
STATUTORY INSTRUMENTS

1999 No. 991

**The Social Security and Child Support
(Decisions and Appeals) Regulations 1999**

PART III

SUSPENSION, TERMINATION AND OTHER MATTERS

CHAPTER I

SUSPENSION AND TERMINATION

Suspension in prescribed cases

16.—(1) Subject to paragraph (2), the Secretary of State may suspend payment of a relevant benefit, in whole or in part, in the circumstances prescribed in paragraph (3).

(2) The Secretary of State shall suspend payment of a jobseeker's allowance in the circumstances prescribed in paragraph (3)(a)(i) or (ii) where the issue or one of the issues is whether a person, who has claimed a jobseeker's allowance, is or was available for employment or whether he is or was actively seeking employment.

(3) The prescribed circumstances are that—

(a) it appears to the Secretary of State that—

- (i) an issue arises whether the conditions for entitlement to a relevant benefit are or were fulfilled;
- (ii) an issue arises whether a decision as to an award of a relevant benefit should be revised under section 9 or superseded under section 10;
- (iii) an issue arises whether any amount paid or payable to a person by way of, or in connection with a claim for, a relevant benefit is recoverable under section 71 (overpayments), 71A (recovery of jobseeker's allowance: severe hardship cases⁽¹⁾) or 74 (income support and other payments) of the Administration Act or regulations made under any of those sections; or
- (iv) the last address notified to him of a person who is in receipt of a relevant benefit is not the address at which that person is residing; or

(b) an appeal is pending against—

- (i) a decision of an appeal tribunal, a Commissioner or a court;
- (ii) a decision given in a different case by a Commissioner or a court, and it appears to the Secretary of State that, if the appeal were to be determined in a particular way, an issue would arise as to whether the award of a relevant benefit (whether the same benefit or not) in the case itself ought to be revised or superseded.

(1) Section 71A was inserted by section 18 of the Jobseekers Act 1995 (c. 18).

(4) For the purposes of section 21(3)(c) an appeal is pending where the Secretary of State certifies in writing that he proposes—

- (a) to make a request under regulation 53(4) for a statement of reasons for a decision of an appeal tribunal;
- (b) to bring an appeal against the decision; or
- (c) to bring an appeal against a decision in a different case and, if that appeal were to be allowed, an issue would arise as to whether the award of a relevant benefit (whether the same benefit or not) in the case itself ought to be revised or superseded.

Provision of information or evidence

17.—(1) This regulation applies where the Secretary of State requires information or evidence for a determination whether a decision awarding a relevant benefit should be—

- (a) revised under section 9; or
- (b) superseded under section 10.

(2) For the purposes of paragraph (1), the following persons must satisfy the requirements of paragraph (4)—

- (a) a person in respect of whom payment of a benefit has been suspended in the circumstances prescribed in regulation 16(3)(a);
- (b) a person who has made an application for a decision of the Secretary of State to be revised or superseded;
- (c) a person who fails to comply with the provisions of regulation 32(1) of the Claims and Payments Regulations in so far as they relate to documents, information or facts required by the Secretary of State;
- (d) a person who qualifies for income support by virtue of paragraph 7 of Schedule 1B to the Income Support Regulations(2);
- (e) a person whose entitlement to benefit is conditional upon his being, or being treated as, incapable of work.

(3) The Secretary of State shall notify any person to whom paragraph (2) refers of the requirements of this regulation.

(4) A person to whom paragraph (2) refers must either—

- (a) supply the information or evidence within—
 - (i) a period of one month beginning with the date on which the notification under paragraph (3) was sent to him; or
 - (ii) such longer period as he satisfies the Secretary of State is necessary in order to enable him to comply with the requirement; or
- (b) satisfy the Secretary of State within the period of time specified in sub-paragraph (a)(i) that either—
 - (i) the information or evidence required of him does not exist; or
 - (ii) that it is not possible for him to obtain it.

(5) The Secretary of State may suspend the payment of a relevant benefit, in whole or in part, to any person to whom paragraph (2)(b) to (e) applies who fails to satisfy the requirements of paragraph (4).

(2) Schedule 1B was inserted by S.I.1996/206.

