

SCHEDULE 4

Regulation 19

PART I

applicable amounts of persons in residential care and nursing homes

1.—(1) Subject to sub-paragraph (2), the weekly applicable amount of a claimant to whom regulation 19 applies shall be the aggregate of—

- (a) subject to paragraph 3, the weekly charge for the accommodation, including all meals and services, provided for him or, if he is a member of a family, for him and his family increased, where appropriate, in accordance with paragraph 2 but, except in a case to which paragraph 12 applies, subject to the maximum determined in accordance with paragraph 5; and
- (b) a weekly amount for personal expenses for him and, if he is a member of a family, for each member of his family determined in accordance with paragraph 13; and
- (c) where he is only temporarily in such accommodation any amount applicable under regulation 17(e) or 18(f) (housing costs) in respect of the dwelling normally occupied as the home.

(2) No amount shall be included in respect of any child or young person who is a member of the claimant's family if the capital of that child or young person calculated in accordance with Part V in like manner as for the claimant, except where otherwise provided, would exceed £3,000.

2.—(1) Where, in addition to the weekly charge for accommodation, a separate charge is made for the provision of heating, attention in connection with bodily functions, supervision, extra baths, laundry or a special diet needed for a medical reason, the weekly charge for the purpose of paragraph 1(1)(a) shall be increased by the amount of that charge.

(2) Where the weekly charge for accommodation does not include the provision of all meals, it shall, for the purpose of paragraph 1(1)(a), be increased in respect of the claimant or, if he is a member of a family, in respect of each member of his family by the following amount:

- (a) if the meals can be purchased within the residential care or nursing home, the amount equal to the actual cost of the meals, calculated on a weekly basis; or
- (b) if the meals cannot be so purchased, the amount calculated on a weekly basis—
 - (i) for breakfast, at a daily rate of £1·10;
 - (ii) for a midday meal, at a daily rate of £1·55; and
 - (iii) for an evening meal, at a daily rate of £1·55;

except that, if some or all of the meals are normally provided free of charge or at a reduced rate, the amount shall be reduced to take account of the lower charge or reduction.

3. Where any part of the weekly charge for the accommodation is met by housing benefit, an amount equal to the part so met shall be deducted from the amount calculated in accordance with paragraph 1(1)(a).

4. Where a payment is to be made in respect of a period of less than one benefit week, the applicable amount of the claimant under regulation 19 and this Schedule shall include the weekly amount to which paragraph 1(1)(a) applies, other than the increase for meals met under paragraph 2(2) which shall be met only in respect of the number of days falling in that period, if the weekly charge for the accommodation falls to be paid during that period.

5.—(1) Subject to paragraph 12 the maximum referred to in paragraph 1(1)(a) shall be—

Status: This is the original version (as it was originally made).

- (a) in the case of a single claimant, the appropriate amount in respect of that claimant specified in or determined in accordance with paragraphs 6 to 11;
 - (b) where the claimant is a member of a family, the aggregate of the following amounts—
 - (i) in respect of each member of the family aged under 11, 1½ times the amount specified in paragraph 2(a) of Schedule 2; and
 - (ii) in respect of each other member of the family, the appropriate amount specified in or determined in accordance with paragraphs 6 to 11.
- (2) The maximum amount in respect of a member of the family aged under 11 calculated in the manner referred to in sub-paragraph (1) (b) (i) shall be rounded to the nearest multiple of 5p by treating an odd amount of 2·5p or more as 5p and by disregarding an odd amount of less than 2·5p.

Residential care homes

6.—(1) Subject to sub-paragraph (2) and paragraphs 8 to 11, where the accommodation provided for the claimant is a residential care home for persons in need of personal care by virtue of—

- (a) old age, the appropriate amount shall be £130·00 per week;
 - (b) past or present mental disorder but excluding mental handicap, the appropriate amount shall be £130·00 per week;
 - (c) past or present drug or alcohol dependence, the appropriate amount shall be £130·00 per week;
 - (d) mental handicap, the appropriate amount shall be £160·00 per week;
 - (e) physical disablement, the appropriate amount shall be—
 - (i) in the case of a person to whom paragraph 8 applies, £190·00 per week, or
 - (ii) in any other case £130·00 per week; or
 - (f) any condition not falling within sub-paragraphs (a) to (e) above, the appropriate amount shall be £130·00 per week.
- (2) Where the claimant is over pensionable age and—
- (a) he is blind; or
 - (b) there is in respect of him a certificate, issued by the Attendance Allowance Board under section 35(2) of the Social Security Act(1), which states that he has satisfied or is likely to satisfy both the conditions mentioned in section 35(1) of that Act; or
 - (c) he is in receipt of any payment based on need for attendance which is payable—
 - (i) under section 61 of the Social Security Act(2)
 - (ii) by virtue of article 14 of the Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 1983(3) or article 14 of the Personal Injuries (Civilians) Scheme 1983(4)
- the appropriate amount shall, except where sub-paragraph (1)(d) or (e)(i) applies, be £155·00 per week.

(1) 1975 c. 14; section 35(2) was amended and subsection (2A) was added by the Social Security Act 1979 (c. 18) section 2. Subsections (3) and (4) of section 61 were added by the Social Security Act 1986 (c. 50) section 39, Schedule 3 paragraph 6.

(2) subsections (3) and (4) of section 61 were added by the Social Security Act 1986 (c. 50) section 39, Schedule 3 paragraph 6.

(3) S.I.1983/883.

(4) S.I. 1983/686.

Nursing homes

7. Subject to paragraphs 8 to 11, where the accommodation provided for the claimant is a nursing home for persons in need of personal care by virtue of—

- (a) past or present mental disorder but excluding mental handicap, the appropriate amount shall be £185·00 per week;
- (b) mental handicap, the appropriate amount shall be £200·00 per week;
- (c) past or present drug or alcohol dependence the appropriate amount shall be £185·00 per week;
- (d) physical disablement, the appropriate amount shall be—
 - (i) in the case of a person to whom paragraph 8 applies, £230·00 per week, or
 - (ii) in any other case, £185·00 per week;
- (e) terminal illness, the appropriate amount shall be £230·00 per week; or
- (f) any condition not falling within sub-paragraphs (a) to (e) the appropriate amount shall be £185·00 per week.

8. For the purposes of paragraphs 6(e) and 7(d) this paragraph applies to a person under pensionable age or a person over pensionable age who, before attaining pensionable age, had become physically disabled.

9. The appropriate amount applicable to a claimant in a residential care home or nursing home shall, subject to paragraph 10, be determined—

- (a) where the home is a residential care home registered under Part I of the Registered Homes Act 1984⁽⁵⁾, by reference to the particulars recorded in the register kept by the relevant registration authority for the purposes of that Act; or
- (b) where the home is a residential care home not so registered or a nursing home, by reference to the type of care which, taking into account the facilities and accommodation provided, the home is providing to the claimant.

10.—(1) Where more than one amount would otherwise be applicable, in accordance with paragraph 9, to a claimant in a residential care home or a nursing home, the appropriate amount in any case shall be determined in accordance with the following sub-paragraphs.

(2) Where the home is a residential care home registered under Part I of the Registered Homes Act 1984 and where the personal care that the claimant is receiving corresponds to the care received by a category of residents for whom the register indicates that the home provides accommodation, the appropriate amount shall be the amount, in paragraph 6 or 8, as the case may be, as is consistent with that personal care.

(3) Where the home is a residential care home which is so registered but where the personal care that the claimant is receiving does not correspond to the care received by a category of residents for whom the register indicates that the home provides accommodation, the appropriate amount shall be the lesser or least amount, in paragraphs 6 or 8, as the case may be, as is consistent with those categories.

(4) In any case not falling within sub-paragraph (2) or (3), the appropriate amount shall be whichever amount of the amounts applicable in accordance with paragraphs 6 or 7 and 9 is, having regard to the types of personal care that the home provides, most consistent with the personal care being received by the claimant in that accommodation.

(5) 1984 c. 23.

Status: This is the original version (as it was originally made).

11.—(1) Where the accommodation provided for the claimant is a residential care home or a nursing home which is, in either case, situated in the Greater London area and the actual charge for that accommodation exceeds the appropriate amount in his case by virtue of the preceding paragraphs of this Schedule, that amount shall be increased by any excess up to £17·50.

