

12-23: Legacy Benefits - The Carer's Assistance (Carer's support payment) (Scotland) Consequential Amendments 2023

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Introduction

1. This memo gives guidance on The Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023 (Consequential Amendments) Order 2023¹ which come into force on 19.11.23.

[1 SI 2023 No 1214](#)

Background

2. This order¹ makes changes to social security legislation to reflect the introduction of the Carer Support Payment (CSP) which replaces CA in Scotland.

[1 CA \(CSP\)\(Scot\) Regs 23\(CA\) Order 23](#)

Carer's Allowance

3. From 19.11.23 a claimant cannot have entitlement to both CA and CSP for the same day¹. Additionally, where two or more people are caring for the same severely disabled person, only one of them will be entitled to either CA or CSP for any day. It will be up to them to choose and elect who will be entitled to CA or CSP² by giving the DM a notice in writing signed by both carers specifying who should be entitled to CA or CSP³. If there is no election the Secretary of State should be satisfied that one carer has the relevant entitlement to the benefit, following consultation with the Scottish DM⁴.

Note: When a DM encounters a rival carer situation, a structured consultation process with the Scottish DM's, carefully considering all the key factors, should take place to ensure that the most appropriate carer is chosen.

*1 SS CB Act 92, s 70(7); 2 s 70(7ZA), s70(7ZB), s70(7ZC);
3 SS (ICA) Regs, reg 7(1) & 7(1A); 4 SS CB Act 92, s 70(7ZA), s70(7ZB) & s70(7ZC).*

Example 1

Mary and Sharon both care for Henry for at least 35 hours a week each. Mary lives in England and claims CA. Sharon lives in Scotland and claims CSP. Only one of them will be entitled to benefit for caring for Henry. Mary and Sharon decide themselves that Mary should have entitlement. Therefore, Mary receives CA. Sharon is not entitled to CSP for the period Mary is entitled to CA.

Example 2

David and Eric both care for Susan for at least 35 hours a week each. David lives in England and claims CA. Eric lives in Scotland and claims CSP. Only one of them will be entitled to benefit for caring for Susan. David and Eric both believe they should be entitled to claim and cannot decide between them who should be entitled. The DM should consult with the Scottish DM to determine which carer has the relevant entitlement.

State Pension and Retirement Pension

Deferring Entitlement to State Pension/Retirement Pension

Lump Sum Payments

4. [DMG 75405](#) et seq provides guidance on people entitled to a lump sum payment when they defer their RP. The amount of RP which would have been payable had it not been deferred does **not** include any pension, where for all of an accrual period, a person has been in receipt of CSP¹.

1 SS (Def RP) Regs, reg 3(1)(a)(v)

Increments

5. [DMG 75349](#) et seq provides guidance on people entitled to increments when they defer their RP. [DMG 74501](#) et seq provides guidance on people entitled to increments when they defer their SP. When a person is deferring their

1. RP¹ or

2. SP²

they will not be entitled to increments for any day in a period of deferment when they are in receipt of

Carer Support Payment.

1 SS (WB & RP) Regs, reg 4(1)(b)(v); 2 SP Regs, reg 11(2)(a)(via)

Entitlement to Age Addition

6. [DMG 75281](#) et seq provides guidance on people entitled to age addition. This will include a person in receipt of CSP¹.

1 SS (WB & RP) Regs, reg 17 (1)(ga)

Income support

Prescribed category of person

7. People are entitled to IS if they meet the conditions of entitlement, including where they are in a prescribed category¹ (see [DMG 20081 et seq](#)). This includes people who care for another person and are entitled to CA². From 19.11.23, the category includes people who care for another person and are entitled to CSP³.

1 SS C&B Act 92, s 124(1)(e); 2 IS (Gen) Regs, Sch 1B para 4(b);

3 [CA \(CSP\)\(Scot\) Regs 23\(CA\) Order 23](#)

Entitlement to premiums

8. When considering entitlement to any premiums, where there are references to a CA, there shall be a reference to a CSP¹.

1 IS Gen Regs, Sch 2

Earnings

Definition of sums to be disregarded

9. From 19.11.23 the definition of sums to be disregarded in the calculation of earnings¹ will also include a CSP carer's assistance given in accordance with these regulations².

1. IS (Gen) Regs, Sch 8, para 6A(1) Sch. 9 para 87;

2 [CA \(CSP\)\(Scot\) Regs 23\(CA\) Order 23](#)

10. The disregard of £20 applied to a carer's earnings where the claimant's applicable amount includes a CP and the carer is in receipt of CA also applies where the claimant is in receipt of CSP¹.

Income other than earnings

11. Disregard any amount of CSP that is in excess of the amount the claimant would receive if they had an entitlement to CA¹.

