

**Report by the Social Security Advisory Committee under Section 174(1) of
the Social Security Administration Act 1992 and the statement by the
Secretary of State for Work and Pensions in accordance with Section
174(2) of that Act on The Social Fund Maternity Grant Amendment
Regulations 2011
(S.I. 2011 No.100)**

January 2011

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*Presented to Parliament pursuant to
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Statement by the Secretary of State for Work and Pensions in accordance with section 174(2) of the Social Security Administration Act 1992

The Social Fund Maternity Grant Amendment Regulations 2011

Introduction

1. The Government referred the draft Social Fund Maternity Grant Amendment Regulations 2011 to the Social Security Advisory Committee on 2 December 2010 in accordance with Section 172 (1) of the Social Security Administration Act 1992.
2. In the June 2010 Budget, the Government announced a range of measures as part of the deficit reduction plan, including changes to the Social Fund Sure Start Maternity Grant scheme. These measures will come into effect in 2011.
3. For babies expected or born from April 2011 onwards, payments made under the Sure Start Maternity Grant scheme are to be for babies who are the only child under 16 in the family. Modifications have been made to the original policy announced as part of the Budget, i.e. to take account of stillbirths, the death of a child and the various family situations that occur.
4. In summary, it has been decided that children aged 16 years or above in the claimant's family will not affect eligibility for a Sure Start Maternity Grant. However, where there is already a child in the family aged less than 16 years of age a Sure Start Maternity Grant will not be payable.
5. Two exceptions have been introduced:
 - i. More than one Sure Start Maternity Grant will be paid if a multiple birth occurs or the claim relates to babies born as a result of a multiple birth, who have been adopted or who are subject to specified orders or analogous arrangements so long as there are no other children aged less than 16 years in the family.
 - ii. Where dependent children or young people under the age of 20 have a child (or multiple birth) themselves, the grandparents (if in receipt of a qualifying benefit) may apply for a Sure Start Maternity Grant in respect of that child, even though they may have children of their own aged less than 16 years in the family.
6. Around 150,000 families in receipt of a qualifying benefit at the point they have a second or subsequent child will be affected by this measure. In order to help mitigate the effects for some of these families, the forthcoming Welfare Reform Bill will include a measure to open up the Social Fund budgeting loan scheme to enable loans for maternity items to be made available. However, due to the discrepancy in timing between the introduction of the changes to eligibility to Sure Start Maternity Grants in April 2011 and the date the provision in the Bill becomes comes into force (expected to be early 2012), families will not be able to take advantage of the extended access to Budgeting Loans during this period.

7. These changes should be considered against the backdrop of the budget deficit and the reductions in public expenditure that are designed to support the deficit reduction plan. The policy change will cut the number of payments by just over half and reduce expenditure by £73m annually.
8. Restricting payment in this way ensures that the limited resources available support families when they need it most. Expenditure is inevitably highest when a new baby is the only child in the household and there are no baby items that can be reused or recycled.
9. DWP officials discussed the Regulations with the Social Security Advisory Committee at their meeting on 2 December 2010. Following a period of scrutiny and a number of changes being made to the Explanatory Memorandum and the Equality Impact Assessment, the Committee selected the Regulations for formal referral.
10. The details of the proposed changes were sent to various groups and organisations known to the Social Security Advisory Committee as representing the interests of those most likely to be affected by these proposals on 13 December. They were invited to submit any comments to reach the Committee by 21 December. Eleven responses from ten different organisations and one from an interested individual were received, and the final report was sent to officials at the Department for Work and Pensions on 6 January.
11. The Government is grateful to the Social Security Advisory Committee for its report and to those organisations that responded to its consultation, and welcomes the chance to respond to the report. The issues raised in the report have been carefully considered and the Government recognises the Committee's concerns. However, the amendments to the legislation that will come into force in April 2011 will create a more targeted and affordable system which will continue to provide an appropriate level of support to those families that need it the most. The Government has therefore decided to proceed with the amendments to the Sure Start Maternity Grant.
12. The report makes reference to a number of questions that were raised by the Committee and the respondents to the consultation. These have not been referred to specifically in the Government's response, but I am more than happy for my officials to work with you to resolve these queries.
13. This statement sets out, in accordance with section 174 (2) of the Social Security Administration Act 1992, the reasons why the Government has not felt it appropriate to accept all the Committee's recommendations on this occasion.

The Committee's Report

14. The Committee's report proposes that if the Government is to go ahead with the changes to the Regulations, a number of recommendations should be considered. The report highlights a number of key concerns raised by the Committee and the respondents to the consultation about the approaches and implications of the changes, particularly for the most vulnerable families who are currently eligible for a Sure Start Maternity Grant.
15. Whilst there was recognition that the changes are being made in the context of making savings to reduce the national deficit, the report suggests that the measure lacks consistency with broader policy objectives, particularly in light of recent Government publications on tackling child poverty.
16. The Committee suggest that the way the Government has alighted on some decisions as part of this policy change lacks reasoned explanation, such as the way it has arrived at the exceptions to the new rules, and why the option to restrict payments to babies who are the only child under 16 in the family was chosen above the other options presented in the Explanatory Memorandum. They do, however, recognise that the Government's desire to keep the rules simple has force.
17. In terms of the effects of the changes to the Regulations, the Committee agrees that it is a reasonable expectation that many of the items necessary for a new baby would be available to subsequent babies born into the same household. However, the report raises concerns over whether this would continue to be the case in a number of possible family compositions, and in particular where there is a significant gap in age between the first child and subsequent children. The proposal is that if there is a child in the family under the age of 16, there is no entitlement to a Sure Start Maternity Grant. The Committee believes that this is an unreasonably high threshold and should be set at a much lower age, possibly as low as five.
18. The Committee also raised concerns over the Government's choice of policy to implement the Budget announcement, in that it believes that the reasons for taking the approach favoured by the Department for Work and Pensions have not been set out in any satisfactory depth, and they question whether basing eligibility on whether there is an existing child aged under 16 in the household is going to lead to equitable results, even with the two exceptions.
19. The report suggests that the changes to the rules for Sure Start Maternity Grants are based on an assumption that the payments are made on the basis of meeting additional expenses incurred by the purchase of new items regarded as necessary for a baby, and that they fail to recognise ongoing or recurrent costs such as the need for the mother to eat healthily or for the home to be kept sufficiently warm.
20. The Committee stated that there will be an intervening period of around nine months between the introduction of the new rules for Sure Start Maternity Grants and the earliest possible introduction of the mitigating measures to extend Social Fund Budgeting Loans to include maternity items. They raised their concern that this would mean that many people will be left without any alternative means for meeting the additional expenditure incurred by a second or subsequent baby beyond going without or having to resort to high cost lenders.
21. Whilst the Committee recognise that they have, in the past, expressed unease about linking the receipt of professional health advice relating to pregnancy to benefit

entitlement, their report states that they do recognise the merit in ensuring that such advice is given and received wherever possible. They believe that because the new proposals will sever the link between women in their second and subsequent pregnancies who would previously have been eligible for a Sure Start Maternity Grant and the provision of professional health advice, some women may no longer receive any advice at all during their pregnancy.

22. Another concern that the report raises is that the changes will have an impact on child poverty. The Committee highlights the fact that the Government argues that Sure Start Maternity Grants are one-off lump sum payments and do not increase annual income, which means that they do not impact on child poverty figures.
23. The Committee was surprised to note that there is a lack of relevant data available to the Department on ethnicity, and that a lack of such information prevents meaningful analysis of the effect of the measure on ethnic minorities. They suggest that it would appear to be self-evident that the proposed change will affect larger families disproportionately, and that families with Asian and Black African origins would be more highly represented in that category.
24. Another concern that was raised in the report referred to the difficulty some applicants face in meeting the time limit of three months within which a claim for a Sure Start Maternity Grant can be successfully made. They suggest that this is a problem under the current arrangements, but that it will be exacerbated by the new rules.

