

Residential Support Services Maintenance and Accommodation Contributions (RSSMACs)

National RSSMAC (Long-Stay Contributions) Waiver Guidelines

Revised 29 March 2019

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Summary – National RSSMAC (Long-Stay Contributions) Waiver Guidelines

These Guidelines are primarily intended for use by personnel of the HSE and relevant (“section 38”) service providers when deciding the extent of any waiver to grant under section 67D of the Health Act 1970, i.e. any reduction or setting aside of a person’s statutory obligation to pay a residential support services maintenance and accommodation contribution (RSSMAC) under section 67C, taking account of his/her financial circumstances. The guidelines were approved on 12 April 2019 (with effect from 29 March 2019) by the Minister for Health with the consent of the Minister for Public Expenditure and Reform. These guidelines are an updated and revised version of the previous (April 2018) guidelines. They reflect rate changes in the Health (Residential Support Services Maintenance and Accommodation) (Amendment) Regulations 2019, Some minor technical revisions in these revised guidelines similarly ensure that these social welfare increases do not result in waiver reductions based on the application of the guidelines.

For a more general understanding of the Waiver Guidelines, Frequently Asked Questions (FAQs) are available on HSE’s website (www.hse.ie/longstaycontributions) and are also included in the General Implementation Guidelines (also at www.hse.ie/longstaycontributions).

In these Guidelines –

- **“Standard RSSMAC”** refers to the residential support services maintenance and accommodation contribution (RSSMAC) amount required to be paid based on the service user’s weekly income – prior to consideration of whether or not to grant any waiver (see *General Implementation Guidelines and Appendix B below*).
- **“Waiver”** means the reduction or setting aside of the amount of the Standard RSSMAC an individual must actually pay, in accordance with these guidelines.
- **“Payable RSSMAC”** refers to the RSSMAC amount determined to be payable following a waiver decision (*equals Standard RSSMAC less any waiver granted. If the waiver decision is not to grant a waiver, the Payable RSSMAC equals the Standard RSSMAC*).

Key Points / Overview

- RSSMAC rates are set at an affordable level which guarantees reasonable retained income for personal use to every service user and so most service users may not require a waiver (other than to take account of any rent/kitty they may separately contribute – see *section 4*).
- RSSMACs are not intended to meet the full maintenance and accommodation costs associated with the provision of residential support services, but rather to be an affordable contribution towards such costs.
- Waivers may be granted to:
 - A. Avoid undue financial hardship on the part of the service user (see *3.1 – 3.5*) and/or on the part of the service user’s dependants (see *3.6 – 3.9*).
 - B. Advance service user’s identified (e.g. care plan) needs (see *3.10 – 3.11*).
 - C. Take account of separate contributions made by service users towards their maintenance and accommodation costs e.g. rent/kitty arrangements (see *section 4*).

In relation to financial hardship (A above) and identified needs (B above), an assessment in accordance with these guidelines is required.

No formal waiver assessment is required in relation to separate contributions (C above). All such contributions (e.g. rent/kitty) are considered to form part of the service user’s “Payable RSSMAC”.

- ❑ As a general rule, a waiver may be considered if a service user’s savings or other cash assets, other than from certain statutory compensation awards (*see footnote 5 in main body of these Guidelines*) do not exceed €36,000 (or, in respect of a waiver claimed for a dependant, €72,000 for a couple).
- ❑ Waiver assessment must take account of the service user’s financial circumstances i.e.
 - essential expenses and
 - weekly income (***‘Income’***: service user’s income as defined in the General Implementation Guidelines) and wider relevant means (***‘Means’***: this involves only the service user’s income which may have been disregarded or not included in financial assessment e.g. child maintenance payments. Income and means of a dependant (e.g. spouse / partner) may only be taken into account where a waiver claim relates to that dependant).
- ❑ Whenever possible, supporting evidence should be obtained and documented.
- ❑ A waiver decision (e.g. refusal or amount waived) may be appealed (*see 1.3*).

Summary of guidelines by waiver type

The following summary of allowable expenses under the specific types of waiver provision indicates the section(s) to refer to for the related detailed guidelines. A separate worked examples document *is also available for reference at*

http://scanmail.trustwave.com/?c=6600&d=hbCb3l_K4wCb8eXWzbwVakDXj2c8M1m6hARL1PMyfA&s=343&u=http%3a%2f%2fwww%2ehse%2eie%2flongstaycontributions

A. Avoidance of undue financial hardship (*sections 3.1 – 3.9*)

| Allowable expenses | Summary of main guidelines |
|---|---|
| <p><i>All financial hardship waivers</i></p> <p>See section 2.1</p> | <ul style="list-style-type: none"> • An assessment may be undertaken at the request of a service user, a personal representative or, where appropriate, on a service provider’s initiative e.g. where service user lacks capacity to make such a request and does not have a personal representative to assist him/her. • As a general rule, consider waiver only where service user’s savings / cash assets do not exceed €36,000 (or, in respect of a waiver claimed for a dependant, €72,000 for a couple). However, necessary medical, therapeutic, rehabilitative, or health-related expenses (<i>see 3.10</i>) may be approved without reference to the cash assets threshold. • In addition to the service user’s calculated weekly income add: <ul style="list-style-type: none"> ○ Previously disregarded income,, if any, from employment of a rehabilitative nature (the first €120 of such income is disregarded when calculating Standard RSSMAC but should be included for waiver assessment purposes) plus ○ other specified income and means • Approve allowable expenses net of the service user’s relevant entitlements (grants, allowances, tax relief etc.) • Obtain and document supporting evidence whenever possible. . • Keep up to date with the service user’s financial circumstances (check at least annually or on request by service user, family member, advocate etc) to ensure that if a new waiver or a waiver adjustment may be required, it is considered without undue delay |

