

KINSHIP CARE & CONTINUING CARE PAYMENTS – IS JSA & ESA

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INTRODUCTION

- 1 This memo provides guidance on the Social Security and Child Support (Care Payments and Tenant Incentive Scheme) (Amendment) Regulations 2017 ([S.I 2017 No. 995](#)) (SS & CS (CPTIS)(Amdt) Regs 17) and come into force on 7.11.17¹.

1 SS & CS (CPTIS)(Amdt) Regs 17, reg 1

BACKGROUND

- 2 An LA in Scotland may place a child who is at risk of going into care or who has previously been looked after by the LA with another person. This is known as Kinship care¹. Any payments made by the LA to the person with care are intended to cover any additional costs normally incurred by a child living at home but do not cover the costs of accommodation and maintenance of the child.

1 Children and Young People (Scotland) Act 2014, s73(1)(b)

- 3 LAs in Scotland also have a duty to provide on-going care and assistance to eligible people who have ceased to be looked after by the LA. This is known as continuing care¹.

1 Children (Scotland) Act 1995, s26A

EFFECT ON SELF EMPLOYED EARNINGS

- 4 Any payments made by an LA under the kinship care arrangements do not count as self employed earnings¹ for IS, JSA, ESA and SPC purposes.

1 IS (Gen) Regs, reg 37(2)(b), JSA Regs, reg 100(2)(b), ESA Regs, reg 97(2)(b), SPC Regs, reg 17B(4)(b)

- 5 Any payments made by an LA under the continuing care arrangements to:

1. the claimant **or**:
2. where a former child (aged over 16) was in the claimant's care **and**
 - 2.1 still lives with the claimant **and**
 - 2.2 the former child passes the payment on to the claimant

do not count as self employed earnings¹ in IS, JSA, and ESA.

1 IS (Gen) Regs, reg 37(2), JSA Regs, reg 100(2), ESA Regs, reg 97(2)

EFFECT ON INCOME

- 6 These regulations¹ ensure that

1. any income **and**
2. any income from capital that was received

from payments made by an LA under the kinship care and continuing care arrangements in IS, JSA and ESA are fully disregarded².

1 SS & CS (CPTIS)(Amdt) Regs 17, regs 2(3), 3(3), & 7(4); 2 IS (Gen) Regs, Sch 9, JSA Regs, Sch 7, ESA regs, Sch 8

Note: Kinship care and continuing care payments are not prescribed incomes for SPC.

EFFECT ON CAPITAL

- 7 These regulations¹ also ensure that any payments made by an LA under the kinship care arrangements in IS, JSA and ESA are fully disregarded².

1 SS & CS (CPTIS)(Amdt) Regs 17, regs 2(4), 3(4) & 7(5); 2 IS (Gen) Regs, Sch 10, JSA Regs, Sch 8, ESA Regs, Sch 9

EFFECT ON REMUNERATIVE WORK RULES - IS AND JSA

- 8 A claimant who is engaged in caring for a former child under the continuing care arrangements is treated as not being in remunerative work¹ for IS and JSA purposes.

1 IS (Gen) Regs, reg 6(1), JSA Regs, reg 53

EFFECT ON WORK – ESA

- 9 A claimant who is engaged in caring for a former child under the continuing care arrangements is not excluded from ESA by virtue of the general rule that a claimant is not entitled to ESA in any week in which they work¹.

1 ESA Regs, reg 40(2)

ANNOTATIONS

Please annotate the number of this memo (DMG 22/17) against the following DMG paragraphs:

DMG 20464 (heading), 20478, 20479, 27012 (heading), 28350 (heading), 28377 (heading), 28378, 28383 (heading), 41151 (heading), 41166, 50017 (heading), 51210 (heading), 51254 (heading), 51255, 51259, 85230 (heading), 85238

CONTACTS

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, 1S25, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in [Memo DMG 23/16](#) - Obtaining legal advice and guidance on the Law.

DMA Leeds: October 2017

The content of the examples in this document (including use of imagery) is for illustrative purposes only