

SCoSS Call for Evidence: Disability benefits: draft Suspension of Assistance (Social Security) (Scotland) Regulations

Citizens Advice Scotland Response – July 2021

CAS supports in principle Scottish Ministers having the ability to suspend payment of disability assistance in certain prescribed circumstances, particularly when it would prevent a claim being closed altogether. CAS welcome the safeguards introduced and have one recommendation as to how safeguarding could be improved.

The absence provision to suspend can create particular difficulties for children whose parents separate, for example due to domestic violence, and the parent in receipt of the benefit is not the parent who has custody of the child. However, CAS hope this power will only be used in limited circumstances. CAS welcome that entitlement will be maintained in suspension cases prescribed.

Stays in residential care or residential schools

CAS welcomed changes that were previously made to ensure that children in hospital would be able to have their payments suspended rather than their entitlement end. At present it is not clear why Scottish Ministers are not seeking the power to suspend the payments of children's disability assistance for stays in residential care or residential schools.

We are somewhat surprised that Scottish Ministers have not sought the power to suspend payments of children's disability assistance for stays in residential care or residential schools. This will mean that claims solely for the care component will end whilst the child is in care, or away at school, and a new claim will have to be made when they return to live with their parents/guardians. This could be avoided if instead there was a power to suspend payment in such cases. Part 5 of the Disability Assistance for Children and Young People (Scotland) Regulations 2021 provides for a £0 value payment of the care component, in regards to admission to a care home (including residential care and residential schools). However, it's not clear that this would operate in the same way as a suspension of payment, or whether children and young people in residential care or residential schools would still risk having their entitlement ended.

The Commission may wish to seek clarification why Ministers have not sought the power to suspend in such circumstances and/or if it is envisaged that existing regulations would achieve the same effect. .

Access to advocacy and support during suspension

Whenever a person's payment is suspended guidance should be produced that requires the person to be notified of their right to independent advocacy with signposting to the appropriate provider.

However, where a disabled person has learning difficulties, mental health issues or sensory/communication impairments and might have difficulty in understanding their payment has been suspended there should be additional safeguards. CAS support the suggestion of Inclusion Scotland that in these cases, guidance should also be developed

around simultaneously alerting advocacy services previously used by disabled people when a claim is suspended. We note the possible confidentiality issues that may arise but believe these could be addressed through various measures, and this additional safeguard could help prevent the potential indefinite suspension of payments to vulnerable people.