

digest of decisions

Independent Review Service for the Social Fund
Summer 2003 Issue 25

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Independent Review Service
for the Social Fund

Welcome to the 25th edition of the Digest of Decisions.

This digest covers several broad areas:

- Crisis loans and telephone applications
- Amounts to award (reasonable amounts and the impact of the budget)
- Cases dealt with the Customer Service Team and the application of s38(5)

To help decision makers and advisors the Social Fund Commissioner's advice to Inspectors on "Amounts to award – CCGs" is also included.

The full range of Social Fund Commissioner's advice can be downloaded from the IRS website. 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:
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Crisis Loan for living expenses

- Telephone application

Case 25.1

Application Details

Mr R applied for a crisis loan (CL) on 16 January 2003 for £50 for living expenses. His application was made on the telephone. The Decision Maker (DM) who took the call recorded the information set out below.

Mr R was 17 years old and lived alone. He received Jobseeker's Allowance (JSA) every 2 weeks. On 15 January 2003, he lost his wallet containing £55 while out shopping. This was all of his remaining benefit.

The Reviewing Officer's Decision

Mr R was refused a CL as the DM found that Direction 3 was not met. Mr R asked for a review.

At the review interview, Mr R told the Reviewing Officer (RO) that while out shopping, he put his wallet in the pocket of his denim jacket. He was returning to the bus terminal when he saw his bus. He ran to catch it and believes his wallet may have fallen from his pocket while he was running. He had enough loose change to pay for his fare so he did not realise his wallet was missing until he arrived home.

The RO found Mr R's evidence inconsistent with his application details and refused a CL. He reached this conclusion because the information recorded by the DM contained no mention of Mr R's evidence about losing a wallet while running to catch a bus.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) decided the RO's conclusion was not reached correctly. She found it more likely than not that Mr R had lost his money. The information given at the interview did not conflict with or contradict the evidence given over the telephone when the application was made. The evidence given at the interview was simply more detailed and clear. She found that he qualified under Direction 3 and awarded him a CL.

Comment

With effect from 1 October 2002, applications for CLs can be made by telephone.

In this case, the Decision Maker (DM) had completed an application form on Mr R's behalf during a telephone conversation with him. It was recorded that Mr R had lost his wallet while out shopping. Mr R provided consistent evidence. Throughout the review process he stated that he had lost his wallet while out shopping. The extra detail about running for a bus was not a discrepancy in the evidence. In these circumstances the Inspector was right to decide the decision had not been reached correctly.

Crisis Loan for living expenses

- Telephone application

Case 25.2

Application Details

Miss A applied for crisis loan (CL) on 28 January 2003 for £94 for living expenses. She was a lone parent of three children under the age of five. She received Income Support (IS) that was last paid on 27 January 2003. On 28 January 2003 she reported the loss of £94 and wanted a CL to replace it.

Miss A's CL application was taken over the telephone. She told the Decision Maker (DM) that her purse had either been lost or stolen from her coat pocket while out shopping the previous day. The DM read back the evidence taken over the telephone and asked Miss A whether there were any other facts or information that she wanted to be taken into account. Miss A had nothing further to add.

The Reviewing Officer's Decision

Miss A's evidence was not accepted by the DM and a crisis loan was refused. Miss A asked for a review.

The RO interviewed Miss A later the same day. She told the RO she recalled sitting among a group of school children on the bus travelling to the shops. She thought one of them might have stolen her purse. As part of the interview the RO told Miss A he would be considering her previous CL applications when making his decision. Miss A had made 3 previous crisis loan applications in the past two months. All three applications had been to replace money that had been stolen on the bus by groups of children. Miss A made no comment on the previous applications.

The RO did not accept Miss A's evidence. He reached this conclusion after noting that Miss A had reported losing her purse in very similar circumstances on three other recent occasions. He decided the decision to refuse Miss A a CL should stand.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) agreed with the RO. She decided the decision had been reached correctly and confirmed the decision.

Comment

Miss A was aware of the case before the DM and the RO. The application details were clearly documented. For example, the time the telephone interview took place was recorded and application details confirmed with Miss A. The review interview was also conducted openly and fairly. Miss A did not dispute the application details when interviewed by the RO. Miss A was made fully aware that the RO would be taking account of previous applications for CLs. She was also given the opportunity to comment on the previous applications. The conclusion to refuse an award was clearly supported by the evidence.