The Government's Response to the Committee's report

25. The Government recognises that the Sure Start Maternity Grant measure announced in the June 2010 Emergency Budget represents a substantial change to the current scheme. It will inevitably have an impact on around 150,000 families each year who are in receipt of one of the qualifying benefits and are having their second or subsequent child.
26. A Sure Start Maternity Grant scheme that provides the same level of help every time a family has a child is now outdated, expensive and unfair. The highest level of expenditure for a family is incurred at the birth of the first child and we are maintaining this support. Although providing a grant of £500 around the time a family has a second or subsequent child undoubtedly helps with the family finances at that point, it will not help to move that family out of poverty. The Government strongly believes that work and personal responsibility must be at the heart of the welfare system. People benefit from being in work not only financially, but also in terms of their health, wellbeing and future prospects for themselves and their families. Getting people back to work will remain a key facet of the Government's child poverty strategy.
27. What the change to the Sure Start Maternity Grant scheme does is ensure that when a baby joins a family where there are no other children under 16 the parent(s) receive additional support to help towards meeting the cost of maternity and/or baby items. The Government believes that supporting families when, in the main, they are starting a family is the best way to target resources when and where they are most needed.
28. The majority of families do not purchase the full range of items needed for a new baby when their second or subsequent child is born and it is unreasonable to continue to provide them with the same level of help through the Sure Start Maternity Grant scheme. Just like the majority of other low income families do, families in receipt of the qualifying benefits for the Sure Start Maternity Grant scheme reuse the items they already have when they have another child.
29. Nevertheless we do recognise that there will be families who, for a range of reasons, may need financial support when their second or subsequent child is born. This is why we are changing the legislation to enable those eligible to access social fund budgeting loans for maternity items. Under the current legislation the discretionary social fund is available for needs other than maternity and funeral costs which are covered by the regulated social fund. We are taking powers in the Welfare Reform Bill to remove this restriction in relation to Budgeting Loans.
30. One of the Committee's key criticisms of the proposal is that that they do not find the measure to be either coherent or consistent with broader policy objectives. The Government rejects this criticism. These cuts are necessary as part of the wider Government's public finance deficit plans, as the Committee's report acknowledges. Support for families through tax credits, welfare payments, tax relief for childcare and one-off payments for families is currently very generous and not sufficiently targeted on those who need support the most. The Budget package shares the burden of reducing the deficit across the income distribution while mitigating the impact on the most vulnerable. Restricting access to the Sure Start Maternity Grant scheme is consistent with this approach.
31. The Committee is also concerned that the policy details have been adopted without a transparent, reasoned case for this approach being made. They felt that other options – some preferred by the Committee – for achieving the savings were not fully explored. The

Government does not accept this. As stated earlier, this measure is about helping families who do not have a child already in their household to purchase items for their new baby, a time that families need help the most. The other options were considered and ruled out because they were not as well targeted, or because the money available would be spread too thinly, particularly to the priority households. Basing eligibility on the composition of the household will inevitably create some hard cases, including those identified by the Committee. However, the Government believes that concentrating help on those families where the baby will be the only child in the household under 16 provides the best use of limited resources.

32. The Committee is concerned that the changes will have a significant impact on larger families, children in poverty and lone parents. The Government recognises that there will inevitably be some families who lose out due to these changes. Currently, eligible families receive a Sure Start Maternity Grant for each child they have regardless of the number of children they already have or the time lapse between them. This policy is no longer affordable in the current economic climate. We believe that the new policy is the most equitable approach to providing support to low-income households with a new child.
33. The Committee raises concerns that the reforms assume that payments are made to meet the additional costs of purchasing new items for a baby, and fail to take account of ongoing or recurrent costs. These include the need for the mother to eat healthily or for the home to be kept sufficiently warm. The Government rejects this criticism. Sure Start Maternity Grants are one-off payments which contribute to meeting the exceptional costs incurred when a new baby arrives in a family. They are not designed to meet ongoing costs such as supporting mothers to eat healthily. Provision for this kind of support is already available through the NHS Healthy Start voucher scheme, which provides pregnant women and young families on low incomes with vouchers to spend on milk, fresh fruit and vegetables and infant formula milk.
34. The report questions why the announced change to the Social Fund Budgeting Loans scheme – to enable access to the loans scheme for maternity items – cannot be introduced immediately, or alternatively the changes to the Sure Start Maternity Grant scheme be delayed until the Budgeting Loans scheme changes are introduced. A change to the primary legislation is required to extend the scope of Budgeting Loans. This will be delivered through the forthcoming Welfare Reform Bill. Coordinating the two changes would result in at least an eight-month delay to the introduction of the Sure Start Maternity Grants change. This would mean a loss to the Exchequer of savings of around £1.4m per week. Because of the potential financial losses we do not believe a delay is justifiable.
35. The Committee is also critical of the current three month time limit for making an application that applies to Sure Start Maternity Grants. They recommend that it is extended to twelve months.
36. The three month application period is consistent with most benefits and with other Social Fund payments. Sure Start Maternity Grants are to help with needs in pregnancy and the immediate needs of a baby joining the family. For this reason a three month time limit from the date the baby is born or joins the family is considered sufficient and consistent with the policy intent. Departmental literature advises customers who are awaiting the outcome of an application for a qualifying benefit to submit an application for a Sure Start Maternity Grant pending the decision.
37. The evidence does not support the Committee's concern that the three month application period is disproportionately problematic for this payment. Analysis of Social Fund

customer data states that claims initially refused because they were made too late represent just 1.1% of all claims received and 3.6% of all initial refusals. We do not know, of course, how many potentially eligible customers currently do not apply for a payment because they know they are too late to claim and who may do so if the time limit is extended.

The Committee's Recommendations

38. The committee made the following recommendations:

(1) That the proposal should not be introduced until eligibility for the Social Fund budgeting loan scheme is extended to loans for maternity items;

Response

We are not able to support this recommendation as it would mean a delay of around a year and would result in a loss of planned savings of around £73 million. This is because a change to primary legislation is required before budgeting loans can be made available to meet the cost of maternity items. The Government will be taking powers in the forthcoming Welfare Reform Bill to enable this change to happen with a planned introduction of April 2012 at the latest.

(2) That the existing structure in relation to the SSMG is retained but the payment reduced to £250 in respect of each child. This modification to the scheme would achieve the level of saving sought and the disallowance of claims where there is an under-16 year old in the household would no longer be required.

Response

The Government's policy proposal was announced by the Chancellor of the Exchequer in the June 2010 Budget. The Government does not have any plans to further review the policy. The announced policy concentrates help on those priority households with the greatest need, those who do not already have a child under 16. Under the current scheme families in receipt of one of the qualifying benefits receive a Sure Start Maternity Grant for each child they have regardless of the number of children they already have, or the time lapse between them. In the current fiscal climate this policy is no longer affordable.

The revised policy is deliberately intended to target support more effectively on the poorest families facing the financial challenge of having a new baby for the first time. It is reasonable to expect that many of these items can and will be reused on the birth of a second or subsequent child. Government has to balance provision for financial support to this group with the experience of other families who do not qualify for a payment and have to meet the additional costs of a new child from within their own funds.

Analysis of the ONS Longitudinal Survey found that less than 10 per cent of second and subsequent children were born more than five years after the first or subsequent child. This is the case for both women with and without higher education levels¹ but this does not take into account some of the complex family formations which may result in difficult cases². The Government accepts that there may be a higher proportion of people on benefits who have more complex family arrangements. However, the evidence presented above supports the revised policy as the majority of families are likely to still have items that can be reused for second and subsequent children.

(3) That the Department considers extending the time limit for claims for a Sure Start Maternity Grant to 12 months. For the sake of consistency we further recommend that a

¹ Women with higher education are classified as having any post-secondary school qualification.

² Rendall M & Smallwood S (2003). Higher qualifications, first-birth timing, and further childbearing in England and Wales. Office for National Statistics, Population and Demography Division.

twelve-month time limit should apply in all cases where a person claims a one-off payment under the regulated Social Fund scheme

Response

The three-month time limit is consistent with most benefits and with other Social Fund awards. Sure Start Maternity Grants are to help with needs in pregnancy and the immediate needs of a baby joining the family. For this reason a three-month time limit from the date the baby is born or joins the family is considered sufficient and consistent with the policy intent.

(4) That the Department should provide a redrafted Equality Impact Assessment to take account of our comments in relation to child poverty at paragraphs 4.26 to 4.28 and, if possible, in relation to ethnicity at paragraph 4.29.

Response

We recognise the Committee's concerns about the importance of tackling child poverty. However, we do not believe that the provision of a one-off Sure Start Maternity Grants for each baby is an effective vehicle for alleviating child poverty. To ensure the Government's approach to tackling child poverty is as effective as possible, a consultation on the approach to ending child poverty and improving life chances has been launched. The consultation will run until 15 February 2011. The Government will also consider its strategy in the light of all the evidence resulting from the Frank Field review on poverty and life chances and the Graham Allen review on early intervention.

In order to reduce the impact of other measures announced in the Budget on poorer families, the Government will use some of the savings made from withdrawing Child Benefit from families with a higher rate taxpayer to fund significant increases in the Child Tax Credit. This is better targeted on low-income families and will ensure the Budget measures announced will have no measurable impact on child poverty in the next two years.

As previously stated, individual level data to assess the impact on ethnicity is not available. When a Sure Start Maternity Grant is made, ethnicity data is not required. The most appropriate way of assessing the impact of the measure on families by ethnicity would be to look at the size of completed families, but this data is not available. The only available data is from the Census. However, this cannot be extrapolated to completed families, nor can it differentiate between the wider population and households who are potentially eligible for a Sure Start Maternity Grant.

(5) That the wording of draft regulation 5A(4)(a) should be reconsidered.

Response

We recognise the Committee's concern about the wording of this draft regulation and have accordingly amended the draft.

From the Chairman

The Right Honourable Iain Duncan Smith MP
Secretary of State for Work and Pensions
Caxton House
London
SW1H 9DA

20 January 2011

Dear Secretary of State,

REPORT OF THE SOCIAL SECURITY ADVISORY COMMITTEE MADE UNDER SECTION 174(2) OF THE SOCIAL SECURITY ADMINISTRATION ACT 1992 ON THE SOCIAL FUND MATERNITY GRANT AMENDMENT REGULATIONS 2011

1. Background

1.1 At the Committee's meeting on 2 December 2010, officials from the Department for Work and Pensions (DWP) presented proposals for our consideration relating to The Social Fund Maternity Grant Amendment Regulations 2011. An Explanatory Memorandum (EM) of the Department's position accompanied these proposed draft regulations. At our suggestion, officials subsequently made a number of amendments to the EM, and a revised version for our further deliberation was provided. It is this revised version which accompanies this report at Appendix 1.

