

# STATES OF JERSEY



## DRAFT INCOME SUPPORT (AMENDMENT) (JERSEY) REGULATIONS 200-

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Lodged au Greffe on 4th December 2007  
by the Minister for Social Security

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STATES GREFFE





# **DRAFT INCOME SUPPORT (AMENDMENT) (JERSEY) REGULATIONS 200-**

## **REPORT**

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### **Introduction**

The development of Income Support has included a thorough review of the means by which financial benefits are provided to local residents. One of the areas identified as needing improvement is the provision of financial support to people requiring residential care. As explained during the debate on the Regulations, it has not been possible to complete all aspects of this work before the introduction of the main Income Support scheme. The work that has already started in this area will continue in 2008 and will be combined with the initial stages of developing a long-term care insurance scheme.

One important aspect of a long-term care insurance scheme will be to include support for people that remain in their own homes, as well as those that move into residential and nursing homes. With this in mind, the Income Support Law and Regulations were drafted in such a way as to provide a framework in which financial support could be given to people with high care needs, regardless of where those care needs were being met.

The Social Security and the Health and Social Services Departments are working closely together, to formulate firm proposals in this area which will be made to care providers in both the private and voluntary sectors.

The Minister is firmly committed to these proposals, but for some time it has been known that such a structure could not be implemented in the first stage of Income Support. The provision of community care facilities is currently underdeveloped and, where care is provided in the community, there is no consistent cost base with some services being provided at a subsidised rate (through Family Nursing and Home Care) and other services being provided at the market rate through private agencies.

Until such time as a full placement process has been agreed and standard contracts developed with Health and Social Services and care providers operating in institutions and the community, it has always been the intention that people requiring a high level of personal care should continue to receive funding at the same level as at present. It was anticipated that this interim solution could be achieved through the use of a Transitional Order.

Although most of the provisions required can be achieved through the use of a Transitional Order, there is one area that cannot be dealt with in this way and consequently an amendment to the Regulations is required to cover this interim period.

### **Current situation**

The Income Support Regulations agreed by the States include 4 levels of personal care component. The aim of the personal care component is to provide additional financial support to people who need help with the activities of daily living due to a physical, mental or sensory impairment. The level of support provided relates directly to the level of impairment. The level is assessed by assigning numeric scores against a set of functional abilities already prescribed in legislation.

The highest level of personal-care component is currently available to people who score 75 points or more against the functional ability statements. This level of impairment is such that the individual is very likely to need residential care and the rate for the highest level was set in Regulations at the parish Boarding Out rate. This is the basic level of residential care funding provided by parishes under the existing Welfare system.

There are 3 categories of individual that need to be considered:

#### **1. Those that will score 75 points or more and are currently receiving residential care:**

Current funding – the existing funding package in almost all of these cases is worth in excess of the Boarding Out

rate. (The parish rate is supplemented either on a case-by-case basis through the parishes themselves or through supplements provided by Health and Social Services.)

Proposed funding – these people will be eligible for the highest rate of personal care component (£436.73) and the Transitional Order will provide additional funding to match their existing funding where it exceeds this amount, including any non-contributory benefits currently received.

As these people are living in residential care they will not be entitled to a household component or a housing component.

## **2. Those that will score 75 points or more and are currently living at home:**

Current funding – these people currently have access to a maximum benefit of £141.30 a week funding (a combination of Attendance Allowance and Disabled Transport Allowance).

Proposed funding – the amendment to the Regulation would provide these people with the third rate of personal care component and the mobility component, providing a component of £143.22 per week. Where a member of the household is acting as the main carer for the individual, the Income Support scheme also provides an additional carer’s component of £41.79 per week.

As these people are living at home, they will also be entitled to a household component, a housing component and a personal component.

## **3. Those that will score less than 75 points and are currently receiving residential care:**

Current funding – there are a number of people in this category receiving residential care, in particular through Les Amis Incorporated (individuals with learning disabilities). The existing funding package is in excess of the Boarding Out rate, as in (1) above.

Proposed funding – the amendment to the Regulation will provide these people with the highest rate of personal care component (£436.73) and the Transitional Order will provide additional funding to match their existing funding where it exceeds this amount, including any non-contributory benefits currently received.

As these people are living in residential care they will not be entitled to a household component or a housing component.

This combination of the Transitional Order and amendments to the Regulations will ensure that existing funding arrangements can be maintained for everyone receiving care either in an institution or in the community.

### **Transitional Order**

The Transitional Order will state that anyone receiving residential care immediately before the introduction of Income Support will be entitled to a transitional benefit to match the total of existing residential care support and other non-contributory benefits. This transitional protection will continue until a standard contract for residential care has been agreed, including a set of standard fee rates.

The Transitional Order also provides that the Minister may provide funding for any individual who enters residential care after the introduction of Income Support but before the standard contracts are in place. This funding is set at a reasonable rate considering the needs of the individual.

### **Amendment to Regulations**

The amendment to the Regulations will change the eligibility for the top 2 levels of the personal care element.

The Regulations currently read:

- (3) The rate of personal care element payable in respect of the total score calculated under sub-paragraph (2) is as follows –
- |     |   |         |
|-----|---|---------|
| (a) | for a score of at least 15 but less than 36 | £20.37  |
| (b) | for a score of at least 36 but less than 56 | £83.58  |
| (c) | for a score of at least 56 but less than 75 | £122.85 |
| (d) | for a score of at least 75                  | £436.73 |

At present, the personal care elements at (c) and (d) are insufficient in their own right to cover the cost of residential care. Individuals will need to receive additional payments through the Transitional Order to meet their existing costs.

The amendment would change the Regulations as follows:

- (3) The rate of personal care element payable in respect of the total score calculated under sub-paragraph (2) is as follows –
- |     |  |         |
|-----|--|---------|
| (a) | for a score of at least 15 but less than 36  | £20.37  |
| (b) | for a score of at least 36 but less than 56  | £83.58  |
| (c) | for a score of at least 56 <b>where the member of the household is not receiving appropriate residential care</b>          | £122.85 |
| (d) | for a score of at least 56 <b>where the member of the household is receiving residential care approved by the Minister</b> | £436.73 |

Appropriate care refers to the individual being placed in an appropriate establishment through an agreed placement process.

The amendment removes an anomaly in the current Regulations included in error, whereby someone living at home with a score of at least 75 points would be entitled to a household component and a housing component in addition to the highest level personal care component intended for those in residential care.

Many individuals in the community currently receive care from Family Nursing and Home Care, an organisation which obtains a high percentage of its funding from the Health and Social Services Department and provides personal care at a subsidised rate. If the error in the Regulations is allowed to stand, these people would receive duplicate benefits, as the high level personal care element is designed to include the cost of accommodation and personal care purchased at the market rate.

Apart from the inequitable treatment and duplication of funding, such additional expenditure is not provided for in the Income Support budget.

The amendment ensures that people with high personal care needs receive the Income Support components appropriate to their actual costs and current entitlements. If someone living at home requires additional financial support with personal care needs, an application can be made for a Special Payment.

### **Conclusion**

The proposed amendment provides an interim solution to the issue of residential care funding.

Over the next year the Minister will be working closely with the Minister for Health and Social Services to produce a more complete solution in which:

- Standard care contracts are in place to protect all individuals in residential care;
- A range of standard fee rates is agreed and provided for in the Income Support Regulations;
- Provision of care in the community is given a high priority and the necessary structures are identified to assist individuals to remain in the community.

The Minister will also be working with the Minister for Health and Social Services on the policy framework for the provision of Long-Term Care Funding.

### **Financial and manpower considerations**

There are no manpower considerations arising from this amendment.

The budget for Income Support is based on the assumption that residential care costs per person will remain at a similar level to 2007. There is an element of growth in the residential care element of Income Support in 2008 – this is to accommodate the anticipated additional number of people requiring residential care as a result of the current demographic trends (towards a higher proportion of older people in the population).

As the Regulations currently stand, the Income Support budget will be overspent in 2008 by up to £1.5 million; as a significant number of individuals would be entitled to receive benefits at a level approximately £300 per week in excess of their current benefit level, and at a level greater than the components available to those receiving residential care and, in many cases, duplicating the States funding of services already provided through Family Nursing and Home Care. This cost would need to be met by reducing Income Support expenditure in another

area.

## **Explanatory Note**

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These Regulations modify the criteria for 2 of the rates payable in respect of the personal care element of the impairment component of income support payable. The rate under clause (c) is to be payable for a score of 56 or more only where the member of the household concerned is not receiving appropriate residential care. The rate under clause (d) is to be payable for the same score as under clause (c), where the member of the household concerned is receiving residential care that is approved by the Minister.







Jersey

## DRAFT INCOME SUPPORT (AMENDMENT) (JERSEY) REGULATIONS 200-

*Made*

*[date to be inserted]*

*Coming into force*

*[date to be inserted]*

**THE STATES**, in pursuance of Articles 5(5) and 18(1) of the Income Support (Jersey) Law 2007<sup>[1]</sup>, have made the following Regulations –

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### 1 Interpretation

In these Regulations “principal Regulations” means the Income Support (Jersey) Regulations 2007<sup>[2]</sup>.

### 2 Schedule 1 amended

For paragraph 6(3)(c) and (d) of Schedule 1 to the principal Regulations there shall be substituted the following clauses –

“(c)	for a score of at least 56 where the member of the household is not receiving appropriate residential care	£122.85
(d)	for a score of at least 56 where the member of the household is receiving residential care that is approved by the Minister	£436.73”.

### 3 Schedule 3 amended

In paragraph (b) of Schedule 3 to the principal Regulations, for the substituted subparagraph (3)(c)(d) there shall be substituted the following clauses –

“(c)	for a score of at least 56 where the member of the household is not receiving appropriate residential care	£126.56
(d)	for a score of at least 56 where the member of the household is receiving residential care that is approved by the Minister	£436.73”.

### 4 Citation and commencement

- (1) These Regulations may be cited as the Income Support (Amendment) (Jersey) Regulations 200-.
- (2) Subject to paragraph (3), these Regulations shall come into force on 28th January 2008.
- (3) Regulation 3 shall come into force on the same day as Schedule 3 of the principal Regulations.



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[1]

*L.9/2007*

[2]

*R&O.125/2007*