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|--|---|
| <p>Court-approved maintenance payments</p> <p>See section 3.1</p> | <ul style="list-style-type: none"> • An allowable expense may be approved up to the amount of the service user’s requirement to pay maintenance under the relevant order or agreement, net of his/her entitlement to any relevant tax relief. |
| <p>Rent/mortgage – service user’s principal private residence</p> <p>See section 3.2</p> | <ul style="list-style-type: none"> • An allowable expense may be approved up to the amount of the service user’s share of the rent or mortgage payment (principal plus interest plus, if relevant, mortgage protection insurance), net of his/her entitlement to tax reliefs, rent allowances etc. • This waiver is intended to facilitate continued use of principal private residence by service user’s spouse/partner/children, or where there is a reasonable prospect of service user returning to live at home. • This waiver is not considered in respect of investment property, holiday home etc. |
| <p>Pre-existing loan repayments</p> <p>See section 3.3</p> | <ul style="list-style-type: none"> • An allowable expense may be approved up to the amount of the service user’s confirmed share of the loan repayment. • Amount of waiver granted should be updated when loan is fully repaid. |
| <p>Pre-existing life or health or home insurance</p> <p>See section 3.4</p> | <ul style="list-style-type: none"> • An allowable expense may be approved for a service user’s pre-existing life policy up to the amount of <ul style="list-style-type: none"> ○ Full premium (policy up to €15,000), or ○ Appropriately-reduced premium (policy above €15,000 – e.g. 75% of the premium for a €20,000 policy). • An allowable expense may be approved for a service user’s pre-existing home insurance policy up to the amount of the premium. • An allowable expense may be approved for the remainder of the term of a pre-existing health insurance policy in the service user’s name, in the amount of the full premium (<i>not applicable to new health insurance policies or to renewals</i>). |
| <p>Service user’s other exceptional outgoings</p> <p>See section 3.5</p> | <ul style="list-style-type: none"> • Once-off outgoings should generally be met from service user’s savings i.e. waiver would <u>not</u> usually be granted. • An allowable expense may be approved in exceptional circumstances in the amount deemed reasonable to assist in meeting the essential outgoings concerned over an appropriate period of time. • When assessing waiver requests relating to exceptional outgoings, service providers should insofar as possible apply relevant national policies (e.g. if any support scheme is in place which is relevant to the outgoings concerned). |
| <p>Child dependants’ general maintenance expenses</p> <p>See section 3.6</p> | <ul style="list-style-type: none"> • Adjust income to take account of any maintenance payments, provided to the service user in respect of the child dependant(s) concerned. • For each child dependant: An allowable expense may be approved in the amount of the balance, if any (<i>50% of the balance if responsibility for the child’s maintenance is shared with the other parent</i>) required to bring the level of provision for the child (excluding Child Benefit) up to the level of <ul style="list-style-type: none"> ○ the Department of Employment Affairs and Social Protection (DEASP) qualified child increase rate <u>or</u> ○ the DEASP Supplementary Welfare Allowance rate for the child dependant’s age – <i>where the child is 18 years or over and lives habitually in service user’s home with no parent habitually living there.</i> |

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| <p>Dependent adults' reasonable maintenance expenses <i>See section 3.7</i></p> | <ul style="list-style-type: none"> • Waiver may be granted where necessary to avoid undue financial hardship to the service user's spouse / partner or other adult dependant, having regard to the financial circumstances of both the service user and the adult dependant concerned. • An allowable expense may be approved in the amount of the balance, if any, required to bring the weekly income of the service user's spouse /partner or other adult dependant up to the level of the single rate of the DEASP non-contributory State Pension (€237 from March 2019). |
| <p>Necessary / exceptional travel costs <i>See 3.8</i></p> | <ul style="list-style-type: none"> • Travel costs of spouse / partner / dependants visiting the service user would normally <u>not</u> qualify for a waiver. • However, in exceptional circumstances, a deciding officer may approve an allowable expense up to the level of the vouched travel costs concerned to facilitate visits. • Fuel costs / private transport not covered. |
| <p>Dependants' other exceptional outgoings <i>See section 3.9</i></p> | <ul style="list-style-type: none"> • Once-off outgoings should generally be met from dependant's savings i.e. waiver would <u>not</u> usually be granted. • An allowable expense may be approved in exceptional circumstances by a deciding officer in the amount deemed reasonable to assist in meeting the essential outgoings concerned over an appropriate period of time. • When assessing waiver requests relating to exceptional outgoings, service providers should insofar as possible apply / adapt relevant national policies (e.g. if any support scheme is in place which is relevant to the outgoings concerned). |

B. Advancement of service user's identified needs (sections 3.10 – 3.11)

| Allowable expenses | Summary |
|--|---|
| <p>All needs advancement waivers <i>See section 2.1</i></p> | <p><i>As Table A above. [Please note that the cash asset threshold should not be taken into account when considering a waiver in respect of necessary expenses incurred as part of the advancement of a service user's identified care plan needs.]</i></p> |
| <p>Necessary expenses <i>See section 3.10</i></p> | <ul style="list-style-type: none"> • Allowable expenses may be approved in the amount of the net cost of meeting objectives identified (e.g. in care plan) as being necessary, as distinct from significant benefit, in advancing the service user's identified medical, therapeutic, rehabilitative or health-related needs. • Necessary medical, therapeutic, rehabilitative or health-related expenses may be approved without reference to the cash assets threshold. |
| <p>Beneficial expenses (e.g. socialisation) <i>See section 3.11</i></p> | <ul style="list-style-type: none"> • An allowable expense may be approved up to the amount of cost of meeting the care plan objectives identified <i>net of the service user's retained income for personal use above €80 per week.</i> |

C. Reflection of separate contributions (e.g. rent/kitty) (section 4)

| Summary of main guidelines | |
|---|---|
| <p>Separate contributions towards maintenance and accommodation costs</p> <p>See section 4</p> | <ul style="list-style-type: none"> • Formal waiver assessment is <u>not</u> required. • Cap the service user’s total combined contributions requirement (including rent/kitty and any balancing long stay contribution) at the Payable RSSMAC level determined under these Guidelines. Service providers must not request or accept any higher combined total than the Payable RSSMAC. |

Waiver determination – summary of key steps

The table below summarises the waiver assessment process (see detailed steps at 2.1).

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| <p><u>Per General Implementation Guidelines:</u></p> <p>Determine (pre-waiver) Standard RSSMAC based on service user’s weekly income</p> <p><u>Per Waiver Guidelines:</u></p> <p>If service user’s savings/cash assets <u>do not exceed</u> €36,000 (or, in respect of a waiver claimed for a dependant, €72,000 for a couple):</p> <p>Determine (post-waiver) Payable RSSMAC based on <u>adjusted income</u> taking account of</p> <ul style="list-style-type: none"> ▪ all allowable expenses approved and ▪ all other relevant income or means (i.e. weekly income plus other relevant available means which – in accordance with these guidelines – may reasonably be expected to cover or contribute towards the expenses concerned) <p><i>Service providers must not request or accept any payment which would bring a service user’s total contributions (in any combination of agreed rent/kitty etc. and any balancing long-stay contribution) above the level of the Payable RSSMAC level determined in accordance with these guidelines (see section 4).</i></p> |
|---|

The actual waiver granted, if any, will amount to the difference between Standard RSSMAC (based on weekly income only) and Payable RSSMAC (calculated on the basis of these guidelines).