Community care grants

- Amounts to award and the impact of the budget

Case 25.3

Application Details

Mr M applied for a community care grant (CCG) on 1 July 2002 for a fridge and a settee. Mr M lived with his wife and five children. His wife had been unwell since the birth of their last child six months ago. The nature of her illness was unknown and she was undergoing hospital tests. The fridge had broken down and the settee base had collapsed. Mr M stated that the family relied on a fridge to store perishable foods because there were no local shops. He had two armchairs and a 2-seater settee. Some of his children were sitting on the floor due to the lack of seating. Mr M requested £400 for a fridge and £500 for a settee.

The Reviewing Officer's Decision

The Reviewing Officer (RO) decided an award would ease exceptional pressures on Mr M and his family. He concluded that an award for a fridge and settee was of high priority. The RO awarded £100 for a fridge and £350 for a settee because of budget pressures.

Mr M asked for a review because he felt the amounts were too low.

The Social Fund Inspector's Decision

The SFI agreed that Mr M qualified for a grant. He also agreed with the decision to give high priority to a fridge and a settee. The SFI in his statement of issues advised Mr M that he would be re-examining the amounts awarded. But he informed him that the budget for his local area was under pressure. He asked Mr M where he had priced a fridge and settee. In his reply, Mr M said that he wanted high quality items. He had priced both items in a city centre store.

When making his decision the SFI accepted that the amounts requested were within a broad range of prices appropriate for serviceable items. However, the local budget had been under pressure throughout the year and was currently seven percent overspent. He decided that a lesser amount than requested was appropriate. He decided the grant already awarded was representative of items available locally and was enough to meet Mr M's needs.

Comment

The Secretary of State's guidance (SFG) – paragraphs 3362 – 3365 advises that requests should be met in full where the amount is within the broad range of prices considered appropriate for an item of serviceable quality. The guidance is not binding, but it should be followed unless there is good reason not to. SFG Para 3368 advises decision makers to consider awarding a lower amount if the budget is under pressure. The reduced amount must be sufficient to cover the cost of the expenses and to meet the aims of Direction 4.

In this case, the budget was under pressure and a restricted award was appropriate. The amount awarded was enough to meet Mr M's needs. The Inspector was right to let the award stand. (See cases 15.7 & 8 journal issue 19)

Community care grants

- Impact of the budget - Meeting the need

Case 25.4

Application Details

Mrs A applied for a community care grant (CCG) on 13 November 2002 for various items of furniture and household equipment.

Mrs A was a lone parent of five children. Mrs A had left her husband and family home after being the victim of domestic violence. The family had been living in a hostel but were moving to unfurnished accommodation. Mrs A had no furniture. The furniture was left in the marital home where her husband continued to live.

The Reviewing Officer's Decision

The Reviewing Officer (RO) decided that an award would ease exceptional pressures on Mrs A and her family. He awarded Mrs A a CCG of £1,962 for her high priority needs - beds, bedding, seating, carpets, curtains, a fridge, cooker, pans, crockery and cutlery. The budget was meeting high priority needs but keeping within a planned profile of expenditure by awarding lower amounts than requested. Because of this, the RO awarded lesser amounts than requested for all Mrs A's high priority needs.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) was not satisfied the decision was reached correctly. He acknowledged that the budget was being managed by limiting award amounts. However, he found that the amounts awarded for a fridge, cutlery, pans and crockery were not reasonable amounts to meet the needs of a family of six. The RO awarded £40 for a fridge, £2 for cutlery, £5 for a pan set and £4 for crockery. The SFI increased the awards for these items.

Comment

The Secretary of State guidance 3368 advises that decision-makers may consider awarding a lower amount than requested if the evidence indicates the budget is under pressure. If decision-makers decide to award a lower amount, then that amount should still be a "reasonable" amount to meet that applicant's needs.

In this case the district budget was meeting high priority needs but was managing the budget by awarding lower amounts. The latest evidence showed the budget was slightly overspent but had only reached this position by restricting awards to the low amounts. However, in this case the amounts awarded for a fridge, cutlery, pans and crockery were restricted so severely that they were not enough to reasonably meet the needs of a family of six.

If decision-makers limit awards they must support their decision with evidence. Applicants must be informed where such items can be obtained with the amount allowed but are free to choose where to buy the items.