1.2 Having discussed these regulations at the meeting with officials, we decided to seek the views of various groups and organisations known to us as representing the interests of those most likely to be affected by these proposals, for the purposes of making this report. The groups and organisations identified were therefore issued with details of the proposed change on 13 December and invited to submit any comments to reach us by 21 December. They were also encouraged to forward the same invitation to other groups or individuals known to them, but not necessarily to us, who, in their view, might have a worthwhile contribution to make in this debate.

1.3 We received 11 responses from ten different organisations and one from an interested individual. Their details are at Appendix 2. We would like to express our gratitude to them for the depth of analysis produced in a very short space of time and at a difficult time of the year. We are also grateful to officials of the Department for Work and Pensions for their co-operation and assistance.

2. The Proposals

2.1 The Secretary of State for Work and Pensions proposes to limit provision for the Sure Start Maternity Grant (SSMG) to those cases where the family to which the person claiming

the grant belongs, does not already contain a child aged less than 16 years. Two exceptions are proposed. These are where –

- the birth is multiple or the adoption order (or analogous arrangement) relates to children born as a result of a multiple birth. In such cases, unless there is an existing child in the household, a grant is available in respect of each child within that multiple birth; or
- the mother of the baby or child in question is under the age of 20, has no other child and is herself a member of the family of the person claiming the SSMG.

2.2 The Regulations are planned to come into force on 24 January 2011. They include transitional provisions which set out the timing of the circumstances around 11 April 2011 in which the new rules will apply and those where the existing rules will apply.

2.3 The amount of the SSMG, which currently stands at £500, is not set to change as a result of the proposed measure. Neither is it suggested that any of the existing four qualifying criteria for the award of an SSMG be amended in any way. They remain as follows –

- the claimant, or the claimant's partner, must have a current entitlement to a qualifying benefit. The qualifying benefits are: income support, state pension credit, income-based JSA, income-related ESA, a working tax credit which includes the disability or severe disability element and a child tax credit payable at a rate higher than the family element;
- the claimant, or a member of the family, is pregnant or has given birth; or the claim is being made by the child's parent who is responsible for the child but not a partner with the mother at the date of claim; or an adoption, parental or residence order has been granted to the claimant or their partner; or one of them has been appointed the guardian of a child who has not passed age 1 or has had a child of that age placed with them for adoption by an adoption agency;
- professional advice on health and welfare has been received; and
- the claim is made within a period beginning 11 weeks before the expected date of confinement and ending 3 months after the actual date of confinement or the relevant order. For those customers who adopt or take on responsibility for a child, the period of claim begins with the date of the relevant order, appointment or placement and ends 3 months later.

3. Summary of the Department's Position

3.1 In announcing his Emergency Budget in the House of Commons on 22 June 2010, the Chancellor included the following statement: 'we will restrict the Sure Start maternity grant to the first child only.' At face value such a statement appears relatively straightforward. On closer inspection however it clearly demands considered thought as to how 'the first child' should be defined. Should it, for example, mean the mother's first child, the first child of the biological couple, the first living child, the first child who is not living away from its parents, or something else? And what if the first child is living with one of its original parents, but not the other?

3.2 In considering these possibilities, amongst others, the Secretary of State for Work and Pensions proposes that 'the first child' be taken as meaning that there will be an exclusion

from entitlement to the SSMG if the person claiming the SSMG is a member of a family which includes a child. For these purposes 'a child' is someone under the age of 16.

3.3 The Department believes that this particular approach gives the most equitable outcome overall, but accepts that it could give rise to some individual hard cases. In seeking to minimise the numbers of such hard cases, the Department also proposes two exemptions.

3.4 The first exemption is in relation to multiple birth pregnancies and essentially ensures that where a successful claim for an SSMG is made in respect of the first child in a multiple pregnancy, a further SSMG in respect of the second (or further) child within that same pregnancy would also be available. In other words the fact that, by the time the second child is born, there would already be another child within the family does not prevent the SSMG being multiplied according to the number of children born. The same principle is to apply in relation to one of the orders set out in the current legislation³.

3.5 The second exemption applies where the mother is under the age of 20, lives as a member of the claimant's family and has no other child apart from the one in respect of whom the SSMG is claimed. Typically this could be a case where a young girl, living at home with her parents, has a baby. In this example, if her father is entitled to an income-based JSA for himself, his wife and his daughter, any successful claim for an SSMG will have to be made by him or his wife – not his daughter. The exemption means that if the girl's parents also have a 10 year old son at home, any entitlement to an SSMG is preserved. If the young girl then has a second child however, any claim for a further SSMG will be disallowed.

3.6 The Department's position is summarised in more detail in the revised Explanatory Memorandum attached at Appendix 1.

4. The View of the Committee

Introduction

4.1 The Committee appreciates that the Government is strongly committed to cutting the national deficit and that the Department for Work and Pensions is no different from other Government Departments in having to be rigorous in finding savings wherever possible. The revised Explanatory Memorandum states that these proposals will contribute to the Government's deficit reduction plan and are expected to generate annual savings of around £73 million.

4.2 We have been told that the Department is anxious that these savings should begin to accumulate from the start of the financial year in April 2011 and is therefore proposing to introduce the new measure to take effect from 24 January 2011 (the SSMG can be claimed 11 weeks before the first day of the expected week of confinement). However, the

³ The principal Regulations, the Social Fund Maternity and Funeral Expenses (General) Regulations 2005 SI 2005 No 3061, were amended with effect from 13 December 2010 by the Social Fund Maternity Grant Amendment Regulations 2010 SI 2010 No 2760. The change in legislation was made at the recommendation of the Court of Appeal who had identified a discrimination against a claimant granted a residence order so that she could take care of her sister's baby (her sister having serious health problems). Had she applied for, and been given, an adoption order, she would have been entitled to a SSMG. The change in legislation put claimants granted a parental or residence order, or appointed the guardian of a child, on the same footing as those granted an adoption order. The Court of Appeal case was Francis v Secretary of State for Work and Pensions [2005] EWCA Civ 1303 (10 November 2005).

Department has not presented us with the basis for the approach that is proposed. We do not find the measure to be either coherent or consistent with broader policy objectives.

4.3 The immediate context in which these regulations are being proposed is significant. In December the Government published the report of the Independent Review on Poverty and Life Chances, led by Frank Field. Entitled “The Foundation Years: preventing poor children becoming poor adults” the report recommends “that government, national and local, should give greater prominence to the earliest years in life, from pregnancy to age five” That has then been followed by the Government’s consultation paper “Tackling Child Poverty and Improving Life Chances: Consulting on a New Approach.” We have considered the proposals in relation to the SSMG in the light of those two documents.

4.4 The Department are proposing that two exceptions from the new rule should apply, but it would appear that those exceptions have been alighted upon in a somewhat ad hoc fashion, rather than because they are viewed as being a part of a more stringent but transparently reasoned approach.

4.5 Moreover, the Explanatory Memorandum lists a number of other ways that a cut in spending could have been achieved. Two of the other ways identified would have achieved equivalent savings to the preferred option; a third way would have achieved significantly more savings and a fourth way, significantly less. The Explanatory Memorandum lacks a reasoned explanation as to why the Government chose the option it did and, conversely, why the others were rejected. If, as would appear, the target is to achieve around £70 million in savings in the SSMG budget, we would prefer an approach which retained the existing rules but reduced the amount of the grant to £250 in respect of each child. We have also considered the option of allowing a certain amount for the first child and a reduced amount for subsequent children but, on balance, think that the Department’s concern to keep the rules simple has some force. The reasons for this recommendation are set out in our response.

4.6 Because of the Department’s wish to introduce these changes in January 2011 we took these proposals on formal referral in a shortened and targeted consultation exercise.

Our concerns

The effects of the cut

4.7 The starting point for cutting back on SSMG expenditure is obvious enough. If a couple in receipt of one of the qualifying benefits start a family and receive an SSMG in respect of their first child, it is a reasonable expectation that the basic hardware needed for a new baby – cot, pram, baby bath, first clothes etc - will still be available and serviceable should a second child come along within a reasonable period of time. One can envisage individual situations where those items are no longer available (for example, where the parents believe their first child will be their only child, or where the items have been given to a needy relative) but that, in itself, would not be a reason for not adopting an approach where parents knew at the outset that the SSMG was only available in respect of the first child. To that extent we believe that, stated in these terms, the measure is understandable and self-explanatory. We have little doubt too that this is how it was perceived by the Chancellor, and by those who heard him, when he made his announcement to the House of Commons in June 2010.

4.8 However, as is well known, many families do not fall within the compass of the archetypal image. It is a plain fact of life in modern Britain that the composition of many

families is somewhat fluid and unpredictable. That means that the proposals we have considered need to be set against the convoluted patchwork of possible family relationships in order to see how they would apply in practice.

