

Independent Review Service

October 2000 Issue 13

The Digest of Decisions

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INVESTOR IN PEOPLE

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Independent Review Service
for the Social Fund

Introduction

October 2000 Issue 13

The cases in this edition of the Digest reflect several topical issues, some of which are addressed in the IRS Journal. These concern travelling expenses, mental health, prisoners and asylum seekers. The majority of these issues were ones mentioned in the feedback readers have given in response to our recent questionnaire. Thank you again for your comments and continuing feedback. Our external editorial board for the Digest have also provided helpful suggestions about topical issues which would benefit from inclusion in the Digest.

We believe that the issues covered in this edition reflect current topics concerning our customers. These are issues which often need close scrutiny of the evidence and a sensitive approach to decision-making. The aim of our examples is to emphasise the need for each case to be considered carefully on its individual facts.

Further suggestions or comments about the Digest can be sent to Jackie Hannaford at the IRS address. Readers of the Digest are encouraged to circulate and reproduce copies to allow a wider circulation.

NB. Case 12.10 in the last edition of the Digest contains an error in the Comment section. It refers to Sections 66(3) and (5) of the Social Security Administration Act 1992, rather than Sections 38(3) and (5) of the Social Security Act 1998. We apologise for this error. The rest of the comments in that case example remain accurate.

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Travelling expenses - Direction 4(a) and (b) - Ongoing need

Application Details

Mr B applied for a community care grant (CCG) on 30 March 2000 for travelling expenses to enable him to visit his son.

Mr B's relationship with his partner, Miss E, had broken down in March 1998, when their son was two years old. Since then Mr B had continued to see his son on a monthly basis. Mr B and Miss E had signed a Parental Responsibility Agreement which had been registered at the Family Division. The agreed arrangements between the parties were that Mr B should have contact on a regular monthly basis including weekend contact. Mr B was now on income based Jobseeker's Allowance (JSA), and had built up debts to pay for his fares to visit his son. He would not be able to afford more visits from his benefit.

The Benefits Agency's Decision

The Reviewing Officer (RO) decided that Mr B did not qualify for a CCG under Direction 4(b). In particular, he did not satisfy the conditions of Direction 4(b)(iv) as there was no court decision pending. There was no reference to any part of Direction 4(a) in the RO's decision.

The Social Fund Inspector's Decision


The Social Fund Inspector (SFI) agreed that no part of Direction 4(b) was met. However, Mr B could not afford the costs of the visits any more. The SFI considered that a child of four losing visiting contact with his father was likely to cause exceptional pressures on them both. He found Direction 4(a)(iii) satisfied, on the facts of this case, and went on to award a CCG for monthly visits over a six month period.

Comment

Direction 4(b) sets out certain specific categories of travelling expenses which qualify for a CCG, whether or not any part of Direction 4(a) is met. However, Direction 4(a) also specifically includes expenses of travel within the United Kingdom. Therefore, an application for travelling expenses may, depending on the circumstances, come under Direction 4(b) only, Direction 4(a) only or both Direction 4(a) and Direction 4(b).

In this case, Mr B's application was not for any of the specific reasons given in Direction 4(b). It could not come under Direction 4(b)(iv) because, although he was visiting a child with the other parent, there was no court decision pending. This is quite a common situation with separated parents, where there is either agreement about residence and contact, or this has already been determined by the court. The purpose of Direction 4(b)(iv) is to "ensure that neither parent is seen by the court to be in a less advantageous position simply because he or she cannot afford the fares" (SFG[2.99] para 3230). A CCG cannot be awarded under this provision once the issue has been decided.

However, in this case there was shared parental responsibility and a pattern of contact established over a prolonged period of time. Ending this regular arrangement would have serious implications for both Mr B and his son in terms of exceptional pressure. Other arrangements, such as telephone contact, would not be a suitable alternative in the particular circumstances of this case. For other examples of shared parenting and Direction 4(a)(iii) see cases 12.4, 12.5 and 12.6 in the last issue of the Digest.

It is, of course, quite likely that Mr B would make another application at the end of the six months if he were still on benefit. If so, such an application would have to be decided on the circumstances at that time. Just because a CCG was paid on this application, it does not mean that one would automatically be paid every time. This applies to all applications. However, it would be good practice for this to be made clear to the applicant when making awards for obviously ongoing needs. 

Travelling expenses - Direction 4(b)(i) - Qualification and priority

Application Details

Mr P applied on 18 April 2000 for a community care grant (CCG) for train fares to enable himself and his wife to visit their granddaughters.

Mr P was 61 and received Income Support. He and his wife lived in Scotland. Their granddaughters, twin 12 year olds, lived in London with their father. Mr P had not seen his granddaughters since their mother (Mr P's daughter) had died in 1999, due to the distance and cost involved. They were close and kept in touch by telephone. One of the granddaughters was severely disabled with blindness, cerebral palsy and spina bifida. She was born with these conditions.

Mr P had a back condition for which he took painkillers and had recently started using inhalers due to breathlessness. He emphasised the importance himself and his wife placed on family relationships, especially following their daughter's death.

The Benefits Agency's Decision

The Decision Maker (DM) and Reviewing Officer (RO) decided that Mr P did not qualify for a CCG under Direction 4. In relation to Direction 4(b)(i) the DM said that as Mr P's granddaughter had always had health conditions, she had not become ill. The RO said that as Mr P's granddaughters lived in their own home the tests for a grant were not satisfied.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) found that the RO's decision had not been reached correctly. He pointed out that Direction 4(b)(i) provides for travelling expenses to visit someone who is ill. It does not specify where the person visited must live. They can be living within their own home. The SFI referred to the Secretary of State's guidance which says that grants can be made for visits to people who are not in hospital or residential care. The SFI went on to emphasise that being ill means being in poor health, rather than the process of becoming ill. Although Mr P's grandchild had health conditions for a long time - and presumably would continue to have them - she could still reasonably be described as being 'ill' within the meaning of Direction 4(b)(i).

The SFI went on to decide that Direction 4(b)(i) was met and that Mr P's need for travelling expenses had enough priority for a grant award in the present circumstances.

Comment

Direction 4(b)(i) is written in very general terms - "to visit someone who is ill". There is no stipulation in this qualifying direction as to the relationship of the person visited, or the severity and nature of their illness, as explained in the SFI's decision. This contrasts with Direction 4(b)(ii) where the reference is to a relative's funeral.

The only general requirement in Direction 4 is that an award for expenses of travel should promote community care. Therefore, qualification under Direction 4(b)(i) is fairly straightforward. The issue in such cases is, then, usually that of priority. It is at this point that a closer examination of the circumstances is required. Relevant factors should also include the importance of the visits for the people involved.

