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Suspending payments

Circumstances when payment can be suspended

2000 Payment of benefit can be suspended wholly or in part under the following provisions of the D&A Regulations

- prescribed circumstances - Regulation 16
- information requirements - Regulation 17
- failure to attend medical examinations - Regulation 19.

Prescribed circumstances - Regulation 16

2001 Benefit can be suspended in the following prescribed circumstances:

- where there is a doubt as to whether a person receiving JSA is available for or actively seeking employment
- where there is doubt whether the conditions for entitlement to benefit are (or were) fulfilled
- if a question arises over whether a decision to award benefit should be revised or superseded
- if an issue arises over whether any amount paid or payable in connection with a claim is recoverable
- if a customer is not residing at the last address notified to you
- where an appeal is pending against a decision of an AT, Commissioner or Court
- where an appeal is pending in a different case (the "lead case") and the result of the appeal might affect the case you are considering (the "lookalike case").

2002 If serious doubts arise you can suspend the award immediately, before notifying the customer. But the customer must be notified as soon as possible afterwards that benefit has been suspended.

Suspending payments

2003-2010

2003 In most cases you have discretion as to whether to suspend payment. But you must suspend if an award of JSA is in doubt.

See D&A Regs

2004 A suspension in these circumstances can continue indefinitely. But you should make every effort to bring the matter to a conclusion, either by restoring benefit or terminating entitlement.

Note: Entitlement to benefit cannot be terminated unless the customer is given at least one month to supply the missing information. **See Information Requirements**

2005 Before suspending payments, the question giving rise to the suspension must be supported by clear, genuine evidence.

Example

You receive an anonymous letter saying that a jobseeker who receives JSA is working on a market stall.

This evidence alone is not enough to suspend payment.

A fraud investigator visits the market and sees the jobseeker running a market stall. This evidence raises a question about whether the jobseeker is in remunerative work.

Consider suspending the payment pending further investigations.

2006 Before suspending in a case which has been the subject of a tribunal or Commissioner's decision you must:

- believe their decision to be wrong in law **and**
- be considering making an appeal to a higher authority, i.e. be in communication with ACI Leeds with a view to making an appeal.

If you impose a suspension on receipt of an AT's decision, you must tell the customer that you have requested a copy of the statement of reasons for the AT's decision.

2007 - 2010

Information requirements - regulation 17

- 2011 Payment of benefit may be suspended where information is required to determine whether a decision to award benefit should be revised or superseded. Consider this
- when an application has been received for a decision to be revised or superseded
 - if a person fails to provide information or evidence relevant to the payment of benefit
 - if a doubt arises over the incapacity of a person whose entitlement to benefit depends on them being incapable of work.
- 2012 Before a suspension can be imposed in these circumstances you must notify the customer and give them a minimum of one month to
- supply the required information **or**
 - satisfy you that it doesn't exist **or**
 - satisfy you that it is impossible to obtain it.
- 2013 The one month time limit can be extended in appropriate cases. Consider each case on its merits taking into account the following:
- the customer's circumstances and the type of information required
 - if the customer is relying on a third party to provide information and they are experiencing difficulties in obtaining it, e.g. a bank
 - if the customer has a disability or illness
 - the customer's family circumstances
 - the type of benefit
 - in cases where information about the payment of benefit is required a longer period will be necessary because the customer must first have failed to satisfy that provision (reg 32(1) of the Claims and Payments Regs).

Note: This list is not exhaustive.

See DMG Chapter 04

2014 - 2019

2020-2051

Medical examination - regulation 19

2020 Payment of benefit may be suspended when a person who is required to be medically examined fails without good cause to attend a medical examination on at least two consecutive occasions.

Note: This does not apply to incapacity for work cases.

See IIDB and STB guides

2021 In this situation it is not necessary to notify the customer before suspension is imposed but notification should be sent as soon as possible afterwards.

