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C8 Suspension and termination of benefit

About this chapter

- 8.00 This chapter gives guidance on Housing Benefit (HB) and Council Tax Benefit (CTB)
- suspension
 - termination
- 8.01 This chapter is only a guide to HB and CTB decision making and
- has no status in law
 - does not cover all aspects of decision making for every situation
 - does not provide a full interpretation of the rules
 - should not be treated as a complete and authoritative statement of the law that may change from time to time
- 8.02 The Decision Maker (DM) should always bear in mind whether hardship, particularly the risk of eviction, will result from their decision when considering suspension of benefit, either wholly or in part. This applies both to circumstances when the DM is considering an immediate suspension or when the claimant has been asked to provide information. If a suspension is appropriate it should generally be for as short a period as possible.

Failure to supply information

- 8.03 A decision to terminate benefit because the claimant has not supplied requested information is a supersession decision following a change of circumstances and carries the right of appeal. The change is the failure to comply with the request for information.

8.04-8.09

8.10-8.19

HB suspension and termination

HB suspension

8.10 A DM may suspend any payment of HB, in whole or part, when

- there is an issue about whether
 - the conditions for entitlement to HB are or were fulfilled, including loss of contact with the claimant
D&A Regs, Reg 11(2)(a)
 - a decision to award HB should be revised or superseded, including when there is doubt about who to pay benefit to, eg the tenant, the landlord or another third-party
D&A Regs, Reg 11(2)(a); CH/1821/2006
- an appeal is pending against a decision
 - of a First-tier Tribunal (FtT), an Upper Tribunal (UT) or a court, or
CH/1821/2006
 - given by a UT or a court in a different case, which may raise an issue as to whether the DM should revise or supersede an award in the case concerned
Reg 11(2)(b)
- an amount of HB may be recoverable under section 75 (overpayments) of the Administration Act or regulations made under that section
Reg 11(2)(c)
- after one month, the claimant has failed to satisfy information requirements, see *Suspension due to not complying to information requirements* later in this chapter

Note: Since 2001 a DM may not withhold benefit under any circumstances.

8.11-8.19

HB may be revised or superseded

- 8.20 When a decision awarding HB may be revised or superseded the DM should consider whether to suspend payment.
- 8.21 If a revised or superseded decision would result in
- an increase in entitlement, there is no need to consider suspension
 - a decrease in entitlement, consider suspending payments by that amount
 - a loss of entitlement, consider suspending the whole payment

Query about who to pay HB to

- 8.22 The DM may suspend payment of HB while enquiries are made about the person the HB should be paid to, eg tenant, landlord or third party. This applies particularly to the question under Reg 95 whether it is 'in the overriding interest of the claimant not to make direct payments to the landlord'.

CH/1821/2006

Appeal pending

- 8.23 The DM may suspend payment of benefit, in whole or part, if
- an appeal is pending against the decision of an FtT, a UT or a court in the case concerned, and
 - in the opinion of the DM, the likely outcome of the appeal is that there would be no entitlement or reduced entitlement to HB

See *C7 Appeals, Suspension of payment* earlier in this manual.

*CSP & SS Act 2000 sch 7, para 13(2)(c);
D&A Regs, Reg 11(2)(b)(i);*

- 8.24 In this context, an appeal is pending when
- the LA is waiting to receive that decision
 - in the case of an FtT decision the LA
 - is considering whether to apply for a statement of reasons, 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 UT
 - the LA has received the decision and is considering whether to apply for leave to appeal against it

continued

(8.24)-8.27

- (8.24)
- an application for permission to appeal has been made but not determined
 - permission to appeal has been granted and the LA is considering whether to proceed with an appeal
 - an appeal has been made but has not yet been determined

*CSP & SS Act 2000 sch 7, para 13(3)(c);
D&A Regs, Reg 11*

8.25 The LA must, as soon as is reasonably practicable, give written notice of its proposal to

- (in the case of an FtT decision) apply for a statement of reasons
- apply for leave to appeal, and
- make an appeal

The LA must send the written notice before taking any of the above action.