The Secretary of State's guidance gives a number of examples where an award might be made (SFG [2.99] paras 3150 - 3170). However, these cannot be exhaustive. There will be other situations where an award would be appropriate, as in Mr P's case. A high level of discretion and sensitivity is required when deciding on the appropriate level of priority in such cases.

See also cases 13.3 and 13.4 for other issues relating to priority of travelling expenses. 

**Travelling expenses -
Priority - Home savings****Application Details**

Mr T applied for a community care grant (CCG) on 11 April 2000 for £26 travelling expenses to and from hospital for himself and his wife.

Mr T's 15 year old daughter had had a baby. She was in hospital for three full days. She had been admitted on 28 March, had her baby son on 29 March and both were discharged 1 April. She had had an epidural, but it had gone wrong. She was frightened and anxious, so her parents ensured that one of them was with her all the time. Her mother was there most of the time, and stayed overnight. This meant that there were 10 separate visits between the two of them over the three days, at £2.60 per visit.

Mr T explained that, as there was no way of knowing exactly when his daughter would go into hospital, they had bought food as normal the weekend before. Some of this food had had to be thrown away as they were not at home to eat it. Also, his wife had been at the hospital for most of the time, and had had to pay for her food there. Therefore, they had had more, not less, expenditure while their daughter was in hospital.

The Benefits Agency's Decision

The Reviewing Officer (RO) found that Mr T qualified for a CCG under Direction 4(b)(i). He accepted that all visits merited high priority and that the sum requested was reasonable for those visits. However, he decided that there should be some home savings for the three days Mr T's daughter and new born grandson (who would be included in his benefit) were in hospital. The RO's calculation showed that the "savings" exceeded the travel costs, so no award was payable.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) found that the RO's decision had not been reached correctly, for two reasons. Firstly, the calculation on the amount of "savings" had not been done correctly. If it had been, an award would have been payable, even though not the full amount. However, more importantly, the SFI did not consider it appropriate to deduct any amount for home savings in the circumstances of this case.


Mr T could not know exactly when his daughter would be going into hospital, so he had bought food as normal. In the event, his daughter had had to stay in hospital a little longer than anticipated, though it was still a relatively short period. There had been the additional cost of Mrs T having to buy food for herself at the hospital. The evidence was that there had been no savings due to Mr T's daughter being in hospital. This outweighed the suggestion in the guidance that there would be some savings which should be deducted from any award. The SFI went on to award a CCG for the full amount of £26.

Comment

The Secretary of State's guidance suggests that in hospital fares cases, the decision maker should normally take account of any Income Support or income based Jobseeker's Allowance personal allowance paid to the family for the patient which exceeds the hospital personal allowance (SFG [2.99] para 3152). Premiums should be ignored. This guidance has to be taken into account, but the decision maker has to decide if it is appropriate in the circumstances of the individual case.

In some cases this guidance is appropriate, and there would be no reason not to follow it. For example, if one of a couple were going into hospital for a week to have an operation. They would know in advance that food would not be required for the patient for that period as meals would be provided by the hospital. Visiting may be for only an hour or two each day, without the need to have a meal away from home. It is quite likely that there would be some saving on the normal household expenditure, and it is reasonable that this should be taken into account when calculating the extra costs of visiting.

However, it is not appropriate to make the deduction when the evidence shows that there has not, in fact, been any savings, as in Mr T's case.

Direction 28(a) imposes a minimum amount of £30 for a CCG awarded under Direction 4(a). However there is no minimum amount for awards for either daily living expenses or travelling expenses. This would apply equally to travelling expenses awarded under Direction 4(a) as well as Direction 4(b). 

Travelling expenses - Priority - Ongoing journeys

Application Details

On 12 April 2000 Mr A applied for a community care grant (CCG) for travelling expenses to visit his frail, elderly mother twice each week for a six week period.

Mr A was a single parent with a 14 year old son, receiving Income Support. Mr A took medication for anxiety, skin problems and gout. His 77 year old mother lived several miles away in sheltered accommodation and had considerable health problems. She was receiving treatment for cancer, had a lowered immune system, heart and breathing problems, high blood pressure and extreme fatigue. Mr A's mother received help from a carer and her neighbours helped to buy smaller items of shopping. Mr A was travelling to his mother's home by bus to visit her, provide support and help with larger items of shopping. Mr A was having difficulty meeting the cost of the visits to his mother's home. He had a sister, but she could only visit every two or three weeks. There were no other close relatives and Mr A gave reasons as to why a move nearer to his mother was not an option.

The Benefits Agency's Decision

The Decision Maker (DM) and Reviewing Officer (RO) both accepted, correctly, that Mr A qualified for a grant under several of the headings in Direction 4. A grant would help Mr A's mother remain in the community rather than enter institutional or residential accommodation in which she would receive care. A grant would ease exceptional pressures on Mr A and his family. It would also help Mr A to visit someone who is ill. Although Mr A qualified for a grant, the DM and RO decided that his need for travelling expenses did not have enough priority for an award. The RO said that any person on a low income visiting an elderly relative would be in a similar situation.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) decided that a CCG award was appropriate to enable Mr A to visit his mother once each week. He decided that this need had a high priority, being very important to help Mr A's mother remain in the community. The RO's decision, giving this need a lower priority, was not reached correctly because it was unreasonable and not supported by the evidence. Mr A's mother was in extremely poor health. Mr A had actually been visiting her, but needed help to continue doing so. He provided her with various emotional and physical help which she did not receive from elsewhere. The SFI noted that Mr A would prefer to visit his mother more often than once each week. However, as this extra expense was not as important to promote community care, an additional award for more visits was not appropriate in this case.

Comment

The Secretary of State's guidance relating to priority for travelling expenses to visit someone who is ill refers to the relationship between the visitor and the person being visited. Decision makers are told to use their discretion when deciding on the relationship between the person being visited and the applicant (SFG [2.99] paras 3151 and 3170). A close blood relationship is likely to lead to a higher priority. However, other factors such as age, level of recent contact and the reason for the visits are also important factors when considering priority. The guidance clearly indicates that friends are included as well as relations.

In some cases the visits are likely to be for a finite period, for example while someone is in hospital or undergoing a course of treatment. In others, as in Mr A's case, the visits are likely to be ongoing for an indefinite period. Even if applications are left open-ended, any award would normally be for a specified period and the applicant advised to make a fresh application later if necessary (see case 13.1). If visits have been made over a period, it is relevant to consider the effect on both parties if they cease or are reduced.

The frequency of visits can be a very sensitive area. Each case has to be decided on its individual circumstances, and there can be no hard and fast rules as to what would be appropriate. Much depends on the relationship between the parties, what the visits mean to them, and the purpose of the visits.

In this case, the RO had used the wrong test when considering priority, by comparing Mr A's circumstances to others in a similar situation. This nullified the effect of the direction. It was not in dispute that he qualified for a CCG under the tests of Direction 4. Having reached this conclusion it was therefore accepted that Mr A's circumstances were very difficult. It is those individual circumstances which are of central importance when deciding priority, rather than a comparison with others.

