
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

Multiple applications involving the same cared for person

24.—(1) Where the Scottish Ministers receive two or more applications for Carer Support Payment from different individuals in respect of the same cared for person, the Scottish Ministers must determine the application made first before determining any other application.

(2) Where, but for regulation 5(3) (provision of care to a cared for person), two or more individuals would be entitled to Carer Support Payment in respect of the same cared for person for the same period, only one of them may be entitled, being either—

- (a) one of them as they may jointly agree in accordance with paragraph (5), or
- (b) in absence of such agreement, one of them as may be determined by the Scottish Ministers in accordance with paragraph (6).

(3) Where, but for regulation 5(3) (provision of care to a cared for person), a person ('carer A') would be entitled to Carer's Allowance payable by the Scottish Ministers and another person ('carer B') would be entitled to Carer Support Payment in respect of the same cared for person for the same period, carer B will only be entitled if—

- (a) carer A and carer B jointly agree in accordance with paragraph (5) that carer A will not be entitled, or
- (b) in absence of such agreement, the Scottish Ministers determine that carer B is or remains entitled to Carer Support Payment in respect of that period.

(4) Where, but for regulation 5(3) (provision of care to a cared for person), a person ('carer A') would have a relevant entitlement and another person ('carer B') would be entitled to Carer Support Payment in respect of the same cared for person for the same period, carer B will only be entitled to Carer Support Payment if—

- (a) carer A and carer B jointly agree in accordance with paragraph (5) that carer A will not have a relevant entitlement, or
- (b) in absence of such agreement, the Scottish Ministers determine that carer B is or remains entitled to Carer Support Payment in respect of that period, following—

(i) in a case where the relevant entitlement is to—

(aa) a Carer's Allowance payable by the Secretary of State under section 70 of the 1992 Act,

(bb) the carer element of Universal Credit payable by the Secretary of State under section 12(2)(c) of the Welfare Reform Act 2012,

consultation with the Secretary of State,

(ii) in a case where the relevant entitlement is to—

- (aa) a Carer's Allowance payable by the Department for Communities in Northern Ireland under section 70 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992,
- (bb) the carer element of Universal Credit payable by the Department for Communities in Northern Ireland under Article 17(2)(c) of the Welfare Reform (Northern Ireland) Order 2015,

consultation with the Department for Communities in Northern Ireland.

(5) An agreement under paragraph (2)(a), (3)(a) or (4)(a) is to be made by giving the Scottish Ministers a notice in writing signed by the individuals mentioned in paragraph (2), (3) or (4) as the case may be, specifying one of them as the individual to be entitled to assistance.

(6) When making a determination under paragraph (2)(b), (3)(b) or (4)(b), the Scottish Ministers must have regard to factors including but not limited to—

- (a) the best interests of the cared for person,
- (b) whether any of the individuals mentioned in paragraph (2), (3) or (4)—
 - (i) are family members of the cared for person,
 - (ii) live with or near the cared for person,
 - (iii) receive any benefits on behalf of, or as a result of their responsibility for, the cared for person.

(7) The Scottish Ministers may, having considered the factors set out in paragraph (6), make a determination without application that—

- (a) one of the individuals mentioned in paragraph (2) or (3), or
- (b) following consultation with the Secretary of State or, as the case may be, the Department for Communities in Northern Ireland, carer B mentioned in paragraph (4), who has ongoing entitlement to Carer Support Payment, is no longer entitled to Carer Support Payment.

(8) For the purposes of this regulation, an individual has a “relevant entitlement” if the individual is entitled to—

- (a) a Carer's Allowance, or
- (b) the carer element of universal credit.

(9) Where paragraph (2) applies at the same time as paragraphs (3) or (4), the Scottish Ministers must make a determination under paragraph (2) before making a determination under paragraph (3) or (4).