

To: The Chief Executive:  
County Councils  
Metropolitan District Councils  
Shire Unitary Councils  
London Borough Councils  
Common Council of the City of London  
Council of the Isles of Scilly  
Strategic Health Authorities  
Primary Care Trusts  
NHS Trusts  
NHS Foundation Trusts  
Directors of Social Services

9 March 2006

## **CHANGES TO BENEFIT ENTITLEMENTS FOR PATIENTS TRANSFERRED FROM PRISON TO MENTAL HEALTH UNITS**

### **ISSUE**

1. There are to be changes in entitlements to social security benefits for hospital inpatients from April 2006. This letter is to inform you of how those changes will affect people detained in hospital under sections 45A or 47 of the Mental Health Act 1983. This will particularly (but not exclusively) affect patients detained in high, medium and low secure mental health units.

### **ACTION**

2. This letter is for information only. **Please bring it to the attention of those in your organisation who will need to take action, and in particular to social workers and others who are responsible for supporting the patients who will be affected.** Further advice will be provided shortly to the NHS detailing funding allocations.

### **SUMMARY**

3. As of April 2006, individuals whose Department for Work and Pensions (DWP) benefits currently reduce after 52 weeks of hospital in-patient treatment will no longer incur this reduction. This will not apply to patients who are detained in hospital under section 45A or 47 of the Mental Health Act, who would otherwise be in prison. For DWP purposes only they will retain the status of prisoner and as such the personal allowance money or other benefits, currently received from DWP, will stop. This will affect

around 420 patients currently detained in England, and all new patients detained under the relevant sections.

4. Where this leaves an NHS patient without money to meet occasional personal expenses, NHS commissioners will be able to make arrangements for hospitals to make payments to them to meet those expenses.

## **TIMING**

5. DWP will cease to pay Personal Allowance to individuals as of 10 April 2006. Alternative arrangements in hospital units will therefore need to be in place to commence from 11 April 2006.

## **WHO DOES THIS APPLY TO ?**

6. The change will affect individuals transferred to hospital from prison under section 47 (transfer direction) of the 1983 Act and individuals sent to hospital direct from court on a section 45A (hospital and limitation direction) and to people treated as being subject to those sections after transfer from Scotland or Northern Ireland. It will not affect people subject to hospital orders (section 37) or other people transferred from prison who have not been sentenced (section 48).
7. For DWP purposes only the affected individuals retain their prisoner status and therefore will not be eligible to receive DWP benefits after 10 April 2006, for as long as they would otherwise have been in prison.
8. Benefits will continue to be available for individuals who remain in hospital after the expiration of the sentence (so-called "notional section 37" patients). Once their sentence expires, the individual is regarded for DWP purposes as a patient and is entitled to receive DWP benefit. A claim will be required. Staff should support the individual in notifying the DWP of their change of status. The date at which this change occurs is provided by the Home Office on the initial transfer warrant (under the heading "date of expiry of sentence for the purposes of section 50 of the 1983 Act".)

## **NEW ARRANGEMENTS**

9. The Secretary of State has a power under the Mental Health Act to pay such amounts as he thinks fit in respect of the occasional personal expenses of in-patients in mental health hospitals if they would otherwise be without resources to meet those expenses.
10. It is intended that NHS commissioners will be able to exercise these powers in order to make arrangements with hospitals to make appropriate payments to patients detained under section 45A or 47.

## **FURTHER ADVICE**

11. The process by which the funding will be allocated is still being determined. Further advice on this will be provided shortly.

12. Enquiries about this letter should, in the first instance, be made to:

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