Travelling expenses - Priority under Direction 4(a)(iii) - Mobility needs

Application Details

Ms L applied for a community care grant (CCG) on 30 May 2000 for travelling expenses to attend a course run by a self-help group.

Ms L was a lone parent with a 12 year old son. She had depression, with panic attacks and agoraphobia. Her GP had told her about a course run by a local self-help group, with Lottery funding, which aimed to help people with phobias. Ms L had been accepted on the course. It involved twice weekly attendance for 12 weeks, and covered topics such as anxiety management and coping with depression. The course itself was free, but did not provide transport or assistance with travelling expenses. Ms L was unable to use public transport because of her agoraphobia, so she was asking for the cost of a taxi - £10 for a return journey - to enable her to attend the course. It started during the course of the review. Ms L's brother took her in his car for the two sessions in the first week, but he would be unable to continue to do so.

The Benefits Agency's Decision

The Reviewing Officer (RO) noted that Ms L received a disability premium in her Income Support, but had not applied for Disability Living Allowance (DLA). He accepted that Direction 4(a)(iii) was satisfied. However, he concluded that this application was for a mobility need which was excluded by Direction 23(2)(b). He arranged for a DLA claim pack to be sent to her.


The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) decided that the RO's decision had not been reached correctly. Direction 23(2)(b) applies to applications for a crisis loan only, not CCGs. She agreed that Direction 4(a)(iii) was met. Given Ms L's health problems and phobias, the SFI accepted that the course would be of particular benefit in helping her to cope better. It would be very important in helping ease the exceptional pressures on her and her family. The SFI concluded that the need was high priority and made an award for taxi fares for the remaining 11 weeks of the course.

Comment

This application does not come under any of the travelling expenses provisions of Direction 4(b). The need is for the applicant to travel for her own treatment. If the treatment had been in a hospital, it is likely that the travelling expenses would have been met under the Hospital Fares Scheme. However, as it is for a course run by a self-help group, the Scheme cannot help, even though it was recommended by Ms L's doctor.

However, such needs can be considered under Direction 4(a), and the normal priority considerations apply. In Ms L's case, her anxiety and phobias were a major factor in the exceptional pressures on her and her son. An improvement in her condition as a result of a course of this type is likely to have a significant and substantial impact in improving the family's circumstances. It would be very important in fulfilling the aims of Direction 4.

The exclusion relating to mobility needs does not apply to an application for a CCG. However, it would have been wrong even if Ms L's application had been for a crisis loan. It is clear from the references in the Secretary of State's guidance that a crisis loan may be awarded for emergency travel expenses (SFG [10.99] paras 4706 - 4707), and these are mentioned as an exception to the exclusion in Direction 23(1)(vi). Although there is no specific guidance relating to mobility needs, the ordinary meaning of the term would suggest such items or services are to assist someone's movement by walking or other means of mobility, such as a wheelchair. 

Mental health - Need for enquiries

Application Details

Mr H applied for a community care grant (CCG) on 16 May 2000 for items of furniture and household equipment.

Mr H was aged 50. He had separated from his wife in April 2000, after 11½ years. He said his wife's constant nagging was causing him to suffer from depression and anxiety. He now had his own tenancy, but little furniture and no money to buy any. The household items had been retained by his wife. Mr H's wife was not receiving any benefit. She was working and had been supporting him before the separation. They had no children. Mr H believed he should have a grant because he had recently separated from his wife.

Mr H had been in receipt of Incapacity Benefit. He had also been in receipt of Income Support since the separation. The reason for his incapacity was given as arthritis. Mr H told the Reviewing Officer (RO) he had suffered from tennis elbow in his right arm for about three years. He had been told he was not suitable for an operation, and he was not on any medication.

The Benefits Agency's Decision

The RO decided that Mr H did not qualify for a CCG because no part of Direction 4 was met. He noted the reason for separation, and the health problems, but concluded that there was not a foreseeable likelihood of care. Therefore, Direction 4(a)(ii) was not met. Mr H was now regarded as single, and an award would not ease exceptional pressures on him and his family. Direction 4(a)(iii) was also not met.

In his letter asking for a review by a Social Fund Inspector (SFI), Mr H repeated that he thought he should be able to get a grant on the grounds of his separation. He said that he had had no choice but to leave the marital home. His wife's behaviour had been upsetting his nerves. He had a history of mental illness and had had countless stays in hospital and a variety of treatment including an operation. In his opinion, if he had stayed he would have had to go back into hospital.

The Social Fund Inspector's Decision

The SFI decided that the RO's decision had been reached correctly on the evidence available at the time. However, the new information about a history of mental health problems raised important considerations. She telephoned Mr H for more information. Mr H had been first hospitalised in 1971, and had been an in-patient for a number of months during which he underwent shock treatment. He continued to suffer depression and anxiety and had had more hospital admissions during the 1970s and 80s. He had been under the care of a psychiatrist who recommended a frontal lobotomy, which he had in 1984. Mr H had not had any stays in hospital, medication or counselling since the late 1980s, relying on self-help instead. However, he continued to battle with depression and anxiety.

With the benefit of this new evidence, the SFI concluded that there was a risk to Mr H's place in the community. The equilibrium maintained through self-help had been disturbed by recent events in Mr H's life. The SFI found that he did qualify for a CCG under Direction 4(a)(ii) and went on to make an award.

Comment

Although Mr H had referred to anxiety and depression, the fact that he had a history of mental health problems was not apparent until after the RO's decision. The interview established the physical health problems, but not the mental health concerns. This may be because by this time Mr H was relying on self-help methods, and so was not receiving any treatment from his doctor or hospital. However, the reference in Mr H's letter to previous hospitalisation put the SFI on notice that more information might be available - hence her enquiries to Mr H. This case illustrates how even quite serious mental health problems can remain hidden, especially if there are also physical health problems.

It can sometimes be very difficult for applicants to know what information might be needed to best present their case. Mr H incorrectly thought that his recent separation was sufficient grounds for a grant to be paid. He did not think his health history was relevant. However, this was the more important in terms of qualification for a CCG. Helping applicants understand the reasons for decisions is crucial in helping overcome this problem. It is also important to follow up information which indicates that further relevant evidence might be available.

Mental health -**Refer back - Natural justice****Application Details**

Miss R applied on 11 May 2000 for a £1,000 community care grant (CCG). She requested help with cooking and sleeping facilities, a fridge and a kettle.

Miss R was single and aged 26. She had schizophrenia, paranoia and depression. She received Income Support with a Disability Premium. Her Community Psychiatric Nurse (CPN) visited her regularly and referred her to a psychiatrist when necessary. Miss R had been in hospital in 1999 due to her mental health problems. Since then she had obtained and moved to her own unfurnished Local Authority address. In November 1999 she received a £1,100 CCG to help her furnish that address, including help with cooking and sleeping facilities.

