

digest of decisions

Independent Review Service for the Social Fund
Spring 2003 Issue 24

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Independent Review Service
for the Social Fund

Welcome to the 24th edition of the Digest of Decisions.

Many of the entries in this digest directly cover the budget and Social Fund decision-making. The digest entries cover two main areas:

- How to deal with budgets under pressure
- When and how to restrict the amounts being awarded

To help decision makers and advisors deal with this complex and difficult area the Social Fund Commissioner's advice to Inspectors on "Approach to Budgets" is also included with this digest.

You will find that many of the digest entries in this edition feature districts whose Area Decision Maker's guidance states that only needs assessed as "high priority to the extent the budget allows" can be met. It is important that readers understand that this guidance is used in districts who cannot consistently pay all high priority needs.

The remainder of the Digest of Decisions covers Direction 7 and Budgeting Loans. The Social Fund Commissioner's advice on Direction 7 can be downloaded from the IRS website. A range of Commissioner's advice on Budgeting Loans can also be downloaded. The website address is www.irs-review.org.uk

As usual, we hope you find this edition helpful. All feedback on the content of the digest is welcome. You can write with feedback to the usual IRS address or e-mail us on np@irs-review.org.uk

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Direction 7

- no determination reached on previous application

Case 24.1

Application Details

Mr C was single and received Income Support as he was unable to work due to a nervous condition and deafness. He also had a night-time incontinence problem. The following table shows details of the present and previous applications for a community care grant (CCG):

Date of Application	Items Requested	Reasons Needed
5 November 2001	Bed, two sheets, quilt and two pillowslips.	Thrown out due to being ruined by incontinence.
20 March 2002	Bed, two sheets, quilt, two pillowslips and a cooker.	Bed and bedding thrown out last year due to being ruined by incontinence. Cooker thrown out as no longer working.
25 April 2002	Bed, two sheets, quilt, two pillowslips and a cooker.	Thrown out six months ago due to being ruined by incontinence. Cooker was thrown out in March as no longer working.

In November Mr C had been refused an award on qualification. In March no decision was reached on the need for the bed and bedding because of Direction 7. A cooker was refused on qualification.

The Reviewing Officer's Decision

The Reviewing Officer (RO) decided that, because of the application made in March this year, Direction 7 prevented him from considering an award for any of the items being requested on this application.

The Social Fund Inspector's Decision

The Social Fund Inspector decided the RO's decision was not reached correctly. There had been no determination on the need for a bed, sheets, quilt and pillowslips requested in the March 2002 application, because of the application and decision made in November. There was only a decision reached on the need for a cooker. The March application did not therefore prevent consideration of these items on this application, although it did prevent consideration of the cooker. However, a determination was reached on the need for a bed, sheets, quilt and pillowslips in November 2001. As that application was also made within the previous twenty-six weeks of this present application, this meant the RO was prevented, under Direction 7, from considering these needs again on this application.

Comment

Direction 7 states that a decision maker shall not determine an application for a crisis loan (CL) or a CCG 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. There are four main considerations when dealing with Direction 7:

- Has there been a previous application for a CL or CCG within the last 26 weeks?
- Was a decision was reached?
- Was it for the same item or service?
- Has there been a relevant change in the applicant's circumstances?

Where a decision maker has applied Direction 7 to a particular item or service, there has been no determination to award or refuse a payment. There has merely been a determination to apply Direction 7. Such a case cannot be regarded as an "application... for which a payment has been awarded or refused" for the purposes of any future consideration of Direction 7. In Mr C's case, there were three applications to take into account – one made in November 2001, a second in March 2002 and the present one made the following month, in April. The November decision had prevented consideration of the need for a bed, sheets, quilts and pillowslips on the March application. No determination (decision) was therefore reached on these needs in the March application. However, because of the timing of the applications, the present application was also caught by the November application. Thus Mr C's need for all the items on the present application could not be considered because of both of his previous applications. [See also case 5.3, Journal 9 and 8.2, Journal 12]

Direction 7

- same item or service

Case 24.2

Application Details

Mr N was single and received Income Support because he was unable to work due to arthritis. He took medication and received an injection once a month for his condition. His condition had remained the same for some years.

The following table shows details of the present and previous applications for a community care grant (CCG):

Date of Application	Items Requested	Reasons Needed
26 October 2001	Basic clothing (£250).	All clothing shabby and worn. Unable to find money to buy new ones from his benefit.
16 March 2002	Basic clothing (£250). A coat (£50).	All clothes, including the coat, five to six years old, worn and unable to afford to replace them from weekly income.

On the October application, Mr N had been refused an award on qualification

The Reviewing Officer's Decision

The Reviewing Officer (RO) decided that, under Direction 7, the previous decision meant that no consideration should be given to any of Mr N's needs on this application.