Appeal pending against a decision in a different case

8.26 In this context, the reference to 'a different case'

- includes a case involving a different LA
- does not include a case relating to a different benefit unless the different benefit is CTB

CSP & SS Act 2000 sch 7, para 13(4)

8.27 The DM may suspend benefit, in whole or part, when

- an appeal is pending against a decision given by a UT or a court in a different case (the lead case), and
- it appears to the DM that if the appeal were to be determined in a particular way, an issue would arise as to whether the award of benefit in the case before the DM (the look-alike case) should be revised or superseded

*CSP & SS Act 2000 sch 7, para 13(2)(d);
D&A Regs, Reg 11(2)(b)(ii)*

Example

Authority A has appealed to the Court of Appeal against a UT decision awarding HB. This is the lead case.

A DM acting on behalf of authority A or another authority considers the separate case of a claimant currently entitled to HB/CTB.

Because the award of HB/CTB in the separate case concerns the same legal issues as in the lead case, the DM decides that it is a look-alike case.

Consider suspension of payment in the look-alike case pending the outcome of the appeal in the lead case.

Question about whether an HB overpayment is recoverable

- 8.28 The DM may suspend payment of benefit, in whole or part, when an issue arises whether an amount of HB is recoverable under section 75 of the SS Administration Act 1992 or regulations made under that section.

D&A Regs, Reg 11(2)(c)

Decision to suspend HB

- 8.29 If the DM decides to suspend HB, the claimant should be informed in writing. The letter should state the date of and the reason for the suspension, together with what, if anything the claimant needs to do to resolve the situation.

Making suspended payments

- 8.30 Pay any previously suspended benefit when

- the DM is satisfied the benefit suspended is properly payable and there are no outstanding issues

D&A Regs, Reg 12(1)(a)

- an appeal is no longer pending and the benefit suspended remains payable following the determination of that appeal

D&A Regs, Reg 12(1)(b)

- 8.31 Whenever possible pay the suspended benefit within 14 days of the decision to make that payment.

D&A Regs, Reg 12(2)

8.32-8.39

Suspension due to not complying with information requirements

- 8.40 A DM may suspend, in whole or in part any HB payment when the
- claimant has failed to comply with the information requirements within one month of the request being made, or such longer period as may be appropriate, and
 - HB is not already suspended in the circumstances described earlier in this chapter, see *HB may be revised or superseded*

D&A Regs, Reg 13

8.41-8.44

8.41 In this context 'information requirement' means, in the case of HB, providing information or evidence needed for a determination whether a decision on an HB award should be revised or superseded. For more details see *C6 Reconsidering, revising and superseding decisions, More evidence or information needed and Additional evidence/information needed for decision to be superseded*.

CSP & SS Act 2000 sch 7, para 14(3)

8.42 The 'information requirements' apply to a person

- if their HB has been suspended or reduced under regulation 11(2)(a), ie there is an issue about whether the conditions for entitlement to HB are or were fulfilled, including loss of contact with the claimant

D&A Regs, Reg 13(2)(a)

- who has made an application for a DM's decision to be revised or superseded

D&A Regs, Reg 13(2)(b)

- who fails to comply with the requirement to provide evidence or information needed for a determination whether a decision on an award should be revised or superseded. See *C6 Reconsidering, revising and superseding decisions, Superseding a Decision Maker's decision and Superseding an FtT or UT decision*

D&A Regs, Reg 13(2)(c)

Time limits for providing information

8.43 When you ask for the information or evidence tell the claimant what information or evidence is required and the time limits.