Miss R did not attend her review interview at the Benefits Agency and gave no evidence as to how she spent her earlier award. She said on her application form that she needed facilities to sleep and cook on. She also said that due to her health problems her family faced exceptional pressures.

Miss R was sent copies of all the papers by the IRS but did not respond to them.

The Benefits Agency's Decision

The Decision Maker and Reviewing Officer (RO) decided that Miss R did not qualify for a CCG. The RO considered whether Miss R needed help to remain in the community in view of her health problems. He decided that she did not, particularly assuming that she had now furnished her flat with the items awarded to her in the previous CCG.


The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) was not satisfied that the RO's decision was reached correctly. It was based on an assumption about the items Miss R was likely to have at her home to help her remain there rather than a finding of fact. The SFI decided that a lot of further evidence was needed before a decision could be made to award or refuse a grant. This included what, in fact, Miss R had spent her earlier award on. In view of the long term mental health problems and in the interests of natural justice the SFI decided that Miss R needed to be given another chance to provide evidence about her application.

Comment

Even when there are no mental health problems, it is dangerous to base a decision on an assumption. It may be possible, in some cases, to come to a conclusion from the applicant's failure to respond or offer an explanation. However, the decision would then be based on an interpretation of the available evidence, not an assumption. Nevertheless, the conclusions must be reasonable.

For example, it might be possible to conclude many cases where no explanation had been given about the apparent current lack of items for which an award had been made only short time before. However, where there are severe mental health problems such as Miss R's, there may be a greater risk that an award might not have been spent as one might otherwise expect. It may also be more difficult for the applicant to understand the process, the reasons for the decision, and how to put their case. In such cases, there may be a need to make further enquiries to obtain sufficient evidence on which to base a decision.

In order to conclude a case as quickly as possible, SFIs will usually make any necessary further enquiries themselves, rather than refer the case to the RO for a fresh decision (see case 13.6). However, Miss R had already failed to attend a review interview. She had not responded to the copy papers. It was, therefore, unlikely that further written enquiries would help. It may be that someone would have to make contact with Miss R directly, or perhaps through her CPN, to obtain the information. In such cases, this is better done locally, and a referral back is the appropriate course of action. 

Mental health -

Priority considerations - Change in need

Application Details

Mr J applied for a community care grant (CCG) on 27 March 2000 for a bed, bedding and various items of furniture.

Mr J was 37 years old. He had learning difficulties. An appointee handled all his affairs. He had always lived with his mother in her home, and had been cared for by her. However, his mother had become ill and could no longer care for him. Mr J had been given a place in a supported shared tenancy, where he would have 24 hour care. The tenancy was unfurnished, and the grant application was for items for Mr J's use there. The items he had at his mother's home would still be needed there for when he returned home on visits. Because of the urgency of the need for Mr J to move in, his mother bought some of the necessary items of furniture and bedding, borrowing the money to enable her to do so. She needed to repay the loan as soon as possible.

The Benefits Agency's Decision

The Reviewing Officer (RO) found that Mr J qualified for a CCG under Direction 4(a)(iii). An award would promote community care by easing exceptional pressures on him and his family. The RO made an award for a bed and bedding, but refused the other items on the grounds that they were "not essential".

The Social Fund Inspector's Decision


The Social Fund Inspector (SFI) decided that the RO's decision had not been made correctly. He agreed that Direction 4(a)(iii) was met, but the RO had used the wrong test when considering priority. He had not looked at Mr J's individual circumstances. Mr J's appointee had given cogent reasons for Mr J needing more bedroom furniture. Using the guidance issued by the Secretary of State, the SFI gave high priority to a bed, bedding, wardrobe and chest of drawers. An award was made for these items. Clothes storage was particularly important to help Mr J keep his clothing clean and organised as he had learning difficulties.

Comment

The statutory basis for deciding whether to pay an award comes from s140(1) Social Security Contributions and Benefits Act 1992. The decision maker has to have regard to all the circumstances of the case, and in particular as far as CCGs are concerned, the nature, extent and urgency of the need; the existence of resources from which the need may be met; the possibility that some other person or body may wholly or partly meet it; and the budget allocation. The Secretary of State has also issued guidance on priority relating to the extent to which an award would help resolve or improve the applicant's difficulties and the degree to which it would fulfil the aims of Direction 4.

In Mr J's case, the need was now to repay the debt rather than provide the items. Where the money is borrowed before the application is made, the focus is normally on all the circumstances surrounding the debt rather than the original need. However, these circumstances can include the purpose for which the debt was incurred. In this case, the urgency of the need was reflected by the fact that Mr J's mother had borrowed money to buy the necessary items. Where the applicant has borrowed money from a relative or friend, which is in effect what happened in Mr J's case, a high priority may be appropriate in some circumstances. These might include, for example, where the relative has lent money out of resources set aside for a gas bill or an elderly relative from money set aside for his funeral. The circumstances surrounding the debt incurred by Mr J's mother led to the need being high priority.

The emphasis in both the law and guidance is for the decision maker to look at the particular circumstances of each individual case. The issues are the extent and degree of importance, not whether something is "essential".

What is important is likely to vary from case to case (see also cases 12.1 and 12.2 in the last issue of the Digest). In the particular circumstances of Mr J's case, it was very important that he should have somewhere to keep his clothing clean and organised as well as the basic items of furniture and household equipment. This could equally apply in cases involving others with special needs, including physical and mental health problems. 

Mental health - Priority considerations - Replacement items

Application Details

Miss D applied for a community care grant (CCG) on 17 May 2000 for a washing machine.

Miss D was a 53 year old single woman. She had been receiving psychiatric care as a day patient for over two years. She had had help completing the application form as she had difficulty writing, but had signed the form herself. She was in receipt of the low rate care component of Disability Living Allowance.

Miss D had moved to a bungalow for medical reasons. Her washing machine had broken down and could not be repaired. Miss D's representative provided evidence about her condition. Miss D had had a breakdown and stopped work in 1991. She had been diagnosed as having chronic anxiety and episodes of depressed moods at times of stress. She had difficulty adapting to changes in routine or organising her thoughts to plan and follow a short sequence of tasks. She had low self esteem, causing vulnerability to depression and self harm, and difficulty in maintaining motivation and self care. The onset of anxiety sometimes would lead to loss of bladder control. Miss D's poor concentration affected her ability to do shopping or use facilities such as laundrettes. She sometimes went to the shops, but forgot what she needed. A recent report from a Community Psychiatric Nurse said that Miss D was chronically affected by her symptoms and unable to carry out normal day to day activities without difficulty.

Miss D did not attend the review interview because of a hospital appointment.