The Social Fund Inspector's Decision

The Social Fund Inspector decided the RO's decision on direction 7 was reached incorrectly. On the previous application, made some 20 weeks before the present one, Mr N had shown only a need for clothing in general. Specific items were not detailed. The March application included a specific request for a coat. The Inspector decided that she could not be sure that a coat had been requested on the earlier application. As such Direction 7 did not apply to the coat.

The Inspector decided that Direction 7 did apply to the request for the remaining clothing. Mr N requested basic clothing" on both applications. The total amount requested for this clothing was exactly the same on both applications. Also, Mr N had made clear that all his clothing stocks were worn and shabby. In these circumstances it was reasonable to infer that both applications are for the same items of clothing.

Comment

The direction specifies that the item or service must be "the same", and not just similar. So when an applicant asks for general items first and then, on a subsequent application, asks for specific items, it cannot be assumed that the items are the same. An inference that the items are the same should not be drawn without firm evidence.

In a case where the first application included a request for specific needs and on the second application there is a request for only general items, it needs to be established what items specifically the applicant is asking for. In this case it would have been helpful if the Decision Maker had established exactly what clothing was required on both applications.

Mr N did not indicate that he was requesting a coat on the October application. However, on the March application, he had specifically shown that a coat was one of the needs he wished to be considered. It could not be assumed this item had been considered on the previous application and as such, it needed to be considered this time. However, Mr N requested "basic clothing" on both applications and the amounts requested were exactly the same. This together with the fact that Mr N had made clear that all his clothing was worn out was sufficient evidence to infer that the same items of clothing were requested on both applications. [See also cases 5.4, Journal 9 and 8.4, Journal 12]

Direction 7

- request for different number of the same item

Case 24.3

Application Details

Mrs S lived with her three children, a son, aged 10 and two daughters aged seven and four. She received Income Support and Child Benefit. Mrs S suffered from depression. Her son and daughter both wet the bed regularly. Her son attended a clinic to help him try to overcome the problem. Both children's bed-wetting remained the same, as did Mrs S's depression. Mrs S had had considerable debts for some years and found it difficult to replace household items from her income.

The following table shows details of the present and previous applications for a community care grant (CCG):

Date of Application	Items Requested	Reasons Needed
26 January 2002	Washing machine, tumble dryer and one pair of sheets for each of her three children.	Washing machine and tumble dryer both broken and irreparable. Sheets worn.
22 March 2002	Cooker, settee, two pairs of sheets for her son and three pairs for her youngest daughter.	Cooker broken beyond repair, settee old and very worn, bedding worn through constant washing.

In January Mrs S received a CCG for the washing machine and tumble dryer but was refused an award for the sheets.

The Reviewing Officer's Decision

The Reviewing Officer (RO) decided Direction 7 prevented consideration of two pairs of sheets on this application – one for the son and the other for the youngest daughter. He went on to consider the remainder of Mrs S's needs, including the other pair of sheets for the son and two pairs of sheets for the youngest daughter. He decided an award could be made under direction 4(a)(iii). He awarded Mrs S a CCG for a cooker and two pairs of sheets, one for her son and the other for her daughter. The remaining needs, the settee and the third pair of sheets for her daughter were of an insufficient priority for an award to be made for them.

The Social Fund Inspector's Decision

The Social Fund Inspector decided the RO had reached his decision correctly. He had applied Direction 7 correctly in deciding not to consider the need for two pairs of sheets. Given the short space of time between the applications he found there had been no relevant change in the circumstances. He agreed the decision to award a grant for a cooker and two pairs of sheets but to refuse an award for the settee and remaining pair of sheets was the right outcome.

Comment

This case illustrates the impact of Direction 7 on applications that include a request for a number of the same item. In January Mrs S requested just one pairs of sheets for each of her children. Now she was requesting additional pairs. Direction 7 would apply to only the first pair of sheets for her son and youngest daughter on this application, but not to the remaining pairs. The extent of the need differed. However, the priority of the second and subsequent pairs of sheets was likely to be less than the need for the first pair. If this were not the case, Direction 7 could be side-stepped by always asking for a greater number of items on subsequent applications. [See also case 8.4, Journal 12]

Direction 7

- relevant change in applicant's circumstances

Case 24.4

Application Details

Mrs O was single and received Income Support as she was unable to work due to depression. She also had an incontinence problem as a result of gynaecological surgery some years ago. Mrs O had to wash bedding and clothing frequently, because of accidents. She had a washing machine.

