

## SCHEDULE 1

### Regulation 42

## PART 1

### Short-term assistance

#### Entitlement to short-term assistance

1.—(1) Subject to sub-paragraph (2), an individual who is, or was, entitled to Child Disability Payment under a determination made on the basis that the individual has ongoing entitlement is entitled to short-term assistance where—

- (a) a determination of the individual’s entitlement to Child Disability Payment (“earlier determination”) has been superseded by a subsequent determination (“subsequent determination”) which has the effect that the individual is—
  - (i) no longer entitled to Child Disability Payment, or
  - (ii) entitled to a lower amount of Child Disability Payment,
- (b) the individual’s entitlement to Child Disability Payment is under review within the meaning of paragraph 1(2) of schedule 10 of the 2018 Act, and
- (c) the individual—
  - (i) continues to meet the conditions as to residence and presence set out in regulations 5 to 9, or
  - (ii) has transferred to become ordinarily resident in another part of the United Kingdom, and the matter under review is the determination of entitlement for the 13-week period beginning with the date of the transfer in accordance with regulation 36 (individuals in respect of whom Child Disability Payment is paid at the time of moving to another part of the United Kingdom).

(2) An individual is not entitled to short-term assistance where the individual is no longer entitled to Child Disability Payment as a result of a subsequent determination made under regulation 31(b) (determination following change of circumstances etc.).

(3) An individual to whom regulation 17(2) (effect of admission to a care home on ongoing entitlement to care component) or 18(2) (effect of legal detention on ongoing entitlement to care component) applies is not entitled to short-term assistance in respect of the care component of Child Disability Payment.

(4) Where the Scottish Ministers have made a determination under section 37 of the 2018 Act (duty to make determination) that an individual is entitled to short-term assistance, entitlement to short-term assistance begins—

- (a) where a request is made under section 41 of the 2018 Act (right to request re-determination) for a re-determination of the determination of the individual’s entitlement to Child Disability Payment mentioned in paragraph 1(1)(a), on the day that request is made,
- (b) where a notice of appeal is submitted under section 47 of the 2018 Act (initiating an appeal) against the determination of the individual’s entitlement to Child Disability Payment mentioned in paragraph 1(1)(a), on the day that request is made,
- (c) where a decision of the Scottish Ministers is made not to accept a request for a re-determination of the individual’s entitlement to Child Disability Payment mentioned in

paragraph 1(1)(a), on the day that decision is set aside by the First-tier Tribunal for Scotland, or

- (d) a request is made under section 48(1)(b) of the 2018 Act (deadline for appealing) for permission to appeal the determination of the individual's entitlement to Child Disability Payment mentioned in paragraph 1(1)(a), on the day that request is made.

### **Value and form**

2.—(1) The value of short-term assistance payable is to be the difference between the amount of Child Disability Payment to which the individual was entitled under the earlier determination mentioned in paragraph 1(1)(a), and the amount of Child Disability Payment the individual is entitled to under the subsequent determination mentioned in paragraph 1(1)(a).

(2) The form in which the short term assistance is to be given is to be the same as the form in which Child Disability Payment was given under the earlier determination.

(3) Where the mobility component was being paid by the Scottish Ministers to an authorised provider of vehicles for persons with disabilities in accordance with regulation 38(1) (payment of mobility component to authorised provider of vehicles for individuals with disabilities) on the day before an individual's entitlement to the mobility component ended as a result of a subsequent determination mentioned in paragraph 1(1)(a)—

- (a) the amount of short-term assistance that is payable in respect of the mobility component may be paid by the Scottish Ministers to the authorised provider, and
- (b) paragraphs (1) and (2) of regulation 38 apply to the payment of short-term assistance as they had applied to the payment of mobility component prior to the individual's entitlement ending.

(4) Regulations 27 (form of payment - giving Child Disability Payment by way of deduction), 32 (determination following official error – underpayments), 33 (determination following error – overpayments) and 34 (determination to effect a deduction decision) apply to short-term assistance in the same way as they apply to Child Disability Payment.

### **End of entitlement**

3.—(1) Entitlement to short-term assistance ends on the day—

- (a) a determination of an individual's entitlement to short-term assistance is cancelled under section 26(2) of the 2018 Act (individual's right to stop receiving assistance),
- (b) a determination of an individual's entitlement to Child Disability Payment is made by the Scottish Ministers under regulation 31 (determination following change of circumstances etc.),
- (c) the First-tier Tribunal for Scotland makes a decision under section 49 of the 2018 Act (First-tier Tribunal's power to determine entitlement) in relation to the subsequent determination of the individual's entitlement to Child Disability Payment mentioned in paragraph 1(1)(a), or
- (d) that the First-tier Tribunal for Scotland makes a determination to refuse permission under section 48(1)(b) of the 2018 Act (deadline for appealing) to bring an appeal against the subsequent determination of the individual's entitlement to Child Disability Payment mentioned in paragraph 1(1)(a).

(2) Where a decision of the First-tier Tribunal for Scotland mentioned in sub-paragraph (1)(c) is set aside after a review under section 43(2) of the Tribunals (Scotland) Act 2014(1) (review of

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(1) 2014 asp 10.

decisions) the Scottish Ministers are to make a determination without application of the individual's entitlement to short-term assistance.

**Reduction of payment of Child Disability Payment where short-term assistance is paid**

4. Where an individual has received short-term assistance for a period and a determination is subsequently made that that individual is entitled to Child Disability Payment at the same rate or at a higher rate for that period, any payment of Child Disability Payment to be made for that period is to be reduced by any short-term assistance and any Child Disability Payment already paid to that individual for that period.