The Benefits Agency's Decision

Both the original decision maker (DM) and Reviewing Officer (RO) accepted that Miss D's mental health problems might leave her vulnerable to care. They found Direction 4(a)(ii) met. They considered that her need for a washing machine was medium priority. The item was needed as a replacement item and it would have a less tangible role in helping Miss D remain in the community. As the grants budget could pay high priority needs only, no award was made.


In asking for a review by a Social Fund Inspector (SFI) Miss D's representative said that there was no facility for Miss D to do her washing locally. She would have to take a bus to the local shopping centre. She had difficulty with buses, even those which regularly passed between her home and the local shops. Miss D had extra washing because of urinary incontinence, and washing by hand had proved to be insufficient to get rid of the smell.

The Social Fund Inspector's Decision

The SFI found that it was not in dispute that Direction 4(a)(ii) was met. The issue in this case was the appropriate level of priority for Miss D's need for a washing machine. He noted that Miss D did have extra washing because of her incontinence. There was new information about Miss D's difficulties using buses. This, combined with the other difficulties she had, meant that Miss D would have problems using public washing facilities. The SFI concluded that Miss D had an urgent need for a washing machine. This outweighed the consideration that the item was needed as a replacement. He went on to award Miss D a CCG for a washing machine.

Comment

The Secretary of State's guidance on priority includes (at SFG [4.00] paras 3325 - 3327) that continuing needs such as the normal replacement of items, including major household equipment and furnishing, should generally be met from the applicant's benefit, with the help of a loan if necessary. Lower priority should be considered for items which need replacing in the normal course of events, e.g. because they have broken or worn out. However, this guidance has to be taken in context with the law and other guidance on priority, and in particular the extent to which a grant would improve the applicant's circumstances and the degree of importance in fulfilling the aims of Direction 4. An item does not automatically merit a lower priority because it is needed as a replacement.

Although there was some evidence of extra washing in Miss D's case, it was not the crucial issue. A washing machine was high priority because of her inability to use a laundrette. This was due to her mental, rather than physical, health problems. Hand washing was not a suitable alternative on the facts in this case. 

Mental health - Crisis loan - Direction 3

Application Details

Mr W applied for a crisis loan (CL) on 15 March 2000 for a washing machine, two single beds and a vacuum cleaner.

Mr W was married with three children, two of whom had asthma. The family's washing machine had broken down about 18 months previously. His mother-in-law had been doing the family's laundry since then, but had had to stop due to ill health. Mrs W was having to use a laundrette. Mr W was incontinent. This was causing extra washing and his wife was sleeping on the sofa because of the incontinence. Mr W wanted to replace his double bed with two single beds so that he and his wife could sleep in the same room. He wanted a washing machine so that his wife would not have to use the laundrette. He also wanted a different model vacuum cleaner as the present one was not suitable for use on the children's mattresses. He and his wife were brushing down the mattresses daily, then using the vacuum cleaner on the floor. He felt it would be more beneficial to be able to vacuum clean the mattresses directly.

Mr W had chronic anxiety. He was in receipt of Incapacity Benefit and Child Benefit only. He was not in receipt of either of the qualifying benefits (Income Support or income based Jobseeker's Allowance) for a community care grant or budgeting loan.

The Benefits Agency's Decision

The Reviewing Officer (RO) acknowledged the difficulties and inconvenience of Mr W's circumstances. However, the evidence did not suggest that a CL was the only means of preventing serious damage or serious risk to any of the family's health or safety. Therefore, the qualifying conditions of Direction 3 were not met.

Mr W asked for a review by a Social Fund Inspector (SFI). When responding to the copy papers, he gave further details about his health. He had severe depression with nervous and anxiety attacks. Not being able to provide the items needed by his family and not being able to sleep in the same room, let alone the same bed, as his wife was causing him great distress. It was upsetting him greatly that his wife was having to sleep on the sofa and keep going to the laundrette with the extra washing he was making. He said he couldn't stop thinking about these and plenty of other things he couldn't do for his family. It was a constant feeling of no self worth.

The Social Fund Inspector's Decision

The SFI agreed that the RO's decision was reached correctly on the evidence available at the time. However, in view of the new evidence about how the lack of the items was affecting Mr W's mental health, she concluded it was not the right decision in all the circumstances. Although the lack of items did not by itself constitute a serious risk to health or safety, Mr W's feeling of failure to provide for his family was having an adverse affect on his health. The SFI considered this serious enough for Direction 3 to be met, and went on to award Mr W a CL for two single beds and a washing machine. The SFI decided that Direction 3 was not met in respect of the vacuum cleaner.

Comment

One of the conditions of Direction 3 is that a crisis loan must be the only means of preventing serious damage or serious risk to the applicant's health or safety, or that of a member of his family. The risk does not have to be to physical health only.

It is important to remember that people react differently to situations. It is also important to consider the applicant's own views of the situation and the effect this is having on them. This is particularly important where mental health is a concern.

In this case, there was no physical risk to health or safety from the lack of the items. However, Mr W's perceived failure to provide for his family did amount to a serious risk to his health or safety. The only way to prevent this risk was a crisis loan for the items whose lack was causing him most distress. A different model vacuum cleaner would also have helped, and Mr W was unhappy about the current arrangements. However, this was not affecting his mental health to the same extent as his wife having to use the laundrette and sleeping in a different room.

**Direction 4(a)(i) -
A stay of less than three months****Application Details**

Miss F applied for a community care grant on 10 May 2000 for clothing.

Miss F was 19 years old. She would be in prison for six weeks, and was due to be released on 26 May. She had been living in a bail hostel for a period up to January 2000. She then went to live with various friends who were drug users. She described her life before going to prison as chaotic and unstable. She had not been able to arrange for her parents to collect her clothes when she was arrested. The friends had now left that address. Miss F was not entitled to a clothing board. She had only the one set of clothes. She was now back in contact with her parents, and would be living with them and her brother after her release. She was now drug free. Miss F's mother was working as a nurse.

The Benefits Agency's Decision

The Reviewing Officer (RO) noted that six weeks was considerably less than that suggested in the Secretary of State's guidance. She concluded that Direction 4(a)(i) was not met. She found that Direction 4(a)(iii) was met because of the exceptional pressures on the family due to Miss F being in prison. However, she decided that the need had insufficient priority for an award in these particular circumstances.


Miss F included a letter from a Probation Service Officer (PSO) when asking for a review by a Social Fund Inspector (SFI). The PSO said that Miss F had had a severe heroin addiction for two years, with a number of prison sentences and involvement with the Probation Service during this time. She had gained weight while in prison. Her friends had taken, sold or otherwise disposed of all her clothing. Miss F had had the option of living in a hostel on her release, but went to live with her parents instead as she didn't want to associate with other drug users. Her father only worked intermittently. Her mother was on a low wage. Miss F had placed considerable strain on family relationships while she was on heroin. Her extremely positive attempts to remain drug free were another source of current pressure on the family. Miss F now wanted to continue her education, and was intending to attend college on a part time basis. Not having any clothing was detrimental to her self-esteem.