2022 - 2049

Factors which may make suspension inappropriate

2050 When suspending payment, apart from cases where availability or actively seeking work (JSA) is an issue, you must consider whether the customer will suffer hardship as a consequence. While every case is different, suspending the customer's benefit might be unacceptable.

2051 You must consider the following factors:

- if the customer is elderly, frail or has physical or mental health problems, it might be unreasonable to expect them to wait for payment if the question was settled in their favour
- if the customer has young children who would be adversely affected if benefit was suspended
- if the customer has taken-on financial commitments based on a reasonable assumption that benefit would be paid to them
- it is not usually appropriate to suspend a non-income related benefit solely on the grounds that the customer may also be entitled to an income related benefit, e.g. JSA(IB) **or**
- if deductions are being made from the customer's benefit, consider whether the amount of benefit left is enough to prevent hardship.

Note: This list is not exhaustive.

2052 Sometimes you may need to reconsider the decision to suspend the customer's payment. For example:

- new evidence or facts are brought to light **or**
- the customer subsequently represents to you that they are suffering hardship.

2053 - 2099

Period and amount of suspension

2100 Before suspending payment, ensure:

- suspension is still appropriate (i.e. check that the issue has not been resolved) **and**
- the suspension is only applied to the part of the award in doubt

Example

A customer is awarded the middle rate care component and higher rate mobility component of DLA by a tribunal.

The DM applies for leave to appeal against the award of the care component, and suspends payment of the care component pending the outcome of the appeal.

The mobility component remains in payment.

2101 Suspension can only be considered after benefit has been awarded. If a question arises on a new claim for benefit that must be answered before the claim can be processed, the payment cannot be suspended. A decision to award benefit is made on the basis of the evidence available.

Note: Although payment cannot be suspended before an award is made, you can decide to stay a decision to award benefit.

See DMG Chapter 04

2102 The period of suspension should be kept to a minimum. However, if you are seeking conclusion of a fraud investigation, leave to appeal, or this is a lookalike case, the suspension may be for a lengthy period.

2103-2201

2103 If payment is suspended, the suspension continues:

- unless hardship is allowed
- until the issue is decided
- until benefit is terminated

See Terminating entitlement to benefit in this guide

- until fraud investigation is concluded
- until it is decided not to seek leave to appeal or
- if leave to appeal is sought, until the appeal is decided.

See CAP

2104 - 2149

Recording the decision

2150 Record each decision to suspend payment on form SUSP1 and keep a copy of the decision in the customer's records.

2151 - 2199

Reconsidering the suspension

2200 When payment is suspended, check the progress of action being taken to resolve the question on a regular basis.

2201 This may involve:

- checking BF/computer set diary dates/case controls
- liaising with other sections, e.g. Visiting Officers **or**
- reconsidering an initial decision to suspend payment, e.g. if new evidence is brought to light or the customer subsequently represents hardship.

- 2202 When reconsidering the suspension, it may be reasonable for the suspension period to be extended to give:
- the customer more time to obtain any necessary information **or**
 - you more time to complete ongoing enquiries when you are certain these enquiries will provide the information required.
- 2203 If the period is extended, you must continue to regularly check progress.
- 2204 If it appears there is no reasonable prospect of obtaining additional evidence, you must consider termination.
- 2205 Evidence should be gathered quickly and a decision should be made without unnecessary delay.
- 2206 If you make a decision and, as a result, the award:
- does not need to be revised, lift the suspension and pay any arrears **or**
 - is for less benefit or termination from the date payment was suspended, check the customer has received their correct entitlement.
- 2207 If a decision is made to lift the suspension:
- reinstate the customer's payments **and**
 - pay any arrears
- 2208 Enter the revised decision on the relevant section of the form SUSP1.

