



Jersey

SOCIAL SECURITY (HOME CARER'S ALLOWANCE) (JERSEY) ORDER 2012

Arrangement

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Made

Coming into force

THE MINISTER FOR SOCIAL SECURITY, in pursuance of Articles 18A and 51 of the Social Security (Jersey) Law 1974, orders as follows –

1 Interpretation

In this Order –

“care year” means, in relation to a carer and the cared for person for whom he or she cares, a period of 12 months commencing with –

- (a) the day for which the carer first receives home carer's allowance for his or her care of the cared for person; or
- (b) an anniversary of that day;

“carer” shall be construed in accordance with Article 18A of the Law;

“cared for person” shall be construed in accordance with Article 18A of the Law;

“current care year” is the care year in which the day on which any rule that is to be applied falls;

“determining officer” means such an officer appointed under Article 33 of the Law;

“earnings” has, in the case of a Class 1 insured person, the same meaning as in Schedule 1A to the Law and, in the case of a Class 2 insured person, the same meaning as in Schedule 1B to the Law;

“Law” means the Social Security (Jersey) Law 1974;

“lower monthly earnings limit” has, in the case of a Class 1 insured person, the same meaning as in Schedule 1A to the Law and, in the case of a Class 2 insured person, the same meaning as in Schedule 1B to the Law;

“medical treatment” includes the performance of any such operation and the giving of any such treatment, advice or attendance as is usually performed or given by medical practitioners;

“specialist medical treatment” means medical treatment of a kind that is not generally available in Jersey and is arranged pursuant to a referral by a registered medical practitioner in Jersey;

“week” means a period of 7 days beginning with Monday.

2 Regular and substantial care

- (1) For the purposes of Article 18A(1)(a) of the Law, a carer shall be treated as regularly and substantially engaged in caring for a cared for person if –
 - (a) the cared for person requires the assistance described in paragraph (2);
 - (b) the carer has the main responsibility for providing such assistance to the cared for person;
 - (c) the carer provides the cared for person with such assistance for a period of, or periods totalling, not less than 35 hours per week; and
 - (d) such assistance is provided by the carer to the cared for person in Jersey.
- (2) The assistance required by the cared for person must be –
 - (a) in the case of a person who has not attained the age of 18 years, assistance with the activities of daily life that substantially exceeds the assistance normally expected in the care of a person of the same age as the cared for person;
 - (b) in the case of a person who has attained the age of 18 years –
 - (i) frequent attention with bodily functions, or
 - (ii) continual supervision to avoid substantial danger to the cared for person or to others.
- (3) The requirements in paragraph (1)(b) and (c) shall be treated as being satisfied if they have ceased to be satisfied only temporarily, by virtue of –
 - (a) the cared for person receiving respite care for a period or periods not exceeding in the aggregate 28 days in the current care year; or
 - (b) the carer or the cared for person –
 - (i) receiving medical treatment as an in-patient in a hospital or similar institution in Jersey, or
 - (ii) receiving specialist medical treatment as an in-patient or out-patient in a hospital or similar institution outside Jersey, for a period or periods not exceeding in the aggregate 56 days in the current care year.
- (4) The requirement in paragraph (1)(d) shall be treated as being satisfied if it has ceased to be satisfied only temporarily by reason of –
 - (a) the carer providing such assistance to the cared for person outside Jersey, during a period in which the cared for person is receiving specialist medical treatment as an out-patient in a hospital or similar institution outside Jersey; or

- (b) the carer providing such assistance to the cared for person outside Jersey, for any other period or periods not exceeding in the aggregate 28 days in the current care year.

3 Requirement for carer to be present in Jersey

- (1) For the purposes of Article 18A(2)(a) of the Law, the carer must be present in Jersey on a day for which home carer's allowance is claimed.
- (2) For the purposes of paragraph (1), a carer who is absent from Jersey on a day shall be treated as being present on that day if the day falls within a period described in –
 - (a) Article 2(3)(a);
 - (b) Article 2(3)(b), in the case described in clause (ii); or
 - (c) Article 2(4)(a) or (b).

4 Earnings of carer

- (1) For the purposes of Article 18A(2)(c) of the Law, the carer's earnings for the relevant week must not exceed 75% of the weekly equivalent of the lower monthly earnings limit.
- (2) For the purposes of paragraph (1) the "relevant week" is the week which includes the day for which home carer's allowance is claimed.
- (3) For the purposes of paragraph (1), a carer's earnings in excess of 75% of the weekly equivalent of the lower monthly earnings limit shall be disregarded –
 - (a) for any week, up to a maximum of 6 weeks in the current care year, if that week is one throughout which the carer is absent from his or her place of employment with the authority of his or her employer; or
 - (b) for any week in which the requirement in Article 2(1)(c) has ceased to be satisfied temporarily but is treated as being satisfied, by virtue of Article 2(3).

5 Requirement for cared for person to be ordinarily resident in Jersey

For the purposes of Article 18A(3)(b) of the Law, the cared for person must have been ordinarily resident in Jersey throughout the period of 12 months ending with the day for which the carer would first receive home carer's allowance for his or her care of the cared for person.

6 Two or more carers caring for same cared for person

- (1) Where, apart from Article 18A(6) of the Law, 2 or more carers would be entitled for the same day to home carer's allowance in respect of the same cared for person a determining officer shall decide which of them is to receive the allowance.

- (2) If the carers described in paragraph (1) have, by notice in writing delivered to the Minister, nominated one of their number to receive the allowance, the determining officer shall decide that the nominated carer is to receive the allowance, unless there are good reasons for deciding otherwise.
- (3) Where home carer’s allowance has previously been paid to a carer for a period in respect of the care of a cared for person, no further home carer’s allowance shall be payable in respect of that period and cared for person to another carer who subsequently becomes entitled to the allowance unless the allowance previously paid has been recovered in accordance with the Law.

7 Partial satisfaction of contribution conditions

- (1) This Article applies where a person would be entitled to home carer’s allowance but for the fact that the relevant contribution conditions set out in paragraph 3A(1)(b) of Schedule 2 to the Law are not satisfied.
- (2) The person shall nevertheless be entitled to home carer’s allowance if the contribution factor derived from contributions paid by or credited to that person in respect of the relevant quarter is not less than 0.33.

8 Citation and commencement

This Order may be cited as the Social Security (Home Carer’s Allowance) (Jersey) Order 2012 and shall come into force on 1st January 2013.

Signed.....

Date.....

Minister for Social Security