The Social Fund Inspector's Decision

The SFI agreed that Direction 4(a)(iii) was met, but the RO's decision on Direction 4(a)(i) was wrong, and this may have affected his conclusions on priority. The SFI accepted that Miss F had been in prison for a relatively short time. However, Miss F was not returning to the chaotic circumstances she was in before she went into prison. She was now living with her parents and getting a lot of support from various agencies in an effort to keep free of drugs and out of prison. These factors combined to make her settlement that much more difficult on release, notwithstanding the fact that her stay in prison was a short one. On the evidence available at the time of the RO's decision Direction 4(a)(i) should have been found met in this case. The additional evidence before the SFI was not the deciding factor here for Direction 4(a)(i) purposes, although it provided valuable extra details about Miss F's circumstances. The SFI went on to award a CCG for a change of clothing.

Comment

The Secretary of State's guidance on Direction 4(a)(i) is that the length of time the applicant has received care should normally be either a period of three months or more or a pattern of frequent or regular admissions to institutional or residential care clearly linked to the nature of the applicant's disability or circumstances (SFG [2.99] para 2403). Decision makers must take account of this guidance, and it provides a useful starting point when deciding whether this part of Direction 4 is met.

However, the guidance is not binding, and must be considered in the context of all the circumstances. While a period of three months out of the community is likely in most cases to lead to a need for help in establishing afterwards, it does not follow that there will be no need if the period is less (see case 9.3). A change in lifestyle, as in Miss F's case, will lead to a greater need for help, even if the period in "care" has been relatively short. Decision makers need to look at the circumstances before admission to "care", and those on discharge. This together with the length of time out of the community will help determine how difficult it will be for the applicant to establish himself. 

Direction 4(a)(i) - Establishment

Application Details

Mr K applied for a community care grant (CCG) on 21 January 2000 for household items.

Mr K had been released from prison at the end of May 1999, having served nearly three years in custody. He would be on licence until September 2000. He had been divorced from his wife while in prison. On the advice of his Probation Officer, he went to live with his mother when he was released. His mother lived in an isolated rural community. Mr K then obtained the tenancy of a one bedroom flat in an area closer to where his children were living, and where there was a better prospect of employment.

The Benefits Agency's Decision

The Reviewing Officer (RO) decided that Mr K did not qualify for a community care grant (CCG) because no part of Direction 4 was satisfied. Specifically, he did not find Direction 4(a)(i) met in view of the length of time since Mr K's release.


Mr K's solicitor then provided further information. Mr K's former home had been re-possessed while he was in prison, and his ex-wife had disposed of all the furniture. The divorce had been very difficult. He had gone to his mother's home on his release as he had nowhere else to go. He had been trying ever since to find suitable accommodation of his own. However, local authority or housing association properties were scarce. It had taken this long for one to become available. He had looked at furnished properties in the private sector, but they were expensive, with rents generally in excess of housing benefit levels. Employment in the area was mainly seasonal. Mr K's mother was elderly. She had been finding it difficult having her son stay with her, especially as she lived in a small village where everyone knew he had been in prison. By the time of the solicitor's letter, Mr K had moved into his flat. He had acquired a second hand settee, which he was sleeping on. He was living on fast food, which he was finding expensive. He was returning to his mother's at weekends, incurring extra travelling expenses.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) found that the RO's decision was reached correctly on the evidence available at the time. However, the new information indicated that Direction 4(a)(i) was satisfied. In view of the length of time Mr K was in prison, the difficult divorce and the repossession of his home, it was likely that it would take some time for him to establish in the community. Living with his mother was only ever intended to be a temporary measure, and he had promptly tried to find suitable accommodation of his own. However, this had taken some time. The move would improve Mr K's prospects of finding work and make it easier for him to maintain contact with his children. The SFI went on to award Mr K a CCG for basic household items.

Comment

There can be no set period for someone coming out of care to establish themselves in the community. People react differently, and some take longer to adjust than others. Just how long will depend on the individual circumstances, and the degree of disruption there has been in their lives. There may be a mixture of short and long term needs. For example, someone leaving "care" may have an immediate need for clothing, but still need help setting up home later. In many cases, setting up home is an important part of the process of establishment. The Secretary of State's guidance on setting up home after leaving "care" acknowledges that there may sometimes be intervening temporary arrangements (SFG [2.99] para 2413). Therefore, it is possible for someone to satisfy the conditions of Direction 4(a)(i) some considerable time after the date they actually left "care".

In Mr K's case, there is little doubt that if he had succeeded in finding his own accommodation within a few weeks of being released from prison, Direction 4(a)(i) would have been found to have been met then. It was not so obvious several months later. However, the new information showed that the process of establishment was not only still ongoing, but also that Mr K was still in need of help. 

**Direction 4(a)(i) -
Establishment****Application Details**

Mr S applied for a community care grant (CCG) on 8 May 2000 for items of clothing and footwear.

Mr S was 19 years old. He had been in receipt of income based Jobseeker's Allowance from 17 April 2000. He had been in a Young Offenders Institution (YOI) from 9 September 1997 to 24 September 1999. He was living with his parents. He said he was walking around in the one set of clothes and had been since he came out of the YOI. His mother could not help as she was on benefit herself. She had given up her job to look after a grandchild, so money was very tight at home.

Mr S's Probation Officer wrote a letter of support. He said that, to his credit, Mr S had managed to find some employment on a casual basis when he was released from the YOI, but that this was no longer available. He was still subject to a resettlement licence. He desperately needed some more clothes. In the Probation Officer's opinion, Mr S's need was equally as great as it had been on his release.

At his review interview, Mr S said that he had bought some clothes since his release, but they had been ruined at work. He was now unemployed and could not afford to buy clothing. He felt he was at risk of re-offending.

The Benefits Agency's Decision


The Reviewing Officer (RO) noted that Mr S had been living in the community for eight months following release from the YOI. An award would not, therefore, help him to establish in the community. Direction 4(a)(i) was not met. He did not accept the suggestion that committing a deliberate unlawful act can be used as means of satisfying the criteria for a CCG, so Direction 4(a)(ii) was not satisfied. An award for clothing would not ease exceptional pressures on him and his family. Therefore, Direction 4(a)(iii) was also not met. All other parts of Direction 4 were either not met or not relevant. A crisis loan was not appropriate.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) agreed that no part of Direction 4 was met, on the available evidence. With regard to Direction 4(a)(i), she acknowledged that matters other than the length of time since release were relevant. These included Mr S's age - he was 16 when he went into custody and 18 on his release; the overall period he had spent in a YOI (two years); and his still being on licence. All of these impacted on Mr S's need for help with establishment. However, it was now several months after his release. He had returned to live with his parents, and had been able to find casual employment. He had been able to buy clothing for himself while he was working. The SFI concluded that Direction 4(a)(i) was not met.