The following table shows details of the present and previous applications for a community care grant (CCG):

Date of Application	Items Requested	Reasons Needed
16 January 2002	Tumble Dryer	Broken and beyond repair
12 February 2002	Tumble Dryer	Broken and beyond repair

On the previous application, a tumble dryer had been refused because it had insufficient priority for an award to be made. Evidence about the extent of Mrs O's health problems was not present on the previous application.

The Reviewing Officer's Decision

The Reviewing Officer (RO) decided that, as a decision had been reached on the need for a tumble dryer only four weeks beforehand, Direction 7 prevented any consideration of this need on this application; there had been no relevant change in circumstances. However, because of the new evidence about Mrs O's health problems, he decided to carry out a review on the previous application.

The Social Fund Inspector's Decision

Before the RO reached his new decision on the previous application, Mrs O requested a review of the decision on the present application. The Social Fund Inspector decided the RO had reached his decision correctly and that it remained the right outcome. Mrs O was asked in the statement of issues, sent to her prior to the decision being made, if there had been any changes in her circumstances since the previous application that might be relevant to her need for a tumble dryer. She had responded to the papers but had not provided evidence to show that her circumstances had changed at all. The Inspector confirmed the decision not to consider Mrs O's need for a tumble dryer on this application.

Comment

The change in the applicant's circumstances should be relevant to the need for the particular items/services requested on the first application. In a case where many items are being requested, the change could be relevant to some of the items but not others. In such a case, the Direction 7 bar would be lifted only in respect of those items to which the change was relevant.

It is important when considering Direction 7 to distinguish between a relevant change in an applicant's circumstances and new evidence about an applicant's previous circumstances. In some cases it will be unclear and further investigation may be necessary. Where there is no relevant change, but new evidence, an applicant might be directed to seek a review of the previous application. If there has been no review of the earlier application it may be appropriate for the Inspector to direct the RO to conduct a Direction 31 review.

Decision makers should also note that there must be an actual change in the applicant's circumstances, for the Direction 7 bar to be lifted. New information about a pre-existing situation or condition does not count as a change in circumstances for this reason. Any change in the applicant's circumstances that are relevant to his need are "relevant changes", irrespective of whether they lead to a deterioration or an improvement in his circumstances.

In this case, Mrs O's circumstances remained the same as when she had applied for a tumble dryer only four weeks before making her present application. Her need was the same, this application was made within 26 weeks of the previous one and there had been no relevant change in her circumstances. It was noted that the new evidence did call for the previous decision to be looked at again, a course of action the RO was already undertaking.

Direction 7

- relevant change in applicant's circumstances

Case 24.5

Application Details

Mr P was a single man who lived alone and was seeking work. He was in receipt of income-based Jobseeker's Allowance (JSA). He was in good health. Three weeks ago Mr P had moved from one local authority flat to another. His previous home had a living room, bedroom, kitchen and bathroom. His new home also had one bedroom. Both were centrally heated.

The following table shows details of the present and previous applications for a community care grant (CCG):

Date of Application	Items Requested	Reasons Needed
9 April 2002	One pair of jeans, one jumper, two T-shirts, a pair of pyjamas, a dressing gown and a pair of shoes.	Unable to replace items from his benefit.
6 June 2002	Clothes - one jumper, a pair of jeans, two T-shirts, a pair of pyjamas, a dressing gown and a pair of shoes.	Unable to afford them from limited income.

On the application made in April, Mr P was refused an award on qualification grounds.

The Reviewing Officer's Decision

The Reviewing Officer (RO) decided that although there had been a change in Mr P's circumstances, in that he now lived at a different address, this change was not relevant to his need for clothes and shoes. Neither was it relevant to the reason he was refused an award on the previous application – he had not met any of the qualifying tests. The RO concluded that Direction 7 prevented consideration of all the needs on this application.

The Social Fund Inspector's Decision

The Social Fund Inspector found the RO's decision to have been reached correctly. Although there had been a change in Mr P's circumstances since his previous application, in that he had changed address, the change was neither relevant to his need for clothes nor to the reason why he was refused an award on the first application. Both flats were the same size and had the same heating facilities. The need for clothing was due to Mr P not being able to afford new items from his income.

Comment

Direction 7 states that a decision maker shall not determine an application for a crisis loan or a CCG 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.

The change in the applicant's circumstances should be relevant to either the need for the particular items/ services requested on the first application or the reasons for refusing or awarding a payment on the first application. The change does not have to be radical – it could be slight. But it does have to be relevant to one of the matters mentioned above.

Although a new address is a fundamental change to an applicant's circumstances, in this case, it was not relevant to Mr P's need for clothes. He needed clothes while at his previous address for the same reason as he did at his new address. He was refused an award on his first application as he failed to meet the qualifying test for a CCG. [Contrast this with case 8.7, Journal 12]

Application Details

Miss J was a single parent with one dependant child who had been receiving Income Support for six months. She applied for a budgeting loan (BL) of £750 on 10 June 2002.

