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MONEY BOX

Presenter: PAUL LEWIS

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LEWIS: Hello. In today's programme, the rules that let the NHS impose £100 fines on people who have too many free eye tests or claim free dental treatment on the wrong sort of jobseeker's allowance. The holiday firm Thomas Cook refuses to pay out for a cancelled holiday because the customer had a mental illness. The investment industry objects to new rules that would make them cut back the growth they predict in pension funds. We look at how retrieving voicemail can push your phone bill up.

PETER: I discovered that was the number for the voicemail messaging that I'd specifically asked not to appear. If they're adding these little extras, then that's not good at all.

LEWIS: And action at last on the rising cost of car insurance.

But first, dentists were accused this week by the Office of Fair Trading of misleading customers into paying privately for treatment they could have had on the NHS. But now Money Box has learned that patients having NHS treatment were fined more than a million pounds last year for claiming free treatment when they were not in fact eligible. Money Box's Fiona Woods has been looking into this for us. Fiona?

WOODS: Yes, Paul. There are lots of different reasons why you might receive free

dental care - people who are pregnant get it, as do under-18s, for example. But things get a bit more complicated when it comes to those on benefits like jobseeker's allowance or pension credit. That's because these particular benefits come in two forms and only one type gets you free dental care. Getting them confused can lead to a £100 fine as listener Veneta found out when she went to the dentist.

VENETA: When I went there, I had to sign the form because I am on the jobseeker allowance. They asked me, "Are you income support or job seeker allowance?" I said, "I'm the jobseeker allowance." That's fine. I signed, I had my treatment and everything. After one month later, I received a letter from the NHS dental practice that I have to submit the proof that I am on the jobseeker allowance. After two months, I get a letter that I have to pay £304. That is £200 for my treatment and £100 is for penalty charge.

LEWIS: So Fiona, exactly what type of benefit was Veneta on?

WOODS: Well Veneta was on contribution based jobseeker's. That's what's given to people who are out of work for a short period of time and it's based on the money they paid in national insurance contributions when they were working. And there's another type called income based jobseeker's. This kicks in if you still need help after 6 months. While income based jobseeker's does entitle you to free dental care, the one Veneta was on does not. But she says this distinction was never spelled out.

VENETA: When I went to job centre first time, they did not make it clear that there's two types of jobseeker allowance. Because of this confusion, I got that £100 penalty charge. This £100 has really meant to me a lot of money because just now I got a job. Seven month I was unemployed. I don't mind to pay for my dental treatment charges, but I am not happy to pay for that £100 as penalty charges.

WOODS: Now Paul, I've been looking at this letter Veneta received about her jobseeker's, and even though it does mention that the benefit is based on her national

insurance contributions, it isn't until the end of the fourth page that they explicitly call the benefit 'contribution based jobseeker's'. Nor do they spell out what that means in terms of what other benefits she is (or in this case is not) eligible for. But just to get a second opinion, I asked Marie Clair at the campaign for Plain English whether she felt the distinction was clear.

CLAIR: Not at all. As far as I'm concerned, this letter says I am pleased to tell you that we can pay you jobseeker's allowance. It's not until about the third or well almost the last line that you understand that it's the contribution based that is applying in this instance. I also understand that there's a penalty attached to this, but I don't see that anywhere in the letter and that's really unfair because in any information where you're liable for penalties or where you may lose out in some way, you should have all the information upfront.

LEWIS: Now Fiona, the letter that Marie Clair was saying was unclear there is from the Department for Work and Pensions. Does it agree it's unclear?

WOODS: Well we asked the Department of Work and Pensions to come on the programme and tell us just that, but they declined. They did provide a statement in which they say that it is made clear to people what benefits they are on. They say a leaflet comes with that letter which gives claimants more information about the differences between benefits.

LEWIS: And I've received a number of tweets and emails, I must say, from people with similar stories to Veneta, and not just about dental treatment. Pensioner Keith Valentine got in touch after he received a penalty of £100 for claiming two free eye tests over the course of 2 years.