Comment

The use of the word "following" in Direction 4(a)(i) implies that there must be some link between the applicant's need to establish in the community and his stay in institutional or residential accommodation. It is not enough that the applicant needs to establish in the community. He must need to do so "following a stay" in such accommodation. The circumstances must relate the need to the stay.

In some cases, facts such as a person's young age and spending a fairly lengthy time in a YOI or prison may be enough to show that they qualify for a CCG under the tests of Direction 4(a)(i). However, in Mr S's case, the evidence showed that he had established in the community since his release. He had a settled home and had been able to find work. His licence would have been for a fixed period, not directly linked to his need to establish in the community. His need now was to replace the clothing which had been damaged while he was working. This was not the same as any need for clothing he might have had when he was released from the YOI. Whilst it was accepted that this might be more difficult now that the casual work was no longer available, this was not related to the tests of Direction 4(a)(i). 

Direction 4(a)(ii) -**Help to remain in the community - Risk of re-offending****Application Details**

Mr M applied for a community care grant (CCG) on 23 March 2000 for household items.

Mr M was 17 years of age. He had been involved with drugs from an early age and had a history of convictions for motor related offences. He received a three month custodial sentence in March 1999 for breaching his supervision order and a further motoring offence. He was in custody for six weeks, and remained on licence until July 1999. In September 1999 he was thrown out by his parents and went to live with a family friend. He looked after the friend's children in return for the use of the room, but was not given regular meals. He had lost over three stones in weight in six months. He did not realise that he could claim any benefits.

In January 2000 Mr M was arrested in connection with a burglary. He said that he committed the offence because he was desperate for money. The court was minded to impose a custodial sentence, but was persuaded to reduce this to a Combination Order of one year's Probation and 60 hours Community Service, to enable Mr M to sort out his benefits and accommodation problems. Mr M's supervising officer from the Youth Offending Team helped him apply for benefits and housing. Mr M was allocated an unfurnished local authority flat in March 2000. However, without furniture he was only living in the flat sporadically. He was buying take-away food and falling behind with his water rates. He felt that he was at risk of re-offending unless he could have a grant to furnish his flat. His supervising officer expressed concern that Mr M was at risk of losing his tenancy. He was spending an increasing amount of time with friends who were involved in crime, and there was strong pressure on him to obtain the items for his flat through crime.

The Benefits Agency's Decision


The Reviewing Officer (RO) decided that Mr M did not qualify for a CCG because no part of Direction 4 was met. Mr M had been in prison for a short time the previous year, but had been established in the community for some time. The RO noted Mr M's comments about re-offending, but concluded that Direction 4(a)(ii) was not met. Mr M had no health problems and it would be his personal choice if he decided to re-offend because he was without funds to set up home. Mr M had had no contact with his family since his parents threw him out. While Mr M may have had an unsettled period when his parents threw him out, he had had a permanent address for over six months and was not setting up home as part of a planned programme of resettlement.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) noted that Mr M had begun offending whilst at his parents' home. She took into account the support currently available to him. Mr M would be fully aware of the consequences of re-offending. However, she gave greater weight to other relevant circumstances. These included Mr M's age, his history of drug use, being thrown out by his parents and the unsatisfactory nature of his previous accommodation. The court had given Mr M a community rather than a custodial sentence to allow him time to sort out his benefits and accommodation. Not being able to furnish his home was likely to lead to Mr M losing the tenancy. This would expose him to the pressures which had culminated in his offending the last time. The SFI concluded that, on the balance of probabilities, there was a reasonably foreseeable prospect of Mr M entering care within the meaning of Direction 4. An award would help him remain in the community. Direction 4(a)(ii) was met, and the SFI went on to award Mr M a CCG for a bed, bedding, cooker, saucepans, crockery and cutlery.

Comment

For Direction 4(a)(ii) to be met, an award has to help someone remain in the community rather than enter institutional or residential accommodation, which could include prison or a Young Offenders Institution. There is an obvious link between offending and being given a custodial sentence. Certainly anyone already under supervision is at high risk of being given a custodial sentence if they re-offend. However, when on Probation, they would normally be given a high level of support to avoid re-offending. It is submitted that there would need to be more than just the applicant being likely to be given a custodial sentence if they re-offend for Direction 4(a)(ii) to be met. There would have to be factors which would indicate that there is real risk of further offences, over and above personal choice.

In Mr M's case, the unsuitability of his accommodation was a key factor in his committing his last offence. It would be, therefore, a key factor in considering whether he was likely to re-offend. His supervising officer considered that maintaining his tenancy was very important in helping Mr M not to re-offend. It follows that a grant to help him maintain his tenancy would help him remain in the community. In the particular circumstances of this case, Direction 4(a)(ii) was met. 

**Direction 4(a)(i) -
Priority - Released prisoner****Application Details**

Mr G applied for a community care grant (CCG) on 3 April 2000 for household items.

Mr G was 19 years of age. He was in receipt of income based Jobseeker's Allowance. He had been in a Young Offenders Institution (YOI) for four months, and had been released under the Home Detention Curfew provisions on 22 February 2000. He had left home and found his own tenancy shortly before going into custody, but it was unfurnished and he had not been able to obtain much in the way of furniture and household equipment. His parents had now disowned him. He had a camp bed, one sheet and a bit of carpet in one room. His grandmother was giving him meals occasionally.

The Benefits Agency's Decision

The Reviewing Officer (RO) accepted that Direction 4(a)(i) was met. An award would promote community care by helping Mr G establish in the community following a stay in institutional or residential accommodation in which he received care. However, his stay in the YOI had been relatively short and he had not applied for a CCG until several weeks after his release. He had returned to his own flat in the same condition as when he left. His situation was not the result of having been in prison. The RO considered the need to be medium priority. As the grants budget could pay high priority needs only, a grant was not awarded.

Mr G explained that he had not applied for a CCG earlier as he did not know about them. His Probation Officer had told him and helped him with the application form. This was his first ever application for a social fund payment.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) agreed that Direction 4(a)(i) was met. However, she was not satisfied that the RO had taken all relevant considerations into account when looking at the priority of Mr G's application. Mr G may have been in the YOI for a comparatively short time, but he had lost the support of many members of his family. The lack of basic furniture was likely to affect his ability to establish in the community. Using a camp bed and having occasional meals with his grandmother might be suitable as a temporary measure, but they were not appropriate in the longer term. The SFI considered that high priority should be given to the basic items which would enable Mr G to be independent and maintain his tenancy. She went on to make an award for a cooker, bed, bedding and towels. The other items did not have sufficient priority for an award. Although they would have a substantial impact in improving Mr G's circumstances, they did not have the necessary significance or degree of importance in fulfilling the aims of Direction 4(a)(i) for high priority.

