

Child Winter Heating Assistance – Policy Note Social Security – Policy Division

This note sets out a broad policy summary of Child Winter Heating Assistance. These draft regulations are provided to the Scottish Commission on Social Security (SCoSS) as required by section 97(2) of the Social Security (Scotland) Act 2018.

Background

1. Section 30 of the Social Security (Scotland) Act 2018 confers powers on Scottish Ministers to make regulations prescribing the eligibility rules for assistance provided to help an individual to meet, or help towards meeting, the individual's heating costs during the winter months. The Scottish Commission on Social Security (SCoSS) previously scrutinised the draft Disability Assistance for Children and Young People (Scotland) Regulations that set out both the proposed entitlement rules for the Child Disability Payment as well as for Child Winter Heating Assistance (CWhA).
2. The Cabinet Secretary for Social Security and Older People, Shirley-Anne Somerville, made a statement to Parliament on 1 April setting out changes to the social security programme in light of the impact of Covid-19. These impacts affect both the joint work required with DWP to deliver devolved social security and the health and social care professionals needed for design and delivery. In that statement the Cabinet Secretary made clear the intention to deliver Child Winter Heating Assistance (CWhA) in Winter 2020.
3. CWhA remains deliverable, despite the impact of current events on the social security programme, because the potential caseload is much smaller than for any of the other forms of assistance that will commence in Wave 2. It also does not require a complex decision making process and the majority of payments to clients will not require an application to be made.
4. To support this aim, freestanding regulations relating to CWhA have been drafted. These draw on the existing drafting provided in the draft Disability Assistance for Children and Young People (Scotland) Regulations, with additions and amendments to ensure that CWhA functions as a freestanding form of assistance.
5. Given that the commencement date for the Child Disability Payment is no longer in Summer 2020, the draft regulations for CWhA relate solely to clients who are in receipt of Disability Living Allowance. Amendments to these regulations will be made at a later date in consequence of the Disability Assistance for Children and Young People (Scotland) Regulations to broaden the entitlement criteria to include clients in receipt of the Child Disability Payment.

Notes

6. General feedback that SCoSS provided in relation to the draft Disability Assistance for Children and Young People (Scotland) Regulations, and the specific

points raised in that report in relation to the provisions for CWHA, have been considered as part of the policy development of the substantive regulations for CWHA.

7. The current intention is that the draft regulations for CWHA will be provided to SCoSS in May with a requested report date of July.

8. Officials are continuing to engage with UK counterparts in relation to required amendments to UK legislation in consequence of the CWHA regulations, to ensure that CWHA is disregarded as income for tax credits and for means-tested reserved benefits. The current assumption is that once CWHA commences, it will be disregarded as income for all relevant forms of reserved social security.

Purpose

9. Broadly, the entitlement rules for CWHA, as set out in the draft regulations, are that a £200 payment will be made to clients who:

- are in receipt of the highest rate care component of Disability Living Allowance in one day of the week beginning on the third Monday in September, or who, following a mandatory reconsideration or appeal, should have been in receipt; and
- are ordinarily resident in Scotland or habitually resident in a relevant EU country and have a genuine and sufficient link to Scotland.

10. The purpose of this form of assistance is to recognise that children and young people in receipt of the highest rate care component will require significant levels of support both through the day and through the night. The payment aims to mitigate some of the increased fuel costs these individuals and families experience as a result of both requiring to heat their homes through the night and reflecting that for many families, they will be present in their home more often through the day.

11. World Health Organisation (WHO) guidelines recommend that for household temperatures, living rooms are set at 21°C and other rooms in the house set at 18°C. In light of this guidance, the Fuel Poverty Review Panel recommended in 2017 that for 'vulnerable households', including those of disabled people, the living room temperature recommendation should be 23°C and other rooms 20°C. The CWHA payment mitigates some of the increased fuel costs that families incur as a result of maintaining a higher household temperature.

12. CWHA will be paid on a 'per individual' rather than a 'per household' basis. This is intended to provide additional mitigating costs for families with more than one disabled child or young person where it is more likely that a family would require to heat their home for extended periods of the day and the night. In these households, it is also more likely that more than one room would be required to be kept at an increased temperature, further increasing the winter fuel costs for the household.

Mechanism

13. There will be two routes for making payments to clients for CWHA, one based on DWP data, and another for applications from individuals resident in the

EEA or for individuals who believe that an error has been made not to pay them CWA through the first route.

Data Transfer from DWP

14. DWP will provide Social Security Scotland with the data required to make payments for all clients who were in receipt of the highest rate care component of Disability Living Allowance for one day of the qualifying week and who are aged under 18 and are resident in Scotland. This data will be processed by Social Security Scotland and payments made to each of these individuals in the course of the Winter.

15. Each of these individuals will be subject to a determination without application under the regulations made under section 52 of the Social Security (Scotland) Act 2018. This mechanism provides Scottish Ministers with powers to make determinations, in such circumstances as prescribed in regulations, without receiving an application.

16. Each of these determinations will be technically subject to both redetermination and to appeal rights. It is however unlikely that individuals receiving a payment of £200 would request a redetermination, given that they have already been determined to be entitled to the only level of assistance provided for under CWA.

17. There may be a small number of cases where the data provided suggests the person is not entitled, for instance if they were not in receipt of the highest rate care component. A determination would be made in each of these cases and that determination would be subject to redetermination and appeal rights, ensuring those clients were provided with a right of challenge of the decision that they were not entitled.

Determinations for clients in the EEA and other scenarios

18. Although the vast majority of clients will be paid under the data transfer process, there are a number of non-routine cases where an application process is being designed to provide an alternative route into accessing entitlement to CWA. This relates to both clients who may be entitled under EU social security coordination rules and to clients who may not have been included in the data transfer process due to an error.

19. Under EU social security coordination rules, some individuals resident in EEA countries who have a 'genuine and sufficient link' to Scotland, may be entitled to access certain forms of devolved social security. Online guidance and an application form are being designed to ensure that these individuals, where they believe they may be entitled, may apply for assistance. Under the existing DWP system, only individuals living in EEA countries with an equal or lower average Winter temperature than Scotland are entitled to either Winter Heating Assistance or to Winter Fuel Payments. Officials are considering further the best approach in relation to the average Scottish temperature in Winter and the impact on entitlement for exportable cases.

20. The second purpose of the development of an alternative process is to ensure that clients who have been erroneously omitted from the data transfer process but who believe they may be entitled to CWA are able to provide information that will enable Social Security Scotland to make a determination of their entitlement. These clients may not have received a payment either due to an omission from data transfer, or because following a mandatory reconsideration or appeal their entitlement is backdated to the qualifying week. In both these cases, and for EEA clients, where the required information to make a determination is received, clients will have redetermination and appeal rights.

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