

# STATES OF JERSEY



## DRAFT INCOME SUPPORT (AMENDMENT No. 15) (JERSEY) REGULATIONS 201-

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Lodged au Greffe on 3rd April 2017  
by the Minister for Social Security

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STATES GREFFE





Jersey

## **DRAFT INCOME SUPPORT (AMENDMENT No. 15) (JERSEY) REGULATIONS 201-**

### **REPORT**

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#### **Background**

On 14th March 2017, States Members debated and approved 2 propositions associated with the change to the funding of Family Nursing and Home Care (“FNHC”).

To support this change, the Health and Social Services Department (“HSSD”) and the Social Security Department have been working together to develop an extension to the existing Income Support system to incorporate additional support for low-income individuals who receive a care package in their own home, but who have care needs below the level at which they would qualify for the Long-Term Care (“LTC”) scheme.

As part of this exercise, on 14th March 2017 the States Assembly approved an amendment to the [Income Support \(Jersey\) Law 2007](#) in adopting [P.5/2017 – Draft Income Support \(Amendment No. 2\) \(Jersey\) Law 201-](#). The Draft Income Support (Amendment No. 15) (Jersey) Regulations 201- (“the draft Regulations”) and an associated Ministerial Order provide the detail to the proposal to introduce a new flexible personal care component.

#### **Flexible personal care component**

The Income Support (Jersey) Law 2007 provides means-tested support for basic living costs to households that satisfy residency, work and means tests. It is available to individuals and families, and includes components for adults, children, household expenses, accommodation costs, child care costs and health-related costs. Health-related costs are supported through separate personal care, mobility and clinical cost elements. The personal care component is currently paid at 3 levels ranging from £22.96 a week to £145.25 a week. These components are determined through an existing procedure and will continue to be available.

Subject to the approval of the draft Regulations, a further, flexible personal care component will be introduced. This component will not have a fixed value, but will be set according to the value of the care package required by the individual claimant. As the new component is designed to support the cost of a formal care package, it is proposed that eligibility will be assessed in the same way as other domiciliary care packages provided through the [Long-Term Care \(Jersey\) Law 2012](#) (“LTC Law”).

Claimants for the new component will therefore be assessed by a health care professional approved by the Minister for Social Security. The assessors will be registered in Jersey as professional health or social care practitioners, which includes social workers, nurses and occupational therapists, who must have experience of undertaking domiciliary care assessments. In practice, the HSSD social workers and

nurses who currently undertake the LTC assessments will also provide assessments for the new Income Support component using existing procedures.

The approval of these assessors and the manner in which decisions are taken in respect of applications for the new Income Support component will be set out in administrative Orders, which are modelled closely on similar provisions within the LTC legislation.

### **Income Support Regulations**

The amendments set out in the draft Regulations provide for a fourth type of personal care component to be added to the existing components.

This component is available to adults aged 18 and above. Children below the age of 18 are supported through the HSSD Children's Service and are not covered by this legislation.

Only one level of personal care component can be claimed at any time. However, a claimant receiving any of the personal care components can also receive a mobility component and/or a clinical cost component at the same time. The flexible personal care component is not available to an adult who has care needs sufficient to qualify under the LTC Law. This ensures that a claimant cannot make 2 separate claims at the same time for the same care needs.

The value of the new component is set equal to the weekly value of the care package identified by the approved assessor, up to a maximum value. The maximum amount available through the Income Support scheme is automatically linked to the minimum benefit rate payable under the LTC Law. Again, this ensures that there is no overlap between the 2 benefit systems.

### **Administration of the new component**

In some cases, an existing Income Support claimant will experience a worsening health condition, and a care package will be needed to support the person in their own home. Their needs will be evaluated by an assessor from the HSSD Community and Social Services Adult Services team. Once the assessment is complete and a care package has been approved, details of the value of the package will be passed to the Income Support team and the value of the new component will be added to the existing claim.

In other cases, it will be the cost of the care package that triggers the need for financial support. In this situation the HSSD assessor, with the permission of the individual, will provide their contact details to the Income Support team, so that an Income Support application can be processed.