Community care grant

- The impact of an overspent budget

Case 25.5

Application Details

Miss D applied for a community care grant (CCG) on 2 December 2002 for a bed, duvet, duvet cover and pillow-cases. Miss D lived alone. She had mental health problems and had been hospitalised on several occasions. She was prescribed strong medication that made her drowsy. She had fallen asleep while smoking a cigarette in bed. Her bed and bedding had caught fire and she had thrown them away. She was sleeping on the settee and was using an old sheet, a pillow, and a duvet that was full of holes. Her mental health was deteriorating and she feared she would be admitted to hospital. Miss D had recently begun suffering from incontinence.

The Reviewing Officer's Decision

The Reviewing Officer (RO) decided that an award for a bed and bedding would help Miss D to remain in the community and so qualified for a grant under direction 4(a)(ii). He decided that Miss D's need for both a bed and bedding was of high priority.

However, the district budget was overspent by 19 percent. Only the most compelling of high priority needs could be met and awards restricted to the lowest amount to meet the need.

The RO acknowledged that Miss D had a very urgent and compelling need for a bed and concluded that despite the pressures the budget could meet her need. He awarded her £75 for a bed. However, the RO decided that Miss D's need for bedding was not so pressing. He acknowledged that her bedding supply was inadequate but she did have other bedding that she could use. He decided that her need was not one of the most compelling high priority needs so an award was refused.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) decided the decision was not reached correctly. The SFI found that the evidence showed a pressing need for bedding because of Miss D's mental health problems and also, in view of her incontinence she needed a change of bedding.

The district budget was under severe pressure despite an extra allocation of funds. Miss D had a very compelling need for a bed and bedding and the SFI decided her need could be met from the budget. She had requested £200 for a bed and £100 for bedding. The SFI acknowledged that the budget could not realistically meet this cost. The £75 already awarded was enough to buy a bed. The SFI concluded that £30 was sufficient to buy a duvet, sheets and pillows from a range of high street stores.

Comment

Where there are severe pressures on a budget difficult choices have to be made. In this case Miss D's high priority needs were not in dispute. But the budget was only able to meet a limited range of needs at the lowest possible cost. The severe pressures on the budget inevitably impacted on the amount of the award made.

Community care grant

- Impact of an under spent budget on award

Case 25.6

Application Details

Mrs E applied for a community care grant (CCG) on 13 August 2002 for a fridge. Mrs E was a lone parent of three children. Two of her children had severe eczema. The third child had mild epilepsy and learning difficulties. Mrs E owed £3000 on several hire purchase agreements. She was finding it very difficult to repay these debts and often ran out of money before the end of the week.

Mrs E's fridge had broken down. Her neighbour was letting her store some perishable items in the fridge. However her neighbour worked full time so this arrangement was not practical. Mrs E was therefore shopping for perishable foods such as milk, butter and yoghurts once or twice a day. She found shopping so frequently was inconvenient and expensive.

The Reviewing Officer's Decision

The Reviewing Officer (RO) found direction 4(a)(iii) met as an award for a fridge would ease exceptional pressures on Mrs E and her family. He decided Mrs E's need for a fridge was medium priority. The district budget was only meeting high priority needs so a grant was refused.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) decided the RO's decision was reached correctly. She agreed an award for a fridge would have a noticeable effect in terms of improving Mrs E's circumstances but that it would not have a substantial and immediate effect in easing the exceptional pressures. In accordance with Secretary of State's guidance this was a medium priority need.

Following the RO's decision, the budget for Mrs E's district had merged with a neighbouring district. The latest budgetary evidence before the SFI was that the budget had spent 23 percent less than planned and district workload was up to date. The Area Decision Maker's (ADM's) guidance advised that only high priority needs could be met. The SFI concluded that given the extent of the under spend the budget could meet Mrs E's medium priority need. She went on to award a grant of £250 as requested.

Comment

Area Decision Makers are required by direction 41(c) to "issue information for the relevant decision makers as to the budgetary position of the grants allocation" in their area. This should include:

- whether significant work is outstanding and its potential impact on the budget;
- a summary of how the current budgetary position has been arrived at:

In this case, the budget had been meeting high priority needs. However, it was significantly under spent and there were no significant arrears of work. It was reasonable to depart from the ADM's guidance and make an award for a medium priority need. In making this decision the SFI concluded that this medium priority need could be met, however, this does not mean that all medium priority needs would necessarily have sufficient priority to be paid.

