

Commissioner's Advice to Inspectors

Direction 7: Same item or service

The Secretary of State directs that:

A decision maker shall not determine an application for a crisis loan or grant from the social fund made within 26 weeks of a previous application for a crisis loan or grant for the same item or service for which a payment has already been awarded or refused unless there has been a relevant change in the applicant's circumstances.

This Advice deals with what is meant by the phrase "for the same item or service..."

1. General approach

The question of whether two requests are essentially for the same item or service is best dealt with in the context of whether they fulfil the same need. For two items to be considered "the same", they do not have to be the same colour or the same make, but they do have to fulfil the same need. This approach is based on the wording of the empowering provision in section 140(4)(a) of the Act¹, which refers to the "same need". Direction 7 should be interpreted within the framework of this primary legislation.

2. Same item for a different need

The above Advice means that where the same item (e.g. a bed) is required for a different need (e.g. for a different member of the family), Direction 7 does not apply.

3. The scope of the Direction 7 bar

Most crisis loan and grant applications include requests for several items. The applicant may have made previous applications for some of these items but not others. In such situations, the Direction 7 bar applies only to those items which meet all the tests of the direction. The Inspector should proceed with the full decision-making process for the other items.

4. The burden of proof

If an Inspector considers that a particular item or service is the same as one requested on a previous application, it is for him to show, on the balance of probabilities, that this is the case. Note that the direction specifies that the item or service must be "the same", not just "similar".

5. General and specific items

This Advice on the burden of proof means that where an applicant asks first for a general item (e.g. bedding) and then for specific items (e.g. sheets, pillows, pillow cases), it cannot be assumed that the items are the same. Inspectors should not infer that the items are the same without firm evidence.

¹ *Social Security Contributions and Benefits Act 1992*

6. Number of items

Where an applicant requests a larger number of items on his second application than on his initial application, the “extra” items are not caught by Direction 7. It cannot be concluded that these additional items are “the same” as the ones requested previously.

7. Living or travelling expenses: overlapping periods of time

Where two applications for living or travelling expenses cover overlapping periods of time, the expenses required for the period of the overlap may be regarded as “the same”.