

DIRECTION IN RELATION TO EMERGENCY BENEFIT AND BENEFITS ON GROUND OF HARDSHIP

This is an unofficial consolidation as at 26 June 2007, produced by and for the Ministry of Social Development, and for the use of Work and Income. For official use, reference should be made to the original programme and its amendments.

TO: The Chief Executive, Department of Work and Income

Pursuant to section 5 of the Social Security Act 1964, I, **ROGER MORRISON SOWRY**, Minister of Social Services, Work and Income, give the following Direction to take effect on 8 October 1998.

I revoke effective on that date all previous Ministerial Directions under that section concerning the grant of emergency benefits under that Act.

Dated this 6th October 1998

Hon. Roger Sowry
Minister of Social Services, Work and Income

Analysis	
1. Definitions	7. Rates of emergency benefit for certain people who are 16 or 17
2. Hardship: general criteria	8. Emergency benefits for care of patients
3. Hardship: full-time students	9. Patient's income defined
4. Hardship: full-time students: further criteria	10. Cash assets may be disregarded in exceptional circumstances
5. Emergency benefits for people aged 16 or 17 attending social rehabilitation programmes	11. General discretion
6. Emergency benefits for people aged 16 or 17 who are pregnant or sole parents	

DIRECTION

Grants of Emergency Benefits, and Grants of Benefits on the Ground of Hardship

This Direction applies when you are considering whether to grant-

- (a) An emergency benefit under section 61 of the Act; or
- (b) An unemployment benefit under section 89 of the Act pursuant to section 90 of the Act, or a sickness benefit under section 54 of the Act pursuant to section 54A of the Act:-

on and after 8 October 1998, and also applies when you are, after that date, reviewing an emergency benefit (whether granted before or after that date), or an unemployment benefit or a sickness benefit so granted.

Without limiting the discretion available to you under section 61 or section 90 or section 54A of the Act, you must have regard to the following matters:

1 Definitions

In this Direction, unless the context otherwise requires,-

“the Act” means the Social Security Act 1964:

“Cash assets”, in relation to any person, means the assets of that person and his or her spouse or partner (if any) that can be readily converted into cash and include-

- (a) Shares, stocks, debentures, bonus bonds, and other bonds;
- (b) Bank accounts, including fixed and term deposits with any bank, friendly society, credit union, or building society;
- (c) Money invested with or lent to any bank or other financial institution;
- (d) The net equity held in any property or land not used as the person's home;
- (e) Building society shares;
- (f) Mortgage investments and other long term loans;
- (g) Bills of exchange or promissory notes;
- (h) The applicant's share in any partnership;-

but do not include-

- (i) The motor vehicle principally used by the applicant for his or her personal use;
- (j) A caravan, boat, or other vehicle-
 - (i) The net equity in which is less than \$2,000; or
 - (ii) Which is used by the person or a member of his or her family for day to day accommodation;
- (k) The personal effects of the person and his or her spouse or partner (if any):
- (l) for the period of 12 months after it is made, any ex gratia payment of the kind referred to in regulation 10(1)(f) of the Social Security (Long-term Residential Care) Regulations 2005 (SR 2005/183);
- (m) any ex gratia payment of the kind referred to in regulation 10(1)(g) of those regulations.

“Course” means a full-time course within the meaning of the Student Allowances Regulations 1998:

"Gross amount", in relation to a benefit, means the amount of that benefit before the deduction of income tax:

“Student Allowance” means a basic grant or an independent circumstances grant under the Student Allowances Regulations 1998;-

and terms otherwise defined in section 3 (1) of the Act have the meanings so defined.

2 Hardship: general criteria

Where an applicant who is not a full-time student-

(a) Has cash assets of or less than-

- (i) \$4,300, where the applicant is single, or
- (ii) \$7,464, where the applicant is married or in a civil union or in de facto relationship, or is single with at least 1 dependent child; and

(b) Has no other means to support himself or herself or his or her dependent spouse or partner or dependent children,-

you may consider that applicant to be suffering hardship.

3 Hardship: full-time students

Where an applicant who is a full-time student-

(a) Has cash assets of or less than-

- (i) \$4,300, where the applicant is single; or
- (ii) \$7,464, where the applicant is married or in a civil union or in de facto relationship, or is single with at least 1 dependent child; and

(b) Has no other means to support himself or herself or his or her dependent spouse or partner or dependent children; and

(c) Either-

- (i) Has been receiving a student allowance during the academic year; or
- (ii) At the time of the application is entitled to a student allowance or would be entitled to a student allowance but for the fact the course he or she intends to enrol in or has enrolled in has not commenced,-

you may consider the applicant to be suffering hardship.