(2) In sub-paragraph (1), “the Greater London area” means all those areas specified as being within Area 53 in Schedule 6.

Circumstances in which the maximum is not to apply

12.—(1) Where a claimant who satisfies the conditions in sub-paragraph (2) has been able to meet the charges referred to in paragraphs 1 and 2 without recourse to income support or supplementary benefit, the maximum determined in accordance with paragraph 5 shall not apply for the period of 13 weeks or, if alternative accommodation is found earlier, such lesser period following the date of claim except to the extent that the claimant is able to meet out of income disregarded for the purposes of Part V the balance of the actual charge over the maximum.

(2) The conditions for the purposes of sub-paragraph (1) are that—

- (a) the claimant has lived in the same accommodation for more than 12 months; and
- (b) he was able to afford the charges in respect of that accommodation when he took up residence; and
- (c) having regard to the availability of suitable alternative accommodation and to the circumstances mentioned in paragraph 10(7)(b) of Schedule 3 (housing costs), it is reasonable that the maximum should not apply in order to allow him time to find alternative accommodation; and
- (d) he is not a person who is being accommodated—
 - (i) by a housing authority under Part III of the Housing Act 1985⁽⁶⁾ (housing the homeless), or
 - (ii) by a local authority under section 1 of the Child Care Act 1980⁽⁷⁾ (duty of local authorities to promote welfare of children) or, in Scotland, section 12 of the Social Work (Scotland) Act 1968⁽⁸⁾ (general welfare); and
- (e) he is seeking alternative accommodation and intends to leave his present accommodation once alternative accommodation is found.

(3) Where—

- (a) the claimant was a resident in a residential care home or nursing home immediately before 29 April 1985 and has continued after that date to be resident in the same accommodation, apart from any period of temporary absence; and
- (b) immediately before that date, the actual charge for the claimant’s accommodation was being met either wholly or partly out of the claimant’s resources, or, wholly or partly out of other resources which can no longer be made available for this purpose; and
- (c) since that date the local authority have not at any time accepted responsibility for the making of arrangements for the provision of such accommodation for the claimant; and
- (d) the Secretary of State, in his discretion, has determined that this sub-paragraph shall have effect in the particular case of the claimant in order to avoid exceptional hardship,

the maximum amount shall be the rate specified in sub-paragraph (4) if that rate exceeds the maximum which, but for this sub-paragraph, would be determined under paragraph 5.

⁽⁶⁾ 1985 c. 68.

⁽⁷⁾ 1980 c. 5.

⁽⁸⁾ 1968 c. 49.

- (4) For the purposes of sub-paragraph (3) the rate is either—
- (a) the actual weekly charge for the accommodation immediately before 29 April 1985 plus £10; or
 - (b) the aggregate of the following amounts—
 - (i) the amount estimated under regulation 9(6) of the Supplementary Benefit (Requirements) Regulations 1983⁽⁹⁾ as then in force as the reasonable weekly charge for the area immediately before that date;
 - (ii) £26.15; and
 - (iii) if the claimant was entitled at that date to attendance allowance under section 35 of the Social Security Act at the higher rate £28.60 or, as the case may be, at the lower rate, £19.10,whichever is the lower amount.

Personal allowances

13. The allowance for personal expenses for the claimant and each member of his family referred to in paragraph 1(1)(b) shall be—

- (a) for the claimant £9.55; and, if he has a partner, for his partner, £9.55;
- (b) for a young person aged 18, £9.55;
- (c) for a young person aged under 18 but over 16, £6.20;
- (d) for a child aged under 16 but over 11, £5.30;
- (e) for a child aged under 11, £3.45.

PART II

persons to whom regulation 19 does not apply

14. A claimant and his family whose accommodation and meals (if any) are provided in whole or in part by a close relative of any member of the family or other than on a commercial basis.

15. A person who is on holiday and during a period which has not continued for more than 13 weeks is absent from his home or from a hospital or similar institution in which he is normally a patient.

16. A person who has entered a residential care or nursing home for the purpose of receiving an amount of income support to which he would not otherwise be entitled.

17. A person aged 16 or over but under 19 who is in the care of a local authority under a relevant enactment except someone who is personally liable to pay the cost of his accommodation and maintenance direct to someone other than a local authority.

(9) S.I. 1983/1399.