INTRODUCTION

1. This Memo gives guidance on the Social Security (Scotland) Act 2018 (Funeral Expense Assistance and Early Years Assistance) (Consequential Modifications and Savings) Order 2019 (SI 2019/1060). This relevant parts of this Order come into force on 16.9.19\(^1\).

\(^1\) The SS (Scotland) Act 2018 (FEA and EYA) (Consq Mod) Order 2019, art 1(2)(b)

BACKGROUND

2. From 16.9.19, the Scottish Government is introducing Funeral Support Payments (FSPs) under the powers given to it by the Social Security (Scotland) Act 2018. FSPs will provide financial assistance for funeral expenses to people who live in Scotland.

3. Claims for FSPs will be made to and decided by the Scottish Government. People living in England and Wales will continue to claim SFFPs in the normal way.

4. The purpose of the Order is to ensure that:
1. a SFFP cannot be awarded if an award of FSP has been made in respect of the same funeral\(^1\)

2. for claims made from 16.9.19 onwards, a SFFP can only be awarded to a person living in England or Wales\(^2\)

3. FSPs are not taken into account as capital for UC purposes\(^3\).

\(^1\) The SS (Scotland) Act 2018 (FEA and EYA) (Consq Mod) Order 2019, art 3(2); 2 art 3(4); 3 art 19

**PREVENTION OF DOUBLE PAYMENT**

5. ADM L3361 explains that, subject to an exception, a SFFP cannot be awarded if a SFFP has already been made in respect of funeral expenses arising from the death of the same person. From 16.9.19, there is an additional rule that a SFFP cannot be made if a FSP has been made in respect of funeral expenses arising from the death of the same person\(^1\).

\(^1\) SFMFE (Gen) Regs, reg 4(1)

**PERSON LIVING IN SCOTLAND CLAIMS A SFFP ON OR AFTER 16.9.19**

6. The conditions of entitlement for a SFFP are explained in ADM L3101 to L33108. From 16.9.19, there is a further condition of entitlement for a SFFP, which is that the claimant must live in England or Wales\(^1\).

\(^1\) SFMFE (Gen) Regs, reg 7(9A)

7. If a person who lives in Scotland makes a claim for a SFFP on or after 16.9.19, a decision should be made that they are not entitled and they should be advised to claim a FSP payment. The decision carries normal MR and appeal rights.

**PERSON LIVING IN SCOTLAND CLAIMS A SFFP BEFORE 16.9.19 – CLAIM NOT DECIDED BEFORE 16.9.19**

8. The condition in paragraph 6 that a person is only entitled to a SFFP if they live in England or Wales does not apply to claims made before 16.9.19\(^1\). A claim made before 16.9.19 by a person living in Scotland should be decided under the conditions of entitlement that existed before 16.9.19, even if the decision is made on or after 16.9.19.

\(^1\) The SS (Scotland) Act 2018 (FEA and EYA) (Consq Mod) Order 2019, art 4(1)
EFFECT ON INCOME AND CAPITAL FOR UC PURPOSES

9. FSPs are not a prescribed income\(^1\) for UC purposes so are disregarded in full.

\[ 1 \text{ UC Regs, reg 66} \]

10. FSPs made within the last 12 months are also fully disregarded\(^1\) as capital for UC purposes.

\[ 1 \text{ UC Regs, Sch 10, para 22} \]

ANNOTATIONS

Please annotate the number of this memo (16/19) against the following ADM paragraphs:

L3101 (heading), L3361, H2001, H5060

CONTACTS

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, 3E zone E, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in – Memo 4/19 Requesting case guidance from DMA Leeds for all benefits.

DMA Leeds: September 2019

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