(6) In this regulation, “evidence” includes evidence which a person is required to provide in accordance with regulation 2 of the Social Security (Medical Evidence) Regulations 1976(3).

Termination in cases of failure to furnish information or evidence

18.—(1) Subject to paragraphs (2), (3) and (4), the Secretary of State shall decide that where a person—

- (a) whose benefit has been suspended in accordance with regulation 16 and who subsequently fails to comply with an information requirement made in pursuance of regulation 17; or
- (b) whose benefit has been suspended in accordance with regulation 17(5),

that person shall cease to be entitled to that benefit from the date on which payment was suspended except where entitlement to benefit ceases on an earlier date other than under this regulation.

(2) Paragraph (1)(a) shall not apply where not more than one month has elapsed since the information requirement was made in pursuance of regulation 17.

(3) Paragraph (1)(b) shall not apply where not more than one month has elapsed since the first payment was suspended in accordance with regulation 17.

(4) Paragraph (1) shall not apply where benefit has been suspended in part under regulation 16 or, as the case may be, regulation 17.

Suspension and termination for failure to submit to medical examination

19.—(1) Except where regulation 8 of the Social Security (Incapacity for Work) (General) Regulations 1995(4) applies (where a question arises as to whether a person is capable of work), the Secretary of State may require a person to submit to a medical examination by a medical practitioner where that person is in receipt of a relevant benefit, and either—

- (a) the Secretary of State considers it necessary to satisfy himself as to the correctness of the award of the benefit, or of the rate at which it was awarded; or
- (b) that person applies for a revision or supersession of the award and the Secretary of State considers that the examination is necessary for the purpose of making his decision.

(2) The Secretary of State may suspend payment of a relevant benefit in whole or in part, to a person who fails, without good cause, on two consecutive occasions to submit to a medical examination in accordance with requirements under paragraph (1) except where entitlement to benefit is suspended on an earlier date other than under this regulation.

(3) Subject to paragraph (4), the Secretary of State may determine that the entitlement to a relevant benefit of a person, in respect of whom payment of such a benefit has been suspended under paragraph (2), shall cease from a date not earlier than the date on which payment was suspended except where entitlement to benefit ceases on an earlier date other than under this regulation.

(4) Paragraph (3) shall not apply where not more than one month has elapsed since the first payment was suspended under paragraph (2).

Making of payments which have been suspended

20.—(1) Subject to paragraphs (2) and (3), payment of a benefit suspended in accordance with regulation 16 shall be made where—

- (a) in a case to which regulation 16(2) or (3)(a)(i) to (iii) applies, the Secretary of State is satisfied that the benefit suspended is properly payable and no outstanding issues remain to be resolved;

(3) S.I. 1976/615; relevant amending instruments are S.I. 1982/699, 1992/247 and 1994/2975.

(4) S.I. 1995/311.

- (b) in a case to which regulation 16(3)(a)(iv) applies, the Secretary of State is satisfied that he has been notified of the address at which the person is residing;
- (c) in a case to which regulation 16(3)(b) applies, an appeal is no longer pending and the benefit suspended remains payable following the determination of the appeal.

(2) Where regulation 16(4)(a) applies, payment of a benefit suspended shall be made if, within one month of the date on which he received a copy of the tribunal's decision, the Secretary of State has not notified the claimant in writing that he has requested, pursuant to regulation 53(4), a statement of the reasons for the decision.

(3) Where regulation 16(4)(b) or (c) applies, payment of a benefit suspended shall be made if the Secretary of State fails to notify the claimant in writing, within one month of the date on which the Secretary of State receives the reasons in writing for the decision on appeal which was pending for the purposes of regulation 16(3)(b), that an appeal or, as the case may be, an application for leave to appeal has been made against the decision.

(4) Payment of benefit which has been suspended in accordance with regulation 19 for failure to submit to a medical examination shall be made where the Secretary of State is satisfied that it is no longer necessary for the person referred to in that regulation to submit to a medical examination.

CHAPTER II OTHER MATTERS

Decisions involving issues that arise on appeal in other cases

21.—(1) For the purposes of section 25(3)(b) (prescribed cases and circumstances in which a decision may be made on a prescribed basis) a case which satisfies the condition in paragraph (2) is a prescribed case.