4 Hardship. full-time students: further criteria

Where clause 3 (a) and (b) apply to an applicant who is a full-time student, but the applicant-

(a) Has not received a student allowance during the academic year; or

(b) At the time of the application for the benefit, is not entitled to a student allowance, or would not be entitled to a student allowance if he or she was attending a course,-

the applicant should not be considered to be suffering hardship unless, having regard to the following matters, you believe that such a determination is justified:

- (c) The sources of money for living costs which have been or are available to the applicant to support himself or herself, including a student loan;
- (d) Any decision by the applicant not to access any source of money available to him or her for living costs, including a student loan;
- (e) The reasons why the applicant is not entitled to a student allowance;
- (f) Where the applicant would not be eligible for a student allowance because of parental income, his or her parents' financial circumstances;
- (g) The causes of the applicant's hardship (if hardship exists);
- (h) The nature and likely duration of that hardship;
- (i) The health of the applicant;
- (j) The ability of the applicant to improve his or her financial situation; and
- (k) Any other matters that in the particular case you consider to be relevant.

5 Emergency benefits for people aged 16 or 17 attending rehabilitation programmes

Where clause 2 (a) and (b) apply to an applicant who is-

- (a) Aged 16 or 17 years; and
- (b) Not qualified to receive an invalid's benefit under section 40 of the Act; and
- (c) Attending a social rehabilitation programme approved by you,-

you may grant a sickness benefit under section 54A to the applicant.

6 Emergency benefits for people aged 16 or 17 who are pregnant or sole parents

Where clause 2 (a) and (b) apply to an applicant-

- (a) Who is aged 16 or 17 years; and
- (b) Who is-
 - (i) Pregnant; or
 - (ii) A sole parent; and
- (c) Whose parent or parents are unable to support the applicant because the parent's or parents' income would only be sufficient to qualify for the receipt of family support under the Income Tax Act 2004,-

you may grant one of the following benefits to the applicant:

- (d) in the case of an applicant who is pregnant, a sickness benefit under section 54A:
- (e) in the case of an applicant who is a sole parent, an emergency benefit.

7 Rates of emergency benefit for certain people who are 16 or 17

The rate of an emergency benefit granted under clause 5 or clause 6 must not, in the absence of exceptional circumstances, be more than:

- (a) For a person granted the benefit under clause 5, the rate in clause 1 of the Twenty-sixth Schedule of the Act.
- (b) For a person granted the benefit under clause 6-
 - (i) If that person is living with a parent (as that term is defined in section 3 (1) of the Act), 80% of the rate in clause 1 of the Twenty-sixth Schedule of the Act; or
 - (ii) For any other person, the rate in clause 1 of that Schedule.

8 Emergency benefits for care of patients

Where clause 2 (a) and (b) apply to an applicant for an emergency benefit to care for a sick or infirm person (a “patient”) to enable the patient to remain in his or her home-

- (a) You should not, in the exercise of your discretion under section 61, consider granting that applicant an emergency benefit if the patient has the ability to pay for his or her care; and
- (b) You should consider that the patient has that ability if the patient's income exceeds by \$2,600 or more-
 - (i) If the patient receives New Zealand superannuation, the gross rate of New Zealand superannuation that is payable to the patient and his or her spouse or partner (if any); or
 - (ii) In any other case, the gross rate of an invalid's benefit that is or would be payable to the patient and his or her spouse or partner (if any) if the patient qualified for that benefit.

9 Patient's income defined

- (a) In clause 8, “income” means income within the meaning of section 3 (1) of the Act modified in accordance with paragraphs (b) to (d):
- (b) The income of a patient includes the gross amount of the New Zealand superannuation or other benefit (being an unemployment benefit, sickness benefit, emergency benefit, invalid's benefit, or domestic purposes benefit under section 27G, of the Act) payable to the patient and his or her spouse or partner (if any):
- (c) The income of a patient includes an assessed income of-
 - (i) Subject to Paragraph (d), for a single person, \$5.20 per annum for each \$10 of the patient's cash assets in excess of \$2,700:

- (ii) For a person who is married or in a civil union or in de facto relationship, \$5.20 per annum for each \$10 of the cash assets of the patient and his or her spouse or partner in excess of \$5,400.
- (d) If the applicant is applying for the emergency benefit to care for 2 single patients, the income of each patient includes \$2.60 per annum for each \$10 of the combined cash assets of the patients in excess of \$5,400:
- (e) In paragraphs (c) and (d), cash assets do not include-
 - (i) Any interest in a policy of life insurance offered or entered into by a life insurer (within the meaning of either section OB 1 or OE 1 or OE 2 (1) of the Income Tax Act 2004); or
 - (ii) The capital value of any annuity owned beneficially by the patient or his or her spouse or partner. For the avoidance of doubt, the annual value of any annuity is included in the income of the patient.