VALENTINE: When you have an eye test, you sign a form. It doesn't actually say anything about there being a penalty if you have more than one eye test within a 2 year period. I called the Primary Care Trust and was told that it was common

knowledge that you couldn't have more than one free eye test within a 2 year period. So I then asked the name of a superior. I sent her an email. The response I got was that ignorance was no defence. I tried to obviously avoid paying the penalty. I even wrote to my MP. But they had already told me that if I didn't pay it, there would be a further penalty of £50 and that it would be handed over to what they called their counter fraud team. The tone of the letter made me feel as though I was being treated as a criminal rather than having simply made an innocent mistake.

LEWIS: Well Fiona, the NHS seems to be turning a £20 eye test into a bit of a fraud there, and I have to admit I wasn't aware you could be fined for having more than one eye test. What does the Department of Health say?

WOODS: Well unfortunately, Paul, the Department of Health didn't want to come on the programme either. They did send a statement saying all opticians have to display information that makes the rules clear and that the form patients fill out when they get their test tells them that they can be fined for entering the wrong information. It's worth saying though that I spoke to one major chain of opticians and they told me the whole system's a bit of a mess with huge variation across the country in how strictly these rules are enforced. It is worth mentioning that if you're in Scotland everyone there is entitled to a free eye test and under-16s or over-60s can have one every year.

LEWIS: Okay, Fiona, thanks for that. Well with me is welfare adviser Will Hadwen from the charity Working Families. Will Hadwen, the NHS, I presume, has the power to impose these penalties. Is it operating them fairly?

HADWEN: It doesn't seem so. It certainly does have the power to impose a penalty, but the law makes it clear that someone is not liable to pay a penalty if they can show that they didn't act wrongfully or with any lack of care; and in both these cases, for different reasons, I think those people could show that, no, they didn't act wrongfully.

LEWIS: Yes, I mean Veneta obviously made an innocent mistake, but she must ...

you should know what benefit you're getting. That's the point the department has made to me.

HADWEN: Well we frequently speak to people who have no idea what benefit they're getting, particularly when there's a contributory and income related form of the same benefit. It's very common not to know that.

LEWIS: And of course that doesn't just apply to jobseeker's allowance.

HADWEN: *(over)* It doesn't just apply to ...

LEWIS: It applies to employment and support allowance.

HADWEN: Employment and support allowance indeed as well. And sometimes people aren't even clear whether they're on income support or jobseeker's allowance, so there's a lot of confusion in that area.

LEWIS: And also pension credit for people over 60. There's two forms of that.

HADWEN: Pension credit, yes.

LEWIS: Different forms, but one gives you free and one doesn't.

HADWEN: Yes sometimes pension credit in general passports you to extra help, but sometimes it has to be the guarantee credit. Again people won't necessarily be aware of that.

LEWIS: And moving onto the free eye tests, I mean I've looked at the forms. I know you have. There is nowhere on that that Keith actually says anything untrue, is there?

HADWEN: No, no, exactly, which is why I think that from a purely legal point of view, he's not liable to pay the penalty charge. But the problem is, as he pointed out, if you don't pay, then they impose a further charge.

LEWIS: Of £50. And we know that over 8,300 people had this £100 fine and we've been told more than £5,000 had the extra 50 quid, so that's more than a million pounds. I suppose small change in the life of the NHS budget, but still significant. What can people do though? Is there an ombudsman they can go to?

HADWEN: There's two things that spring to mind. One is that they could complain to the Health Service Ombudsman to say that the charge has been incorrectly or unfairly imposed. Or you could just decide not to pay, leave it in the NHS's court to pursue that. But that's obviously risky, particularly because the penalty can increase.

LEWIS: Yes, so you'd end up paying - I think Keith paid it and indeed Veneta just to stop any further penalties accruing or the threat of further action.

HADWEN: Exactly.

LEWIS: Now while you're here, Will, I must ask you another thing. Eric Pickles, the Secretary of State for Local Government, made a statement via the press this morning about changing the rules on council tax on what we like to call granny flats or granny annexes - extra bits of a house or a converted garage for an elderly person to live in - saying that no council tax would be payable in future, but when I looked into it, I thought they were exempt anyway. You tell us what the law is because you're the expert on this.

HADWEN: Well certainly under the Council Tax Exempt Dwellings Order, that was amended in 1997 to add a category where if you've got a dwelling which is part of a single property, is occupied by a relative who's 65 or over or very disabled, it's exempt. So that appears very similar to what they're claiming is a new concession.

LEWIS: So if you've got a granny annexe, a granny flat, council tax isn't payable. And I believe it's not even payable if the person dies and moves out and it's left empty?