Community care grant

- Amounts to award - Impact of Area Decision Makers' guidance

Case 25.7

Application Details

Mr F applied for a community care grant (CCG) on 11 September 2002 for various items of furniture and household equipment. He had three children. Two of his children wet their beds and one had a skin complaint. They had all been sharing a two-bedroom home with Mr F's grandmother. It was overcrowded and Mr F's grandmother was in poor health. The local authority found Mr F a tenancy but without furniture he was unable to move.

The Reviewing Officer's Decision

The Reviewing Officer (RO) accepted that Mr F qualified for a grant. She found all the items requested were high priority needs and awarded a grant for everything requested. She found the amounts requested for a washing machine (£375), fridge-freezer (£299), and a suite (£500) were outside a broad range of prices. She awarded reduced amounts for all three items.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) was not satisfied the decision to restrict an award was reached correctly. He found the amounts requested by Mr F were within the broad range of prices considered appropriate for serviceable items. The Secretary of State's guidance advises that requests should be met in full where the amount is appropriate and within the broad range of prices considered appropriate for items of a serviceable quality. In this case, the RO did not explain how she had used the guidance or decided the amount to award.

However, since the RO made her decision, the Area Decision Maker (ADM) had issued new guidance. This advised that the budget was only able to meet the most compelling of high priority needs. The latest budgetary evidence showed the grants budget was six percent overspent. The inspector concluded that the change in guidance and pressures on the budget would have to be taken account of. He examined the amounts awarded by the RO for a washing machine, fridge-freezer and suite. He found that the award for them was enough to meet their need. He went on to confirm the decision.

Comment

In this case the change in ADM's guidance and the position of the budget had a bearing on the amount to award Mr F. When the RO made her decision the budget expenditure was as planned and was meeting high priority needs. The amounts Mr F had requested for a washing machine, fridge-freezer and suite should have been met in full. The SFI acknowledged that the position of the budget had changed since the decision was made. This could not be ignored. He concluded that the pressures on the budget were such that the award would have to be limited. The actual amounts awarded by the RO although less than requested were enough to meet Mr F's needs.

Community care grants

- Merged budget - Impact of outstanding work on a budget

Case 25.8

Application Details

Miss S applied for a community care grant (CCG) on 28 November 2002 for removal expenses. Miss S had significant health problems requiring hospital treatment. Her sister was helping her with housework and shopping but this was difficult for her as she lived some distance away. Miss S had been offered a tenancy close to her sister's home. She wanted £150 to pay for the cost of her removals.

The Reviewing Officer's Decision

The Reviewing Officer (RO) decided an award would ease exceptional pressures on Miss S and her family. She found Miss S's need was of high priority. The Area Decision Maker (ADM) advised that budget was only meeting the highest of high priority needs. The RO concluded that Miss S's high priority need did not have enough priority for an award.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) was not satisfied the decision was reached correctly. In September 2002 the district office had merged with several other districts to form one district, with one budget.

Some of the individual districts had been overspending their budgets prior to the merger. However, the latest budgetary evidence, post merger, showed that overall the whole district budget was 16 percent under spent. There was information stating that the district had a significant backlog of work but this information had remained unchanged since September 2002. The SFI made enquiries but was unable to establish an accurate estimate of what work was outstanding or the potential impact on the budget. The SFI concluded that the district budget was able to meet Miss S's high priority need. She went on to award a grant of £150.

Comment

Secretary of State's guidance advises on what information can be provided by Area Decision Makers (ADM's) as to the budgetary position of the grant allocation. This includes information about any backlog of cases. SFI's decisions have to be sustainable on the evidence. This can mean it is necessary to obtain up-to-date information about the current position of the budget.

In this case, the latest evidence about the budget showed a significant under spend. There was evidence from the ADM suggesting an accumulation of work. However, this information from September onwards was not substantiated. The SFI had to make a judgement on the available information. As this showed the grants budget was under spent the SFI concluded that Miss S's high priority need could be met in full.

Community care grants

- Merged budget

Case 25.9

Application Details

Mr L applied for a community care grant (CCG) on 15 November 2002 for two replacement mattresses.

