

SPC TEMPORARY ABSENCE FROM NORTHERN IRELAND

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INTRODUCTION

1. This memo gives guidance on amendments to the regulations relating to State Pension Credit, which provide that a claimant can continue to be entitled to State Pension Credit during temporary absences from Northern Ireland. These amendments are made by the Housing Benefit and State Pension Credit

(Temporary Absence) (Amendment) Regulations Northern Ireland 2017¹ (SR2017 No.1). This amendment comes into force on 30.01.17

1 HB and SPC (Temporary Absence)(Amendment) Regs (NI) 2017, 2 Reg 1

TEMPORARILY ABSENT FROM NORTHERN IRELAND

2. State Pension Credit can continue to be paid whilst a claimant is temporarily absent from Northern Ireland¹ if
 1. the other conditions of entitlement continue to be satisfied **and**
 2. the absence is no longer than
 - 2.1 4 weeks where the absence is not expected to exceed 4 weeks² **or**
 - 2.2 8 weeks³ where paragraph 3 applies **or**
 - 2.3 26 weeks⁴ where paragraph 4 applies.

Note: See DMG 4640 for effective dates for supersession.

1 SPC Regs (NI), reg 3; 2 reg 3(1)(a); 3 reg (1)(b); 4 reg 3 (1)(c)

Example 1

Jason notifies the decision maker that he is going abroad for 3 weeks. The decision maker decides that he remains entitled for those 3 weeks. He contracts food poisoning and has to extend his stay by a further 2 weeks. As Jason's period abroad was not expected to exceed 4 weeks the decision maker decides that he remains entitled for 4 weeks but supersedes and disallows for the 5th week.

Example 2

Nicola notifies the decision maker that she will be going abroad for 5 weeks. The decision maker supersedes and disallows from the beginning of the absence. Due to unforeseen circumstances Nicola returns after 3 weeks. However Nicola's award remains disallowed as the absence was expected to last more than 4 weeks.

The 8 week rule

3. The temporary absence can be up to 8 weeks where
 1. the absence is not expected to exceed 8 weeks **and**
 2. the absence is in connection with the death of
 - 2.1 the claimant's partner **or**

- 2.2** a child or qualifying young person who normally lives with the claimant **or**
 - 2.3** a close relative of the claimant, their partner or a child or qualifying young person normally living with the claimant **and**
 - 3.** the Department considers that it would be unreasonable to expect the claimant to return to Northern Ireland within the first 4 weeks¹.

1 SPC Regs (NI), reg 3(2)

The 26 week rule

- 4.** The temporary absence can be up to 26 weeks where the absence is not expected to exceed 26 weeks and is solely in connection with
 - 1.** the claimant undergoing¹
 - 1.1** treatment for an illness or physical or mental impairment by, or under the supervision of, a qualified practitioner **or**
 - 1.2** medically approved convalescence or care as a result of treatment for an illness or physical or mental impairment, provided that the claimant had that illness or disability before leaving Northern Ireland **or**
 - 2.** the claimant accompanying their partner, or a child or qualifying young person for whom they are responsible where that partner, child or qualifying young person is undergoing²
 - 2.1** treatment for an illness or physical or mental impairment by or under the supervision of a qualified practitioner **or**
 - 2.2** medically approved convalescence or care as a result of treatment for an illness or physical or mental impairment provided the partner, child or qualifying young person had that illness before leaving Northern Ireland¹.

Note: See DMG Memo 4640 for effective dates for supersession

1 SPC Regs (NI), reg 3(3)(a); 2 reg 3(3)(b)

Example

Irina goes abroad for 12 weeks. She does this because the warmer temperature eases her medical condition. The decision maker disallows from the beginning of the absence as the absence was not related to treatment or convalescence following any treatment.

Qualified practitioner

5. Qualified practitioner means a person qualified to provide medical treatment, physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment¹.

1 SPC Regs (NI), reg 3(4)

Medically approved

6. Medically approved means certified by a registered medical practitioner¹.

1 SPC Regs (NI), reg 3(4)

Receiving treatment outside Northern Ireland

7. DMG 78921 advises that where either the claimant or their partner was receiving treatment outside Northern Ireland they could continue to receive State Pension Credit for the duration of that treatment. From 30.01.17 the single regulation¹ that provides for this is revoked however new amended regulations² introduce similar provisions that allow for the continuation of State Pension Credit where the person is receiving treatment outside Northern Ireland, although the duration of the absence is now restricted to a maximum of 26 weeks.