HADWEN: Indeed, yes. Again these rules are slightly different in Scotland, it's worth saying, but certainly in England and Wales it would seem this provision already applies.

LEWIS: Thanks very much for that, Will. Well I did spend a lot of the morning trying to get onto the DCLG, the department, and they finally confirmed in the last hour that that is correct: there is an exemption that exists, but they say the plan is perhaps to extend it to younger relatives, not just those who are over 65 or disabled. We'll see what happens. Thanks very much Will Hadwen.

Now if you have to cancel your holiday due to a serious illness, you might expect your travel insurance to pay up for the cost. But with Thomas Cook travel insurance, it depends what your illness is. Money Box listener Amanda paid Thomas Cook £2,200 for a Mediterranean cruise in mid-June. She bought the firm's travel insurance. Eight weeks before the holiday, she developed a severe depressive illness, cancelled the trip after being signed off work by her GP. But when she called Thomas Cook to request a claim form for a refund, she was told her condition wasn't regarded as a serious illness and, therefore, she wasn't covered. Amanda accepts that mental illness is excluded by the small print of her policy, but when she booked the holiday she had no idea that she'd develop the serious depression that would leave her too unwell to travel.

AMANDA: I felt it was discriminatory. On the page where things such as cancellations are covered, it says serious illnesses are covered for cancellation purposes, but on the exclusion page it says that mental health issues are not covered, which implies that they don't consider that depression and mental health issues are serious illnesses. And I can assure you that very much this is one of the worst things that's ever happened to me and the most incapacitating thing that's ever happened to

me.

LEWIS: Well that was one listener's experience. So just how common is this insurance exclusion to mental illness? Money Box reporter Emma Rippon has details of a survey that we did. Emma?

RIPPON: Paul, we've contacted a number of the big names in travel insurance and only one other said it would not cover someone in Amanda's situation and that was Halifax. Several - including AXA, Endsleigh and Lloyds TSB - said they would cover if your GP confirmed you were too ill to travel. And HSBC told us that they would cover a claim relating to depression as long as it wasn't a pre-existing condition because you cannot discriminate against mental illness.

LEWIS: And what does Amanda's insurer Thomas Cook say?

RIPPON: Well Thomas Cook travel insurance is underwritten by White Horse Insurance, and in a statement White Horse said: We're sorry to hear of your listener's illness. We offered advice based on the reasons for cancellation of the holiday and the exclusions of the policy. Exclusions like this are not uncommon, they say, within the travel insurance industry.

LEWIS: Well that's certainly not what your survey found, is it? But why are some insurers refusing to cover for mental illness which develops after the policy is taken out? Graeme Trudgill is Head of Corporate Affairs at the British Insurance Brokers' Association.

TRUDGILL: These clauses tended to come back in 2001 following the September 11th attacks. And I think it is time for a review and it's something we are working with the insurance market to try and simplify, so that it is easier for customers to understand.

LEWIS: I have to ask you why on earth they came in after the September 2001 attacks?

TRUDGILL: I think there were basically a lot of claims - people with anxiety not travelling. With a typical travel insurance, you know how many people break their leg on the ski slopes every year; but with this it's much more unpredictable, and when the September 11th attacks happened there was a reaction from the insurers because of the massive increase in claims at the time.

LEWIS: Yes I can see that, but if you look at it as just another illness like anything else that can strike people out of the blue, then there really shouldn't be a distinction, should there? This is discriminating against mental illness compared with illnesses that we can all see like broken legs.

TRUDGILL: I think we would like ultimately you know all conditions to be covered by all travel insurance policies, but ultimately there's a cost to that. So what we see is some insurers not including this cover and they feel they can charge a lower rate because of that. So it really is depending on the type of policy you're buying and the rates insurers are charging reflect that risk. It's all about risk based pricing. What is the risk to the insurer, and they charge that appropriate price.

LEWIS: Are there any other groups of illnesses that are not covered? For example, could you take out a travel insurance policy that excluded all heart conditions?

TRUDGILL: There's probably very few. It's probably things like sexually transmitted diseases which are the problem. But overall if you are a perfectly healthy person, you book your insurance in good faith, you then develop a condition just before or during your holiday - whether it be a heart condition or something you've never had before - on the whole it would be paid, yes.