Mr L was married. Both he and his wife were in poor health. Mr L had uncontrolled diabetes, leg ulcers and severe arthritis. His wife had a heart condition, asthma and osteoporosis. They were sleeping in separate beds as both suffered from disturbed sleep. Both of their mattresses had been soiled. Mr L had weeping leg ulcers that had stained his mattress. Both Mr L and his wife had problems reaching the toilet during the night. As a consequence their mattresses had worn and were smelly. Mr L wanted orthopaedic mattresses for both beds. He said that as both he and his wife had joint problems, they needed firmer more supportive mattresses.

The Reviewing Officer's Decision

The Reviewing Officer (RO) found that Mr L qualified for a grant. He decided that he had a high priority need for mattresses. An award was refused, as the budget was overspent and unable to meet Mr L's high priority needs.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) decided this decision was not reached correctly as it had been based on out of date guidance and budget information. When the decision was made Mr L's local office had just merged with a neighbouring office. The new district had a combined grants budget. No new guidance had been issued to advise what priorities could be met. Neither was there any updated information about the budget. Mr L's old office had been meeting high priority needs to the extent allowed by the budget. The budget prior to merger had been 1.5 percent overspent. The district it had merged with had been meeting all high priority needs and its budget had been under spent for most of the financial year. In the absence of any evidence to the contrary the SFI concluded that the district was likely to be able to meet Mr L's high priority needs. She went on to award a CCG for two mattresses.

Comment

Recent boundary changes have led to a number of district mergers. All affected district Area Decision Makers (ADMs) were instructed to immediately set up new guidance for the new district and supply budgetary evidence to support their advice. This action had not been taken.

In this case the SFI properly considered the information that was available and formed a judgement that was sustainable on that basis.

Given the historical information about both districts budget, the SFI was right to conclude that Mr L's high priority needs could be met.

Community care grants

- Priority - Amounts to award - Boundary change

Case 25.10

Application Details

Mrs J applied for a community care grant (CCG) on 26 September 2002 for £200 for a cooker.

Mrs J was a lone parent. Her son was 12 months old. Mrs J suffered from anxiety and depression. Her son suffered from asthma and eczema. Mrs J had large debts and was finding it difficult to meet all of her outgoings.

The family had no cooker. Mrs J said that she had a grant for a cooker in April 2002 but had spent it on a carpet. She thought she could manage with a microwave.

Mrs J found that as her son had got older she could no longer manage without a cooker. In August her microwave broke and could not be repaired. Mrs J was finding that since she had had no cooking facilities her anxiety and depression had worsened.

The Reviewing Officer's Decision

The Reviewing Officer (RO) found 4(a)(iii) met. An award would ease exceptional pressures on Mrs J and her family. He decided her need for a cooker did not have enough priority for an award. He reached this conclusion as Mrs J had decided her own priorities when she bought a carpet instead of a cooker in April.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) found that the RO's decision had not been reached correctly. The RO had not acknowledged Mrs J's worsening health problems or the difficulties she had feeding her family a balanced diet without a cooker. Nor had he considered the longer-term impacts of this family managing without any cooking facilities at all. The SFI found the need to be high priority.

When the RO made his decision, the budget was not overspent and was meeting high priority needs. Following his decision, the district had a boundary change and a resultant small reduction to its budget. The district Area Decision Maker (ADM) had not issued new guidance. However, the SFI concluded that the budget was likely to be able to meet Mrs J's high priority need. He went on to award a grant of £200.

Comment

~~ADM's are directed to plan the expenditure of their district budget for each month and decide the level of priority the budget will be able to meet. Direction 40-42 sets out these principles.~~

In this case, the SFI decided that Mrs J's need for a cooker was of high priority. The issue was whether the district budget could make an award for this level of need. The SFI had no guidance from the district advising the level of priority that could be met from their budget. The district had a smaller geographical area and a reduced budget. Historically, the district had been meeting high priority needs without overspending the budget. The SFI's conclusion that the budget could meet Mrs J's need in full was reasonable.

Community care grants

- Amounts to award - Overspent budget

Case 25.11

Application Details

Miss P applied for a community care grant (CCG) on 9 August 2002 for £200 for a single bed. Miss P was a lone parent. Her daughter was five years old. Miss P's daughter wet the bed most nights. Her mattress was smelly and worn and was no longer suitable for use. She was currently sleeping with Miss P. Since the sleeping arrangements had changed both Miss P and her daughter were not sleeping well. Her daughter had started wetting Miss P's bed.

Miss P was suffering from anxiety and asthma. She was finding it increasingly difficult to manage, particularly since she had not been sleeping properly. Miss P had seen her GP and been prescribed sleeping pills.

The Reviewing Officer's Decision

The Reviewing Officer (RO) accepted that Miss P qualified for a grant as direction 4(a)(iii) was met. He accepted that an award for a bed was of high priority, as an award would have a substantial and immediate effect in resolving or improving Miss P's circumstances. However, the RO refused an award, as he found that the budget was unable to meet this need. He decided that the conditions of direction 3 were met. He went on to award her a crisis loan (CL) for a bed. He decided Miss P needed to meet this expense in an emergency and a CL was the only means by which serious damage or serious risk to the health or safety of Miss P's daughter may be prevented. He awarded a CL of £100.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) was not satisfied the decision was reached correctly. He concluded that the RO did not take full account of the health problems in the family and the longer term impacts of the mother and daughter sharing inadequate sleeping arrangements.

The latest budgetary evidence showed the grants budget was 10 percent overspent. The Area Decision Maker's (ADM's) guidance advised that only the most urgent of high priority needs could be met. The SFI took this to mean that the budget could not meet all high priority needs. The SFI acknowledged the pressures on the budget. But he decided that the nature, extent and urgency of the need for a bed were such, that it had enough priority for an award. Miss P had requested £200 for a bed. The SFI accepted this request was within the broad range of prices considered appropriate for items of serviceable quality. However, in view of the pressures on the budget he decided a lesser amount should be awarded. Miss P had already been awarded £100 for a bed and the SFI found this to be a reasonable sum. He decided that a grant of £100 should be awarded. This would replace the CL so and would not be repayable.

Comment

It was clear from the budgetary evidence in this case that the grants budget was under pressure. All decision-makers must have regard to the budget. But it is only one factor to be considered when reaching a decision. All the circumstances of the case will inform the eventual decision.

In this case there was no dispute that not all high priority needs could be met. Deciding which needs have more high priority than others is a difficult judgement to make. However, crisis loans should not be used as a substitute. The conditions for CCGs and CLs are different. Miss P had a young child with no bed of her own. The inadequate sleeping conditions were placing this family under stress and upset and Miss P was finding it increasingly difficult to cope.

Customer service

- Error of fact - Section 38(5) review

Case 25.12

Application Details

Mr G applied for a community care grant (CCG) on 17 December 2002 for a tumble dryer. Mr G had been medically retired due to a severe back condition. His wife also had an arthritis related back condition, asthma and she was incontinent. She needed to wash bedding, underwear and other clothing items daily. The tumble dryer had broken down so items were dried on an outside washing line. Neither Mr G nor his wife was able to manage this every day. Damp laundry was often left until Mr G or his wife felt able to peg out washing or until the weather allowed.

The Reviewing Officer's Decision

The Reviewing Officer (RO) found that an award would ease exceptional pressures on Mr G and his family as required by direction 4(a)(iii). He decided that the need for a tumble dryer would have a noticeable effect on Mr G's circumstances. But as it would not have a substantial and immediate impact on easing the family's exceptional pressures it was a medium priority need. As the district budget was only meeting high priority needs an award was refused.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) found that this decision had been reached correctly and confirmed the decision.

Mr G wrote to the IRS to complain about the decision. He did not consider all his circumstances had been fully considered. The SFI said in her decision that Mr G's home had central heating so radiators could be used to dry washing. However, Mr G's evidence that he could only afford to use his heating for a couple of hours in the evening had not been acknowledged. The Customer Service Team (CST) SFI agreed that all of the circumstances had not been considered and reopened Mr G's case. The CST SFI decided that the SFI had made a mistake about the facts. He decided an award for a tumble dryer would have a substantial and immediate impact on easing the family's exceptional pressures. The need was of high priority. The CST inspector went on to award a grant for a tumble dryer.

Comment

Although the SFI review is the final review, there is a discretionary power to reopen cases under Section 38(5) of the Social Security Act 1998. This says " A Social Fund Inspector may review a determination under subsection 3 made by himself or some other Social Fund Inspector". In practice, a decision may be changed if

- there is relevant information that was not before the SFI; or
- the SFI has made a mistake about the facts; or
- the SFI has made a mistake about the law.