(2) The condition is that the claimant would be entitled to the benefit to which the decision which falls to be made relates, even if the appeal in the other case referred to in section 25(1)(b) were decided in a way which is the most unfavourable to him.

(3) For the purposes of section 25(3)(b), the prescribed basis on which the Secretary of State may make the decision is as if—

- (a) the appeal in the other case which is referred to in section 25(1)(b) had already been determined; and
- (b) that appeal had been decided in a way which is the most unfavourable to the claimant.

(4) The circumstance prescribed under section 25(5)(c), where an appeal is pending against a decision for the purposes of that section, even though an appeal against the decision has not been brought (or, as the case may be, an application for leave to appeal against the decision has not been made) but the time for doing so has not yet expired, is where the Secretary of State—

- (a) certifies in writing that he is considering appealing against that decision; and
- (b) considers that, if such an appeal were to be determined in a particular way—
 - (i) there would be no entitlement to benefit in a case to which section 25(1)(a) refers; or
 - (ii) the appeal would affect the decision in that case in some other way.

Appeals involving issues that arise in other cases

22. The circumstance prescribed under section 26(6)(c), where an appeal is pending against a decision in the case described in section 26(1)(b) even though an appeal against the decision has not been brought (or, as the case may be, an application for leave to appeal against the decision has not been made) but the time for doing so has not yet expired, is where the Secretary of State—

- (a) certifies in writing that he is considering appealing against that decision; and
- (b) considers that, if such an appeal were already determined, it would affect the determination of the appeal described in section 26(1)(a).

Child support decisions involving issues that arise on appeal in other cases

23.—(1) For the purposes of section 28ZA(2)(b) of the Child Support Act⁽⁵⁾ (prescribed cases and circumstances in which a decision may be made on a prescribed basis), a case which satisfies either of the conditions in paragraph (2) is a prescribed case.

(2) The conditions referred to in paragraph (1) are that—

- (a) if a decision were not made on the basis prescribed in paragraph (3), the parent with care would become entitled to income support if a claim were made, or to an increased amount of that benefit;
- (b) the absent parent is an employed earner or a self-employed earner.

(3) For the purposes of section 28ZA(2)(b) of the Child Support Act, the prescribed basis on which the Secretary of State may make the decision is as if—

- (a) the appeal in relation to the different maintenance assessment, which is referred to in section 28ZA(1)(b) of that Act had already been determined; and
- (b) that appeal had been decided in a way that was the most unfavourable to the applicant for the decision mentioned in section 28ZA(1)(a) of that Act.

(4) The circumstances prescribed under section 28ZA(4)(c) of the Child Support Act (where an appeal is pending against a decision for the purposes of that section, even though an appeal against the decision has not been brought or, as the case may be, an application for leave to appeal against the decision has not been made but the time for doing so has not expired), are that the Secretary of State—

- (a) certifies in writing that he is considering appealing against that decision; and
- (b) he considers that, if such an appeal were to be determined in a particular way—
 - (i) there would be no liability for child support maintenance, or
 - (ii) such liability would be less than would be the case were an appeal not made.

(5) In this regulation—

“absent parent” and “parent with care” have the same meaning as in section 54 of the Child Support Act;

“employed earner” and “self-employed earner” have the same meaning as in section 2(1) of the Contributions and Benefits Act.

Child support appeals involving issues that arise in other cases

24. The circumstances prescribed under section 28ZB(6)(c) of the Child Support Act⁽⁶⁾, where an appeal is pending against a decision in the case described in section 28ZB(1)(b) even though an appeal against the decision has not been brought (or, as the case may be, an application for leave to appeal against the decision has not been made), is where the Secretary of State—

- (a) certifies in writing that he is considering appealing against that decision, and
- (b) considers that, if such an appeal were already determined, it would affect the determination of the appeal described in section 28ZB(1)(a).

(5) Section 28ZA was inserted by section 43 of the Social Security Act 1998.

(6) Section 28ZB was inserted by section 43 of the Social Security Act 1998.

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