National RSSMAC (Long-Stay Contributions) Waiver Guidelines¹

In these Guidelines –

- “Standard RSSMAC” refers to the residential support services maintenance and accommodation contribution (RSSMAC) amount required to be paid based on the service user’s weekly income – prior to consideration of whether or not to grant any waiver (*see the General Implementation Guidelines and Appendix B below*).
- “Waiver” means the reduction or setting aside of the amount of the Standard RSSMAC an individual service user must actually pay, in accordance with these guidelines.
- “Payable RSSMAC” refers to the RSSMAC amount determined to be payable following a waiver decision (*equals Standard RSSMAC less any waiver granted. If the waiver decision is not to grant a waiver, the Payable RSSMAC equals the Standard RSSMAC.*).

1. Introduction

1.1 Ministerial approval of Waiver Guidelines – legislative background

Sections 67A to 67D of the Health Act 1970 provide the **statutory framework** relating to a service user’s obligation to contribute an affordable sum towards the maintenance and accommodation costs of being provided with residential support services, subject to a power to waive (i.e. reduce or set aside) the amount payable in certain circumstances, e.g. financial hardship.

Section 67D provides that, subject to publication and other requirements (*see Appendix A*), **waivers may be granted, in line with these Guidelines, on three grounds:**

- Avoidance of financial hardship on the part of service users and/or their dependants,
- Advancement of service users’ identified needs, and
- Taking account of separate service user contributions towards maintenance and accommodation costs.

Section 67C provides for the **obligation to pay** residential support services maintenance and accommodation contributions (RSSMACs). Regulations² made under that section set out standard RSSMAC rates (*see Appendix B*) based on accommodation type and income, with a view to providing every service user with reasonable retained income for personal use. Accordingly, **most service users will not require any waiver in respect of financial hardship or identified needs and will pay the appropriate Standard RSSMAC rates.**

Service providers should note that *subsection 67C(8)(b)* provides that there is no authorisation in Irish law for requiring a recipient of residential support services to pay any additional contribution in respect of maintenance or accommodation costs. *Guidelines on compliance with this provision are included in section 4.*

¹ These Guidelines and the HSE’s General Implementation Guidelines together comprise the National Guidelines on Residential Support Services Maintenance and Accommodation Contributions. The former National Guidelines on (Long-Stay) Charges for In-Patient Services are discontinued.

² The Health (Residential Support Services Maintenance and Accommodation Contributions) Regulations 2016 (<http://www.irishstatutebook.ie/eli/2016/si/467/made/en/print>) as amended by the Health (Residential Support Services Maintenance and Accommodation Contributions) (Amendment) Regulations 2019. The *General Implementation Guidelines* (www.hse.ie/longstaycontributions) provide guidance on the implementation of the Regulations.

In addition it should be noted that Regulation 24 (1) of the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) Regulations 2013 and Regulation 24(3) of the Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults) with Disabilities) Regulations 2013 requires that a written agreement be in place between a registered provider and a resident/family on admission of a resident to a care home. The agreement must include the *services to be provided to the resident and the fees, if any, to be charged for such services.*

As required by law (see Appendix A), these guidelines were approved on 12 April 2019 (with effect from 29 March 2019) by the Minister for Health with the consent of the Minister for Public Expenditure and Reform.

1.2 When is it appropriate to grant a waiver?

Most service users will not require any waiver in respect of financial hardship or identified needs and will pay the appropriate Standard RSSMAC rates, which are set at a level intended to provide every service user with reasonable retained income for personal use.

As a general rule, a waiver may be considered if a service user's savings or other cash assets³ do not exceed €36,000 (or, in respect of a waiver claimed for a dependant, €72,000 for a couple). However, necessary medical, therapeutic, rehabilitative, or health-related expenses (see 3.10) may be approved without reference to the cash assets threshold.

Standard RSSMAC rates (see Appendix B) are based on each service user's income level and accommodation type and are structured so that each service user retains a reasonable level of income for personal use. **It is therefore expected that most service users will contribute at the Standard RSSMAC levels set i.e. without the need for any waiver.** Where a waiver is *not* requested, a note of same should be made on the service user's administration file. The service user will contribute the Standard RSSMAC as calculated in accordance with the *General Implementation Guidelines* (www.hse.ie/longstaycontributions).

However, the financial circumstances of certain service users may be such as to warrant some level of waiver. In all such cases, service providers must assess those circumstances in accordance with these guidelines when deciding whether or not it may be appropriate to approve expenses as allowable or grant a partial or total waiver. An assessment may be undertaken at the request of a service user, a personal representative or, where appropriate, on a service provider's initiative e.g. where service user lacks capacity to make such a request and does not have a personal representative to assist him/her. The request should be directed to the deciding officer⁴ designated by the service provider.

Where expenses are approved as allowable, the waiver assessment may determine that the service user (or his/her dependant, if the waiver claimed relates to a dependant) has sufficient means to meet all or part of those expenses i.e. it does not necessarily follow that the Standard RSSMAC will be reduced by the full amount of the approved allowable expenses, or at all.

³“cash assets” include any of the following assets in which the service user concerned has a beneficial interest (a) monies, whether held as currency or in an account with a financial institution, (b) monies lent to another person which are repayable and (c) shares, stocks, bonds, securities, and other financial instruments. **Where relevant, net rather than gross cash assets should be assessed. “However, savings derived from awards to service users as listed at Item 20 of Schedule 4 of the Health (Residential Support Services Maintenance and Accommodation Contributions) Regulations 2016 should not be included as a cash asset.**

⁴ Determination of whether to waive and the extent of any waiver granted is undertaken by a deciding officer designated by the relevant service provider, whether HSE itself or an agency providing the residential support services on HSE's behalf (under section 38 of the Health Act 2004).