1 IS (Gen) Regs, Sch 9, para 87

Claim for Cat A or Cat B Retirement Pension

Definition

12. From 19.11.23 neither a claim to, nor an award of, CSP prevents the Secretary of State from notifying the beneficiary that a claim for Cat A or Cat B RP is not required¹.

1 SS (C&P) Regs, reg 3A(6)(a).

Jobseeker's Allowance

Waiting days

13. [DMG 20902-DMG 20903](#) gives guidance on when a JSA claimant or a joint-claim couple do not have to serve waiting days, including where entitlement to JSA begins within 12 weeks of the end of entitlement to specified benefits¹. From 19.11.23, CSP² is added to the list of qualifying benefits.

1 [JSA Regs, reg 46\(1\)\(a\) & \(d\)](#); 2 [CA \(CSP\)\(Scot\) Regs 23\(CA\) Order 23](#)

Linked periods

14. [DMG 21027](#) gives guidance on linked periods. From 19.11.23 a linked period will include when a claimant is entitled to a CSP¹.

1 JSA Regs, reg 48(2), SS CB Act 92, s 70; [CA \(CSP\)\(Scot\) Regs 23](#)

Carers, remunerative work and joint claimants

15. For the purpose of whether a JSA claimant is

1. in remunerative work where they are a carer¹ (see [DMG 20252](#)) **or**

2. a member of a joint claim couple who does not have to satisfy the conditions of entitlement² because they are a carer³ (see [DMG 20017](#)).

CSP⁴ is added to the list of qualifying benefits from 19.11.23. See [Chapter 20](#) (JSA conditions of entitlement) for further details.

1 JSA Regs, reg 51(3)(c)(iii); 2 JS Act 95, s 1(2B)(b);

3 JSA Regs, Sch A1, para 3(b); 4 [CA \(CSP\)\(Scot\) Regs 23\(CA\) Order 23](#)

Entitlement to premiums

16. When considering entitlement to any premiums, where there are references to a CA, there shall be a reference to a CSP¹.

1 JSA Regs, Sch 1

Definition of sums to be disregarded in the calculation of earnings

17. From 19.11.23 the sums to be disregarded in the calculation of earnings¹ will also include a CSP carer's assistance given in accordance with these regulations².

1 JSA Regs, Sch 6 para 7; 2 [CA \(CSP\)\(Scot\) Regs 23\(CA\) Order 23](#)

Earnings

18. The disregard of £20 applied to a carer's earnings where the claimant's applicable amount includes a CP and the carer is in receipt of CA also applies where the claimant is in receipt of CSP¹.

1 JSA Regs, Sch 6, para 7; Sch 6A, para 2

Definition of sums to be disregarded in the calculation of income other than earnings

19. From 19.11.23 the sums to be disregarded in the calculation of income other than earnings¹ will also include a CSP carer's assistance given in accordance with these regulations².

1 JSA Regs, Sch 6 para 7; 2 [CA \(CSP\)\(Scot\) Regs 23\(CA\) Order 23](#)

Income other than earnings

20. From 19.11.23 disregard any amount of CSP that is in excess of the amount the claimant would receive if they had an entitlement to CA¹.

1 JSA Regs, Sch 7, para 83

Change of circumstances supersession where award of CSP ends

Definition of effective date

21. From 19.11.23 the definition of date from which a decision superseded under section 10 takes effect¹ will also include a CSP carer's assistance given in accordance with these regulations².

1 SS CS (D&A) regs, reg 7(2)(bc); 2 [CA \(CSP\)\(Scot\) Regs 23\(CA\) Order 23](#)

22. Where

- 1.** the claimant is a disabled person or a disabled person's partner **and**
- 2.** a decision awarding benefit is superseded to the claimant's advantage **and**
- 3.** the reason for the supersession is that payment of an award of CSP in respect of that disabled person has ended

the superseding decision is effective from the day after the last day that CSP was paid to a person other than the claimant or the claimant's partner¹. [DMG 02010](#) (main heading) and [DMG 04226](#) are affected.

1 SS CS (D&A) regs, reg 7(2)(bc)

State Pension Credit

Income other than earnings

23. CSP is a social security benefit and is taken into account as income other than earnings¹. Disregard any amount of CSP that is in excess of the amount the claimant would receive if they had an entitlement to CA².

1 SPC Regs, reg 15(1); 2 SPC Regs, Sch IV, para 19

Notional income

24. [DMG 85447](#) explains that where a claimant to whom [DMG 85441](#) applies is in receipt of an overlapping benefit or allowance the amount of RP income they shall be treated as having is the RP they are entitled to minus the amount of the benefit or allowance in payment¹. From 19.11.23 CSP is included as such an overlapping benefit or allowance².

