

Collette Stevenson MSP
Convener, Social Justice and Social Security Committee

21 March 2024

Dear Convener,

Thanks again for the opportunity to give evidence on the Social Security (Amendment) (Scotland) Bill on 7 March. At the meeting I offered to write to the Committee and give further details of the point raised by Richard Gass about the status of short-term assistance as a 'passporting benefit'. As Richard said, this does not relate to provisions in the Bill itself. Apologies for the delay in writing to you.

The difficulty is that for a carer to be eligible for carer support payment, carer's allowance, a young carer grant or the carer element of universal credit ('carers' benefits' below) the relevant component of a disability benefit must be 'normally payable' to the cared for person. Entitlement to a disability benefit is not sufficient unless the correct component is paid for the period. This applies equally to child disability payment (CDP) and adult disability payment. I use the example of CDP below, referring to the Schedule to the CDP regulations ([SSI 2021 No.174](#)) unless otherwise stated.

For example, a child has an award of CDP middle rate care component, with no mobility component. That award is later removed entirely following a scheduled review, as the decision maker feels that the child's care needs have decreased since the previous determination. Any carers' benefits (for example an award of carer support payment to the child's parent) would stop at that point, as no qualifying disability benefit would be in payment.

If the determination was challenged, short-term assistance could be paid for the period that determination was 'under review' if the individual applied for it (para 1(1)(b)). The short-term assistance would be paid at the same rate as the previous CDP award (para 2(1)). However, if a redetermination or appeal tribunal decision eventually reinstated the middle rate care component, CDP would not be payable in respect of the period for which short-term assistance had already been paid, due to the wording of para 4(a):

'4. Where an individual has received short-term assistance for a period and a determination is subsequently made that the individual is entitled to Child Disability Payment for the same period, any payment of Child Disability Payment to be made as a result of the subsequent determination for that period—

(a) where the individual is to be paid Child Disability Payment at the same rate as or a lower rate than any short-term assistance and any Child Disability Payment already paid to that individual for that period, is to be reduced to £0

(b) [not relevant]'

It seems to follow that carers' benefits could not be paid for the same period. For example, reg 5(1) of the carer support payment regulations ([SSI 2023 No. 302](#)) provides that it 'may only be paid to an individual in respect of a period during which that individual provides regular and substantial care to a person to whom a qualifying

disability benefit is normally payable'. Short-term assistance is not one of the qualifying disability benefits (as defined in reg 2 of SSI 2023 No.302).

Had the child in the case study above not received short-term assistance during the period the determination was under review, then CDP payments would be reinstated and any of the carers' benefits could later be paid in respect of that period. This appears to leave some carers worse off due to the cared-for person having claimed short-term assistance. This issue is explored at greater length in a blog on our website, which can be accessed at [this link](#).

CPAG first raised this issue with Scottish government officials in late 2021. At that point we put warnings in our publications that people considering claiming short-term assistance should get advice about the potential impact on carers' benefits of doing so. Although we hear informally from officials that the issue is resolved, there has been no change in the law. We have not yet been able to get written confirmation that getting short-term assistance does not have the impact on carers' benefits described above in practice.

We have no desire to discourage individuals from taking up short-term assistance where it is in their interest to do so, of course. But we have decided that we need to keep giving the warnings I have mentioned until we can be confident that claiming short-term assistance will not have an adverse impact on carers' benefits.

I hope that this is helpful. Please feel free to get back in touch if it would be helpful for us to provide any further details.

Yours sincerely,

Jon Shaw

Welfare Rights Adviser

CPAG in Scotland