4.9 Our primary concern is that the proposal is an overly blunt instrument that will have harsh repercussions for some families in vulnerable circumstances where the living arrangements and relationships are less than straightforward. Whilst we acknowledge and accept the need for simple rules where possible, we believe that it has to be balanced against the requirement to preserve fairness and avoid excessive harshness. In this particular case we believe that the complexity of many family situation demands a higher degree of subtlety in policy-making, even if a measure of simplicity has to be sacrificed in the process.

Defining “the first child”

4.10 A key aspect of this proposal is in deciding how the Chancellor’s statement about limiting the SSMG to the first child should be interpreted. In its Equality Impact Assessment (EIA) the Department refers specifically to this issue and explains that it chose to dispense with the obvious definition of the mother’s first child because it could create unfair results in new family relationships where the baby in question was the father’s first child. The Department also said that it “raised difficult issues around families where their first child was still born or had died shortly after birth”.

4.11 We are far from convinced however that defining ‘the first child’ purely on the basis of an existing child in the household is going to lead to more equitable results, even with the two exceptions mentioned in the draft legislation. If, for example, the family unit included the younger sibling of one of the members of the couple, the new rule would mean that there would be no access to an SSMG if the woman was expecting a child of her own. In that example there would be no reason to expect that essential items of babyhood would be available if, for instance, the sibling had joined the household as a young girl or boy. Such an outcome would seem to be manifestly unfair.

4.12 The very example cited by the Department as the reason for not adopting the ‘mother’s first child’ approach would appear to create equally inequitable results when applied to the ‘child in the household’ approach. In a situation where the new family unit includes a child from a former relationship of the man, he would not normally be expected to have taken essential baby items with him. The resultant inability to make a successful claim for an SSMG in these circumstances could expose a low income, and possibly fragile, family unit to undue hardship. We are mindful of situations where a woman and her children may have to leave the family home in an emergency, perhaps because of domestic violence. In some cases she may have left with nothing, with little prospect of ever being able to pick up the items at a later date. In the event of her establishing a new relationship in due time, she could face real financial difficulties should she become pregnant.

4.13 Moreover we would suggest that the problem the Department has identified in relation to still-births, or where a child dies in infancy, can be resolved by means other than excluding entitlement where there is an existing child in the household.

4.14 The concession made in the case of multiple births is welcome, but the principle is not applied consistently. A woman who has one child and then triplets would get £500; a woman who had triplets followed by a single child would get £1,500. On the face of things the needs of both women are identical – their financial requirements do not fluctuate on the basis of the order in which her children are born.

4.15 Our general concern on this issue of defining ‘the first child’ is that the reasons for taking the approach favoured by the Department have not been set out in any satisfactory depth. It is not clear to us why it should be thought likely that maternity items will have been passed on, or discarded and no longer available if, for example, an older child is being brought up by its grandparents, but not if it is still at home. Neither is it transparently obvious that a couple who have lost a child in infancy should necessarily qualify for an SSMG whereas a couple whose child has survived will not.

The age of the child in the household

4.16 The proposal is that if there is an existing child under the age of 16 in the household, there is no entitlement to an SSMG. As an age limit this seems to us to be an unreasonably high threshold. A couple of respondents to the consultation exercise have suggested that the age 5 would be a more justifiable cut-off age. We believe that that is probably right. From our own anecdotal experience we would suggest that a random inspection of UK households where the youngest child is at school would show that in most of those homes there would be a noticeable absence of the general accoutrements of babyhood, and certainly so by the time the child has advanced to secondary education. Another respondent confirms that view, stating that the proposed measure “ignores the reality of life for many modern families.”

An “all or nothing” approach

4.17 Everything that has been said thus far has been predicated upon the assumption that the SSMG is to be used for the purchase of items that are regarded as prerequisites of having a baby – cot, pram, bedding, layette, steriliser, bottles, radiator for the room etc. However such an assumption is not well grounded. The SSMG is a grant paid in recognition of the fact that there are extra costs associated with having a baby, and that in the case of low-income families, it is improbable that those costs can be met entirely from within existing resources. Those extra costs relate in part to fixed items but also to ongoing and less tangible expenses where the presence of an existing child in the household is largely irrelevant. As prime examples of these ongoing costs, we would cite the need for the mother to eat healthily and the need for the home to be kept sufficiently warm. Our concern with the “all or nothing” approach implicit in this proposal is that the demands presented by these recurrent costs appear to have been overlooked.

Appeals

4.18 We imagine that this measure will create some disquiet amongst those families who stand to be affected by it. It is a matter of speculation, but in the light of publicity being given to this change, it could result in some claimants seeking to arrange their circumstances differently in order to avoid a claim being disallowed. One can, for example, envisage an older child residing temporarily in a relative’s household. We would suggest that the proposal could generate a number of appeals on such issues as membership of a household, some of which would have little or no chance of success. All of this is likely to alienate claimants and add to the Department’s workload at a time of reduced resources.

Period before Social Fund Reform takes effect

4.19 The Department states that around 150,000 families a year will no longer be eligible for an SSMG. It also acknowledges that in some cases the loss of the grant will cause hardship. In the revised Explanatory Memorandum presented to us the Department has

accepted that there will be a period of around 9 months at the earliest before any mitigating measures to extend the social fund budgeting loan scheme to include maternity items can be introduced.

4.20 It would be a difficult enough step for someone who would have been entitled to an SSMG of £500, to go to having to apply for a budgeting loan for the required items. But it is an entirely different matter if there is no provision to be made at all within the benefits system and they were expected to borrow commercially instead. People eligible for an SSMG would be unlikely to have access to low-cost credit – indeed many would need to borrow at APRs in excess of 100 or even 200%. This is worrying.

Professional health advice

4.21 One of the qualifying conditions for entitlement to an SSMG is that the claimant or their partner has received advice from a health professional on health and welfare matters. Where the claim is made in pregnancy that advice must relate to maternal health; where the claim is made following the birth it must relate to the child. Under these proposals, an SSMG is no longer going to be available if there is an existing child in the household. That will mean that some first time pregnant women and first-time mothers will not be entitled to an SSMG, since the presence of an existing child in the home will debar them. Such women will not have received professional advice about pregnancy, giving birth or raising infants. We do not know the extent to which the opportunity to claim an SSMG acts as an incentive to secure advice which would not otherwise have been obtained but, to whatever extent it existed, that link will now be severed. In other words, the concern is that some women may no longer receive health and maternity advice from which they would benefit.

4.22 Additionally, as the comments we have received point out, there is considerable value in ensuring contact with a health care professional takes place, even where it is not the mother's first child. An individual mother's pregnancies, as well as the very early days in the lives of her children, can vary notoriously and the advice she needs second time around may be substantially different from any advice she may have received earlier.

4.23 We have, in the past, expressed some unease about linking the receipt of such advice to benefit entitlement and the requirement upon the professionals involved to be tied down to ticking boxes which trigger that entitlement. Nevertheless we recognise that there is merit in ensuring that such advice is given and received wherever possible. It is therefore regrettable that these proposals will inevitably de-couple one link between those who probably stand in most need of receiving expert health-care advice in pregnancy and motherhood and a motivation to receive it.

4.24 The report of the Independent Review on Poverty and Life Chances, entitled 'The Foundation Years: preventing poor children becoming poor adults' was published in December 2010. In it Frank Field argues strongly for using available funding for improving the life chances of the disadvantaged during pregnancy and the earliest years of life rather than continuing with a single policy of seeking to boost the income of the poor. In the report he says that this 'increased funding should be targeted at those factors that we know matter in the early years – high quality and consistent support during pregnancy and in the early years, support for parents regarding parenting and the home learning environment and early education.'

4.25 We believe that the current proposals for the SSMG may unwittingly serve to undermine the laudable intentions brought out in this report.

Child Poverty Impact

4.26 The Department states in the Equality Impact Assessment that the proposed change will undoubtedly cause hardship in some cases. It goes on to say however that the measure will not impact on the child poverty figures due to the fact that SSMGs are one-off lump sum payments and do not increase annual income.

4.27 In the view of the Committee this is sophistry. It suggests that the Department believes that it need only concern itself with the measurements that have been chosen to assess child poverty, rather than with child poverty itself. One of the respondents to the consultation exercise has commented that they “would hope that the Department do not in fact see their duty to eliminate child poverty as a statistical game but as an important social (and legal) obligation.”

4.28 A mother who would have received £500 under current rules to fund the additional costs associated with having a baby may well find that from April 2011 she has to find an equivalent sum from her own resources. In such cases it is highly probable that she will either go without essential items or will take on debt with its inevitable impact upon the amount of income still available to her. That in turn may have consequences for the existing child in the household, not to mention the new-born baby.

Ethnicity Data

4.29 We are surprised to read the Department’s statement about the lack of relevant data available to it on ethnicity. We believe that the Family and Children Survey would provide information on both ethnicity and the space between children, although it would need bespoke analysis before conclusions could be drawn. Clearly the Department needs information of this nature since, without it, a meaningful analysis of the effect of the measure on ethnic minorities cannot be made. In this particular instance it would appear to be self-evident that the proposed change will affect larger families disproportionately. Moreover it would be our expectation that families with Asian and Black African origins would be more highly represented in that category.

