

# Non Resident Overnight Carer

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From April 2011 regulations for LHA will allow for an additional bedroom to be included in the size criteria when calculating Housing Benefit for a non resident 'Overnight Carer' when the claimant or their partner has an established need for overnight care that is provided by someone **outside the household** and the claimant occupies a property with an additional bedroom for this purpose.

This provision will apply to all Housing Benefit claimants who rent their property in the Private Rented Sector.

## Definition of Overnight Carer

A person who requires overnight care is someone who:

- Receives **Attendance Allowance** or the **middle or highest** rate care component of **DLA** (evidence of one of these benefits is sufficient to confirm a medical need)
- or
- Can provide sufficient evidence (eg letter from their doctor or other medical profession) to prove this care is required if the claimant does not receive any of the above benefits

## Extra room only available where non resident carer

- Is actually engaged in providing overnight care for that person
- Is regularly staying overnight at the dwelling for that purpose; and
- Has been provided with the use of a bedroom in that dwelling additional to those used by the persons who occupy the dwelling as their home

## New Claims

The change will be effective from 1 April 2011 and will apply to all HB claimants renting from the private sector who meet the qualifying conditions.

## Existing claims

For existing claims, this will trigger a new Rent Officer referral or a new maximum rent LHA determination; this will set a new anniversary date for cases assessed under the LHA arrangements or the annual rent officer referral date for pre-April 2008 claims.

Changes cannot be applied before 1 April 2011 as they are not retrospective; therefore claimants in receipt of benefit and meet the conditions before 1 April 2011 will be entitled to arrears of benefit only from 1 April 2011 even if their award is not superseded until a later date. The change becomes effective from 1 April 2011 rather than the following Monday.

## **Including an extra bedroom in the assessment**

When assessing claims, staff need to establish if the claimant has more bedrooms than the size criteria agreed for the size of the household. The new provision does not provide for customers who would be entitled to HB for an extra bedroom because of the nature of their care arrangements, but who do not actually have that extra bedroom. For example, a couple with one child would ordinarily be entitled to HB based on a property with two bedrooms. In this case, the LA will only need to consider the new provision if the property has at least 3 bedrooms. If the customer lives in a 2 bed property, then this new provision would not apply so no action would be taken. The new change will only apply if the property has at least three bedrooms. No actions need to be taken if the claimant has two bedrooms.

The new change does not allow for an extra bedroom to be included over and above the property size cap of four bedrooms. If a claim is received for a household entitled to four bedrooms, a fifth bedroom that is used by the non resident carer cannot be included in the size criteria.

Only one additional room is available under this provision. For example, if the claimant needs an overnight carer and the partner needs a different overnight carer, only one additional room will apply and not two.

Where there is a property shared with other tenants who also receive care and there is a bedroom used by a non-resident carer, then each of those tenants receiving the overnight care would each be entitled to the additional bedroom provision.

Where there is a young individual under 25 who's circumstances require regular overnight care is likely to be exempt from the shared room rate and would therefore qualify for the one bedroom self contained rate of local housing allowance. Adding an extra bedroom for a non resident shared carer would entitle them to the two bedroom rate even though they live in a property with other tenants. However, if the two bedroom LHA rate exceeds the cap rent, the claimant's maximum rent (LHA) will be the cap rent. This would also be the case for those subject to the maximum rent.

## **Evidence of medical need for care**

Once it has been established that the customer has an extra bedroom, you then need to be satisfied that there is a medical need for the care, Where the customer (or partner) receiving the overnight need is in receipt of Attendance Allowance or the middle or highest rate care component of DLA, confirming receipt of one of these benefits is sufficient to confirm a medical need.

Where they do not receive Attendance Allowance or the relevant DLA then overnight care would need to be demonstrated in some other form, such as a letter provided by the customer from a GP or other medical professional.

## **Confirming the care arrangements**

The final consideration is that the customer (or partner) is actually receiving the care that requires a carer, or team of carers, to stay overnight. This type of information could be supplied through various means:

- Adult Social Services
- Care Agency providing the care
- Private care arrangements
- Informal arrangements provided by a member of the family

## **Applying the provision alongside the other LHA reforms**

The new LHA caps that have been introduced from April may also affect customers with non-resident overnight care. In such cases, it is important that the provision for an extra bedroom is considered before applying the new LHA cap. This will ensure that customers with this type of care receive the correct transitional protection.

For example, a claim from a single customer with non-resident overnight care who is living in a two bedroom flat would have been assessed on the one bedroom LHA rate. From 1 April, the award is superseded to take into account a second bedroom. This new award would then have nine months' transitional protection from the claim anniversary date if the new cap on a two bedroom accommodation is for a lower amount.

## **Further Information**

If you think you may, you can complete the form that is available on the website.

If you have any questions, or if you need any help filling in the form, please phone 0121 464 7000 or contact any Neighbourhood Office.