The Reviewing Officer's Decision

The Reviewing Officer (RO) followed the guidance set by the Area Decision Maker and calculated that the maximum possible loan available to Miss J was £469.01. However, Miss J already had an outstanding BL debt of £218.95. The Directions required this amount to be doubled and deducted from her maximum possible loan. The result was that a BL award of £31.11 could be offered to her. The RO did not take account of the fact that the budget was underspent.

The Social Fund Inspector's Decision

The Social Fund Inspector found the decision had not been reached correctly. The district office budget had been underspent by 10 per cent by the end of June. The RO had made his decision on 22 July 2002. He had not exercised his discretion when deciding Miss J's maximum possible loan. If he had taken into account the underspend in the budget, an increased award of £78.01 could have been made. The Inspector made his own decision, taking into account the length of time Miss J had now been receiving a qualifying benefit (10 months) and her current outstanding BL debt £37.22. The district office budget was now being spent as planned. These factors taken together resulted in an award of £425.84 being made to Miss J.

Comment

Section 140(1A) of the Social Security Contributions and Benefits Act 1992 requires decision makers, in determining whether to award a BL or the amount or value to be awarded, to have regard to the budget. Decision makers also have discretionary powers when deciding an applicant's maximum possible loan. If the district budget is not being spent as planned, the decision maker must take this into account. If a RO fails to exercise his discretion in relation to the budget, and had he done so this would have changed the outcome, the Inspector is then able to make a new decision using up-to-date information, or make the decision the RO should have made.

While Inspectors are able to change decisions for this reason, it does not happen very often and is likely only when there is a budget variance of any significance (see article "Budgeting loans and the Inspector's review" in this issue of the Journal).

Budgeting Loans

- Area Decision Maker's guidance and the budget

Case 24.7

Application Details

Mr D was a single and had received Income Support for over 3 years. He applied for a budgeting loan of £750 on 14 August 2002.

The Reviewing Officer's Decision

The Reviewing Officer (RO) decided that an award of £44.71 could be made. The spending of the district office budget was on target. Using the guidance issued by the Area Decision Maker (ADM), the RO decided that Mr D had access to a maximum possible loan of £422.11. He had an existing budgeting loan debt of £188.70. After this was doubled and taken away from his maximum possible loan, an award was made for £44.71.

The Social Fund Inspector's Decision

The Social Fund Inspector found that the RO had reached his decision correctly. He had stated in his decision that, as the district office budget was being spent as planned, he was following the guidance set by the ADM. The Inspector confirmed the award of £44.71.

Comment

When deciding an applicant's maximum possible loan, the ADM's guidance has to be taken into account. However it should not be used in isolation and the spending of the district office budget should also be addressed. An applicant's maximum possible loan can be decreased as well as increased in accordance with how the office budget is being spent. (See also case 24.6 of this issue)

In Mr D's case the district office budget was being spent as planned. The RO was therefore right not to depart from the ADM's guidance. However he was right to check the position of the budget before concluding he should follow it and confirming the award already made.

Application Details

Mr B was claiming income-based Jobseekers Allowance (JSA) for himself, a partner and four dependant children. He applied for a budgeting loan of £150 on 09 August 2002.

The Reviewing Officer's Decision

The Reviewing Officer (RO) decided that no award could be made because Mr B had not been receiving JSA for at least 26 weeks as specified under Direction 8.

The Social Fund Inspector's Decision

The Social Fund Inspector decided that the RO had not reached his decision correctly. Mr B had stated in his review letters to both the Department for Work and Pensions and the IRS, that he had received benefit for more than 26 weeks. The Inspector contacted the JSA and Income Support (IS) sections at his local office. He established Mr B had been paid clerically up until his current claim to JSA had been put on the computer system. Prior to this, Income Support had been paid to him for four years. The maximum period of time allowed in the calculation of a budgeting loan is 36 months. Mr B had therefore received a qualifying benefit for longer than this and 36 months was used in the calculation of his maximum possible loan. Based on the Area Decision Maker's guidance, Mr B had access to a maximum possible budgeting loan of £1266.34. However no award could be made. At the date of the first decision, 09 August 2002, Mr B had a budgeting loan debt of £693.12. This was doubled and taken away from his maximum possible loan, leaving a minus figure of £119.90. Therefore no offer could be made.

Comment

The applicant has a duty to advise when he believes the information used in the calculation of a budgeting loan is incorrect. However, the RO has an inquisitorial role and is required to take account of all relevant considerations when reaching his decision. It is the responsibility of the RO to ensure that the information used in the decision is correct and, where appropriate, further investigation should follow to establish this.