LEWIS: So this is a clear discrimination against mental illness compared with all

other illnesses?

TRUDGILL: It's more of a difficulty in diagnosing the sort of predictability of the situation - how often are people going to have these claims, are they going to reoccur? We are working with insurers to try and get them to better understand it and we hope that we can make improvements on these exclusions going forwards.

LEWIS: Graeme Trudgill from the British Insurance Brokers' Association.

The Financial Services Authority, which regulates how investments are sold to us, has decided to cut the amount which firms can tell us our money might make. That's when they sell us a pension or other investment. At the moment they have to show three scenarios - annual growth before charges of 5, 7 or 9% a year in a pension or ISA; and 4, 6 and 8% in investments that don't get tax relief. But the FSA has decided to cut these projection rates. The highest rates are down by between half and one percentage point, and the gap between the top and the bottom has been widened. In future it will mean that the projected value of pensions or investments will look rather lower than they do now - the middle range will be 5% for pensions and ISAs and 4% for other investments - and that's led to complaints by the people who run investment firms and indeed financial advisers who sell them. Steven Cameron is Head of Regulation at Aegon which offers pension and investment funds to around 2 million customers. He says having a single figure of say 5% is misleading.

CAMERON: Whatever fund a customer is invested in, we need to look at the underlying assets held in that fund and work out what we think is a realistic growth rate for those assets. So if the customer is investing in a fund which is all in bonds, we would use a figure of 4%. If they're investing in a fund which is half in bonds and half in equities, we might use something like 5.5%. If they're investing solely in equities, we might say 7.5% is reasonable, we're capped at 7. Even independent research findings suggested that equities might over the medium to long-term still return between 6.5 and 8%. What I don't think would be appropriate is for the FSA to constrain us and to say that even if you're invested 100% in equities, you can't go

above 5%.

LEWIS: Looking at your own pension fund performance over the last 10 years, the average has been 4.3% after charges. So that's, what, 5.5% or something, so it's not really unreasonable to say it should be 5%, is it?

CAMERON: I think the most important thing to do is to look to the future and think what is the most realistic starting point, the most realistic central rate to use. In all of our illustrations, we show a realistic figure and we show a more pessimistic and a more optimistic figure. Obviously recently investment markets have been having extreme circumstances.

LEWIS: You'd like different caps for different fund or different pension fund structures?

CAMERON: That would be another way for the FSA to go. At the moment what they say is the provider looks at the underlying assets, comes up with a figure, but it can never be above the cap, but your suggestion would be an alternative way forward.

LEWIS: And how do you explain to people the level of those caps given that your own funds have not achieved that in the last 10 years?

CAMERON: Remember the projection rates are trying to give an indication of what we think a customer might get back in future years. The best way of judging how funds have been performing up until now is to analyse the yearly statements which we send out to all of our customers once a year, which shows them exactly how much their fund was worth last year and how much it's worth this year. That's the best way of keeping track of how things are going once you've actually invested within a pension.

LEWIS: Sure, but people want to know what it's going to do in the future. You're

saying the fact that your funds have earned a lot less than this cap doesn't mean they won't earn less in the future?

CAMERON: It would be unwise of me to predict how any funds will perform in the future. What we're trying to do is come up with a methodology which gives customers a reasonable and realistic expectation of what they might get back, but also stressing that what they will get back will depend on lots of variables, including how the overall markets perform over time, over the long-term.

LEWIS: Steven Cameron of Aegon. The Financial Services Authority which issued the consultation wouldn't come on Money Box to explain. Those new rules are expected to begin in December.

If you're trying to cut down on the cost of your mobile phone, one big saving might be to cancel voicemail. Some people pay for it as part of their monthly minutes, but once those run out or if you're abroad the costs can be very high. And some people on some networks pay for it on top of their monthly contract and of course Pay As You Go, you pay for it anyway. But as Money Box listener Peter found, it can be very hard to get rid of.

PETER: I specifically asked them not to activate the voicemail service because I'd heard from a friend of mine that he was paying quite a lot of money for that. Then I subsequently discovered a few weeks ago that I was being charged for a mobile telephone number that I didn't recognise. I then discovered on my mobile phone itself that that was the number for the voicemail messaging. So I rang the company. I then said to them, "Please, I do not want this voicemail, I've never asked for it" and eventually they agreed to take the calls off.