As a general rule⁵, the granting of a waiver may be considered in relation to a service user whose personal cash assets (e.g. savings) do not exceed €36,000 (or, in respect of a waiver claimed for a dependant, €72,000 for a couple). However, necessary medical, therapeutic, rehabilitative, or health-related expenses (see 3.10) may be approved without reference to the cash assets threshold.

The **Financial Assessment Form** (see *General Implementation Guidelines*) should be used when assessing whether, and to what extent, to grant a waiver. Where possible, it is recommended that the form be completed electronically. The form may be downloaded electronically from the HSE intranet and/or printed in hard copy.

1.3 Governance arrangements and appeals procedures

The general guidelines relating to governance (including record-keeping) and appeals in respect of all aspects of the RSSMAC framework (including waivers) are set out in the General Implementation Guidelines.

If a service user (or personal representative) is dissatisfied with a decision on whether to waive or the amount of a waiver, the decision may be appealed to the HSE National Appeals Office⁶. The service user (or personal representative) should be advised of the appeals process on being notified of the amount of RSSMAC to be paid.

Where a service user (or personal representative as appropriate) is dissatisfied with the outcome of an appeal, he/she may refer a complaint on the matter to the Ombudsman⁷.

If there is a change in the service user's circumstances or additional information is provided by the service user/representative, the deciding officer should undertake a reassessment of service user's contribution.

2. General guidelines applicable to all waiver assessments

Service providers must:

- apply the waiver assessment steps set out below (2.1) in accordance with these generally-applicable guidelines to all waiver assessments, and
- apply the specific guidelines set out at
 - sections 3.1 – 3.5 and sections 3.10 – 3.11 in respect of waiver claims relating to service users, and/or
 - sections 3.6 – 3.9 in respect of waiver claims relating to dependantsto each individual allowable expense category concerned.

- A waiver should not generally be granted where a service user's cash assets (e.g. savings) exceed €36,000 (or, in respect of a waiver claimed for a dependant, €72,000 for a couple). Where cash assets do not exceed this threshold, the service provider must apply these guidelines and the appropriate specific guidelines (section 3) to determine the allowable expenses, if any, to approve, using the assessment steps at 2.1 below.

This guideline is subject to the following **exception**:

⁵ Subject to limited exceptions – see section 2.

⁶ HSE National Appeals Office, **An Clochar, Health Campus, College Street, Ballyshannon, Co. Donegal.**

⁷ Office of the Ombudsman, 18 Lower Leeson Street, Dublin 2 Do2 HE97.

- Necessary medical, therapeutic, rehabilitative or health-related expenses (see 3.10) may be approved without reference to the cash assets threshold.

☐ Service providers should **ensure that application is made for any relevant supports which service users may be entitled to** e.g. grants, allowances, benefits, tax reliefs etc. The RSSMAC waiver provisions are not an alternative to provision of such supports, where applicable.

☐ When deciding whether, and to what extent, to grant a waiver, **service providers must have regard to the relevant financial circumstances** i.e. the service user's weekly income, all other relevant means and all allowable expenses approved under these Guidelines.

When applying the waiver assessment steps (see 2.1), service providers should –

- **Calculate total relevant income and means** to include:
 - Service user's "weekly income" (see *General Implementation Guidelines*)⁸

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 - The first €120 of the service user's income, if any, from employment of a rehabilitative nature.
 - Other means, if any, specified in relation to the waiver category or categories concerned (see 3.1 – 3.11 below).
- **Calculate allowable expenses net of:**
 - Any related entitlement (of the service user and/or the wider household) to receive directly relevant subsidies / supports such as grants, allowances, tax reliefs etc. *For example, a housing assistance payment would be relevant to a waiver claim relating to rent paid in respect of the service user's principal private residence.*
 - Means, if any, of the service user or his/her dependants specified to be relevant to the waiver category or categories concerned. (see 3.1 – 3.11 below).

☐ **A special guideline (see 3.11) applies to assessment of waivers in relation to expenses deemed *beneficial***, as distinct from necessary, in advancing a service user's identified needs (e.g. *socialisation objectives set out in a care plan*).

☐ **Allowable expenses may be approved outside the terms of the generally-applicable or specific guidelines only in very exceptional circumstances** where a waiver is nonetheless necessary to avoid undue financial hardship on the part of the service user (see 3.1 – 3.5) and/or on the part of his/her dependants (see 3.6 – 3.9). In such cases, the deciding officer must make a recommendation in regard to the waiver to the HSE Central RSSMAC Office, and this office may approve the recommendation. If approved by the HSE Central RSSMAC Office, the exceptional circumstances concerned and the reason for the decision to approve allowable expenses outside the terms of the guidelines must be recorded and retained on file by the deciding officer and the HSE Central RSSMAC Office. In cases where a short stay service user (e.g. respite, convalescence, rehabilitation etc.) has requested a waiver, it is in order for the approval in such cases to be made by the deciding officer.

☐ **Administration:**

- **A Financial Assessment Form should be completed** (see *General Implementation Guidelines*) – electronically if possible (it can be downloaded from the HSE Intranet) – by the service provider

⁸ Note that in certain circumstances, weekly income may need to be established for the first time i.e. where the service provider and service user have agreed that the Standard RSSMAC is at the maximum rate i.e. weekly income is unspecified other than being in the highest income band.

in conjunction with the service user and/or his or her personal representative, to determine the level of waiver, if any. The service user and/or his or her representative should be advised in writing of the amount of Payable RSSMAC and of the basis for its calculation. The service user should also be advised of his/her right to appeal the Payable RSSMAC determination.

- The service user (and personal representative, where appropriate) should receive **written notification of any revisions** to RSSMAC amount and/or waivers (in advance of coming into effect where possible).
- **Up-to-date documentation should be obtained where possible, to support/validate each waiver request** e.g. evidence of income and means along with evidence of relevant supports/subsidies applied for (and outcomes), relevant receipts/invoices etc.
- **Timely waiver assessment updates should be scheduled** to be undertaken at appropriate date(s) – e.g. to coincide with anticipated changes to the service user’s or a dependant’s financial circumstances (in respect of a waiver claim relating to a dependant) or upon a dependent child reaching adulthood or completing full-time education etc. or upon expiry of expense (e.g. date of a final loan repayment). Where a waiver is not granted because of the cash assets threshold, this should be updated if cash assets fall below this threshold.