Advance claims

4.30 We note the Department’s statement that where an existing child will reach the age of 16 within 3 months of the date of birth or the order, the claim will be treated as made on the date on which entitlement will arise (ie the day the existing child reaches 16). We would point out that that would not mean that the beneficiary could be paid the SSMG in advance. Payment of benefit can only be made once entitlement has been established. In fairness to the Department, they are not stating that payment of the SSMG will be made early. However we raise this point because we think it will be difficult for a customer who needs maternity items for a newborn baby, to comprehend why they have to wait until the fifteen year old in the household has their next birthday before payment of the SSMG can be released. Any customer affected in this way is likely to feel a measure of grievance which would be regrettable.

Concern about the time limits for claiming an SSMG

4.31 We would also share the concern, voiced by one of the respondents about the difficulty some lone mothers face in meeting the time limit within which a claim for an SSMG can be successfully made. This is particularly the case with someone who needs to rely on tax credits to satisfy the qualifying benefit route to entitlement. At present she needs to have

an award of a child tax credit at a level above the family element. Where she is giving birth for the first time there are a number of steps in the overall process she would need to undergo before an SSMG is awarded. Each step has the potential to attract a period of delay and where such periods accumulate, the elapsed period of time in aggregate can often prove fatal to a successful claim. In a typical case delays may commonly occur as she recovers from the experience of giving birth, as she makes and then receives an award of Child Benefit (she needs her Child Benefit number to complete her claim for Tax Credits), as she seeks to secure evidence as to her income figure (in the event of being unable to locate her P60 form), as she awaits an award notice in respect of Tax Credits and then when she ultimately completes her claim for an SSMG.

4.32 This is an existing problem under the current arrangements, but we would make the additional point that this problem will be thrown into sharper relief in that a far higher proportion of claims for an SSMG will in future be made by those without an existing child, and therefore without a current award of child tax credit. We would suggest therefore that it is extremely likely that there will be a higher proportion of future claims which will fail on the grounds that they have not been made within the prescribed time period.

Clarification of wording

4.33 Finally we would point out that the wording of new regulation 5A(4)(a) is open to misinterpretation on the issue of what 'has no child apart from C' means. We would recommend that the wording of that provision be re-drafted to avoid any ambiguity.

5. The View of Respondents

5.1 Views were sought from those organisations and representative groups that we had identified as having a particular interest in this proposal. The responses we received were all of a piece. Some raised issues either singly or in combination with other points but there was a general uniformity of approach. In fact there were no comments which could be said to contradict other comments. Perhaps predictably there was widespread criticism of the measure but it was reasoned, measured and constructively expressed.

5.2 Some respondents wanted to set their comments in the context of other changes affecting the same target group. Because a number of the organisations involved in the consultation exercise represent certain categories of people (eg families or lone parents), they are especially well-placed to comment upon this measure through familiarity with other measures recently announced which are also aimed at the client group they represent. Significant amongst these other changes is the abolition of the health in pregnancy grant from January 2011 and various alterations within the tax credits regime, nearly all of which will have an adverse effect upon claimants. What this means is that any hardship this proposal will have upon children, lone parents or family units should not be assessed in isolation. Rather it should be set against the reality of other changes they will begin to see in their benefits and finances from early 2011 onwards.

5.2 Another general comment is about the speed with which this change is being introduced. Aside from leaving little time for respondents to formulate their considered reactions to the proposal, the point was made that it does not allow sufficient time for anyone who stands to lose out through this change to make alternative arrangements to acquire the equipment they need.

5.3 Several respondents commented upon the period of time that will exist before the Social Fund budgeting loan scheme can be extended to accommodate maternity needs.

Some commented further that even if the timing in the SSMG rules was perfectly matched by a corresponding extension in the budgeting rules, there would still be concern about people taking on further debt. It was also pointed out that under the present rules, those in receipt of tax credits only would not qualify for a budgeting loan.

5.4 There were a number of comments made about how unrealistic it was to think that parents of a fifteen year old would retain the essential items of babyhood in the event of another baby coming along. One respondent noted that if that is the case in stable families, how less likely is it to be in situations where people have been in temporary accommodation or in homes with cramped conditions? All those who expressed an opinion as to the likely age by which these items would still be available mentioned the age of five years.

5.5 We received a number of comments about the health and welfare of the pregnant woman and the well-being of the infant. The SSMG is used more widely than merely purchasing the hardware needed for a new baby. One respondent quoted the statistic put forward by the Halifax Building Society that each pregnancy and preparation for a baby costs an average of £1,600. With each baby there are the recurrent costs of nappies, healthy food for the mother, heating and the travel costs to hospital – costs which can be properly addressed by the SSMG. The findings of the recent report of the Independent Review on Poverty and Life Chances which said that the Government should focus resources on the very earliest years of a child's life in order to promote a healthy lifestyle and improve life chances was quoted.

5.6 The sharpest comments were reserved for the Department's statements in relation to child poverty. The proposal will, in many cases, prevent a home with a new baby from having access to an additional £500. To say that this will not affect child poverty was roundly condemned as being disingenuous and out of touch with the realities of family life. One Parent Families Scotland pointed out that 73% of children in lone parent families were persistently in poverty and the Law Centre in Northern Ireland and Gingerbread (Northern Ireland) similarly expressed concerns at the proportion of large families in Northern Ireland matched by a correspondingly high incidence of child poverty. Other respondents also made comments expressing their genuine concern about the adverse effect the proposal would have upon child poverty and family welfare. Regardless of the statistics on child poverty, it was said that people would certainly experience poverty. Concern was expressed about the increased demand this would place upon Social Services Departments within Local Authorities, and it was asked of the Department whether they had conducted any research into this.

5.7 The issue of health care and maternity advice from a professional provoked a number of comments. It was pointed out that many single parents miss out on claiming the SSMG for their first child because they fail to make a claim in time. That means that it cannot be assumed that they had access to maternity advice first time around. Two respondents wished to challenge the Department's comment in the EIA that the "vast majority of those who will lose access to SSMGs will be eligible for healthy start vouchers from the National Health Service" since entitlement to a healthy start voucher is more restrictive. Another added that it was important that women with older children were not discouraged from seeking expert health advice, because health problems associated with pregnancy in older women added to the importance of them receiving it.

5.8 Lastly a number of comments were raised on the impact upon ethnic minorities. Respondents generally took it as self-evident that the proposal would have a disproportionately negative impact upon Bangladeshi and Pakistani families where large families predominate and the extent of child poverty is high. In the light of that observation

respondents expect to see a rationale from the Government setting out the reasons which would justify the proposal.

6. The Committee's Conclusions

6.1 We believe that the general comment made by a number of respondents about the wider context of cuts affecting larger families, children in poverty and lone parents is particularly valid. The problem we face is that the Government believes that cuts are necessary across a broad swathe of the public sector, but we have to analyse the impact of a series of single measures without being presented with the impact of the total proposed cuts upon particular family configurations. Limiting the availability of the SSMG looks to have been made in isolation from other changes.

6.2 Overall we believe that the proposal we have been asked to consider lacks a coherently argued rationale. In the course of this report we have given instances of hard cases that will be created by this policy. The changes will operate to the detriment of vulnerable, low-income and predominantly large families and therefore would appear to run counter to Government policy to abolish child poverty by 2020.

6.3 At the same time as we were conducting this particular consultation exercise the Government launched a separate consultation on child poverty. Published on 21 December 2010 and issued jointly by the Department for Education, the DWP and HM Treasury, 'Tackling Child Poverty and Improving Life Chances: Consulting on a New Approach' invites comments on the Government's approach to ending child poverty and improving life chances. We would simply observe that we find it immensely difficult to reconcile the decision to restrict the availability of the SSMG as proposed with the statement in the Ministerial foreword to the 'Tackling Child Poverty' paper which says: "The importance this Government places on tackling child poverty and disadvantage cannot be overstated."

6.4 The rationale for linking disentitlement to the presence of a child at age 16 lacks rigour. In the light of comments of respondents we believe that fixing the threshold as the presence of a child of under 5 would be more justifiable. The sight of any research findings which ought to inform policy-making on this specific point would be welcome.

6.5 We have also taken the view that the "all or nothing" approach of £500 for the first child and nothing thereafter does not recognise the fact that there are ongoing costs associated with pregnancy and the very early stages of a baby's life. Apart from creating some hard cases where family arrangements change, it does not recognise the recurrent costs incurred with maternity. We believe that an approach which allows an SSMG for the first child in the household and then a lower amount for a subsequent child if the first child has yet to reach the age of 5 has merit, but took the view that, in the interests of simplicity, retaining the existing structure but reducing the amount of the grant was the better approach. Keeping the existing rules carries the added advantage that when the country emerges from its current financial predicament, consideration can be given to increasing the grant to a more appropriate level. As far as alternative options are concerned, we noted that the Explanatory Memorandum sets out a number of different options, but gives no indication why the proposal before us was selected and why the others were rejected.

6.6 The proposals before us mean less additional support for mothers giving birth and babies being born in 2011/12. We would repeat the point made by a number of respondents about the speed at which these proposals are being introduced. Even if they are to proceed, we consider that the decision to press ahead without waiting for the Social Fund budgeting

loan scheme to be extended to maternity items to be unreasonably harsh. It is not clear to us why eligibility cannot be extended immediately to cover maternity items.

