

POLICY NOTE

THE COMMUNITY CARE (PERSONAL CARE AND NURSING CARE) (SCOTLAND) AMENDMENT REGULATIONS 2018

SSI 2018/111

The above instrument will be made in exercise of the powers conferred by section 1(2)(a), 2 and 23(4) of the Community Care and Health (Scotland) Act 2002. The instrument is subject to the affirmative resolution procedure. If approved by the Scottish Parliament, it will come into force on 1 April 2018.

Legal Background

Section 1(1) of the Community Care and Health (Scotland) Act 2002 (“the 2002 Act”) provides that a local authority are not to charge for social care provided by them (or the provision of which is secured by them) if that social care is: personal care as defined in paragraph 20 of schedule 12 to the Public Services Reform (Scotland) Act 2010; personal support as so defined; care mentioned in schedule 1 to the 2002 Act; or nursing care. That requirement may be qualified by regulations.

Section 2 gives the Scottish Ministers the power to make regulations to determine what is to be regarded as accommodation provided by local authorities under social work and mental health legislation. That power has been exercised with the effect that persons provided with accommodation by a local authority under the Social Work (Scotland) Act 1968 or section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003 are not charged in respect of personal and nursing care up to set figures. The rules in relation to free personal care apply to people aged 65 or over. There is no age limit in relation to free nursing care.

Policy Objectives

Payments for personal and nursing care to self-funders in care homes remained static at £145 per week for personal care and £65 per week for nursing care between 2002 and 2007. Previously the Concordat had specifically included the commitment to increase the payments in line with inflation in 2008-09, 2009-10 and 2010-11 and following agreement with COSLA a further inflationary increase was included as a specific commitment in the settlement agreement for 2011-12 and the increase applied from April 2011.

From 2011/12 to 2015/16 the payment rates were increased in line with inflation using the GDP Deflator. The following year 2016/17 was static due to forecasts of inflation rates being too high and Ministers agreed to keep to this rate for the year of 2017/18.

These Regulations, if approved, will increase the sums to £174 for personal care and £79 for nursing care. These increases are again in line with inflation using the GDP Deflator, currently forecast at 1.56%.

Consultation

The Convention of Scottish Local Authorities and Social Work Scotland have been consulted on and agreed the proposed amendments.

Financial Implications

Increasing these payments from £171 for personal care and £78 for nursing care to £174 and £79 respectively per week will cost approximately £1.9 million for 2018 - 19. These are routine annual increases, which have been considered as part of the spending review period up to 2018 – 19 and we have put in a bid of £2 million for these payments. A Business and Regulatory Impact Assessment has not been prepared as these changes have no impact on the costs of business.

Care Support and Rights Division
2 February 2018