For most people receiving the flexible personal care component, the value of the benefit will be paid directly to the approved care provider by the Department. This will ensure that the full care package is delivered. As with other aspects of the new scheme, this will use existing administrative processes used to support the ongoing LTC scheme.

### **Transition for FNHC clients during 2017**

If approved, the new Income Support component will be available from 1st July 2017. The transitional funding package provided by HSSD to existing<sup>1</sup> FNHC clients will continue until 31st December 2017. FNHC clients can ask for an assessment before 1st July (and some clients have already had an assessment), in which case they will transfer from 1st July to the main FNHC fee rate and start to receive the new Income Support component. Alternatively, they can have an assessment after 1st July, and then transfer to the Income Support component at that time. In this case, they will continue to pay the transitional fee rate until the Income Support component is in payment.

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<sup>1</sup> Clients receiving a care package from FNHC as at 31st December 2016

Any FNHC client that is assessed as having needs that satisfy the criteria for the LTC scheme can apply for the LTC scheme at any time.

#### **Vision statements**

These Regulations also make minor changes to the vision statements included within the personal care and mobility statements, and introduce 2 statements in respect of tunnel vision.

#### **Collective responsibility under Standing Order 21(3A)**

The Council of Ministers has a single policy position on this proposition, and as such, all Ministers, and the Assistant Minister for Social Security, are bound by the principle of collective responsibility to support the proposition, as outlined in the Code of Conduct and Practice for Ministers and Assistant Ministers.

#### **Financial and manpower implications**

The increased costs of Income Support in respect of clients currently receiving a care package from FNHC will be met by a budget transfer from HSSD. Assessments under the Regulations will be undertaken by HSSD staff using existing resources, and the existing Income Support team will provide the benefit administration.

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#### **Re-issue Note**

This Projet is re-issued to correct an error in the collective responsibility statement. The statement made an incorrect reference to the Assistant Minister for Health and Social Services.

## Explanatory Note

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These Regulations amend the Income Support (Jersey) Regulations 2007 (the “principal Regulations”, as defined in *Regulation 1*) to introduce new provisions in respect of the personal care element of the impairment component of income support.

*Regulation 2* amends paragraph 6 of Schedule 1 to the principal Regulations to set new criteria which allow for entitlement to the personal care element of the impairment component by a member of a household who is an adult aged 18 and who is assessed by an approved registered person as having personal care needs that are permanent and requiring an approved care package but who is not receiving any other personal care element (under the principal Regulations); does not meet the condition of having been assessed as needing long-term care under Article 3(2)(a) of the Long-Term Care (Jersey) Law 2012; and is not receiving any benefit under that Law. Paragraph 6 of Schedule 1 to the principal Regulations is also amended to provide definitions for the terms “approved registered person”, “approved care package”, “personal care” and “permanent”.

*Regulation 2* also amends paragraph 6 of Schedule 1 to the principal Regulations to provide for the rate of the personal care element in respect of that member of a household to be a variable amount being whichever amount is the lower of –

- (a) the net weekly cost of an approved care package for that member having taken account and deducted the amount of any funding or subsidy provided by the Minister for Health and Social Services with respect to the cost of the approved care package; and
- (b) the weekly rate set at the lowest level of the standard of care provided under Article 8 of the Long-Term Care (Benefits) (Jersey) Order 2014.

*Regulation 3* amends Part 1 of Schedule 2 to the principal Regulations to describe more accurately the visual field criteria applicable for calculating the rate of the personal care element of the impairment component payable to a member of a household and to include for the first time criteria in respect of a claimant with tunnel vision.

*Regulation 3* also amends Part 2 of Schedule 2 to the principal Regulations to describe more accurately the visual field criteria applicable in respect of the mobility element of the impairment component payable to a member of a household and to include for the first time criteria in respect of a claimant with tunnel vision.

*Regulation 4* sets out the title of these Regulations and provides that they will come into force on 1st July 2017.