6.7 We considered the issue raised by one of the respondents about the time limit for claiming an SSMG. We accept that the rules on the time limits for claiming are not directly affected by this proposal, but identify an indirect link in that the existing difficulty some low-paid claimants face in making an in-time claim in respect of the first child will have a higher profile if an SSMG will no longer be available in respect of second and subsequent children. Whilst we are aware of the rule expressed in paragraphs (16) to (18) of regulation 6 of the Social Security (Claims and Payments) Regulations 1987 which provides for a claim for an SSMG to be treated as made on an earlier date in certain circumstances, we believe that there are gaps in this provision which allow some claimants to slip through and miss out. Paragraphs (16) to (18) of regulation 6 only achieve the desired effect if a claim for an SSMG is made in advance of child tax credit being claimed or awarded. The difficulty with that, however, is that it either requires a claimant to be ignorant of the fact that, in their circumstances, having a child tax credit is a condition of entitlement to an SSMG or, alternatively, they need a working familiarity with very complex benefit rules. For those who know that they need to have an award of a child tax credit but are unfamiliar with the intricacies of regulation 6, it is counter-intuitive to expect them to make a claim for an SSMG knowing it is bound to fail. For that reason we do not think that regulation 6 is an adequate back-stop in all cases.

6.8 Moreover, in looking at paragraphs 8 and 9 of Schedule 4 to the Claims and Payments Regulations, we would note that the one-off social fund payments for maternity and funeral expenses have more in common with the one-off payment for a bereavement payment where the prescribed time for claiming is 12 months (paragraph (3A) of regulation 19) rather than 3 months which is generally the case for ongoing awards of weekly benefits.

6.9 Finally we would express our dissatisfaction with the Department's statements in the EIA in relation to child poverty and ethnic minorities. The need to complete these sections within the Explanatory Memorandum affords the Department an opportunity to weigh up the proposal in the light of the constraints to reduce child poverty and avoid any unjustified discrimination against ethnic minorities and make a proper assessment on the basis of that deliberation.

7. Recommendations

7.1 These recommendations are made on the assumption that significant savings in the SSMG budget have to be found.

7.2 We repeat the point we made earlier that the halving of this budget should be evaluated alongside the impact on low income families of other changes, for example to housing benefit, health in pregnancy grant and tax credits. There has been no such evaluation in the rationale presented to us. Respondents have pointed out that the cuts in the SSMG will cause hardships for families which may translate into additional costs for other bodies such as Local Authority Social Services Departments and the NHS. It may be that a more tempered level of savings may yield better outcomes.

7.3 Should the regulations proceed, our recommendations are as follows –

- the proposal should not be introduced until eligibility for the Social Fund budgeting loan scheme is extended to loans for maternity items; and

- the existing structure in relation to the SSMG is retained but the payment reduced to £250 in respect of each child. This modification to the scheme would achieve the level of saving sought and the disallowance of claims where there is an under-16 year old in the household would no longer be required.

We further recommend that –

- the Department considers extending the time limit for claims for an SSMG to 12 months. For the sake of consistency we further recommend that a 12 month time limit should apply in all cases where a person claims a one-off payment under the regulated Social Fund scheme;
- the Department should provide a redrafted Equality Impact Assessment to take account of our comments in relation to child poverty at paragraphs 4.26 to 4.28 and, if possible, in relation to ethnicity at paragraph 4.29; and
- the wording of draft regulation 5A(4)(a), mentioned in paragraph 4.33 above, should be reconsidered.

Yours sincerely

Richard Tux

SSAC Members

Sir Richard Tilt

Mr Kwame Akuffo

Mr Les Allamby

Mr John Andrews OBE

Mr Simon Bartley

Ms Brigid Campbell

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Date: 7th December 2010

Gill Saunders
Social Security Advisory Committee
The Adelphi
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Dear Gill

The Social Fund Maternity Grant Amendment Regulations 2011.

I am writing to inform the Committee about a proposed change to the Social Fund Maternity and Funeral Expenses (General) Regulations 2005 to take account of the statement made in the emergency June 2010 Budget to restrict payment of the Sure Start Maternity Grant (SSMG) to the first child only.

In summary, the change proposed by the Secretary of State for Work and Pensions will restrict payment of a SSMG (with a number of exceptions) to families who at the time of the claim have no other children aged less than 16.

A full explanation of this proposal is attached at Annex 1 together with an Equality Impact Assessment at Annex 2, a set of draft Regulations at Annex 3 and a copy of the current Regulations at Annex 4. Although further drafting amendments may be made, the draft Regulations express the substance of the change.

The Committee is asked to consider urgently whether these Regulations may be made without further formal references. If any further information is required, please do not hesitate to contact me.

Beverley Walsh
Products and Transformation Division
Social Fund Team
Jobcentre Plus

MEMORANDUM FOR THE SOCIAL SECURITY ADVISORY COMMITTEE FROM THE DEPARTMENT FOR WORK AND PENSIONS

Benefit Simplification Implications

We believe the claim and decision process remains transparent and easy to understand for customers and staff.

Equality and Diversity impacts

This proposal applies to all customer groups irrespective of race, disability, gender, age, sexual orientation, religion or belief. An Equality Impact Assessment is attached at Annex 2.

The Social Fund Maternity Grant Amendment Regulations 2011

Background

1. SSMGs assist with the associated costs of maternity and baby items.
2. Currently people in receipt of one of the four main income related benefits - Income Support, income-based Jobseekers Allowance, income-related Employment and Support Allowance and Pension Credit may apply for a SSMG. People who receive Child Tax Credit at a rate higher than the family element or Working Tax Credit that includes the disability or severe disability element may also apply.
3. In order to receive a payment however the claimant or partner must receive advice from a health professional on child health and welfare (unless the claim is made after a still-birth) and, where the claim is made in advance of the birth, maternal health.
4. Claims can be made at any time from eleven weeks before the week in which the baby is due until three months after the date of birth; up to three months after the date of the adoption, parental or residence order; up to three months after guardianship takes effect; or up to three months after the child is placed for adoption.
5. The SSMG is £500 for each child expected, born, placed for adoption or the subject of a residence order, a parental order, adoption or guardianship.

June 2010 Budget Measure

6. As part of the Government's deficit reduction plan it was announced in the June 2010 emergency budget that SSMGs would be restricted to the first child only in order to generate annual savings of around £73m for DWP.
7. This of course impacts families with more than one child. It may also mean that some women fail to seek appropriate advice on maternal health for second pregnancies which is currently compulsory for a SSMG claim to succeed. Some may however have already sought this advice for their first pregnancy especially if they previously received a SSMG within the last ten years. In addition some of this group will be eligible for healthy start vouchers from the National Health Service as the award of these vouchers is conditional on the application form having been signed by a health visitor or midwife

8. Since the announcement there have been discussions with Ministers about the wide ranging impact this will have, taking into account stillbirths, the death of a child and the various modern family and extended family situations that occur. The outcome of these deliberations has not resulted in the restriction being lifted but has led to significant modifications to the policy since the original announcement was made.
9. These modifications are that:
 - children aged 16 or over are to be disregarded when applying the SSMG criteria. However existing children aged less than 16 will be taken into account. This means that for a SSMG claim to be successful, the child in respect of whom a claim is made must be the only member of the family who is aged less than 16.
 - children aged less than 16 will be disregarded where they no longer form part of the family unit. For example, where a child has been taken into care and is being looked after by the Local Authority, or where they live permanently with another person.
10. Two exceptions have also been agreed. These are where:
 - multiple births occur or specified orders are granted in respect of babies born as a result of a multiple birth and there are no other children under 16 in the household. In these cases a SSMG will be payable in respect of each child; and
 - a dependent child or young person has a child (or multiple birth) themselves, the grandparents or guardians (if in receipt of a qualifying benefit) may apply for a SSMG or multiple SSMGs so long as that dependent child has no other children.
11. Draft regulation 2(3) achieves paragraphs 9 and 10 above.

Transitional provisions

12. The changes restricting SSMGs will apply from 11th April 2011.
13. Draft regulation 3 achieves paragraph 12 above. However as claims to SSMGs can be made 11 weeks prior to the expected birth the regulations shall come into force on 24th January 2011.
14. In addition advance claims will be accepted in certain circumstances. For example when a second or subsequent child is due or born but an existing child has not yet reached the age of 16 but will do so within the time limits (normally within 3 months of the date of birth) then an advance claim may be accepted.
15. Claims that are refused because babies are due after 11th April 2011 and because there is another child in the family, can be reconsidered under the old rules if the baby is born early (prior to 11th April).

Equality Impact Assessment:

Restricting Payment of the Sure Start Maternity Grant to the First Child

DWP Department for
Work and Pensions

Equality Impact Assessment for the Restricting Payment of the Sure Start Maternity Grant to the First Child

Introduction

The Department for Work and Pensions has carried out an equality impact assessment on the measure announced in the June 2010 emergency budget that payment of the Sure Start Maternity Grant (SSMG) would be restricted to the first child only to meet the requirements of the Equality Act 2010.

This equality impact assessment considers the potential impact of the proposed policies in terms of disability, gender, gender reassignment and race.