D&A Regs, Reg 13(3)

8.44 The claimant should

- provide evidence or information within
 - one month beginning with the date the notification was sent to them, or
 - a longer period as the DM considers necessary to enable the person to comply, or

D&A Regs, Reg 13(4)(a)

- satisfy the DM within this period that
 - the information or evidence does not exist, or
 - it is not possible for them to obtain the information or evidence

D&A Regs, Reg 13(4)(b)

Extending the time limit

- 8.45 When considering whether to extend the time limit for providing evidence or information, the DM should take into account all the circumstances including
- the claimant's circumstances and the nature of the information requested
 - whether there are difficulties in obtaining the information itself, for example when verification has to be sought from another source such as a bank or building society
 - any difficulty the claimant may have in obtaining the information due to disability, illness or family circumstances

This list is not exhaustive. Consider each case on its own facts and merits.

Making suspended payments when information provided

- 8.46 Whenever possible pay any benefit within 14 days of the decision to make that payment when the claimant
- provides the evidence or information within the time allowed, or
 - satisfies the DM within the time allowed that the information or evidence either does not exist or that it is not possible for them to obtain it

See *Time limits for providing information* earlier in this chapter.

D&A Regs, Reg 13(5)

8.47-8.59

HB termination

Terminating HB when information is not provided

- 8.60 Entitlement to HB will cease from the date payments were suspended under
- Reg 11, see *HB suspension* earlier in this chapter, and if they subsequently fail to provide requested information, or
 - Reg 13 for failing to provide requested information, see *Suspension due to not complying with information requirements* earlier in this chapter

D&A Regs, Reg 14(1)

8.61-8.69

Terminating HB from a date before the payments were suspended

8.61 D&A Reg 8

- sets out the general rules about when supersession decisions take effect, and
- is subject to Reg 14, the specific rule where the change of circumstances is the failure to provide information requested within time

8.62 If the LA needs to terminate HB from an earlier date they have to

- make the supersession from the earlier date, and
- identify the basis on which entitlement is terminated from the earlier date

8.63 This rule does not apply before the end of the period allowed under Regulation 13(4) for the provision of the information, see *Time limits for providing information* earlier in this chapter.

Reg 14(2)

8.64 Termination is not possible when benefit has only been suspended in part.

Right of appeal

8.65 A termination decision for failure to provide information takes effect on supersession for a change of circumstances. The change is the failure to comply with the requirement to provide information within the time limit.

CHI402/2007; D&A Reg 14

8.66 This decision is appealable and appeal rights should be notified.

8.67-8.69

Claimant provides information or evidence following a termination decision

8.70 If the claimant provides the information or evidence and the DM is satisfied that the delay is reasonable, see Regulations 4 & 5 of the HBCTB (D&A) Regulations if appropriate, the DM should

- revise the supersession terminating entitlement from the date of the suspension
- reinstate the HB award with arrears, and
- inform the claimant of the decision

8.71 If the DM concludes that it would not be reasonable to revise the supersession the DM should inform the claimant

- of the decision
- that a decision not to revise is not appealable
- that they need to make a new claim which will be considered under normal rules

Note: The new claim may include a request for backdating. Also, the claimant may still have unexpired appeal rights against the original supersession.

R(IS) 15/04

8.72- 8.79

8.80-8.89

CTB suspension and termination

CTB suspension

8.80 When a DM decides to suspend CTB, it only impacts on the relevant annual amount of Council Tax (CT) due from the claimant at the start of the award. CTB reduces the CT due therefore CTB payments are not suspended in the sense of payments actually being stopped.

8.81 However, entitlement may be terminated if the claimant fails to provide information, see *CTB termination* later in this chapter.

8.82 A DM may suspend CTB, in whole or part, when

- there is an issue about whether
 - the conditions for entitlement to CTB are or were fulfilled, including loss of contact with the claimant
D&A Regs, Reg 11(2)(a)
 - a decision to award CTB should be revised or superseded
D&A Regs, Reg 11(2)(a); CH/1821/2006
- an appeal is pending against a decision
 - of an FtT, a UT or a court
CH/1821/2006
 - given by a UT or a court in a different case, which may raise an issue as to whether the DM should revise or supersede an award in the case concerned
D&A Regs, Reg 11(2)(b)
- an excess payment of CTB may be recoverable under section 76 of the Administration Act or regulations made under that section
D&A Regs, Reg 11(2)(c)
- after one month, the claimant has failed to satisfy information requirements, see *Information requirements* later in this chapter

Note: Since 2001 a DM may not withhold benefit under any circumstances.