1 SPC Regs, reg 18(1CA); 2 [CA \(CSP\)\(Scot\) Regs 23\(CA\) Order 23](#)

Additional amount for the severely disabled

25. [DMG 78030](#) and [78610](#) gives guidance that when considering entitlement to an additional amount

for claimants who are severely disabled, no amount is payable in respect of a claimant if someone is in receipt of

1. a CA or

2. the carer element of UC

in respect of caring for them¹. From 19.11.23 CSP is included in the list of qualifying benefits².

1 [SPC regs, Sch I para1\(1\) & Sch III para 1\(10\)\(d\)](#); 2 [CA \(CSP\)\(Scot\) Regs 23\(CA\) Order 23](#)

Additional amount for carers

26. [DMG 78100](#) and [78620](#) gives guidance that an additional amount for carers may be awarded for each claimant who is entitled to CA. From 19.11.23 that also includes those claimants entitled to CSP¹.

1 [SPC Regs, Sch 1 para 4](#),

Social Fund Funeral Payment

27. [DMG 39408](#) and [Appendix 6 to DMG Chapter 39](#) gives guidance on arrears of benefits payable to the deceased not being counted as assets of the deceased when considering deductions from the amount of award of funeral payment. From 19.11.23 arrears of CSP payable to the deceased as at the date of death are excluded from the assets of the deceased¹

1 [SFMFE \(Gen\) Regs, reg 10\(1A\) \(ca\)](#)

Employment and Support Allowance

First contribution condition

28. [DMG 41032](#) gives guidance on relaxation of the first contribution condition¹ where specified conditions are met, including where the ESA claimant is entitled to CA in the last complete tax year immediately before the relevant benefit year in which the first day of LCW occurred². From 19.11.23 this includes where the claimant is entitled to CSP³.

1 [WR Act 07, Sch 1, Part 1, para 1\(4\)\(b\)](#); 2 [ESA Regs, reg 8\(2\)\(a\)](#);

3 [CA \(CSP\)\(Scot\) Regs 23\(CA\) Order 23](#)

Waiting days

29. [DMG 41103](#) gives guidance on when an ESA claimant does not have to serve waiting days, including where entitlement to ESA begins within 12 weeks of the end of entitlement to specified benefits¹. From 19.11.23, CSP² is added to the list of qualifying benefits.

Definition of amounts

30. From 19.11.23 the amounts¹ will also include a CSP carer's assistance given in accordance with these regulations².

1 ESA Regs, Sch 42; [CA \(CSP\)\(Scot\) Regs 23\(CA\) Order 23](#)

Amount of ESA payable where entitlement is for less than a week

31. When calculating the amount of ESA payable, where there are references to a CA, there shall be a reference to a CSP¹.

Note: See guidance at [DMG 46072](#), [46121](#), [46062](#), [46092](#) and [46112](#).

1 ESA Regs, reg 165(3) & 167 (d)

Entitlement to premiums

32. When considering entitlement to any premiums, where there are references to a CA, there shall be a reference to a CSP¹.

1 ESA Regs, Sch 4.

Income other than earnings

33. From 19.11.23 disregard any amount of CSP that is in excess of the amount the claimant would receive if they had an entitlement to CA¹.

1 ESA Regs, Sch 8, para 75

State Pension, Retirement Pension and Widowed Parent's Allowance

Additional Pension and Engaged in Caring

34. [DMG 75549](#) et seq and [63062](#) et seq provides guidance that a person who is engaged in caring can receive a class 3 credit towards satisfying the single contribution condition. This will include a person engaged in caring for a period of up to 12 weeks,

1. before they become entitled to CSP¹ **or**

2. after they cease to be entitled to CSP²

However, **2.** does not apply if a claimant continues to be entitled to a credit after entitlement to CSP

ends³.

1 SS (CC P & C) Regs, reg 7(1)(a); 2 reg 7(1)(b); 3 reg 7(2)

Additional Pension and Applications for NI credits

35. See [DMG 75556](#) and [63069](#) for guidance on applications for NI credits when engaged in caring. NI credits cannot be awarded in respect of claims to CSP, or the Carer Credit, for any period where the person was a married woman who had elected to pay a reduced rate of NI contributions (Married Woman's Reduced Rate Election)¹.

1 SS (CC P & C) Regs, reg 10(2)(b)

Annotations

The number of this memo should be annotated against the following DMG paragraphs;

[20017](#), [20027](#), [20081](#), [20252](#), [20902](#), [20903](#), [21027](#), [23062](#), [23200](#), [23247](#), [26111](#), [29111](#), [39408](#),
[Appendix 6 to DMG Chapter 39](#), [41032](#), [41103](#), [44084](#), [44111](#), [44166](#), [44177](#),
[46062](#), [46072](#), [46092](#), [46112](#), [46121](#), [60025](#), [60026](#), [63064](#), [63069](#), [74521](#), [75282](#), [75351](#), [75414](#),
[75551](#), [75556](#), [78030](#), [78100](#), [78105](#), [78610](#), [78620](#), [85103](#), and [85447](#).

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.

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