Brief outline of the policy

SSMGs are currently payable for each child expected, born, adopted or who are subject to various care orders to families in receipt of certain income related benefits or tax credits. The payment is £500. As part of the Government's deficit reduction plan it was announced in the June 2010 emergency budget that this payment would be restricted to the first child only in order to generate annual savings of around £73m for DWP. The measure will affect around 150,000 families a year who will no longer be eligible for a SSMG when their second or subsequent child is born. This measure will apply to babies expected or born on or after 11 April 2011.

As a budget measure the savings on the SSMG scheme were covered by the budget Impact Assessment published by HMT. Restricting access to the SSMG scheme is a savings measure which contributes to the addressing of the public finance deficit. The policy change will reduce the number of payments by just over half. Maintaining payments for the birth of a first child only will continue to encourage the take-up of antenatal advice and the provision of maternity and baby items to poorer households.

In designing the new scheme there were a number of considerations around defining the meaning of first child for example the obvious definition would be the first child a woman has. However, taking account of the wide range of family composition amongst the SSMG group this would be unfair in some family circumstances for example where the couple have the father's children from a previous relationship living with them but the woman is pregnant with her first child a payment would be due but if the circumstances were reversed, and it was the man's first child, a payment would not be due. It also raised difficult issues around families where their first child was still born or had died shortly after birth. On a strict interpretation this group would not be eligible for a SSMG for a further child whether or not they had been awarded a SSMG for their first. On balance Ministers agreed that eligibility for SSMGs should be based on the baby being the only child under 16 in the household. The only exception to this will be teenage mothers having their first child but who

remain dependants of their parents; in this scenario the parents will claim on their daughter's behalf but any other children in the household under 16 will be ignored.

Providing for eligibility to be linked to families who do not have another child in their household will:

- ensure eligibility for families that experienced an initial stillbirth and go on to have a second successful pregnancy;
- ensure eligibility for those who experience a series of stillbirths before having a successful pregnancy;
- allow a subsequent payment to be made following the death of the first child;
- provide for payment to parents whose older children are not members of their family i.e. they do not live in the same qualifying benefit family unit;
- treats second families in the same way regardless of whether the children are from the man or woman's previous relationship

Around 150,000 families in receipt of a qualifying benefit at the point they have a second or subsequent child will be affected by this measure. To help mitigate the effects for some of these families we are currently taking measures in the forthcoming Welfare Reform Bill to open up the social fund budgeting loan scheme to enable loans for maternity items to be made available. There will, however, be a period between the introduction of the new restrictions to SSMGs, (April 2011) and the date the Bill becomes an Act of Parliament (end of 2011 at the earliest). Families will therefore not be able to take advantage of the extended access to Budgeting Loans during this period. In addition some families may not have been in receipt of benefit for the required 26 week qualifying period.

Consultation and involvement

As a deficit reduction measure there was no consultation exercise before the announcement. However, following the announcement Ministers received representations, for example from organisations representing multiple births, and these were considered during the detailed policy development and reflected in the final policy design.

Other options for reducing SSMG expenditure considered

The estimated spend and savings for various options that were considered are given in the tables.

Estimated spend (£m)	2011-12	2012-13	2013-14
Status quo	140	140	140
£250 per baby	70	70	70
£500 for first child, nothing for subsequent children	67	67	67
£250 for first child, nothing for subsequent children	34	34	34
£500 for first child, £250 for subsequent children	103	104	104
Restrict to income related benefits, £500 per baby	68	68	68

Estimated savings (£m)	2011-12	2012-13	2013-14
£250 per baby	70	70	70
£500 for first child, nothing for subsequent children	73	73	73
£250 for first child, nothing for subsequent children	106	106	107
£500 for first child, £250 for subsequent children	36	36	36
Restrict to income related benefits, £500 per baby	72	72	72

Notes

1. The status quo is based on the latest forecasts by the Forecasting Division.
2. Assumption - when a 1st pregnancy results in a multiple birth, the 1st payment will be made for each baby.
3. The proportion of all births which are 1st children is not available, but has been estimated from IS & JSA(IB) Quarterly Statistical Enquiries.
4. Figures may not sum due to rounding.

Impact of the restricting SSMGs to the first child

By their nature take up of Sure Start Maternity Grants varies amongst equality groups due to:

- A higher proportion of females applying for the grants
- Differential take up for ethnic minorities
- Differential take up for different age groups

Data sources

The Department does not have accessible individual level data on recipients of the Grant. This is largely because the Grant has not been subject to major policy changes since its introduction.

The remainder of the document draws together information from external sources which may be of relevance.

General Impact

Office for National Statistics information on the number of live births which are for a first child is available only for births within marriage. The number of maternities that are for a first child has therefore been estimated from the Department for Work and Pensions Income Support and Jobseeker's Allowance Quarterly Statistical Enquiries, by analysing families with a child (or children) aged less than one. Using this data, it is assumed that when SSMGs are restricted to the first child, the number of awards will be reduced to 48 per cent of current projections.

Current regulations state that an award is conditional on the production of evidence that the pregnant mother has been given advice on the health needs and general welfare of the baby and, if the claim is made before the baby is born, on maternal health. There is no available evidence to suggest that this

level of conditionality or payment has had an impact on the health of the mother or the baby. Whilst we acknowledge that for second and subsequent babies there will no longer be a financial incentive to avail themselves of professional advice, we have no evidence to suggest that this will be the case. The vast majority of those who will lose access to SSMGs will be eligible for healthy start vouchers from the National Health Service. The award of these vouchers is conditional on the application form having been signed by a health visitor or midwife.

We do not have any information to suggest there are currently accessibility issues with the service at the moment and therefore this is unlikely to alter as a result of the restrictions.

The outcome does not change based on membership of one or multiple equality groups. We are unclear at this point due to insufficient data whether the changes will impact on one particular group over another as we do not have any facilities to examine in detail the profile of mothers of second and subsequent births.

We have no evidence to suggest this will impact on any groups in an unlawful manner. At present we offer a variety of ways to access the service meeting different needs and this will not change as a result of the legislation.

Child poverty

Child poverty affects certain groups disproportionately. In 2008/09, there were 2.8 million children living in UK households with below 60 per cent of contemporary median net disposable household income before housing costs and 3.9 million after housing costs and a child living in a lone parent household is at higher risk of living at poverty⁴.

SSMGs are provided in recognition of the financial difficulties experienced by parents on income-related benefits and certain tax credits and we accept that these payments help deal with the additional costs of maternity and the birth of a child⁵. This change will undoubtedly cause hardship for some cases but this will not impact on the child poverty figures due to the fact that SSMGs are one-off lump sum payments which do nothing to increase annual income.

Gender

We do not have individual level data to assess the impact. However, we expect that the majority of recipients of the SSMG are female and therefore likely to be affected disproportionately. We also know that in 2009/10 59,000 of the 274,400 recipients were lone parents representing 21.5% of the total.

⁴ Household Below Average Income Survey - <http://statistics.dwp.gov.uk/asd/index.php?page=hbai>

⁵ The use of the social fund by families. Finch and Kemp 2004.

However, we do not know what proportion of second or subsequent births are to a lone parent.

Age

We do not have individual level data to assess the impact in age terms. However, using live birth rates within marriage from ONS and assuming there are similar rates to birth outside of marriage a higher proportion of 30 to 34 year olds have a second or subsequent child each year.

Disability

We do not have individual level data. However, we know that in 2009/10 10,600 of the 274,400 recipients were disabled. This represented 3.9% of the total. However, we do not know what proportion of second or subsequent births are to disabled people.

Ethnicity

We do not have individual level data to assess the impact on ethnicity. However there is data available from the Office for National Statistics on family size and ethnicity summarised in the tables below. To assess the impact of the Sure Start Maternity Grant measure on families by ethnicity we would ideally look at the size of completed families, but such data is not available. The available data is given in the tables below. This can not necessarily be extrapolated to completed families. There could be other factors affecting the data, for example the age at which people have children. Also the data is for the entire population, not people who are potentially eligible for a Sure Start Maternity Grant. When an SSMG application is made, ethnicity data is not required. The data presented below is from the 2001 Census which is the most relevant data set available. We would not expect family patterns to have changed significantly in the intervening period.

Households in England and Wales in the 2001 census	
Ethnic group of household reference person	No. of households with 2 or more dependent children as proportion of all households with dependent children
ALL PEOPLE	58.1%
White: British	57.8%
White: Irish	54.7%
White: Other White	56.0%
Mixed: White and Black Caribbean	52.8%
Mixed: White and Black African	55.5%
Mixed: White and Asian	57.5%
Mixed: Other Mixed	54.4%

Asian or Asian British: Indian	61.5%
Asian or Asian British: Pakistani	73.0%
Asian or Asian British: Bangladeshi	75.8%
Asian or Asian British: Other Asian	62.5%
Black or Black British: Black Caribbean	49.9%
Black or Black British: Black African	61.7%
Black or Black British: Other Black	53.0%
Chinese or Other Ethnic Group: Chinese	55.3%
Chinese or Other Ethnic Group: Other Ethnic Group	58.8%

Source: analysis of 2001 Census table S106 for England and Wales, from www.statistics.gov.uk. Please note a dependent child is a person in a household aged 0 – 15 (whether or not in a family) or a person aged 16 – 18 who is a full-time student in a family with parent(s).