10 Cash assets may be disregarded in exceptional circumstances

In calculating a person's cash assets for the purpose of this Direction, you may disregard some or all of the cash assets of that person and his or her spouse or partner (if any) if, in your opinion, exceptional circumstances exist having regard to the following matters:

- (a) Whether a refusal to grant an emergency benefit or unemployment benefit or sickness benefit on hardship grounds to the applicant will-
 - (i) Increase the expenditure of the Crown directly or indirectly; or
 - (ii) Have a serious adverse effect on a person's health or welfare:
- (b) Whether the applicant is able to realise his or her cash assets for more than the appropriate cash asset limit:
- (c) Whether the need for the emergency benefit or unemployment benefit or sickness benefit is temporary:
- (d) The amount of the person's total assets, including assets that are not cash assets:
- (e) Any other matters you consider are relevant to determining whether hardship would exist.

11 General discretion

Nothing in this Direction requires you to grant an emergency benefit, or an unemployment benefit or a sickness benefit on the grounds of hardship, if, in your discretion, you determine such grant ought not to be made.

Explanatory notes

Instrument amending Ministerial directions and welfare programmes (No 3) 2007

This Instrument comes into effect on the day after the date on which it is signed by the Minister. (signed 25 June 2007)

Direction in Relation to Emergency Benefit and Assistance on the Grounds of Hardship (given on 6 October 1998)

Clause 1

Add to the definition of **cash assets** the following paragraphs;

- (l) for the period of 12 months after it is made, any ex gratia payment of the kind referred to in regulation 10(1)(f) of the Social Security (Long-term Residential Care) Regulations 2005 (SR 2005/183);
- (m) any ex gratia payment of the kind referred to in regulation 10(1)(g) of those regulations.

This note is not part of the instrument, but is intended to indicate its general effect.

This instrument amending Ministerial directions and welfare programmes, which comes into effect on the day after the date on which it is published in the Gazette excludes certain payments from a person's cash assets, which are considered in determining his or her eligibility to the types of social security assistance specified in this instrument. The exclusion for ex-gratia payments made because of personal injury caused by hepatitis C infection contracted through the New Zealand blood supply is limited to 12 months from the date of payment.

2007

Instrument amending Ministerial Direction and Welfare Programmes (No 2) 2007

Direction in relation to Emergency Benefit and Benefits on Ground of Hardship (given on 6 October 1998)

Clause 2(a)(ii)

Insert "or in a de facto relationship" after "union".

Clause 3(a)(ii)

Insert "or in a de facto relationship" after "union".

Clause 9(c)(ii)

Insert "or in a de facto relationship" after "union".

This note is not part of the Instrument, but is intended to indicate its general effect.

This instrument, which comes into effect on 1 April 2007, amends a number of Ministerial directions and welfare programmes under the Social Security Act 1964 to recognise de facto relationships within the meaning of section 29A the Interpretation Act 1999.

2006

Instrument amending Ministerial directions and welfare programmes (No 2) 2006

This note is not part of the instrument, but is intended to indicate its general effect.

This instrument, which comes into effect on the day after its publication in the *Gazette*, amends a number of Ministerial directions and welfare programmes under the Social Security Act 1964 to treat people in civil unions in the same way as people in marriages and make related amendments.

Date of notification in *Gazette*: 08 June 2006.

Instrument amending Ministerial directions and welfare programmes 2006

Direction in relation to Emergency Benefit and Benefits on the Grounds of Hardship (given on 6 October 1998)

Clause 6(c)

Omit the expression "1994" and substitute the expression "2004".

Clause 9(e)(i)

Omit the expression "1994" and substitute the expression "2004".

This note is not part of the programme, but is intended to indicate its general effect.

This instrument, which comes into effect on 1 April 2006, amends a number of Ministerial directions and welfare programmes under the Social Security Act 1964.

Schedule 1 adjusts certain rates, standard costs, and limits to take into account a 3.16% increase in the Consumers price index.

Schedule 2 lists amendments: