

Commissioner's Advice to Inspectors

Daily Living Expenses (CCGs)

Direction 29 - Exclusions

The Secretary of State directs that

A community care grant may not be awarded in respect of any expenses which are excluded by direction 23(1)(a)(i)-(xiii) nor in respect of.....

- (f) any daily living expenses such as food and groceries, except:
- (i) where such expenses are incurred in caring for a prisoner or young offender on release on temporary licence under rule 9 of the Prison Rules 1999 or, in Scotland, on temporary release under Part XIV of the Prisons and Young Offenders Institutions (Scotland) Rules 1994; or
 - (ii) where a crisis loan cannot be awarded for such expenses because the maximum amount referred to in direction 18 has already been reached.

Direction 29(f) prevents community care grants being paid for any daily living expenses such as food and groceries other than for the two exceptions shown above. This Advice looks at what is meant by "daily living expenses such as food and groceries".

General principles for interpreting exclusions

The principles set out more fully in the Commissioner's Advice on the Interpretation of Exclusions apply here:

- The directions should be interpreted in a common sense manner so as to give effect to their obvious intent, but this does not extend to a departure from the ordinary meaning of language.
- Exclusions should be interpreted **narrowly**. Where there is real ambiguity and more than one possible interpretation applies, the narrowest interpretation should be adopted.
- The burden of proof is on the decision maker to show that an exclusion applies, and on the applicant to show that an exception to the exclusion applies.

The two stage test

Deciding whether or not an expense falls to be excluded under direction 29(f) requires a two stage test:

- Are the expenses in question daily living expenses?
- If so, are they expenses such as food and groceries?

The meaning of “daily living expenses”

Although the direction specifies *daily* living expenses this does not mean that the items or needs in question must be purchased *every* day of the week. Food is a daily living expense but is not necessarily purchased every day. As a general rule an expense can be deemed to be a daily living expense if it is “*a regular part of a person’s living expenses, and has been so over a period of time that is neither transitory, nor occasional, and constitutes an identifiable part of a person’s lifestyle*”.

The meaning of “expenses such as food and groceries”

The very use of the words “such as” in Direction 29(f) indicates that the concept of food and groceries is meant to be exemplary rather than exhaustive. This means that other expenses could come under the daily living expenses umbrella. That said, it must be borne in mind that the use of the words “such as” also means that there must be a generic connection between the expenses in question and that of food and groceries. It follows that Direction 29(f) is directed towards the same kind of expenses as those occasioned by the need to purchase food and groceries. In line with the principle of adopting a narrow interpretation of exclusions, an appropriate interpretation would be: “*items purchased as part of a regular shop and which are generally needed to maintain everyday life requirements*”.

Toiletries and cleaning materials

Toiletries and cleaning materials form a regular part of a person’s living expenses over a period of time that is neither transitory, nor occasional, and constitute an identifiable part of a person’s lifestyle. They are also purchased as part of a regular shop and are generally needed to maintain everyday life requirements. As such they are daily living expenses such as food and groceries.

Travel expenses

Travel expenses will be outside the scope of Direction 29(f). Clearly, “one-off” journeys would not be caught by the Direction as such journeys would not be a regular part of a person’s living expenses that constitute an identifiable part of that person’s lifestyle over a period of time. Some *regular* travel expenses would come within the meaning of “daily living expenses”. This might include, for example, travel on a regular or daily basis over a long period to visit and provide care for a sick relative. Or, a person may travel every week to the local supermarket for groceries. However, these would not meet the second stage of the test – they are not items purchased as part of a regular shop and are not generally needed to maintain everyday life requirements.

Fuel consumption and rent

Fuel consumption and rent are further examples of expenses that fall within the first part of the test but not the second. These are in any case excluded by Directions 29(c) and 29(d) respectively. If the term “such as food and groceries” was intended to encompass expenses such as fuel consumption and rent there would be no need for these to be expressly excluded in a different part of the same direction.