8.83-8.89

CTB may be revised or superseded

- 8.90 When a decision awarding CTB may be revised or superseded the DM should consider whether to suspend entitlement.
- 8.91 If a revised or superseded decision would result in
- an increase in entitlement, there is no need to consider suspension
 - a decrease in entitlement, consider suspending CTB by the amount in question
 - a loss of entitlement, consider suspending all the CTB

Appeal pending

- 8.92 The DM may suspend CTB in whole or part, if
- an appeal is pending against the decision of an FtT, a UT or a court in the case concerned, and
 - in the opinion of the DM, the likely outcome of the appeal is that there would be no entitlement or reduced entitlement to CTB

See *C7 Appeals, Suspension of payment* earlier in this manual.

*CSP & SS Act 2000 sch 7, para 13(2)(c);
D&A Regs, Reg 11(2)(b)(i);*

- 8.93 In this context, an appeal is pending when
- the LA is waiting to receive that decision
 - in the case of an FtT decision the LA
 - is considering whether to apply for a statement of reasons, 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 UT
 - the LA has received the decision and is considering whether to apply for leave to appeal against it
 - an application for permission to appeal has been made but not determined
 - permission to appeal has been granted and the LA is considering whether to proceed with an appeal
 - an appeal has been made but has not yet been determined

*CSP & SS Act 2000 sch 7, para 13(3)(c);
D&A Regs, Reg 11*

8.94-8.97

- 8.94 The LA must, as soon as is reasonably practicable, give written notice of its proposal to
- (in the case of an FtT decision) apply for a statement of reasons
 - apply for leave to appeal, and
 - make an appeal

The LA must send the written notice before taking any of the above action.

Appeal pending against a decision in a different case

- 8.95 In this context, the reference to 'a different case'
- includes a case involving a different LA
 - does not include a case relating to a different benefit unless the different benefit is HB
CSP & SS Act 2000 sch 7, para 13(4)

- 8.96 The DM may suspend benefit in whole or part when
- an appeal is pending against a decision given by a UT or a court in a different case (the lead case), and
 - it appears to the DM that if the appeal were to be determined in a particular way, an issue would arise as to whether the award of benefit in the case before the DM (the look-alike case) should be revised or superseded
*CSP & SS Act 2000 sch 7, para 13(2)(d);
D&A Regs, Reg 11(2)(b)(ii)*

Example

Authority A has appealed to the Court of Appeal against a decision of a Commissioner awarding CTB. This is the lead case.

A DM acting on behalf of authority A or another authority considers the separate case of a claimant currently entitled to HB/CTB.

Because the award of HB/CTB in the separate case concerns the same legal issues as in the lead case, the DM decides that it is a look-alike case.

Consider suspension of CTB in the look-alike case pending the outcome of the appeal in the lead case.

Procedure following suspension of CTB

- 8.97 If the DM decides to suspend CTB, notify the claimant in writing. The letter should state the date of and the reason for the suspension, together with what, if anything the claimant needs to do to resolve the situation. It will not be necessary to generate or issue a revised CT bill to reflect the suspension of the award.

- 8.98 The DM may also wish to explain the billing position in the letter to the claimant, including the amount of CT outstanding at the date of suspension, to avoid queries arising at a later date.

CTB due following suspension

- 8.99 CTB may be due following suspension when

- the DM is satisfied that the CTB suspended is properly due and there are no outstanding issues

D&A Regs, Reg 12(1)(a)

- an appeal is no longer pending and the CTB suspended remains due following the determination of that appeal

Reg 12(1)(b)

- 8.100 Whenever possible make the payment or restore the reduction within 14 days of the decision that CTB is due.