Comment

The Secretary of State has issued guidance on deciding priority for grants. High priority should normally be given if an award will have a significant and substantial impact in resolving or improving the circumstances of the applicant and be very important in fulfilling the aims of Direction 4. Medium priority would normally be appropriate if an award will have a substantial impact in resolving or improving the applicant's circumstances, but is less important in fulfilling the aims of Direction 4. Low priority should normally be given if the need in question is indirectly linked to the applicant's circumstances or will be of minor importance in fulfilling the aims of Direction 4.

In this case, the aim of Direction 4(a)(i) is to help Mr G establish in the community following his stay in prison. Mr G had not been in his tenancy long before going into the YOI. His poor living conditions were likely to affect his ability to establish in the community. Moreover, his circumstances were now worse in that he had lost the support of his parents. All these factors meant that Mr G's need for basic items had sufficient priority for an award.

On one level, this case appears to be similar to case 13.13 in this issue of the Digest. Both concern young men who have been in a YOI. However, in Mr G's case, the need was directly linked to his period in "care". The issue in this case then became not whether an award would help in the establishment process (qualification), but rather the extent to which an award would help that process (priority). This illustrates how individual circumstances can affect whether or not an award is made.

Asylum seekers - Arrangements after April 2000

Application Details

Mr N applied for a community care grant (CCG) on 21 March 2000 for items of furniture and household equipment.

Mr N and his family were asylum seekers. They had first lived in a hostel when they arrived in the UK, and had then been moved into furnished accommodation. However, there had been a problem getting the children into a local school. There had been incidents of violence against refugee/asylum seeker families and their children in the local schools. Mr N found another tenancy through a refugee contact (not Refugee Council) in another part of the country. The accommodation was part furnished. The children had been able to start school immediately.

The Benefits Agency's Decision

The Reviewing Officer (RO) contacted the Local Education Authority (LEA) in the area where Mr N had been before. This confirmed that there had been a problem finding suitable schools, and that places were not available to Mr N's children when he moved. The LEA officer said that he was confident that the situation would have been sorted out eventually, although he could not say how long this would have taken.

The RO found Direction 4(a)(iii) met, but refused Mr N a CCG because he considered the move had not been necessary.

The Social Fund Inspector's Decision


By the time the Social Fund Inspector (SFI) came to review the case, Mr N's Income Support (IS) had stopped. Enquiries by the SFI showed that Mr N's IS had ceased on 8 May 2000 because his application for asylum had been refused. He had appealed, but his support was now the responsibility of the Local Authority. He had been issued with a legal document valid until 9 May 2001, specifying that he was not allowed to work and that he must continue to live at his current address.

The SFI found it was reasonable for Mr N to have moved, because of the uncertainty about when his children could start school, and what it would be like for them when places were found. Even if it were not, it was not likely he would be able to return. He had now to continue to reside at the new address and was not allowed to work. The SFI agreed that Direction 4(a)(iii) was met and went on to award a CCG for some items not included in the part furnishing.

Comment

The Asylum and Immigration Act 1999 brought in a different system of support for asylum seekers from April 2000. New applicants for asylum are supported under the National Asylum Support Service. There are transitional arrangements for those already receiving benefits. Their right to receive those benefits is protected. However, a gap in the claim may bring the protection to an end. Also, the transitional protection ceases when the first adverse decision on the asylum claim is received after 2 April 2000. This is what happened in Mr N's case.

Mr N was able to have a CCG because he was in receipt of a qualifying benefit when his application was made. The subsequent withdrawal of benefit did not affect his eligibility (Direction 25). However, Direction 25 would not have been met if the application had been made after 8 May.

The new provisions mean that it is likely that fewer asylum seekers will be able to get help from the social fund. It is only if and when they are granted refugee status that they will be able to claim a qualifying benefit for a CCG or budgeting loan. Moreover, the Act takes asylum seekers (other than those to whom transitional protection applies) out of the social fund altogether, and not simply as a consequence of their not being in receipt of a qualifying benefit. This means that asylum seekers would also be unable to have a crisis loan. 

Asylum seekers and refugees -

Single people - No planned programme of resettlement

Application Details

Mr C applied for a community care grant (CCG) on 16 May 2000 for items of furniture and household equipment.

Mr C was an asylum seeker who entered the UK on 15 December 1999. He stayed in hostel accommodation at the YMCA from 20 December 1999 to 25 May 2000, when he moved into an unfurnished local authority flat. There was no pressure for him to leave the hostel. He had approached the local housing authority himself shortly after arriving at the hostel, and had been rehoused from the normal waiting list. He had no contact with the Refugee Council or any other support agency. Mr C received Income Support.

The Benefits Agency's Decision

The Reviewing Officer (RO) decided that Mr C did not qualify for a CCG as no part of Direction 4 was met. He used Direction 49 to treat Mr C's application for a grant as an application for a crisis loan (CL), and went on to award a CL of £475.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) confirmed the RO's decision. No part of Direction 4 was satisfied. Mr C was not establishing himself in the community following a stay in institutional or residential accommodation in which he received care. There was not a present or foreseeable threat to Mr C's place in the community. Mr C was living alone in his own tenancy. A grant would not ease exceptional pressures on him and his family. Although he was setting up home, this was not part of a planned resettlement programme. The decision to award a CL was right.

Comment

This case highlights a problem faced by number of single asylum seekers recently. Although the new provisions relating to asylum seekers mean that it is likely that there will be fewer such cases as Mr C's in the future (see case 13.16), single people who have been given refugee status may still be affected. They have often been directed to hostels or furnished accommodation when they arrive in the UK. Understandably, this has been arranged for them. Sometimes, they have been able to stay with friends or relatives. So far, it is likely that they could be said to be following a planned programme of resettlement. Some have continued to be supported, and their move on to more permanent accommodation is still clearly part of a structured programme.

However, there are others, such as Mr C, who are no longer receiving help or support. They have found their own accommodation out of preference, not necessity or as part of a move-on scheme. Whilst there is usually little difficulty in finding that they have been without a settled way of life, the evidence does not support a conclusion that they are setting up home as part of a planned programme of resettlement. Families in this situation are likely to still qualify for a CCG under Direction 4(a)(iii), but not single people. Direction 4(a)(v) is often the only route available to them, and it is possible that some believe that their being an asylum seeker or refugee would be sufficient for the conditions to be met. However, there does still have to be a programme, however rudimentary, with an element of control and progression. This is what was missing in Mr C's case.

For the IRS best practice note and case examples for Direction 4(a)(v), see issue 9 of the *Digest of Decisions* in issue 13 of the Journal. 