2.1 Waiver assessment steps

Service users should apply the waiver provisions in respect of the avoidance of hardship and advancement of identified needs (e.g. care plan objectives) as follows:

Confirm that the service user’s savings / cash assets do not exceed €36,000 (or, in respect of a waiver claimed for a dependant, €72,000 for a couple).

A. Confirm the service user’s weekly income per *General Implementation Guidelines*.

B. Confirm the Standard RSSMAC applicable based on weekly income.

C. Identify total relevant income and means (i.e. service user’s weekly income plus other available income and/or means⁹ relevant to the waiver claimed).

D. Decide whether and to what extent to approve each claimed expense as allowable in line with these guidelines, i.e. where service provider is satisfied that, having regard to the financial circumstances relevant to the waiver decision concerned:

- **Undue financial hardship** would arise for
 - (a) the service user if he/she could not meet the expense(s) concerned – *see sections 3.1 – 3.5*, or
 - (b) the service user’s dependants (e.g. children and spouse/partner) if the dependants concerned could not meet the expense(s) concerned – *see sections 3.6 – 3.9*, or
- The expenditure is **necessary** (*see 3.10*) or **would be of significant benefit, as distinct from necessary** (*see 3.11*), in advancing the service user’s medical, therapeutic, rehabilitative or health-related needs, including needs identified in a care plan (if any).

Note special guideline (see 3.11) applicable to waiver assessment in relation to beneficial expenses.

⁹ This will generally involve only the service user’s other income or means. Dependant income / means is generally taken into account indirectly, i.e. when approving allowable expenses relating to dependants based on expenses net of means.

- E. Calculate adjusted income** (i.e. total relevant income and means less allowable expenses approved).
- F. Confirm the Payable RSSMAC based on that adjusted income.**
- G. Waiver granted (if any) equals Standard RSSMAC [B] less Payable RSSMAC [F].**

The outcome of the waiver assessment may or may not result in a reduction of the Standard RSSMAC, depending on whether or not adjusted income (i.e. all relevant income and means less all allowable expenses approved) falls into a lower weekly income band within the relevant Schedule than the income band into which the (unadjusted) weekly income fell.

The Payable RSSMAC amount is the maximum which the service user may be required to pay. It may be paid in any combination of rent/kitty etc. and any balancing long stay contribution agreed between the service provider and service user.

The following table outlines the waiver determination process for service providers:

| Waiver Assessment Steps |
|---|
| <p>Firstly, apply the General Implementation Guidelines to determine (pre-waiver) Standard RSSMAC:</p> <p>[A] = Weekly income of service user</p> <p>[B] = Standard RSSMAC rate per relevant (Category A, B or C) Schedule based on weekly income [A] above</p> |
| <p>Next, apply the Waiver Guidelines to determine (post-waiver) Payable RSSMAC:</p> <p>If service user's savings/cash assets <u>exceed</u> €36,000 (or, in respect of a waiver claimed for a dependant, €72,000 for a couple): Waiver generally not granted: Standard RSSMAC is payable.</p> <p>If service user's savings/cash assets <u>do not exceed</u> €36,000 (or, in respect of a waiver claimed for a dependant, €72,000 for a couple):</p> <p>[C] = Total relevant income and means (<i>weekly income [A] plus other relevant available income and means which – in accordance with these guidelines – may reasonably be expected to cover or contribute towards the expenses concerned</i>)</p> <p>[D] = Allowable expenses approved (on weekly basis) in accordance with these Waiver Guidelines</p> <p>[E] = Adjusted income = [C] – [D] = Total relevant income and means LESS Allowable expenses approved</p> <p>[F] = Payable RSSMAC to be paid by service user = Rate per relevant (Category A, B or C) Schedule based on <u>lesser</u> of [E] or [A] above</p> <p>[G] = Waiver granted (if any) = [B] – [F] = Standard RSSMAC LESS Payable RSSMAC</p> <p>NOTES:</p> <p>Payable RSSMAC [F] above is the maximum combined contribution payable by the service user in any combination of agreed rent/kitty etc. and any balancing contribution.</p> |

2.2 Waiver amount

The actual waiver granted, if any, will amount to the difference between the Standard RSSMAC calculated based on the service user's weekly income only (under the *General Implementation Guidelines*) and the Payable RSSMAC calculated on the basis of adjusted income (under these guidelines).

3. Allowable expenses

A service provider may grant a waiver –

- for the avoidance of undue financial hardship if "*having regard to the financial circumstances of the person concerned, it is satisfied that ... it is necessary to do so in order to avoid undue financial hardship on the part of the person concerned or his or her dependants*", or
- in relation to identified needs if "*having regard to the financial circumstances of the person concerned, it is satisfied that ... it is necessary to do so, or that doing so would be of significant benefit, in advancing the medical, therapeutic, rehabilitative or health-related needs of the person concerned (including, where a care plan has been prepared for that person by or on behalf of the Health Service Executive, needs relating to meeting objectives specified in such a care plan)*"

When a service provider exercises a discretionary function such as determining whether, and to what extent, to waive a statutory RSSMAC, it must do so in a **fair and consistent** manner and must take account of the range of circumstances in individual cases, including:

- All relevant income and means available to the service user (and, where appropriate, to his or her partner and/or dependants).
- The reasonable requirements of the service user (and reasonable provision for children and other dependants) in respect of essentials e.g. housing, heating, nutrition, clothing, children’s education etc.
- Other relevant factors such as exceptional financial burdens arising from social circumstances.

The necessity to grant a waiver for the avoidance of financial hardship needs to be demonstrated to the satisfaction of the deciding officer i.e. that the money remaining with the person, having taken the statutory contribution into account, is insufficient to meet his/her (and his/her dependants’) reasonable needs. This can be determined by having regard both to any approved allowable expenses and the relevant income and means available to meet or contribute towards those expenses, in accordance with these guidelines.

The deciding officer is required to **have regard to all financial circumstances relevant to each waiver claim**. This includes considering the total relevant income and means, i.e. the service user’s income plus any *other* available means which, in the opinion of the deciding officer, are relevant in the circumstances and fair and reasonable to assess as being available to contribute towards meeting the expenses concerned.

A special guideline applies to approval of allowable expenses identified as beneficial (as distinct from necessary) in advancing identified needs (*see 3.11*).

