, have earnings below the threshold. Analysis of the data from the Department of Work and Pensions suggests that this change represents increased Healthy Start eligibility for low income working families. The Equality Analysis sets out these changes are submitted with this memorandum and are published alongside the Explanatory Memorandum on the [legislation.gov.uk](http://legislation.gov.uk) website.
- 7.9 A 'safety net' has been included in relation to Universal Credit claimants whose earnings temporarily rise above £408 net per month. A person entitled to Healthy Start, but whose net monthly earnings increase above the threshold, will keep their entitlement for 8 weeks. Entitlement continues if the person's earnings drop below the threshold during this period and they do not need re-apply for the scheme. If, after the 8-week run-on period, the net earnings of the person have not dropped below the threshold then the person's entitlement to Healthy Start will cease.

### ***Consolidation***

- 7.10 No timetable has been set for consolidation of the Principal Regulations.

## **8. Consultation outcome**

- 8.1 The changes made by this instrument have not been subject to public consultation as there are no changes to the Department of Health's core policy intention that pregnant women, new mothers and children under 4 on the lowest incomes continue to receive support from the scheme from the budget available for the scheme.
- 8.2 There is a statutory duty to consult the Scottish Ministers and Welsh Ministers on any amendments to Healthy Start Regulations.<sup>2</sup> In their response to this consultation, Scottish Ministers have stated that they do not feel that they can agree to the draft amendments concerning the new Universal Credit threshold because the data upon which the changes have been modelled is not sufficiently robust to be able to ascertain that the changes will not impact negatively on Scottish recipients. Scottish Ministers welcome the 8 week run on, which they agree will help vulnerable families on fluctuating incomes make the most of their entitlement. The Department's view is that the best available data has been used to set the threshold and that the review of the threshold planned for between 12 and 24 months after the Regulations come into force will ensure appropriate monitoring of the impact of the change upon recipients, in England and the Devolved Administrations.
- 8.3 Scottish Ministers have also welcomed the intention to review the earnings threshold shortly after 12 months, as this will provide further information about the impact of the threshold on all Healthy Start beneficiaries under UC, including Scottish beneficiaries.
- 8.4 Consultation also took place with Welsh Ministers. They are content with the proposed amendments and had no comments.
- 8.5 The Northern Ireland Executive was sent the Regulations for information only as the scheme is already fully devolved in Northern Ireland. The relevant Minister has noted the position in Great Britain and agreed to maintain parity in their own Regulations.
- 8.6 As part of their review of the impact on passported benefits of Universal Credit the SSAC conducted a public consultation, set up focus groups and invited evidence from stakeholder groups. The Department of Health has taken into consideration the concerns from stakeholders raised as part of this consultation. More information is contained in the Equality Analysis published on the legislation.gov.uk website.
- 8.7 The Government's response to the SSAC's report noted the Department of Health's agreement with the Committee on the need for a coherent approach across the range of passported benefits, support for the work incentive, and the intention to support broadly similar groups as is the case now, whilst using the introduction of Universal Credit as an opportunity to make absolutely sure that vouchers are targeted in the fairest and most appropriate way. The Government response can be found at - [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/214611/ssac-rev-of-pass-bens.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/214611/ssac-rev-of-pass-bens.pdf)

## **9. Guidance**

- 9.1 The Healthy Start website (<https://www.healthystart.nhs.uk/>) which provides information to the public and to health professionals will be updated to explain the

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<sup>2</sup> Section 13(2) of the Social Security Act 1988 read with paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

changes and give people useful information about the eligibility threshold for Universal Credit. Resources which provide information about eligibility for the scheme and scheme guidance will be updated to provide advance notice of the changes. Staff at the Healthy Start Issuing Unit (HSIU) will receive guidance and training to ensure they manage applications and casework in line with the new Regulations.

- 9.2 As Universal Credit is expanded and made available to people with children across the United Kingdom, existing Healthy Start beneficiaries may begin to migrate to Universal Credit. These families will need to understand potential changes to their eligibility and the impact of the earnings threshold and how these changes may affect them. Letters and information sent by the Healthy Start Issuing Unit to beneficiaries entitled to Healthy Start vouchers will be updated, with clear information to inform people when they are not entitled to Healthy Start vouchers under Universal Credit.
- 9.3 Universal Credit recipients already receive information about passported benefits that might be available to them, including Healthy Start, with their Universal Credit award notice. The Department of Health will continue to work with DWP as they develop communications for the public, and as part of digital services, on the use of thresholds for passported benefits, so that advisors are able to signpost eligible claimants appropriately to Healthy Start.

## **10. Impact**

- 10.1 No impact on business, charities or voluntary bodies is envisaged because this instrument is primarily concerned with granting Universal Credit recipients access to the Healthy Start scheme.
- 10.2 The setting of the earnings threshold has been calculated on the principle of cost-neutrality, therefore no impact on public funds is envisaged.
- 10.3 The equalities analysis has been carried out in compliance with the Public Sector Equality Duty under s.149 of the Equality Act 2010.

## **11. Regulating small business**

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

## **12. Monitoring & review**

- 12.1 The earnings threshold will be subject to an internal Departmental review between 12 and 24 months following implementation, taking account of internal monitoring information and the impact of wider changes that may affect family income introduced in the Budget. This allows for the adjustment of the earnings threshold in Regulations if it is limiting eligibility to Healthy Start for more families than anticipated and putting the Department of Health's policy aims for the scheme at risk, or it is leading to unaffordable cost pressures. The value of the voucher at £3.10 will be maintained during 2016/17 and will be reviewed annually thereafter.
- 12.2 This instrument will be considered to be successful if:

- The numbers of children in families becoming newly eligible are broadly equal to the number of children in families whose eligibility ceases when Universal Credit is fully rolled out at "steady state";

- The vouchers target those pregnant women, new mothers and young children most in need of additional support because they have the lowest incomes;
- The eligibility criteria are easy to understand for claimants under UC; and
- The scheme continues to be affordable to the Department of Health.

### **13. Contact**

- 13.1 Rebecca Matthews at the Department of Health, [Rebecca.matthews@dh.gsi.gov.uk](mailto:Rebecca.matthews@dh.gsi.gov.uk) can answer any queries regarding the instrument.