To ensure fairness and impartiality SFI's do not review their own decisions. The Social Fund Commissioner has appointed a separate team of inspectors to deal with issues raised after the SFI's decision.

In this case the SFI had made a mistake about the facts. The CST SFI found the decision had been reached incorrectly. The decision was changed and this led to an award.

Customer service

- Incorrect decision - Section 38(5) review

Case 25.13

Application Details

Miss C applied for a community care grant (CCG) on 15 October 2002 for bedding and a vacuum cleaner. Miss C had five children. Both Miss C and her eldest son had psoriasis. Her son's condition was severe and covered most of his body. He had recently been hospitalised on three occasions. Miss C's condition had also recently deteriorated. The skin on her hands, legs, elbows and knees were badly affected. Her son's bedding was ruined due to damage from the creams he used. Miss C's vacuum cleaner had broken. She found it difficult keeping her home dust free.

The Reviewing Officer's Decision

The Reviewing Officer (RO) found that Miss C qualified for a grant. An award would ease exceptional pressures on Miss C and her family. A grant was awarded for bedding as this was considered to be a high priority need. The RO decided the need for a vacuum cleaner was of medium priority. The district budget was only meeting high priority needs so an award for a vacuum cleaner was refused.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) agreed with the RO that the bedding was a high priority need. He also agreed that the vacuum cleaner would not have a substantial and immediate impact on easing the family's exceptional pressures so was a medium priority need. The SFI went on to confirm the decision.

Miss C wrote to the IRS about the refusal of the vacuum cleaner. She said that she needed a vacuum cleaner to keep her home as dust free as possible. Dust mites affected her son's psoriasis. She said she was using a hand brush to clean the floors. This was affecting the psoriasis on her hands and knees.

In light of this letter, the Customer Service Team (CST) SFI obtained the original papers. The papers showed that original SFI had been aware of all of the health problems and that Miss C was brushing the floor by hand. The SFI had known the impact that this was having on her psoriasis. The CST SFI re-opened the case and concluded that the vacuum cleaner was a high priority need. He awarded a grant for this item. The original SFI's decision had been incorrect on the information available at the time.

Comment

The purpose of a 38(5) review is to correct something that is wrong with the original SFI's decision whether this is through error or ignorance of a material fact.

In this case, the SFI's conclusion had been wrong. It was appropriate to re-open the case and award a further grant.

Customer service

- Incorrect application of the law - Section 38(5) review

Case 25.14

Application Details

Mr K applied for a community care grant (CCG) on 4 November 2002 for clothing and shoes. Mr K was single and lived alone. He was in prison for 15 months until his discharge in July 2000. He lived in a probation hostel for 10 months and was now living in supported accommodation. He left prison with few clothes. A number of clothing items were stolen while he was living in the hostel. This application was made six months after Mr K moved to supported accommodation.

The Reviewing Officer's Decision

The Reviewing Officer (RO) decided that Mr K did not qualify for a grant. He was not establishing himself in the community following a stay in institutional or residential accommodation in which he received care, so direction 4(a)(i) was not met.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) decided this decision was not reached correctly. She acknowledged that Mr K had been living in the community for some time. However, he was still receiving help and support and this indicated that he had not established in the community since his release from prison. The SFI decided that Mr K qualified for a grant. She went on to award a grant for shoes, a coat and trousers.

Mr K's case was examined as part of a quality assurance process within the IRS. It was decided that Mr K did not qualify for a grant so an award should not have been made. It was accepted that Mr K had been in prison and was without some basic items of clothing. But he had lived in the community for a substantial period of time. His application for clothing was made six months after moving to supported accommodation. There was not a sufficient link between his stay in prison and his current need for clothing. An award for clothing would not help Mr K to establish in the community following his stay in prison so he did not qualify for a grant under Direction 4(a)(i). The Customer Service Team (CST) inspector advised Mr K a payment should not have been made but he would not have to repay the grant already awarded.

Comment

It was appropriate to re-open this case under Section 38(5) because the SFI had made a mistake about the law. Her view that Mr K qualified for a grant was not correct. SFIs aim to give the right decision in all cases, but errors are made from time to time. In recognition of this the IRS has a number of measures in place to ensure that quality is maintained. In this instance, Mr K's case was selected for examination as part of quality assurance. An error was identified and Mr K was given an explanation why he should not have received an award.