3.1 Court-approved maintenance payments

Where a court order or legal separation or divorce agreement exists for **maintenance payments by the service user** in respect of his/her dependent child, spouse or former spouse/partner, such payments – net of any related income tax relief which the service user is entitled to claim – may be approved as an allowable expense (*see Guideline Table below and a separate Worked Examples document available at http://scanmail.trustwave.com/?c=6600&d=hbCb31_K4wCb8eXWzbwVakDXj2c8M1m6hARL1PMyfA&s=343&u=http%3a%2f%2fwww%2ehse%2eie%2flongstaycontributions*)

Where similar expenses arise in the context of less formal arrangements (*e.g. where general maintenance needs arise in respect of a service user’s dependant(s) arising from a previous relationship, but where no legally-binding order or agreement is in place*), service providers should deal with any related waiver claims on their merits based on whether the service user has either sole or shared (e.g. 50%) responsibility for the maintenance of his/her child dependants.

Guideline – *To be read in conjunction with the generally-applicable guidelines (see section 2)*

- An allowable expense may be approved up to the amount of
 - weekly payment amount (as set out in the relevant maintenance order or agreement, where appropriate),
 - **net** of the service user’s eligibility, if any, for tax relief on the maintenance paid.

3.2 Rent / mortgage – service user’s principal private residence

The service user’s share of the net cost of rent/mortgage payable on his/her family home (principal private residence), i.e. the service user’s actual contribution to the rent/mortgage prior to admission, may be approved as an allowable expense in order to provide for and facilitate the security of tenure for a

reasonable period. If the service user has not been making a contribution to the rent/mortgage then no allowable expense may be approved in respect of a waiver under this heading.

Calculation of the service user's share of the rent/mortgage may not always be straightforward. For example, it may well be the position, for many couples, that both members of the couple pay income into a "common family fund" (e.g. a joint account) out of which mortgage payments are made. In such cases, the service user's proportional contribution towards the total mortgage payment may be calculated in accordance with his/her proportional contributions to the joint account.

In the event, however, that it proves impossible to confirm the service user's actual or proportional contribution as set out above, a provider may as a last resort apply a notional mortgage contribution e.g. an assumed 50% share.

Note that consideration may also be given to approving an allowable expense in respect of the contribution of the spouse or partner of a service user to the rent/mortgage, if necessary to avoid undue financial hardship on the spouse/partner's part (see 3.7 "Dependent adults' reasonable maintenance expenses" below).

See *Guidelines Table* below and *separate Worked Examples*.

Guidelines – Expenses relating to rent or mortgage on a service user's principal private residence

NB – To be read in conjunction with the generally-applicable guidelines (see section 2)

Approve as allowable expenses?

- **Yes – noting the following:**
 - This guideline does not apply to a second home, investment property, or holiday home etc.
 - This guideline is not intended to apply to property where the service user has been living alone and where there is no reasonable prospect of him/her returning to live there. However, where necessary to avoid undue financial hardship, consideration may be given to granting a time-limited waiver approval e.g. a number of months to give the service user time to let or sell the property.
 - The waiver is intended to facilitate continued use of principal private residence by service user's spouse/partner/children, or where there is a reasonable prospect of service user returning to live at home.
 - It should be a strict condition of approval of rent/mortgage as an allowable expense that the service user/personal representative agrees not to increase the mortgage (e.g. by taking out a further mortgage to fund a new extension).
 - Supporting documentation might include a statement from a lender or landlord showing monthly repayments.
 - In "non-standard" circumstances, the full rent/mortgage costs may be approved as an allowable expense for the first six months of care where considered necessary by the deciding officer to avoid undue financial hardship. In such cases, an update should be undertaken at the end of that period to assess the appropriate contribution level (including examining evidence of rent/mortgage payments made and examining the source of the payments).
 - If necessary to avoid undue financial hardship, a waiver may also be sought in relation to a spouse/partner's share of rent/mortgage expenses (see 3.7).

Level of expenses to approve as allowable (step D)?

- Weekly amount of service user's share of mortgage or rent payment concerned (including any mortgage interest and/or mortgage protection insurance)
 - net of*
 - **relevant accommodation subsidies** (e.g. tax relief, housing assistance payments, rent supplement, etc.), if any, which the service user (or, if appropriate, subsidies received by a spouse/partner or dependant sharing or benefiting from the rent/mortgage paid) would be eligible to claim in respect of the rent or mortgage payment.

3.3 Pre-existing loan repayments

An allowable expense may be approved in respect of pre-existing loans/debts which the deciding officer accepts need to be repaid by a service user, e.g. to a financial institution, in the context of a lease-purchase agreement for an agreed 'essential' item etc. See *Guidelines Table* below and *separate Worked Examples*.

It should be noted that in exceptional circumstances, allowable expenses may also be approved outside the terms of the generally-applicable guidelines in accordance with section 2 of these guidelines.

Where the loan/debt concerned is in joint names (e.g. shared with the service user's spouse/partner), only the service user's share may be taken into account under this heading (the guidelines in 3.2 above relating to calculating the service user's appropriate share of a jointly-paid rent/mortgage expense may be similarly applied under this heading). Note, however, that the service provider must exercise discretion, based on what is reasonable in the circumstances, when deciding whether or not to approve each such loan/debt as an allowable expense for RSSMAC purposes. It may perhaps be more reasonable to require a service user to fund (or part-fund) the repayment of a loan which was for the purpose of purchasing a non-essential luxury item by selling the item in question rather than by approving the loan as an allowable expense.

Consideration may also be given to approving an allowable expense in respect of the contribution of the spouse or partner of a service user to the loan/debt repayments concerned, if necessary to avoid undue financial hardship on the spouse/partner's part (see 3.7 "Dependent adults' reasonable maintenance expenses" below).

Guidelines - Expenses relating to a service user's pre-existing loan repayments

NB – To be read in conjunction with the generally-applicable guidelines (see section 2)

Approve as allowable expenses?