2209 - 2249

Additional information from the customer

- 2250 Although the decision to suspend payment should be made on the available evidence, the customer is given an opportunity to provide details that may lead to a suspension being considered inappropriate, (except where the suspension is a result of an ongoing fraud investigation).
- 2251 The customer is notified of the decision on the appropriate draft letter. This also informs the customer that if they think there are any reasons why the

2252-2349

suspension is inappropriate, they should contact the office dealing with their benefit as soon as possible.

2252 There is no onus on the customer to prove hardship. Make a judgement, in the light of the available evidence, about whether hardship will be caused if payment is suspended.

2253 If the customer represents hardship and requests an interview, this should, if at all possible, be conducted quickly to allow a decision to be made and any notification to be sent. If in the case of a fraud investigation the customer challenges the suspension, the DM should refer the customer to the fraud investigator.

Note: The reason being the DM will most likely have had previous involvement with the case.

2254 - 2299

Hardship

2300 Draft letters that are sent when payment is suspended, invite the customer to contact the office if the decision will cause hardship. It is not necessary to contact customers **before** the decision is sent, unless this will provide information about possible hardship that would not otherwise be obtained.

2301 If the customer represents they are suffering hardship after payment has been suspended, sufficient evidence should be obtained to help decide whether the suspension should be lifted.

Note: You must consider the actual benefit position. The reason why the suspension was originally imposed will still remain.

2302 If it appears from the evidence that hardship will be caused:

Step	Action
1	lift the suspension immediately
2	reinstate the customer's benefit payments
3	pay any arrears from the date hardship is being experienced
4	record the revised decision on the relevant section of form SUSP1
5	notify the customer using DL/SUSTERM 3.

2303 - 2349

Appeals to the Commissioner and higher courts

2350 Where an award of benefit is made by an AT, a Commissioner or a higher court, payment of benefit may be suspended when **an appeal is pending**.

CAP

2351 In the case of a tribunal decision, the law says an appeal is pending when the Secretary of State:

- is considering whether to apply for a statement of reasons for the tribunal decision **or**
- has applied for a statement of reasons and is waiting to receive it **or**
- has received the statement of reasons and is considering whether to apply for leave to appeal to the Commissioners.

2352 Also, in the case of a decision by an AT, a Commissioner or a court, the law states an appeal is pending when the Secretary of State:

- is waiting to receive the decision **or**
- has received the decision and is considering whether to apply for leave to appeal against it **or**
- has applied for leave to appeal but that application has not yet been decided **or**
- has been granted leave to appeal and is considering whether to proceed to make an appeal **or**
- has made an appeal but that appeal has not yet been decided

2353 In all cases in which an appeal is being considered it is important to bear in mind the time limits for appealing. In the case of an appeal to a SS Commissioner the time limit is one month from the date a written statement of the reasons for the tribunal's decision is issued. In the case of an appeal to the higher courts, i.e. Court of Appeal, Court of Session (in Scotland) or The Supreme Court, the time limit is three months from the date judgement is given by the Commissioner or court.

2354-2451

2354 Where payment of benefit has been suspended, pending an appeal to the Courts or where DMA Leeds are considering taking such action, the decision to suspend payment should be kept under review. This is best done by the unit best informed about the claimant's circumstances. Ordinarily this will be the local office or central unit handling the claim or award since they are likely to be the ones to whom the claimant would report any change of circumstance, e.g. the emergence of hardship.

2355 - 2449

Notifying the customer of a suspension

Appeal cases

2450 If it is decided to refer a case to DMA (Leeds) to consider whether an appeal should be made, the customer should be kept informed at all stages.

2451 The law says that the customer must be notified in **each** of the following circumstances:

- after the decision of the tribunal is received and **before** you apply for the written statement of reasons
- where the Secretary of State proposes to apply to the tribunal chairman for leave to appeal to the Commissioner
- if leave to appeal is refused by the tribunal chairman and the Secretary of State proposes to apply direct to a Commissioner for leave to appeal against the tribunal's decision
- where leave to appeal has been granted by the tribunal Chairman and the Secretary of State proposes to make an appeal
- where the Secretary of State proposes to apply for leave to appeal/appeal to the Court of Appeal, Court of Session or the the Supreme Court.