Reg 12(2)

8.101-8.109

Suspension due to not complying with information requirements

- 8.110 In this context 'information requirement' means, in the case of CTB, providing information or evidence needed for a determination whether a decision on a CTB award should be revised or superseded.

6 (1) (hh) Administration Act

- 8.111 A DM may suspend, in whole or in part CTB when the

- claimant has failed to comply with the information requirements within one month of the request being made, or such longer period as may be appropriate, and
- CTB is not already suspended in the circumstances described earlier in this chapter, see *CTB may be revised or superseded*

D&A Regs, Reg 13

- 8.112 For more details about requesting further information, see *C6 Reconsidering, revising and superseding decisions, More evidence or information needed and Additional evidence/ information needed for decision to be superseded.*

CSP & SS Act 2000 sch 7, para 14(3)

8.113-8.115

8.113 The 'information requirements' apply to a person

- if their CTB has been suspended or reduced under regulation 11(2)(a), ie there is an issue about whether the conditions for entitlement to CTB are or were fulfilled, including loss of contact with the claimant

D&A Regs, Reg 13(2)(a)

- who has made an application for a DM's decision to be revised or superseded

D&A Regs, Reg 13(2)(b)

- who fails to comply with the requirement to furnish evidence or information needed for a determination whether a decision on an award should be revised or superseded. See *C6 Reconsidering, revising and superseding decisions, Superseding a Decision Maker's decision and Superseding an FtT or UT decision.*

D&A Regs, Reg 13(2)(c)

Time limits for providing information

8.114 When you ask for information or evidence, tell the claimant what information or evidence is required and the time limits.

D&A Regs, Reg 13(3)

8.115 The claimant should

- provide the evidence or information within
 - one month beginning with the date the notification was sent, or
 - a longer period as the DM considers necessary in order to enable the claimant to comply with the requirement, or

D&A Regs, Reg 13(4)(a)

- satisfy the DM within this period that
 - the information or evidence does not exist, or
 - it is not possible for them to obtain the information or evidence

D&A Regs, Reg 13(4)(b)

Extending the time limit

- 8.116 When considering whether to extend the time limit for providing evidence or information, the DM should take into account all the circumstances including
- the person's circumstances and the nature of the information requested
 - whether there are difficulties in obtaining the information itself, for example when verification has to be sought from another source such as a bank or building society
 - any difficulty the claimant may have in obtaining the information due to disability, illness or family circumstances

This list is not exhaustive. Consider each case on its own facts and merits.

Is excess CTB recoverable?

- 8.117 Consider whether an excess payment of CTB has occurred. Any excess CTB may be recoverable under section 76 of the SS Administration Act 1992 or regulations made under that section.

8.118-8.129

CTB termination

- 8.130 The claimant will become liable for CT from the date of suspension if the CTB suspension progresses to a supersession terminating entitlement due to a persistent failure to provide information.

CHI402/2007

- 8.131 If this happens write to the claimant telling them of the supersession terminating entitlement, including notice of their appeal rights. A CT bill should then be generated and issued to the claimant for the amount of CT the claimant is liable for, less any CTB entitlement occurring before the date of suspension.

Right of appeal

- 8.132 A termination decision for failure to provide information takes effect on supersession for a change of circumstances. The change is the failure to comply with the requirement to provide information within the time limit.

*CHI402/2007;
D&A Regs, Reg 14*

- 8.133 This decision is appealable and appeal rights should be notified.

8.134-8.999

Claimant provides requested information or evidence following a termination decision

8.134 If the customer provides the information or evidence requested and the DM is satisfied that the delay is reasonable, see Regulations 4 & 5 of the D&A Regulations, the supersession terminating entitlement from the date of the suspension is revised and the CTB award is re-instated.

8.135 If the DM concludes that it would not be reasonable to revise the supersession the DM should inform the claimant

- of the decision
- that a decision not to revise is not appealable

R(IS) 15/04

- that they need to make a new claim which will be considered under normal rules.

Note: The new claim may include a request for backdating. Also the claimant may still have unexpired appeal rights against the original supersession.

8.136 - 8.999