- **Yes** - noting that:
 - Service providers must exercise discretion based on what is reasonable in the circumstances when deciding whether or not to approve a loan/debt as an allowable expense. For example, a deciding officer might refuse to approve a loan repayment for a luxury item as an allowable expense, if no financial hardship would arise if the item was sold instead of continuing to repay a loan obtained to purchase it.
 - Except in exceptional circumstances, only loan repayments that a service user had committed to prior to admission can be included as an allowable expenses. A service user who needs to apply for a loan post-admission (e.g. to fund essential repairs/maintenance to a flood- or storm-damaged family home) should be advised to discuss this with the deciding officer to ascertain how it might impact on his/her RSSMAC.
 - If cash assets exist which could be used to reduce or repay the loan, this option should be explored before deciding whether or not to approve all or part of the outstanding loan as an allowable expense.
 - Options for repayment of loan without recourse to waivers should be explored, e.g. options to seek agreement to reschedule a loan for greater affordability, etc.
 - Where a person's loan repayment schedule is designed to end on a specific date (e.g. 4-year car loan), appropriate update(s) should be noted and reassessment(s) scheduled accordingly.
 - If necessary to avoid undue financial hardship, a waiver may also be sought in relation to a spouse/partner's share of pre-existing joint loan repayments (see 3.7).

Level of expenses to approve as allowable (step D)?

- An allowable expense may be approved at the level of the weekly amount which the deciding officer considers reasonable in all the circumstances to ensure the avoidance of undue financial hardship, but not exceeding the weekly amount of the loan repayment commitment (or the proportion applicable to the service user in the case of a joint loan).

3.4 Pre-existing life or health or home insurance

Where a service user has a pre-existing life or home insurance policy on admission, an allowable expense may be approved.

An allowable expense may also be approved in respect of a service user's pre-existing health insurance premium net of any applicable tax reliefs. The supporting documentation obtained should include evidence of premium payable, policy expiry date and entitlement/non-entitlement to tax relief.

See *Guidelines Table* below and *separate Worked Examples*.

Guidelines - Expenses relating to a service user's pre-existing life or health or home insurance policy

NB – To be read in conjunction with the generally-applicable guidelines (see section 2)

Approve as allowable expenses?

- A proportion of pre-existing **life insurance** premium payments (on admission to care) may be approved as allowable expenses – noting that:
 - Applies to service user only – not spouse / partner /dependants.
 - Supporting documentation should include the date the policy matures.
- A service user's pre-existing **health insurance** premium payments (on admission to care or on commencement date 1 January 2017) may be approved as allowable expenses for the remaining duration of the policy (**not applicable to new policies or renewals**).

Level of expenses to approve as allowable (step D)?

- **Life insurance premium cost**, up to the amount of:
 - Full premium (policy up to €15,000), or
 - Appropriately-reduced premium cost (policy above €15,000) *e.g. 75% of the premium in the case of a €20,000 life policy/*
 Duration: until date life policy matures.
- An allowable expense may be approved in respect of a **pre-existing home insurance policy** up to the amount of the policy.
- An allowable expense may be approved for the remainder of the term of a **pre-existing health insurance policy** in the service user's name (i.e. pre-existing on admission or on commencement date 1 January 2017 and (not applicable to subsequent renewal of the policy) in the amount of:
 - Full premium, **net** of service user's entitlement, if any, to tax relief.

3.5 Service user's other exceptional outgoings

It is recognised that these Guidelines could not be expected to anticipate all possible circumstances which might lead to waiver requests. Accordingly, having regard to all the relevant financial circumstances, a service user's other exceptional outgoings may be considered based on their merits. Such outgoings should only be approved as an allowable expense **in very exceptional cases** by the HSE Central RSSMAC Office, on the recommendation of the deciding officer. The HSE Central RSSMAC Office and the deciding officer must record the exceptional circumstances concerned and the reason for the decision to approve allowable expenses outside the terms of the guidelines.

It is also recognised that a service user receiving short-medium term respite, convalescence or rehabilitative care continues to accrue bills / charges / taxes etc. Approval of such expenses for a limited duration on a pro rata basis as allowable may be appropriate e.g. so that essential utility or other bills may be met without giving rise to undue financial hardship. Allowable expenses in regard to such short stay service users may be approved by the deciding officer.

A significant consideration may be whether, up to the service user's admission date, payments in relation to the exceptional outgoings concerned were met from his/her own income or from a spouse/partner or

dependant’s income. If the expense was previously met by a spouse/partner or dependant, it may support a conclusion that undue hardship would not arise if that person continues to meet that expense.

Exceptional outgoings which may be approved as allowable expenses could include agreed necessary once-off and substantial expenditure which the service user cannot afford to meet from retained income or savings, e.g. attendance at a family wedding abroad, storm/flood damage to the service user’s principal private residence etc. See *Guidelines Table* below and *separate Worked Examples*.

Guidelines – Expenses relating to service user’s other exceptional outgoings

NB – To be read in conjunction with the generally-applicable guidelines (see section 2)

Approve as allowable expenses?

- **Generally no** - insofar as possible, exceptional expenses should be met from the service user’s savings/cash assets.
- **However, in very exceptional cases, the HSE Central RSSMAC Office may approve, on the recommendation of the deciding officer, a service user’s (excluding short stay service user – see below) exceptional outgoings as allowable expenses** where failure to meet the expenses concerned would result in undue financial hardship on the part of the service user or his/her dependants, *noting that*:
 - It is necessary to obtain the approval of the HSE Central RSSMAC Office, which must record the exceptional circumstances concerned and the reason for the decision to approve allowable expenses outside the terms of the guidelines.
 - A date for an appropriate update should be confirmed.
 - If necessary to avoid undue financial hardship, a waiver may also be sought in relation to a dependant’s share, if any, of the exceptional expenses concerned (*see 3.9*).
- Exceptional outgoings in regard to short stay service users may be approved by the deciding officer.

Level of expenses to approve as allowable (step D)?

- An allowable expense may be approved by the HSE Central RSSMAC Office in the amount deemed reasonable to assist in meeting the essential outgoings concerned over an appropriate period of time, on a weekly basis calculated to be spread over a specified period of weeks appropriate to the circumstances (*see separate Worked Examples*).
- When assessing waiver requests relating to exceptional outgoings, service providers should insofar as possible apply/adapt relevant national policies (e.g. if any support scheme is in place which is relevant to the outgoings concerned).

3.6 Child dependants’ reasonable general maintenance expenses

Reasonable general maintenance expenses relating to a service user’s child dependants may be approved as allowable expenses where appropriate. See *Guidelines Table* below. See also separate *Worked Examples*.