Mr B had advised the RO in writing that his current claim to benefit had in fact exceeded 26 weeks and this proved to be correct. The RO was, therefore, put on notice to investigate Mr B's benefit history more thoroughly. In not doing so, he had not taken all relevant considerations into account and his decision was not sustainable on the evidence.

Social Fund Inspectors and the District Budget

- budget under pressure

Case 24.9

Application Details

Mr A lived with his wife and three children, two sons aged ten and eight and a daughter aged four. On 10 July 2002 Mr A applied for a community care grant (CCG) for a cooker, £150, carpets, £300, three mattresses, £150, bedding, £100 for his children and a fridge, £150.

Mr A had schizophrenia, an ulcer, back and leg pains and asthma and was unable to work. His wife was in good health and was providing him with a considerably high amount of daily care. This restricted the time she was able to leave the home. Mr A's children were in good general health but his youngest son still wet the bed and was receiving treatment from the doctor for this. Mr A's cooker was 17 years old and broken beyond repair. His carpets were old, dirty, smelly and no longer fitted properly. One of Mr A's sons had recently fallen downstairs because the carpet was loose. This had now been nailed down. The children's mattresses were stained, the youngest boy's was very damp and smelt badly and all their bedding was worn as a result of bedwetting. The three children had four blankets and four sheets between them that were still serviceable. The family's fridge was leaking water and did not keep food cold properly. Mrs A was having to shop daily for food. This was impacting on the time she had available to care for her husband and children. On some days Mrs A had not been able to shop for food because her husband could not be left alone in the house. The Area Decision Maker's guidance was unable to meet all high priority needs from its grants budget. The district budget was 4% overspent.

The Reviewing Officer's Decision

The Reviewing Officer (RO) decided Direction 4(a)(ii) and (iii) were met. He awarded a CCG of £150 for a cooker but refused an award for the remaining items. He found all of these to be of medium priority. The mattresses and bedding were normal replacement items and were in any case were, still serviceable. Mrs A could continue to shop daily for fresh food. The carpets, although old, were still serviceable.

The Social Fund Inspector's Decision

The Social Fund Inspector found the decision to award a CCG for a cooker had been reached correctly. He also agreed that the need for mattresses and bedding for the two eldest children and carpet was medium priority. Their mattresses, although stained, could still be used and there was enough serviceable bedding for them. The carpets, although old, still provided some cover. But he decided the decision to refuse an award for the fridge and mattress and bedding for the youngest son had not been reached correctly. He found that although Mr A's wife was in good health, a considerable amount of her time was taken up in caring for him as well as their three children. Having to shop daily for food was adding to these demands. The youngest son had a night incontinence problem for which he was receiving medical treatment. Poor sleeping facilities would not be helping with this. The RO had failed to take account of these concerns. To enable Mrs A to shop less frequently and have the necessary time to cope with the family's problems, the Inspector gave the fridge high priority. To provide adequate sleeping facilities for the youngest son a mattress and bedding were also high priority. The Inspector acknowledged the pressure on the grants budget - it was overspent against planned expenditure and had only achieved this by refusing some high priority needs. However, he decided the effect an award for a fridge, mattress and bedding would have on this family's daily life, made it so compelling that an award should be made. In addition to the award already made for the cooker, he awarded £150 for a fridge and £50 for a mattress and £30 for bedding for the youngest son.

Comment

The Social Fund is a cash limited scheme. Each district is given an annual budget for grants and loans and this cannot be overspent at the end of the allocation period. The Area Decision Maker in each district will plan the expenditure of the budget for each month of the year and give guidance on the level of priority that the budget can meet. In deciding whether to make an award, all decision makers must take account of all relevant considerations. This includes the district's budget. Inspectors, being decision makers, are equally bound by this consideration. In reaching his decision, the Inspector has to show it is sustainable on the evidence and this means getting up-to-date information about the planned expenditure, the level of priority the budget can meet and the actual expenditure. However, it is important to note that the discretionary nature of the scheme means that there must always be scope for the exceptional case (providing there is some money left in the budget). The Inspector may make an award that runs counter to the planned spend where the nature, extent and urgency of the need, or other compelling consideration warrants such action.

In Mr A's case, despite the budget being considerably overspent, the Inspector decided the cost of a fridge, mattress and bedding should be met. Weight was given to the fact that Mr A had considerable care needs, provided solely by his wife. The demands on her time were, therefore, great. The award of a fridge to allow food to be stored for longer periods of time would clearly have a substantial effect in improving this family's circumstances. And for a young child with incontinence problems, having somewhere comfortable and clean to sleep would have the same effect.