1 SPC Regs (NI), reg 4; 2 reg 3(3) (for the claimant) & reg 5(1C) (for the partner)

Membership of the household

8. DMG 77117 advises that a person is treated as not being a member of the claimant's household where they have been absent from Northern Ireland for more than 13 weeks. From 30.01.17 the period of absence from Northern Ireland before a person is treated as not being a member of the claimant's household is amended to that described in paragraphs 9 to 11 below.
9. A person is treated as being a member of the claimant's household whilst temporarily absent from Northern Ireland¹ if the absence is no longer than
 1. 4 weeks where the absence is not expected to exceed 4 weeks² or
 2. 8 weeks³ where paragraph 10 applies or
 3. 26 weeks⁴ where paragraph 11 applies.

1 SPC Regs (NI), reg 5(1)(f); 2 Reg 5(1A)(a); 3 reg 5(1A)(b); 4 reg 5(1A)(c)

The 8 week rule

10. The temporary absence can be 8 weeks where

1. the absence is not expected to exceed 8 weeks **and**
2. the absence is in connection with the death of
 - 2.1 a child or qualifying young person who normally lives with the person **or**
 - 2.2 a close relative of the person, their partner or a child or qualifying young person normally living with the person **and**
3. the Department considers that it would be unreasonable to expect the person to return to Northern Ireland within the first 4 weeks¹.

1 SPC Regs (NI), reg 5(1B)

The 26 week rule

11. The temporary absence can be up to 26 weeks where the absence is not expected to exceed 26 weeks and is solely in connection with
 1. the person undergoing
 - 1.1 treatment for an illness or physical or mental impairment by, or under supervision of, a qualified practitioner **or**
 - 1.2 medically approved convalescence or care as a result of treatment for an illness or physical or mental impairment, provided that the person had that illness or disability before leaving Northern Ireland **or**
 2. the person accompanying their partner, or a child or qualifying young person for whom they are normally living where that partner, child or qualifying young person is undergoing
 - 2.1 treatment for an illness or physical or mental impairment by or under the supervision of a qualified practitioner **or**
 - 2.2 medically approved convalescence or care as a result of treatment for an illness or physical or mental impairment provided the partner, child or qualifying young person had that illness or disability before leaving Northern Ireland¹.

1 SPC Regs (NI), reg 5(1C)

QUALIFYING YOUNG PERSON

12. A qualifying young person is a person who has reached the age of 16 but not the age of 20
 1. up to, but not including, 1 September that next follows their 16th birthday¹
and
 2. up to, but not including, 1 September that next follows their 19th birthday where they are enrolled on, or accepted for
 - 2.1 approved training **or**
 - 2.2.a which is not advanced education
 - 2.2.b at a school, college or elsewhere that is approved by the Department and
 - 2.2.c where they spend on average more than twelve hours a week during term time in receiving tuition doing examinations or practical work or supervised study².

1 SPC Regs (NI), reg 4A(1)(a); reg 4A(1)(b)

13. Where the young person is aged 19, he or she must have started the education or training or been enrolled on or accepted for it before reaching that age¹.

1 SPC Regs(NI), reg 4A(2)

14. The education or training described in 12.2.1 and 12.2.2 does not include education or training that is provided through a contract of employment¹.

1 SPC Regs(NI), reg 4A(3)

15. A person shall be treated as undertaking a course of full-time education during the period between the end of one course and the start of another where the person is accepted for or enrolled on the latter course.

16. Where a child or qualifying young person turns 16 or 19 on 31 August the period described at 12.1 and 12.2 will end on that same day.

17. Any person who falls within 12 above is not a qualifying young person if they are receiving Jobseekers Allowance, Income Support or Employment and Support Allowance¹.

Example

Sue and Wendy are 18 year old twins and in education. Wendy has a child and gets Income Support and is therefore not a qualifying young person. Sue is a qualifying young person.

1 SPC Regs(NI), reg 4A(5)

Approved training

18. Approved training means training arranged under prescribed legislation¹ and approved by the Department².

1 Employment and Training Act (NI) 1950, s 2(1); 2 SPC Regs (NI), reg 4A(4)

TRANSITIONAL PROTECTION

19. Any person temporarily absent on 30.1.17 will be subject to the previous regulations until they return to Northern Ireland¹. All further absences will be subject to the new rules.

1 HB and SPC (Temporary Absence)(Amendment) Regs (NI) 2017, reg 5(3)

ANNOTATIONS

Please annotate the number of this memo vol 13/68 against the following DMG paragraphs:

077013, 077015, 77017, 78921, 78922, 78924

CONTACTS

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