LEWIS: Well that was one listener's experience. Let's go live now to Swindon to talk to Dominic Baliszewski, a telecoms expert at Broadbandchoices.co.uk. Dominic Baliszewski, I'm sure most of us think accessing voicemail is free or at least included.

When do we have to pay for it?

BALISZEWSKI: Yeah well I think most people do just make calls to voicemail, retrieve their messages without even giving a second thought to how much it's going to cost. But their costs can actually run up quite quickly. A lot of the time, as you mention, it is included with your plan, but some plans it's actually not included at all, and Pay As You Go customers most of the time will end up paying. And when you're looking at costs of 30/35p a minute to access your voicemail, just two or three calls a month to pick up your messages can easily rack up.

LEWIS: Yes and certainly I've had a tweet this morning from somebody who said when I go away for the weekend maybe somewhere where I don't get any coverage, I come back and I've got twenty messages and it's costing me a lot of money to retrieve them. So he realises it, but not everybody does.

BALISZEWSKI: Definitely and that's the thing. I think it's really important when signing up to a new contract to check all the calls and not just assume that you're paying for 100 minutes that's going to be included and that's going to include everything you need.

LEWIS: Nowadays people are trying to cut back on the cost of things as incomes are frozen or indeed they lose their jobs. If you move down a band, so you get fewer inclusive calls, I suppose there's a danger that you'll suddenly find you are paying more because you're getting these added on top?

BALISZEWSKI: Yeah, definitely. I mean it sounds a little bit counterintuitive, but sometimes lowering your minutes can actually end up costing you a lot more. For example, if you're someone who uses roughly 200 minutes a month and you think I'll go for 100 minutes because it's going to be a cheaper monthly cost, if you're saving £5, £6, £7 by making that step down, you could actually be adding £20, £25 to your bill by paying for those 100 minutes at a permanent cost.

LEWIS: Yes and we had an email this morning from a listener who's actually job hunting. She's lost her job, she needs the phone. She's getting lots of messages left by would-be employers and she's finding that very expensive. There are some contracts, aren't there, where you do pay on top even of a monthly contract. Which are they?

BALISZEWSKI: Yeah there are some. With some networks all of the contracts include voicemail access, but with some the lower end - sort of below £30, £40 a month - will end up costing you. That's why it's really important before you step in to check how much those costs will be.

LEWIS: And what about cancelling it? Briefly, how easy is it to cancel maybe even just for a short time while you're abroad when the costs are very much more expensive?

BALISZEWSKI: Yeah, that's the thing. If you don't want the service or even if you want to deactivate it for a while, you can call your network's customer service - that's normally free to do from your handset - and say look, I don't want the service; can you please stop it? And they'll be able to do that for you.

LEWIS: A useful tip. Dominic Baliszewski, thanks very much, at Broadbandchoices.co.uk.

Now after years of arguments over the rising cost of car insurance, this week the Office of Fair Trading stepped in. It says it's minded to ask the Competition Commission to investigate the market and why repairs and replacement vehicles cost so much. Bob Howard's been following this story for a long time.

HOWARD: Indeed, Paul. We first reported on this 4 years ago when one listener's insurance company was charged £16,000 for a replacement vehicle while her own, worth just £4,000, was repaired. And last year we described how a judge told another insurer its practices of inflating the costs of repairs was seen by rivals as some way

between sharp practice and outright fraud. The Office of Fair Trading's been investigating these issues since September. This week it announced that the Competition Commission should look into a market which the OFT accuses of being "dysfunctional" and says these car hire and repair charges are adding £225 million a year to drivers' premiums. MPs have called it a "merry-go-round" of fees. We should point out that the OFT's decision is a provisional one. It will announce its final decision in October.

LEWIS: It all takes so long, doesn't it? Well thanks for that, Bob. I'm sure you'll keep your eye on it. But that is it for today. More on our website: bbc.co.uk/moneybox. You can read my newsletter, sign up for our weekly podcast, listen again, send us your ideas, and also have your say this week on fines for wrongly thinking you're entitled to free treatment for your teeth or free tests for your eyes. That's Have Your Say on our website. Vincent Duggleby's here on Wednesday with Money Box Live, taking your questions on annuities. I'm back with Money Box next weekend. Today reporter Bob Howard, producer Lesley McAlpine. I'm Paul Lewis.