

18-23 UC/JSA/ESA - The Carer's Assistance (Carer Support Payment) (Scotland) Consequential Amendments 2023

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Introduction

1. [See [ADM memo 2-26](#)] This memo gives guidance on The Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023 (Consequential Amendments) Order 2023¹ which came 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.

Note: This guidance is applicable to UC, JSA and ESA.

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

Social Fund Funeral Payment

3. [ADM L3408](#) and [Appendix 1 to ADM Chapter L3](#) gives guidance on arrears of benefit 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\(1A\)\(ca\)](#)

Universal Credit

The carer element

4. [ADM F6033](#) gives guidance that when considering whether a carer element is payable, where two or more people are regularly and substantially caring for the same severely disabled person, only one of them will be entitled to have the carer element included in the UC award. From 19.11.23 regulations¹ provide that where a

1. person (A) has an entitlement to CSP **and**

2. person (B) has an entitlement to the carer element of UC

they must jointly elect who shall have entitlement to the carer element. If there is no such election, the Secretary of State, in consultation with the Scottish Ministers, shall decide.

1 [UC regs, reg 29\(5\)\(6\); CA \(CSP\)\(Scot\) Regs 23 \(CA\) Order 23](#)

Regular and substantial caring responsibilities

5. [ADM F6010](#) gives guidance that to qualify for an award of a carer element, the claimant must have regular and substantial caring responsibilities for a severely disabled person and would meet that condition if they satisfy the conditions for entitlement to a CA¹. From 19.11.23 regulations² adds to the list

1. those who would be entitled to a CA but for the fact that

1.1 their earnings exceed the prescribed limits **or**

1.2 they are resident or treated as resident in Scotland **or**

1.3 they have a genuine and sufficient link to Scotland **and**

2. those entitled to CSP.

1 [UC Regs, reg 30\(1\); 2 \[CA \\(CSP\\)\\(Scot\\) Regs 23 \\(CA\\) Order 23\]\(#\)](#)

Entitlement to a housing cost element – renters exempt from HCC

6. [ADM F3151](#) gives guidance on considering whether a renter is exempt from a HCC deduction. From

19.11.23 CSP is added to the list of relevant benefits the renter may be in receipt of to be exempt¹.

1 [UC Regs, Sch 4, para 16\(2\)](#)

Unearned income

7. CSP is taken into account as unearned income up to a maximum of the amount a claimant would receive if they had an entitlement to CA¹.

1 [UC Regs, reg 66\(1\)\(b\)\(iia\)](#)

Jobseeker's allowance

Waiting days

8. [ADM R2702](#) gives guidance on when a JSA claimant does not have to serve waiting days. From 19.11.23 CSP is added to the list of qualifying benefits¹.

1 [JSA Regs 13, reg 36\(1\)](#)

Linked periods

9. [ADM R1027](#) 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 13, reg 39\(2\)](#); [SS CB Act 92, s 70](#)

Carers and remunerative work

10. For the purpose of whether a JSA claimant is in remunerative work where they are a carer¹ (see [R2252](#)), CSP² is added to the list of qualifying benefits from 19.11.23. See [Chapter R2](#) (JSA conditions of entitlement) for further details.

1 [JSA Regs 13, reg 42\(3\)\(c\)\(iii\)](#); 2 [CA \(CSP\)\(Scot\) Regs 23 \(CA\) Order 23](#)

Employment and Support Allowance

First contribution condition

11. [U1085](#) 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 13, reg 9\(2\)\(a\)](#);

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

Waiting days

12. [U1303](#) 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.

1 [ESA Regs 13, reg 85\(2\)\(a\)](#); 2 [CA \(CSP\)\(Scot\) Regs 23 \(CA\) Order 23](#)

Universal Credit (Transitional Protections)

Amount of transitional SDP element: joint claimants

13. [Memo ADM 13/23](#) paragraphs 6 – 10 gives guidance on the amount of the transitional SDP element payable to joint claimants in the first AP where a person has become a carer for either of them in that AP¹. From 19.11.23 the definition of carer includes a person who is entitled to and in receipt of CSP².

Note: See M6710 et seq for detailed guidance on the transitional SDP element.

1 [UC \(TP\) Regs, Sch 2 para 8\(2\)](#); 2 [CA \(CSP\)\(Scot\) Regs 23 \(CA\) Order 23](#)

Annotations

The number of this memo should be annotated against the following ADM paragraphs [ADM L3408](#) and [Appendix 1 to ADM Chapter L3, F3140, F3151, F6010](#) heading, [F6033](#), [Memo ADM 13/23 M6760](#) heading, [M6761](#), [R1027](#), [R2702](#), [R2252](#), [U1085](#), [U1303](#)

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 [7/19](#) Requesting case guidance from DMA Leeds for all benefits.

DMA Leeds: December 2023