Application Details

Mr M lived with his wife and received Income Support and Incapacity Benefit. He was unable to work as he had uncontrolled epilepsy, making him doubly incontinent. He also had arthritis in his hands, a damaged shin and poor hearing. His wife provided all his care. His incontinence made him frequently soil the carpets, mainly in his living room and bedroom. He hired a carpet cleaner every two months to clean these, at a cost of £12 each time. If the carpets were not cleaned they needed replacing every year. Sponge-cleaning them did not have the desired effect. Mr M did not use incontinence pads, because his fits were unpredictable and he would have to wear them all the time. On 26 August 2002 Mr M made an application for a community care grant (CCG) for a bed, bedding, washing machine and a carpet cleaner. His bed and bedding were badly stained and smelly. His washing machine had broken and was beyond economical repair. Mr M felt it would be more cost effective to have his own carpet cleaner. The one he needed cost £249. A reduced amount would not be considered.

The Area Decision Maker's (ADM's) guidance was able to meet all high priority needs to the extent that the budget allowed. This was around 3% overspent.

The Reviewing Officer's Decision

The Reviewing Officer (RO) decided Mr M met Direction 4(a)(ii) and (iii). He decided the need for a new bed, bedding and a washing machine were all high priority and that an award could be made for these items. He refused an award for the carpet cleaner. He accepted this was important to Mr M. However, on balance, he concluded that although the need was high priority, the budget could not sustain an award for it.

The Social Fund Inspector's Decision

The Social Fund Inspector decided the RO's decision had been reached correctly and remained the right outcome. She confirmed the award for the bed, bedding and washing machine. In looking at the position of the grants budget, the evidence showed this was under considerable pressure. The Inspector accepted the importance of a carpet cleaner to Mr M - it would be more hygienic and would help keep down the cost of keeping his home clean. She agreed it was high priority. However, Mr M had access to a carpet cleaner regularly, albeit by hiring it. The Inspector compared the cost of buying such an item compared to the cost of hiring one six times a year. She concluded it would take some time for the cost of buying to outweigh the cost of hiring. She concluded that the nature, extent and urgency of the need for Mr M to buy a carpet cleaner meant it did not fall into the level of high priority for which the budget could sustain an award. She refused an award for it.

Comment

Case law (*R v Social Fund Inspector ex parte Taylor*) has established that priority must be decided without any consideration of the budget allocation or its state. Priority should be based on the nature, extent and urgency of the need, taking account of the Secretary of State's guidance. Once priority has been decided all decision makers need to decide whether to make an award and the amount of any award on the basis of all the circumstances of the case. One of these is the district's budget. Directions 40–42 set out the principles of budget management. The budget is to be managed to give priority to high priority needs throughout the budget year and the annual budget cannot be overspent. This means it is incumbent on the Inspector to meet the range of needs the budget is capable of meeting.

The state of the budget is indicated by the percentage variation of actual spend from planned spend and how that position has been reached. Relevant evidence includes: the district budget profile (planned spend) to the relevant month end; actual spend to the relevant month end; the percentage of any over or underspend against planned spend; the ADM's guidance on the level of priority that may be met from the budget; any evidence about the types of needs the budget has been meeting or typical amounts awarded for specific items; and any information about outstanding work. (A budget may, on the face of it, appear to be underspent but this may be solely because there is a backlog of cases to be decided). The Inspector should make awards for needs that merit payment in the light of the state of the budget. However, the discretionary nature of the scheme means that there must always be scope for the exceptional case (providing there is some money left in the budget). The Inspector may make an award that runs counter to the planned spend where the nature, extent and urgency of the needs, or other compelling consideration warrants such action.

This case illustrates the situation where a district's budget is unable to meet all high priority needs. It was accepted the need for a carpet cleaner had high priority. However, after careful and balanced consideration, the evidence supported the conclusion that it was not important enough for an award to be made.

Application Details

Mr R was a single man unable to work due to poor health. On 5 September 2002 he applied for a community care grant (CCG) for a cooker, £300, pots and pans, £30, crockery and cutlery, £30, a bed, £150, bedding, £50, carpet, £300, curtains, £150, a fridge, £300 and a settee, £500, making a total request of £1810.

Mr R had been living in a hostel for 18 months as part of a planned resettlement programme while he had undergone treatment for a drug problem. He was now drug free but his health remained poor. He had leg ulcers, requiring dressing every other day by a nurse, that would not heal and affected his mobility. He had a nervous problem. In the four or five years before moving to the hostel, he had no home of his own. He now had the tenancy of a council flat but had no furniture or household equipment. His Resettlement Worker said that Mr R faced problems in setting up home for the first time in years. These were physical - his lack of mobility - as well as mental - his lack of confidence and self-esteem. Mr R's district office was able to meet all high priority needs to the extent that the budget allowed.