Families in the United Kingdom in the 2001 Census		
Ethnic group of Family Reference person	Families with 2 children as proportion of all families with 1, 2 or 5 or more children	Families with 5 or more children as proportion of all families with 1, 2 or 5 or more children
All Family Reference Persons	37.6%	0.8%
White	37.5%	0.6%
Mixed	36.7%	1.4%
Indian	42.4%	0.8%
Pakistani	40.5%	6.7%
Bangladeshi	40.7%	8.7%
Other Asian	41.5%	1.8%
Black Caribbean	32.2%	0.7%
Black African	38.6%	2.9%
Other Black	34.5%	1.5%
Chinese	39.5%	0.6%
Other Ethnic Group	40.6%	1.7%

Source: analysis of 2001 Census table C0613 for the United Kingdom, obtained direct from the Office for National Statistics.

Please note the following:

1. The census table counts all families with children (dependent and non dependent) and the ethnic group is that of the family reference person.
2. A family comprises a group of people consisting of a married or cohabiting couple with or without child(ren), or a lone parent with child(ren). It also includes a married or cohabiting couple with their grandchild(ren) or a lone grandparent with his or her grandchild(ren) where there are no children in the intervening generation in the household. Cohabiting couples include same sex couples. Children in couple families need not belong to both members of the couple.
3. In a Lone parent family, the Family Reference Person (FRP) is taken to be the lone parent in a lone parent family. In a couple family, the FRP is chosen from the two people in the couple on the basis of their economic activity (in the priority order; full-time job, part-time job, unemployed, retired, other). If both people have the same economic activity, the FRP is identified as the elder of the two or, if they are the same age, the first member of the couple on the form.
4. There is no age limit on the term child. For example, a married couple living with their son aged 40 would be classified as a family consisting of a married couple and their child unless the son has a spouse, partner or child living in the household.

SEXUAL ORIENTATION

There is no evidence of, and the Government do not envisage any, unequal treatment on these grounds.

Monitoring and evaluation

At present we do not intend to monitor the impact of the policy as this is a deficit reduction measure and therefore negates the need for further

monitoring and evaluation. Gathering further information would mean a disproportionate cost to the Department to develop suitable databases.

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 STATUTORY INSTRUMENTS

2011 No. 0000

SOCIAL SECURITY

The Social Fund Maternity Grant Amendment Regulations 2011

<i>Made</i>	2011
<i>Laid before Parliament</i>	2011
<i>Coming into force</i>	2011

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred upon him by sections 138(1)(a) and (4) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992⁽⁶⁾.

[The Social Security Advisory Committee has agreed that proposals in respect of these Regulations should not be referred to it⁽⁷⁾.]

5.Citation, commencement and interpretation

1—(1) These Regulations may be cited as the Social Fund Maternity Grant Amendment Regulations 2011 and shall come into force on 24th January 2011.

(2) In these Regulations—

“actual date of confinement” means the date of the birth of the child or, in the case of a multiple-birth, the date of the birth of the last child;

“C” is the child in respect of whom a Sure Start Maternity Grant is claimed;

“the claim” means the claim for a Sure Start Maternity Grant in respect of C;

“the principal Regulations” means the Social Fund Maternity and Funeral Expenses (General) Regulations 2005⁽⁸⁾.

“confinement”, “qualifying order”, “guardian” and “placed for adoption” have the meaning given in the principal Regulations.

⁽⁶⁾ 1992 c.4; section 138(4) is an interpretation provision and is cited because of the meaning given to the word “prescribed”. Amendments not relevant to these Regulations have been made to section 175(1) and (4).

⁽⁷⁾ See sections 172 and 173(1)(b) of the Social Security Administration Act 1992 (c.5).

⁽⁸⁾ S.I. 2005/3061 as amended by S.I. 2008/1554 and 2010/..... Other amendments not relevant to these Regulations have also been made.

6. Amendment of the principal Regulations

- 2 —(1) The principal Regulations are amended as follows (but subject to regulation 3).
- (2) In regulation 5(1) (entitlement), for “6” substitute “5A or 6”.
- (3) After regulation 5 insert—

7. “Limitation on payment where a member of the claimant’s family is under 16

5A.—(1) Except where paragraph (3) or (4) applies, a Sure Start Maternity Grant may not be awarded if, at the date of the claim, there is a member of the claimant’s family apart from C who is under the age of 16.

(2) In this regulation “C” is the child in respect of whom a Sure Start Maternity Grant is claimed.

(3) This paragraph applies where—

- (a) C is one of twins or a greater number of children—
- (i) born as a result of the same pregnancy, or
 - (ii) if the claim is made before the confinement in a case where regulation 5(3)(a) applies, who are expected to be born as a result of the same pregnancy; and
- (b) there is no member of the claimant’s family apart from either C or the other child or children born (or expected to be born) as a result of that pregnancy who is under the age of 16.

(4) This paragraph applies where —

- (a) C’s mother is under 20 and has no child apart from C; and
- (b) C’s mother is a member of the claimant’s family.”.

8. Transitional provisions

3 —(1) The principal Regulations have effect as if the amendments made by regulation 2 had not been made in a case where any of paragraphs (2) to (7) apply.

(2) This paragraph applies in a case where—

- (a) the claimant falls within regulation 5(3)(a) of the principal Regulations;
- (b) the claim is made before C’s birth;
- (c) the claim is made before 11th April 2011; and
- (d) the expected date of confinement is before 11th April 2011.

(3) This paragraph applies in a case where—

- (a) the claimant falls within regulation 5(3)(a) or (b) of the principal Regulations;
- (b) the claim is made after C’s birth; and
- (c) the actual date of confinement is before 11th April 2011.

(4) This paragraph applies in a case where—

- (a) the claimant falls within regulation 5(3)(c) of the principal Regulations; and
- (b) the qualifying order is made before 11th April 2011.

(5) This paragraph applies in a case where—

- (a) the claimant falls within regulation 5(3)(d) of the principal Regulations; and
- (b) the guardianship takes effect before 11th April 2011.

(6) This paragraph applies in a case where—

- (a) the claimant falls within regulation 5(3)(e) of the principal Regulations; and
- (b) the child is placed with the claimant or partner for adoption before 11th April 2011.

(7) This paragraph applies in a case where—

- (a) the claimant falls within regulation 5(3)(f) of the principal Regulations; and
- (b) the adoption referred to in that provision takes effect before 11th April 2011.

Signed by authority of the Secretary of State for Work and Pensions

Name

Minister for Pensions,

Department for Work and Pensions

Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Fund Maternity and Funeral Expenses (General) Regulations 2005.

Regulation 2 provides that a Sure Start Maternity Grant is payable only where the child concerned is the sole member of the claimant's family who is under sixteen years of age, except: (a) where the claim relates to a child who is one of twins, or a greater number of children born as a result of the same pregnancy, and it is those siblings who are under sixteen; or (b) the child's mother is a member of the claimant's family, is under twenty years of age and has no other child under sixteen (except those born as a result of a multiple birth in respect of whom a claim for a Sure Start Maternity Grant is being made).

The amendments made to the 2005 Regulations have effect subject to the transitional provisions in regulation 3.

A full impact assessment has not been produced for this instrument as it has no impact on the private or voluntary sectors.

CURRENT REGULATIONS THAT ARE BEING AMENDED
Social Fund Maternity and Funeral Expenses (General) Regulations 2005

5 Entitlement

(1) Subject to regulation 6, a payment of £500 to meet maternity expenses (referred to in these Regulations as a “Sure Start Maternity Grant”) shall be made in respect of a child or still-born child where the following conditions are satisfied.

(2)

(3) The second condition is that –

(a) the claimant or, if the claimant is a member of a family, one of the family is pregnant or has given birth to a child or a still-born child;

(b) the claimant is the parent (but not the mother) of a child not exceeding the age of twelve months at the date of claim and is responsible for the child and the child’s parents are not partners at the date of claim;

(c) the claimant or the claimant’s partner –

- (i) has been granted a qualifying order in respect of a child who does not exceed the age of twelve months at the date of claim, and
- (ii) is responsible for the child;

(d) the claimant or the claimant’s partner –

- (i) has been appointed the guardian of a child who does not exceed the age of twelve months at the date of claim, and
- (ii) is responsible for the child;

(e) a child who does not exceed the age of twelve months at the date of the claim has been placed for adoption with the claimant or the claimant’s partner by an adoption agency and the claimant or the claimant’s partner is responsible for the child; or

(f) the claimant or the claimant’s partner has adopted a child who does not exceed the age of twelve months at the date of the claim and that adoption falls within section 66(1)(c) to (e) of the Adoption and Children Act 2002 (meaning of adoption).

APPENDIX 2

List of Respondents to the Consultation Exercise
(in order of date received)

1. **Kate Groucutt** Daycare Trust
2. **Sam Royston** Family Action
3. **Sue Robertson** One Parent Families Scotland
4. **Martin Williams** Child Poverty Action Group
5. **Caroline Davey** Gingerbread
6. **Claire McCarthy** 4Children
7. **Kelly Smith** National Association of Welfare Rights Advisers
8. **Richard Excell** TUC
9. **Katie Lane** Citizens Advice
10. **Urusla O'Hare** Law Centre (NI) and Gingerbread (NI)
Social worker currently studying for a PhD and a
member of the Welsh Assembly Government's
Child Poverty Expert Group
11. **Anne Crowley**



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