

Support Notes on Commissioner's Advice

Direction 7: Same expense (CCGs and CLs for items)

Introductory note - the nature of Direction 7.

It is important to remember that Direction 7 is an essentially procedural measure and should be interpreted narrowly. The questions it poses are technical in nature and are not related to the merits of the case. Inspectors should not allow their views on the merits of the case to sway their judgment one way or the other.

1. General approach

No support notes.

2. Same item for a different need

No support notes.

3. The scope of the Direction 7 bar

Example: Mr W applies for a cooker. He is refused a payment. Two weeks later he makes a new application for a cooker and cooking utensils. There has been no relevant change in circumstances. Direction 7 applies to the cooker, but not to the cooking utensils. The priority of the cooking utensils may, however, be affected by the fact that no cooker has been awarded. It may be appropriate to advise the applicant to request a review of his initial application.

4. The burden of proof

Requesting papers

The burden of proof is on the Inspector to show that Direction 7 applies, not on the applicant to prove otherwise.

Direction 7 is likely to be a crucial issue in cases where the RO's decision has been entirely, or almost entirely, based on Direction 7, and where papers relating to the previous application have been provided. In such cases the Inspector may need to address this in telephone enquiries or in a letter. However, where Direction 7 has been raised by the RO via telephone or written contact, but

where the papers relating to the previous application have not been provided, it will not generally be necessary to obtain them. In such cases, as far as consideration of Direction 7 is relevant, it will be appropriate for the Inspector to proceed with the review on the basis of the information held.

However, it is important to bear in mind that even where the Direction 7 papers have not been provided, if an award was made on the earlier application for items currently requested, the Inspector will need to consider how this might impact on the current application. In such cases further enquiries are likely to be necessary.

5. General and specific items

In most cases, where the applicant uses different words to describe what he wants, it will not be possible to conclude that the two requests are for the same item.

Example: Application 1 is for "bedding". Application 2 is for "sheets, pillow cases, and duvet". In the absence of any other evidence, it is probably safer to consider Application 2 on the basis that you are unable to conclude from the facts that it is the same expense.

However there may be some cases where it is reasonable to infer from the evidence that the items are the same.

Example: Application 1 is for "bedding for Jane". Application 2 is for "sheets, pillow cases and duvet for Jane". The amount requested on the first application was £40. The total amount for all the items of bedding requested on the second application was also £40. It may be reasonable in these circumstances, given that the same amounts are being requested and the request is for the same member of the family, to infer that both applications are for the same expense. Direction 7 could apply.

6. Number of items

Example: At the start of December Miss P applies for two shirts, a pair of trousers and a coat. She is refused a payment. Towards the end of February she applies again, this time for four shirts, two pairs of trousers and a coat. There has been no relevant change in circumstances. Direction 7 applies to two of the shirts, one pair of trousers and the coat. This leaves two shirts and one pair of trousers which can be considered for a payment.

7. Travelling expenses: overlapping periods of time

Example: Application 1 is for travelling expenses to visit a sick relative for the period 1 January to 31 March. Application 2 is for the expenses of visiting the same sick relative for the period 1 March to 30 April. Direction 7 may apply to the period 1 March to 31 March. It will not apply to the period 1 April to 30 April.

Effective from 02/11/11

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