Jersey

## **DRAFT INCOME SUPPORT (AMENDMENT No. 15) (JERSEY) REGULATIONS 201-**

*Made* [date to be inserted]  
*Coming into force* [date to be inserted]

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

### **1 Interpretation**

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

### **2 Schedule 1 amended**

In Part 2 of Schedule 1 to the principal Regulations, in paragraph 6 –

- (a) in sub-paragraph (1) –
  - (i) in clause (b) the word “or” shall be deleted,
  - (ii) at the end of clause (c) for the full-stop there shall be substituted the word “; or”,
  - (iii) after clause (c) there shall be inserted the following clause –
    - “(d) an adult aged 18 or over who is assessed by an approved registered person as having personal care needs that are permanent and requiring an approved care package, and –
      - (i) is not receiving any personal care element under clause (a), (b) or (c), and
      - (ii) does not meet the condition under Article 3(2)(a) of the Long-Term Care (Jersey) Law 2012<sup>3</sup> and is not receiving any benefit under that Law.”;
- (b) in sub-paragraph (2), for the words “The rate of personal care element” there shall be substituted the words “Except in the case of an adult referred to in sub-paragraph (1)(d), the rate of personal care element”;
- (c) after sub-paragraph (3) there shall be substituted the following sub-paragraphs –

“(4) The rate of personal care element in respect of a member of a household referred to in sub-paragraph (1)(d) shall be whichever amount is the lower of –

- (a) the net weekly cost of an approved care package for that member having taken account and deducted the amount of any funding or subsidy provided by the Minister for Health and Social Services with respect to the cost of the approved care package; and
- (b) the weekly rate set at the lowest level of standard care provided under Article 8 of the Long-Term Care (Benefits) (Jersey) Order 2014<sup>4</sup>.

(5) In this paragraph –

‘approved care package’ means a care package, approved by an approved registered person, for providing personal care for a person assessed by the approved registered person as having personal care needs that are permanent, such personal care being provided in the person’s home or other premises not being an approved care home;

‘approved registered person’ has the meaning given by Article 1(1) of the Income Support (General Provisions) (Jersey) Order 2008<sup>5</sup>;

‘permanent’ means continuing or likely to continue for the rest of a person’s life;

‘personal care’ means assistance with every day activities (such as bathing, dressing, grooming and eating) given to a person with a physical, sensory, mental or cognitive impairment which makes that person unable to care for himself or herself.”.

### 3 Schedule 2 amended

In Schedule 2 to the principal Regulations –

- (a) in the table in Part 1, for the statement numbered 9 and entries in respect of that statement there shall be substituted the following statement and entries –

<b>“9 Vision, including visual acuity and visual fields, in normal daylight or bright electric light</b>			
a) has no light perception	15	3 years	None
b) cannot see well enough to read 16 point print at a distance of at least 20 cm	15	3 years	None
c) has 50% or greater reduction of visual fields	15	3 years	None
d) cannot see well enough to recognise a friend at a distance of at least 5 metres	9	1 year	None
e) has 25% or more but less than 50% reduction of visual fields	6	1 year	None



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f) cannot see well enough to recognise a friend at a distance of at least 15 metres	6	1 year	None
g) none of the above	0	1 year	None”.

(b) in Part 2, for paragraph 2 there shall be substituted the following paragraph –

**“2 Vision, including visual acuity and visual fields, in normal daylight or bright electric light**

- (a) Has no light perception.
- (b) Cannot see well enough to read 16 point print at a distance of at least 20 cm.
- (c) Has 50% or greater reduction of visual fields.
- (d) Cannot see well enough to recognise a friend at a distance of at least 5 metres.

Note: Statement is not relevant in the case of child under the age of 3 years.”.

**4 Citation and commencement**

These Regulations may be cited as the Income Support (Amendment No. 15) (Jersey) Regulations 201- and shall come into force on 1st July 2017.

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- 1 *chapter 26.550*
  - 2 *chapter 26.550.30*
  - 3 *chapter 26.600*
  - 4 *chapter 26.600.10*
  - 5 *chapter 26.550.20*