Commissioner's Advice to Inspectors

- Amounts to award: CCGs

Section 38(4) of the Social Security Act 1998, combined with Section 139(1) of the Social Security Contributions and Benefits Act 1992, gives the Inspector discretion to decide:

"Whether a payment ...is to be awarded, and how much it is to be..."

Direction 28 sets £30 as the minimum that can be awarded as a grant. (There is no minimum in respect of travelling or daily living expenses (Direction 28(b).)

This Advice deals with the principles to adopt when considering the amount to award for items as a community care grant.

1. Order of Consideration

The Inspector should address the issue of how much to award only after he has determined the priority of the need and satisfied himself that the budget can afford to meet that level of priority in the particular case he is dealing with.

Neither the amount the applicant has requested nor the potential amount of award is relevant when assessing the priority of a need. It is unnecessary at this stage to make a judgement on the exact item/amount that should be paid. At this point, the Inspector is considering the applicant's general need rather than his need for a specific item. For example, sleeping facilities rather than a single bed versus a double bed, cooking facilities rather than a mini-cooker versus a full size cooker, or somewhere to sit rather than a settee versus a three-piece suite.

2. Deciding the amount

Direction 28 sets out the minimum that can be paid as a community care grant under Direction 4 for all awards, except those in respect of travelling and daily living expenses. There are no directions on the maximum amount that may be awarded as a community care grant.

Inspectors should normally award the amount requested if it is "within the broad range of prices considered appropriate for an item of serviceable quality" (paragraph 3362 of the Secretary of State's Guidance).

In deciding what falls within the broad range of prices considered appropriate for an item of serviceable quality Inspectors should consider the following:

A. The Particular Needs of the Applicant and any Family he may have

What is considered appropriate for an item of serviceable quality will depend on the particular expense, and upon the particular needs of the applicant and any family he may have. For example, health or behavioural problems, or family size, may mean that more expensive items fall within the broad range of prices considered appropriate for an item of serviceable quality. In the absence of such factors more expensive items might not fall within that range of prices. Inspectors should ask themselves whether the amount requested for cooking/ sleeping facilities etc. is appropriate to meet the applicant's/ family's need in the circumstances?"

B. The Social Fund Context

The Social Fund is a budget limited scheme, and the size of award amounts for items has a bearing on the number of awards that can be made. The Social Fund is financed by public money and must therefore be spent in a responsible way. It would not generally be appropriate to consider prices at the extremes as being within the broad range of prices considered appropriate for an item of serviceable quality.

If the amount requested is unreasonable, Inspectors should award a reasonable amount. They should award an amount that is within the broad range of prices considered appropriate for an item of serviceable quality. In doing so, Inspectors should generally seek to ensure that the applicant is not disadvantaged by having requested an unreasonable amount. This can be achieved by ensuring that the amount awarded is large enough to allow the applicant some choice in what to buy.

In deciding these questions, Inspectors 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. It may be appropriate to award less than requested for an item, even though the amount requested is reasonable, where one or more of the following factors is present:

- the budget is significantly overspent compared to profile; or
- the budget can only be kept on target by restricting the amount of the award^{*}; or
- the budget is able to remain on target only by leaving some high priority needs unmet.

^{*} The Secretary of States guidance now suggests at paragraph 7262 that ADMs, fulfilling their duties under Direction 41(c), "indicate whether amounts have been restricted (and over what period)".

In circumstances such as these the restriction of prices, where appropriate, can play an important role in maximising the number of high priority needs that can be met from the budget (Direction 40(b) refers.)

However even in circumstances such as these, the Inspector should remember that the budget is only one factor in deciding the amount of the award. The other circumstances of the case may make it appropriate to award the full amount requested. For example, in some cases the aims of Direction 4 may not be met if a full award is not made. The amount awarded should be sufficient to meet the aims of Direction 4 (paragraph 3368 of the Secretary of State's Guidance).

In some circumstances it may be appropriate to award more than an applicant has requested, for example, if this is necessary to allow the purchase of a serviceable item, or in order to make a third party payment.

It is not possible to prescribe amounts to be paid to meet certain needs as that is for the Inspector to decide.

3. The effect of capital

If the applicant has significant savings, this may affect the amount of award. See Direction 27 and Commissioner's Advice on Capital Resources.