The Reviewing Officer's Decision

The Reviewing Officer (RO) awarded a CCG under Direction 4(a)(ii) and (v) to enable Mr R to move in. He awarded a cooker, £150, pots and pans, £15, crockery and cutlery, £15, a bed, £100, bedding, £40 and an armchair, £180, a total of £500. He decided Mr R's need for carpet, curtains, a fridge and additional seating was of insufficient priority for an award. He based this conclusion on the fact that the budget was 5% overspent against planned expenditure. For the same reason, he restricted the amounts awarded, basing his award on items available from Argos and Littlewoods Index, allowing the least amounts possible.

The Social Fund Inspector's Decision

The Social Fund Inspector decided the decision had been reached incorrectly. The RO had not taken account of Mr R's health problems, mental state or his ability to set up home after such a long time. He had allowed the budget overspend to sway his decision when deciding the priority of the needs. The Inspector agreed the need for cooking, eating, sleeping facilities and some seating was high priority. But he also found carpet and curtains in the living room and curtains in the bedroom were also high priority to provide a degree of comfort and privacy and security. Mr R's mobility problems meant shopping regularly was impossible so he also gave high priority to a fridge. The grants budget was unable to meet all high priority needs. However, the Inspector decided Mr R's need to create a secure and settled home at this point in time was so important that all his high priority needs should be met.

When considering the amounts to award the Inspector took account of the fact that the budget was overspent, despite only meeting some high priority needs. Based on this, the Inspector considered it appropriate to reduce some of requested amounts, even though they fell within a broad reasonable range. The Inspector confirmed the amounts for the cooker, crockery, cutlery, pots, pans, bed, bedding and seating finding these appropriate for items of a serviceable quality that would meet Mr R's needs. In addition, the Inspector reduced the amounts awarded for the other high priority items - living room carpet, £150, two pairs of curtains, £50 and a fridge £150. Again the amounts were sufficient to purchase new items of serviceable quality. This made a total award of £850.

Comment

In deciding an award on an application to the Social Fund, decision makers should normally award the amount requested if it is within a broad range of prices considered appropriate for an item of serviceable quality. If the amount requested is unreasonable, a lower amount may be awarded. However, this should be an amount that is within a broad range of prices considered appropriate for an item of serviceable quality. This should not routinely be the least amount for which an item can be bought. In reaching his decision the decision maker will need to exercise their discretion and consider all the circumstances of the case, including the nature and extent of the need and the state of the budget. The state of the budget is one factor to consider when deciding the amount to award. However budgetary considerations should only cause the amount to be restricted if the evidence shows that the budget is under serious pressure.

In Mr R's case, the facts relating to the spending of and position of the budget had to be taken into account. However, this evidence had to be set against that relating to the particular and difficult needs Mr R had in setting up his home at this time. The need to set up home was so pressing that all high priority items had to be awarded despite the pressures on the budget. However, given the pressures it was appropriate to reduce the amounts awarded.

Application Details

Mrs T was a single parent with a daughter aged 13 years old. On 29 September 2002 she applied for a community care grant (CCG) for various items of furniture and household equipment and redecorating expenses. She asked for £450 for a cooker, £250 for a double bed, £300 for a settee, £300 for decorating expenses, £250 for living room carpet, £200 for her bedroom carpet and £150 for her daughter's bedroom carpet.

Mrs T suffered from depression and took Prozac. She separated from her violent ex-husband in 1994 and had a nervous breakdown following this. Her medication and nerves caused incontinence problems. This had ruined her mattress and the bed base was worn, with springs sticking through it. Her daughter was being bullied by local girls and did not like going out on her own. Mrs T walked her to and from school.

Mrs T's cooker no longer worked and could not be repaired. Her settee was old and worn with springs sticking through it. The carpet in her living room and bedrooms was old and worn and had never fitted properly. The décor in her bedrooms was old, worn and in a poor state. The Area Decision Maker (ADM) said the grants budget, based on evidence of the spending so far, was able to meet all high priority needs. However, to do so, the amount of any award should be considered carefully. The budget was 4% overspent.

The Reviewing Officer's Decision

The Reviewing Officer (RO) made an award under Direction 4(a)(iii) for a cooker, £250, a double bed, £100, a settee, £180 and carpet for the living room, £100. He based his awards on items available from Littlewoods Index and Argos stores. He allowed 25 square yards of carpet at £4 per square yard. He found this would provide some covering although not necessarily a fully fitted carpet. Carpet at this price was available from Carpetright. The RO explained in his decision that the amounts Mrs T had requested fell within a broad range of reasonable prices for items of a serviceable quality. However, given the budget position and the ADM guidance on considering amounts carefully, he decided to restrict the award. The remaining needs were of medium priority – a level of need that could not be sustained by the budget.