Note: In some cases as many as three separate letters will have to be issued.

Step	Action
1	send DL/SUSTERM 6 (DL/SUSTERM 8 in overpayment cases) to the customer
2	keep a copy of DL/SUSTERM 6 (8) with the customer's records.

- 2452 ACI (Leeds) will contact you when they have decided to apply for leave to appeal/appeal against a decision of a tribunal, Commissioner or court.

Step	Action
1	send DL/SUSTERM 7 (DL/SUSTERM 8 in overpayment cases) to the customer
2	keep a copy of DL/SUSTERM 7 (8) with the customer's records.

- 2453 It is important that copies of these letters are kept, because they may be required in the event of a judicial review to show that all action has been taken timeously, completely, and accurately.

- 2454 If the customer has appealed and you discover they are being overpaid, consider suspending all or part of the payment pending the appeal being heard.

2455 - 2459

Other cases

- 2460 In all other cases:

Step	Action
1	send DL/SUSTERM 1 to the customer to notify them of the suspension
	Note: In DLA/AA cases, send the customer DL/SUSTERM 1A instead
	In Fraud cases, send the customer DL/SUSTERM 1B
2	keep a copy of the draft letter with the customer's records - this is important if the decision to suspend is challenged.

2461-2549

Making payments which have been suspended

2461 Any payment of benefit which has been suspended **must be paid** when:

- in the case of a tribunal decision an application for a statement of reasons is not made within one month of the day the decision was issued
- in the case of a decision of a tribunal, a Commissioner or a higher court:
 - the Secretary of State does not make an application for leave to appeal within the relevant time limit
 - having been granted leave to appeal the Secretary of State does not make an appeal within the relevant time limit
- the Secretary of State withdraws the appeal or application for leave to appeal
- the Secretary of State is refused leave to appeal where they cannot take the matter any further

2462 If an appeal to the Commissioner is under consideration and information is being gathered by Districts on behalf of one of the central benefits such as DLA/AA, you must always bear in mind the time limits set out in para 2461. Therefore the Central Benefits Directorates must receive any information obtained by Districts in sufficient time to allow the customer to be informed in writing of a decision to suspend within the one month time limit.

2463 - 2499

Decision to suspend reconsidered

2500 If the decision to suspend is reconsidered and payments are reinstated:

Step	Action
1	send DL/SUSTERM 3 to the customer
2	note the issue of DL/SUSTERM 3 on the revised decision part of form SUSP1.

2501 - 2549

Deductions to third parties

2550 A third party to which benefit is being paid on the claimant's behalf should be notified of any suspension that affects the payments to it.

2551 Third parties may include:

- utilities such as the gas, electricity, and water companies **or**
- LAs for rent and council tax.

2552 Where

- payment of benefit is suspended only in part **and**
- the suspension does not affect a payment to a third party

the third party should not be informed of the suspension.

2553 Where

- payment of benefit to a third party has been suspended **but**
- the matter that has led to the suspension may be resolved and the suspension lifted before the next payment is due to be paid to the third party

the third party should not be notified of the suspension for the time being. However, if the suspension is not lifted before the next payment is due to be paid, the third party should be notified at that stage that payments have been suspended.

2554 To notify the suspension of payment, including details of the benefit involved, send form:

- A79D to the customer **and**
- A79E to the third party.

2555 - 2599

Local Authority liaison

2600 You must inform the relevant LA if:

- the customer has claimed HB/CTB **and**
- the customer's income related benefit is suspended in whole or in part
or
- benefit suspension has been lifted.

Step	Action
1	send DL/SUSTERM 4 or 5 to the LA
2	keep a copy of DL/SUSTERM 4 or 5 with the customer's records

2601 - 2999