
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2023 No.

The Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023

PART 4

Making of applications and payments and duration of eligibility

Temporary stop in entitlement

23.—(1) This paragraph applies where the Scottish Ministers have made a determination without application under regulation 36 (determination following a change of circumstances etc.) that an individual is no longer entitled to Carer Support Payment in respect of a cared for person because—

- (a) the individual's earnings in respect of an award week exceeded the earnings limit set out in regulation 14,
- (b) the cared for person has voluntarily relinquished their entitlement to their qualifying disability benefit and the individual therefore no longer satisfies the requirements of regulation 5(1) (provision of care to a cared for person) in respect of an award week, or
- (c) subject to regulation 40 (temporary break in care), the individual failed to satisfy the requirements of regulation 5(1) (provision of care to a cared for person) in respect of an award week.

(2) Where paragraph (1) applies, the Scottish Ministers are to make a determination without application of the individual's entitlement to Carer Support Payment if, within 26 weeks of the determination mentioned in paragraph (1), the Scottish Ministers establish that the individual satisfies the eligibility requirements set out in Part 3 of these Regulations.

(3) The duty on the Scottish Ministers to make a determination without application mentioned in paragraph (2) does not apply where another individual has been awarded—

- (a) Carer Support Payment,
- (b) Carer's Allowance, or
- (c) the carer element of Universal Credit,

in respect of the cared for person mentioned in paragraph (1).

(4) This paragraph applies where an individual who has an ongoing entitlement to Carer Support Payment cares for a cared for person whose qualifying disability benefit has been—

- (a) reduced to £0,
- (b) ended as a result of the cared for person being—
 - (i) admitted to a hospital or care home, or
 - (ii) in legal detention,
- (c) suspended as a result of—
 - (i) the circumstances mentioned in—

- (aa) regulation 26A(3)(a) of the Disability Assistance for Children and Young People (Scotland) Regulations 2021⁽¹⁾, or
- (bb) regulation 38(3)(a) of the Disability Assistance for Working Age People (Scotland) Regulations 2022⁽²⁾,
- (ii) a failure to provide information in accordance with—
 - (aa) regulation 17 of the Social Security and Child Support (Decisions and Appeals) Regulations 1999⁽³⁾,
 - (bb) regulation 17 of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999⁽⁴⁾,
 - (cc) regulation 45 of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013⁽⁵⁾, or
 - (dd) regulation 44 of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016⁽⁶⁾, or
- (iii) the circumstances mentioned in—
 - (aa) regulation 16(3)(a)(i) or (ii) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999,
 - (bb) regulation 16(3)(a)(i) or (ii) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999⁽⁷⁾,
 - (cc) regulation 44(2)(a)(i) or (ii) of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013, or
 - (dd) regulation 43(2)(a)(i) or (ii) of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016.

(5) Where paragraph (4) applies, the Scottish Ministers are to make a determination without receiving an application that the individual is no longer entitled to Carer Support Payment.

(6) Where paragraph (4)(a) or (b) applies, the determination comes into effect on the first day of the award week following the award week in which the cared for person's qualifying disability benefit has been ended or reduced to £0.

(7) Where paragraph (4)(c) applies, the determination comes into effect on the first day of the award week following the day on which the cared for person's qualifying disability benefit has been suspended for 4 weeks.

(8) Where paragraph (5) applies, the Scottish Ministers are to make a determination without application of the individual's entitlement to Carer Support Payment if, within 26 weeks of the determination mentioned in paragraph (5), the Scottish Ministers establish that—

- (a) a determination is made that the value of the qualifying disability benefit that is to be given to the cared for person is an amount more than £0, or

(1) S.S.I. 2021/174. Regulation 26A was inserted by S.S.I. 2022/41.

(2) S.S.I. 2022/54.

(3) S.I. 1999/991, amended by S.I. 1996/206, S.I. 1999/2570, S.I. 2008/1554, S.I. 2010/840 and S.I. 2012/824.

(4) S.R. 1999/162, amended by S.I. 1999/2588, S.R. 2008/286, S.R. 2010/200 and S.R. 2012/140.

(5) S.I. 2013/381.

(6) S.R. 2016/221.

(7) Amended by S.I. 1999/2588.

- (b) the suspension of the cared for person's qualifying disability benefit mentioned in paragraph (4)(c) is ended and the cared for person would have been entitled to the qualifying disability benefit during the period of suspension.
- (9) Where paragraph (2) applies, the individual's entitlement to assistance begins—
- (a) where the individual notifies the Scottish Ministers that they satisfy the eligibility requirements set out in Part 3 of these Regulations within 13 weeks of that change occurring, on the first day of the award week in which that change occurred,
 - (b) where the individual notifies the Scottish Ministers that they satisfy the eligibility requirements set out in Part 3 of these Regulations later than 13 weeks of the change occurring, but where the Scottish Ministers consider that the individual has good reason for not notifying the change within 13 weeks, on the first day of the award week in which that change occurred,
 - (c) where the individual notifies the Scottish Ministers that they satisfy the eligibility requirements set out in Part 3 of these Regulations later than 13 weeks of the change occurring and where the Scottish Ministers do not consider that the individual has good reason for not notifying that change within 13 weeks, on the first day of the award week in which the individual notified that change, or
 - (d) in any other case, the first day of the award week in which the individual satisfies the eligibility requirements set out in Part 3 of these Regulations.
- (10) Where paragraph (8)(a) applies, the individual's entitlement to assistance begins—
- (a) where the individual notifies the Scottish Ministers that the cared for person's qualifying disability benefit is paid at an amount more than £0 within 13 weeks of that change occurring, on the first day of the award week in which that change occurred,
 - (b) where the individual notifies the Scottish Ministers that the cared for person's qualifying disability benefit is paid at an amount more than £0 later than 13 weeks of the change occurring, but where the Scottish Ministers consider that the individual has good reason for not notifying the change within 13 weeks, on the first day of the award week in which that change occurred,
 - (c) where the individual notifies the Scottish Ministers that the cared for person's qualifying disability benefit is paid at an amount more than £0 later than 13 weeks of the change occurring and where the Scottish Ministers do not consider that the individual has good reason for not notifying that change within 13 weeks, on the first day of the award week in which the individual notified that change, or
 - (d) in any other case, the first day of the award week in which the cared for person's qualifying disability benefit is paid at an amount more than £0.
- (11) Where paragraph (8)(b) applies, the individual's entitlement to assistance begins—
- (a) where it is determined that during the period of suspension, the cared for person would have been entitled to a qualifying disability benefit in respect of that period, on the first day of the award week in which the cared for person's entitlement to the qualifying disability benefit begins,
 - (b) in any other event, on the first day of the award week in which the suspension is ended.