
STATUTORY RULES OF NORTHERN IRELAND

2016 No. 250

The Welfare Supplementary Payment (Loss of Disability Living Allowance) Regulations (Northern Ireland) 2016

PART 5

MISCELLANEOUS

Review

21.—(1) The Department must establish procedures for reviewing a person's entitlement to welfare supplementary payment under these Regulations.

(2) The procedures established must—

- (a) provide for a review to be carried out on the application of any person,
- (b) provide for the manner of making the application.

(3) The procedures may, in particular, provide for—

- (a) the consideration of the applicant's entitlement to welfare supplementary payment by up to three persons nominated by the Department,
- (b) the preparation of a report by these persons setting out their conclusions in relation to the applicant's entitlement to welfare supplementary payment and their recommendation as to the manner in which the matter should be finally determined.

Disregards

22. No account must be taken of entitlement to welfare supplementary payment in considering a person's entitlement to benefit under a statutory provision relating to social security (irrespective of the name or nature of the benefit).

Residency

23. A person is not entitled to welfare supplementary payment unless the person—

- (a) is ordinarily resident in Northern Ireland, and
- (b) is present in Northern Ireland.

Temporary absence from Northern Ireland

24.—(1) Subject to regulation 25, where a person is temporarily absent from Northern Ireland, the person is treated as present in Northern Ireland for the purpose of these Regulations for the first 4 weeks of absence.

(2) A person is temporarily absent from Northern Ireland if, at the beginning of the period of absence, the person's absence is unlikely to exceed 52 weeks.

Temporary absence from Northern Ireland to receive medical treatment

25.—(1) Where a person is temporarily absent from Northern Ireland, the person is treated as present in Northern Ireland for the purposes of these Regulations for the first 13 weeks of that absence, where—

- (a) the person’s absence is solely in connection with arrangements made for the medical treatment of the person for a disease or bodily or mental disablement which commenced before the person left Northern Ireland; and
- (b) the arrangements referred to in sub-paragraph (a) relate to medical treatment—
 - (i) outside Northern Ireland;
 - (ii) during the period whilst the person is temporarily absent from Northern Ireland; and
 - (iii) by, or under the supervision of, a person appropriately qualified to carry out that treatment.

(2) In this regulation “temporarily absent” has the same meaning as in regulation 24(2).

Care home residents

26.—(1) Subject to regulation 29, no welfare supplementary payment is payable in respect of any period during which a person is a resident of a care home in circumstances in which any of the costs of any qualifying services provided for the person are borne out of public funds by virtue of any of the statutory provisions referred to in paragraph (2).

(2) The statutory provisions are—

- (a) Article 5, 15 or 36 the Health and Personal Social Services (Northern Ireland) Order 1972⁽¹⁾,
- (b) the Mental Health (Northern Ireland) Order 1986⁽²⁾,
- (c) section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002⁽³⁾, or
- (d) any other statutory provision relating to persons under a disability or to young persons or to education or training except—
 - (i) Articles 50 and 51 of the Education and Libraries (Northern Ireland) Order 1986⁽⁴⁾,
 - (ii) Article 30 of the Education and Libraries (Northern Ireland) Order 1993⁽⁵⁾, or
 - (iii) Article 3 of the Education (Student Support) (Northern Ireland) Order 1998⁽⁶⁾.

(3) Subject to paragraph (4), paragraph (1) does not apply in the case of a person—

- (a) who has not attained the age of 18 and to whom—

(1) S.I. 1972/1265 (N.I. 14); Article 15 was amended by paragraph 2(2) of Schedule 1 to the Registered Homes (Northern Ireland) Order 1992 (S.I. 1992/3204 (N.I. 20)) and Article 36 was amended by section 1(1) and (2) of the Health and Personal Social Services Act (Northern Ireland) 2002 (c. 9 (N.I.)) and Article 45 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9))

(2) S.I. 1986/595 (N.I. 4)

(3) 2002 c. 6 (N.I.)

(4) S.I. 1986/594 (N.I. 3); Article 51 was substituted by Part 2 of Schedule 5 to the Education (Northern Ireland) Order 1996 (S.I. 1996/274 (N.I. 1)) and certain functions transferred from the Department of Education by Parts I and II of Schedule 3 to the Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999 (S.R. 1999 No. 481) and for certain purposes functions transferred by Article 7(a) of the Departments (Transfer of Functions) Order (Northern Ireland) 2001 (S.R. 2001 No. 229)

(5) S.I. 1993/2810 (N.I. 12)

(6) S.I. 1998/1760 (N.I. 14); Article 3 was amended by section 147(3) of the Learning and Skills Act 2000 (c. 21), paragraph 238 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c.1), section 147(4) of the Finance Act 2003 (c. 14) and Article 11(1) of the Higher Education (Northern Ireland) Order 2005 (S.I. 2005/1116 (N.I. 5))

- (i) Article 17(b) of the Children (Northern Ireland) Order 1995(7) applies because the person's health is likely to be significantly impaired, or further impaired, without the provision of services for the person, or
- (ii) Article 17(c) of that Order applies, or
- (b) who is accommodated outside the United Kingdom if the costs of any qualifying services are borne wholly or partly by an education authority pursuant to its powers under Article 11 of the Education (Northern Ireland) Order 1996(8).
- (4) Paragraph (3)(a) only applies during any period in which the Regional Health and Social Care Board or the Health and Social Care trust looking after the person places the person in a private dwelling with a family, or with a relative of the person, or with some other suitable person.
- (5) In this regulation—
 - “care home” and “qualifying services” have the same meaning as in Article 90 of the 2015 Order,
 - “Health and Social Care trust” means a body as established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991(9), and
 - “the Regional Health and Social Care Board” means the body established under section 7 of the Health and Social Care (Reform) Act (Northern Ireland) 2009(10).

Hospital in-patients

- 27.—(1) Subject to regulation 29, no welfare supplementary payment is payable in respect of any period during which a person is undergoing medical or other treatment as an in-patient at a hospital or similar institution in circumstances in which any of the costs of the treatment, accommodation and related services provided to the person are borne out of public funds.
- (2) For the purposes of paragraph (1) the costs of treatment, accommodation or any related services are borne out of public funds if a person is undergoing medical or other treatment as an in-patient in—
- (a) a hospital or similar institution under the Health and Personal Social Services (Northern Ireland) Order 1972 or the Health and Personal Social Services (Northern Ireland) Order 1991(11), or
 - (b) a hospital or similar institution maintained or administered by the Defence Council.

Prisoners

28. Subject to regulation 29, no welfare supplementary payment is payable under these Regulations for a period during which a person is in prison or detained in legal custody.

Exceptions: care homes, hospitals and prisons

29. Regulation 26(1), 27(1) or, as the case may be, regulation 28 does not apply in respect of the first 28 days of any period during which a person is someone to whom any of those regulations apply.

(7) S.I. 1995/755 (N.I. 2)

(8) S.I. 1996/274 (N.I. 1)

(9) S.I. 1991/194 (N.I. 1); Article 10 was amended by section 1 of the Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1 (N.I.))

(10) 2009 c. 1 (N.I.)

(11) S.I. 1991/194 (N.I. 1)