

Commissioner's Advice to Inspectors

Direction 7 – CLs for Living Expenses

This advice covers applications made on or after 4 July 2011 for crisis loans for living expenses only. Separate Commissioner's Advice deals with applications made for grants and crisis loans for items.

The Secretary of State directs that:

Direction 7

(1) A decision maker shall not determine an application in the circumstances set out in this direction.

(2) Where the application is for a crisis loan for living expenses in respect of a period for which such a payment has already been awarded to the applicant or his partner, the decision maker shall not determine the application unless satisfied that it is to meet living expenses:

(a) as a consequence of a disaster which has occurred since the previous award; or

(b) in an emergency which –

(i) has arisen since the previous award,

(ii) is not a consequence of an act or omission for which the applicant or partner is responsible, and

(iii) the applicant or partner could not have taken reasonable steps to avoid.

(3) a decision maker shall not determine any other crisis loan application, or a grant application, made within 12 months of a previous application by the same person for the same expenses for which a payment has already been awarded or refused unless there has been a relevant change of circumstances.

Direction 7(2) - cases where an award for living expenses was made on the previous application

Direction 7(2) only applies where a repeat application is made for living expenses and a payment for the same period has already been made to the applicant or partner. In cases where a payment was *not* made the normal rules as set out in direction 7(3) will apply (see below).

Direction 7(2) provides for a more restrictive approach in certain circumstances unless specified exceptions apply. These exceptions are where the application is to meet living expenses:

- (a) as a consequence of a disaster which has occurred since the previous award; or
- (b) in an emergency which –
 - (i) has arisen since the previous award,
 - (ii) is not a consequence of an act or omission for which the applicant or partner is responsible, and
 - (iii) the applicant or partner could not have taken reasonable steps to avoid.

Direction 7(2)(a) falls for consideration only where an application is made for living expenses *as a consequence of a disaster* which has occurred since the previous award was made. Such cases are likely to be rare. With regard to Direction 7(2)(b) each element of the direction must be met for the exception to apply. The key points to consider are:

- The emergency must have arisen since the previous award;
- The emergency must not be a consequence of an act or omission for which the applicant or partner is responsible, so mis-spending a crisis loan award, or spending the award more quickly than intended, may often fail to satisfy this requirement;
- The applicant or partner could not have taken reasonable steps to avoid the emergency – considerations here will include whether reasonable care has been taken of the crisis loan award, or of their wider circumstances, to avoid an emergency. If someone has been careless with their money or other circumstances the requirement may not be satisfied.

In making the relevant judgements, the Secretary of State suggests decision makers should take account of mental illness or incapacity (and when a couple is involved consideration should also be given to any reasonable steps a partner without mental illness or incapacity could have taken). These are undoubtedly important considerations, and there are likely to be other relevant factors for consideration, to help reach a sound conclusion on

the issues of 'responsibility' for any emergency and whether the applicant or partner could have taken reasonable steps to avoid it.

For example, in cases where someone applies for a further crisis loan because their money has not lasted for the intended period, it is important to look beyond the 'act' of spending the money. Other relevant considerations could include the reasons why the applicant felt they had to spend their money; for example, to respond to a fresh emergency outside of their control. The circumstances in a particular case may lead the decision maker to conclude that the only reasonable course of action was for the applicant to use their income in the way described, the emergency giving rise to this was outside of their control, and that because of this the exception to direction 7 applies.

There may also be cases where the appropriateness and adequacy of the previous crisis loan award is relevant. For example, where someone requested a very low amount of money and the decision maker paid the amount requested and assigned a period to the award, even though the applicant could have had a much higher payment, and the applicant runs out of money before his next income. Again, in this scenario the exception may apply to any further crisis loan application covering the same period, and a further award may be the right outcome.

Direction 7(3) - cases where an award for living expenses was not made on the previous application

Where a previous application for living expenses was made within 12 months of the current application, and an award was *not* made on the previous application, direction 7(3) will apply in the normal way.

Separate Commissioner's Advice (Direction 7- Previous Applications (CCGs and CLs for items) and Direction 7- Relevant Change (CCGs and CLs for items)) sets out the general principles to be considered.

However, the following considerations are likely to be relevant in living expenses applications, and so should be borne in mind:

Same expenses

Where two applications for living expenses for the same purpose cover overlapping periods of time, the expenses required for the period of the overlap may be regarded as "the same".

Relevant change

Where an application for living expenses for a specific period is refused, a further application can sometimes follow covering part of the first period. In considering whether there has been a relevant change in circumstances between the dates of the two applications it will be important to bear in mind the possibility that the applicant's needs may have become more acute. This is because circumstances in such cases can move and change very quickly.

The Support Notes contain five case examples which help to illustrate the principles outlined in this Advice.

Effective from 02/11/11

Agreed at Quality Forum 01/11/11