Mrs T requested a review as she felt some of the amounts allowed were too low.

The Social Fund Inspector's Decision

The Social Fund Inspector decided the RO's decision was made correctly. The RO had awarded amounts that were sufficient to buy new items of serviceable quality from a range of national stores. He had explained that the prices were reduced because of the significant pressures on the budget. This was a reasonable decision in the circumstances of this case.

Comment

Direction 41(c) now requires ADMs to "issue information for the relevant decision makers as to the budgetary position of the grant allocation" in their area. Paragraph 7262 of the Secretary of State's guidance provides a non-exhaustive list of the sort of information that might be provided by the ADM under Direction 41(c). This includes:

- how up to date the workload is;
- a comparison of year to date expected spend against actual spend;
- the types of needs that have been met to reach the current budget position and over what period; and
- whether amounts awarded have been restricted and over what period.

It also suggests that this information should be included with the papers sent to the IRS if decision makers have used this information as evidence in a decision.

In Mrs T's case, consideration was given to the evidence on the grants expenditure. This clearly showed it was able to meet all high needs but that amounts were being considered carefully and restricted in some cases. So, although all her high priority needs could be met, the amounts awarded were restricted in line with the guidance to amounts for which Mrs T would be able to obtain items of a serviceable quality.

Social Fund Inspectors and the District Budget

- budget led decision

Case 24.13

Application Details

Miss W was single and lived alone. She was seven months pregnant and receiving Income Support. On 17 July 2002 she applied for a community care grant (CCG) for some curtains, a three-piece suite, a fridge-freezer, carpets and a wardrobe.

Miss W suffered from depression. She had in the past tried to take her own life. She was unable to take any medication due to her pregnancy. She has recently been hospitalised due to complications with her pregnancy. She had been living at her mother's home – a two- bedroom house. Also living there were her brother and sister. Her brother's two children stayed there every weekend. When Miss W became pregnant her mother asked her to leave due to the overcrowding. Miss W obtained the tenancy of a council flat. She had received a crisis loan (CL) for a cooker, single bed, bedding and cooking and eating utensils.

Miss W's district office was unable to meet all high priority needs from its grants budget.

The Reviewing Officer's Decision

The Reviewing Officer (RO) decided that, although Miss W met Direction 4(a)(iii), none of her needs had sufficient priority for an award to be made. His reasons for doing so were based on the position of the district budget. He took account of the fact that, despite only having met some high priority needs since the start of this year, the grants budget was overspent against planned expenditure by 3%. He also took account of the fact that Miss W had already had a CL for her most basic needs – those for cooking and sleeping. And he commented that applications such as hers were common to the Social Fund and to limit awards to those applicants who requested a review was extremely unfair and not within the scope of the budget. He refused an award.

The Social Fund Inspector's Decision

The Social Fund Inspector decided the decision had not been reached correctly. He concluded the RO had not taken relevant considerations into account but had taken irrelevant considerations into account. He had taken account of the budget when deciding the priority of each item but had not looked at the nature, extent and urgency of the needs. He had not given any consideration to how Miss W was living in her home without many of the most basic items. Her health problems and pregnancy had not been taken into account and the fact that she had chosen to seek a review was not a relevant consideration. The Inspector took account of Miss W's living conditions and her pregnancy and decided an award should be made for seating, a carpet for the living room and curtains for the living room and bedroom. Although the amounts requested were within a reasonable range he reduced the amounts awarded because of the pressures on the budget. The Inspector awarded amounts sufficient to enable Miss W to buy new items of serviceable quality from a range of national stores.

Comment

Case law (R v Social Fund Inspector ex parte Taylor) has established that priority must be decided without any consideration of the budget allocation or its state. Priority of the need is to be decided on the basis of the nature, extent and urgency of the need, taking account of the Secretary of State's guidance. Once the priority of the need has been decided all decision makers need to decide whether to make an award and the amount of any award on the basis of all the circumstances of the case. One of these is the district's budget and Inspectors, as well as Decision Makers and ROs, are equally bound by this consideration. Directions 40 – 42 set out the principles of budget management. The budget is to be managed to give priority to high priority needs throughout the budget year. The annual budget cannot be overspent. This means it is incumbent on the Inspector to meet the range of needs the budget is capable of meeting.

In Miss W's case, the RO reached his decision on priority incorrectly by giving weight to the evidence relating to the district budget, and the other irrelevant considerations, instead of looking at the nature, extent and urgency of her needs and the particular circumstances of her application.