For the purposes of these guidelines, “child dependant” is defined as follows–

A child or step-child or foster-child of the service user, or of the partner of the service user, who is dependent on the service user for support and who

- *is under the age of 18, or*
- *if in full-time education, is either under the age of 22 or is continuing to receive full-time education during an academic year in which he/she reached the age of 22 i.e. dependent up to the end of academic year.*

Guidelines – General maintenance expenses relating to child dependants

NB – To be read in conjunction with the generally-applicable guidelines (see section 2)

Approve as allowable expenses?

- Yes.

Specific income and means to be counted when calculating total other relevant income and means (step C)?

- Include court-approved maintenance payments, if any, provided **to the service user** for the purpose of meeting the expenses of the child dependant(s) concerned.

Level of expenses to approve as allowable (step D)?

- *Where the dependant is aged 18 years or over and habitually resides in the service user's home (with no parent habitually residing there), approve:*
 - *The balance, if any, required to bring the level of provision for that dependant's maintenance up to the amount of the Department of Employment Affairs and Social Protection (DEASP) **Supplementary Welfare Allowance rate for the child's age**¹⁰ net of*
 - the existing level of provision to the household for the purposes of maintaining the dependant concerned excluding Child Benefit but including other relevant DEASP provision¹¹ and the relevant dependant's weekly non-DEASP income above €80, if any.
- *Where the service user has sole responsibility for maintenance of the child concerned, approve:*
 - *The balance, if any, required to bring the level of provision for that child's maintenance up to the amount of the DEASP **qualified child increase rate**¹² net of*
 - the existing level of provision to the service user for the purposes of maintaining the dependant concerned excluding Child Benefit but including other relevant DEASP provision and the relevant dependant's weekly non-DEASP income above €80, if any.
- *Where the service user shares responsibility for maintenance of the child concerned with the child's other parent, approve 50% of:*
 - *The balance, if any, required to bring the level of provision for that child's maintenance up to the amount of the DEASP **qualified child increase rate** net of*
 - the existing level of provision to the household for the purposes of maintaining the dependant concerned excluding Child Benefit but including other relevant DEASP provision and the relevant dependant's weekly non-DEASP income above €80, if any.

Note: *If necessary to avoid undue financial hardship, a waiver may also be sought in relation to:*

- *A spouse/partner's share of the child dependants' maintenance expenses – under "Dependent adults' reasonable maintenance expenses" (see 3.7).*
- *Specific exceptional expenses associated with the maintenance of child dependants – under "Dependant's other exceptional outgoings" (see 3.9).*

¹⁰ SWA rate from March 2019 for person aged 18-24: €112.70

¹¹ For example, Supplementary Welfare Allowance, Qualified Child Increases etc.

¹² Qualified child increase rate from March 2019: €34 per week for a child under 12 and €37 for a child 12 and over.

3.7 Dependent adults' reasonable maintenance expenses¹³

Where necessary to avoid undue financial hardship, allowable expenses may be approved in relation to reasonable maintenance expenses of an adult dependant. See *Guidelines Table* below and separate *Worked Examples*.

In exceptional circumstances, other members of the service user's household may be treated, for waiver assessment purposes, as adult dependants e.g. a carer (or a person being cared for by the service user) who lives in the service user's home and is deemed by the deciding officer to be financially dependent on the service user. If so, related expenses could be considered under this heading.

Guidelines – Dependent adults' reasonable maintenance expenses

NB – To be read in conjunction with the generally-applicable guidelines (see section 2)

Approve as allowable expenses?

- **Yes** – subject to the deciding officer being satisfied that failure to meet the reasonable expenses of the adult dependant concerned would result in undue financial hardship on the part of the service user or his/her dependant(s).

Specific income and means to be counted when calculating total other relevant income and means (step C)?

- Include (if not already counted) a DEASP qualified adult allowance payable **to the service user** in respect of the adult dependant concerned.

Level of expenses to approve as allowable (step D)?

An allowable expense may be approved at the following level:

- *The balance*, if any, required to bring the weekly income of the service user's spouse /partner or other adult dependant up to the level of
 - the single rate of the DEASP non-contributory State Pension (*€237 from March 2019*)
 - plus*
 - that adult dependant's share of costs relating to allowable expenses approved in respect of the service user (e.g. rent/mortgage, maintenance of child dependants etc)
 - *net of*: the adult dependant's income from all sources, including DEASP, in excess of the single rate of DEASP non-contributory State Pension (*i.e. in excess of €237*).

3.8 Necessary / exceptional travel costs

It is envisaged that **travel expenses should only be approved in very exceptional cases**.

However, where a service user's dependant spouse/partner or child or next-of-kin has to rely on public transport, including taxis, to visit the service user, a claim for a waiver may be considered on an exceptional basis. Alternatively, service users may have exceptional personal travel expenses that could be considered (especially, though not exclusively, where they live more independently in community-type residences).

See *Guidelines Table* below and separate *Worked Examples*.

Guidelines – Expenses relating to necessary / exceptional travel costs

NB – To be read in conjunction with the generally-applicable guidelines (see section 2)

Approve as allowable expenses?

- **Generally no – but in exceptional cases, essential travel costs of a dependant / family member may be approved** as allowable expenses where undue financial hardship would otherwise arise, *noting that*:
 - Waivers under this heading should generally be limited to necessary and exceptional travel costs incurred by one person, being the service user's visiting spouse/partner or immediate family member (parent/child/sibling).

¹³E.g. a dependent spouse or partner (married couple / civil partners / cohabiting couple)

Guidelines – Expenses relating to necessary / exceptional travel costs

- Fuel costs / private transport costs are not allowable under this heading.
- Service providers should confirm that the benefit of any waiver granted is passed on to the person incurring the exceptional travel costs and adjust the level of a waiver granted if the intended outcome (e.g. facilitation of a weekly visit) does not arise.

Level of expenses to approve as allowable (step D)?

- An allowable expense may be approved, in exceptional circumstances, in the amount of the estimated weekly equivalent of the rate of the vouched travel costs.

3.9 Dependants’ other exceptional outgoings

As noted in section 3.5 above in relation to a service recipient’s other exceptional outgoings, these Guidelines could not be expected to anticipate all possible circumstances which might lead to waiver requests. Accordingly, other exceptional and essential outgoings incurred by a dependant of a service recipient may be considered based on their merits, having regard to that dependant’s financial circumstances. Such outgoings should only be approved as an allowable expense in **very exceptional cases** by the HSE Central RSSMAC Office, on the recommendation of the deciding officer. The HSE Central RSSMAC Office and the deciding officer must record the exceptional circumstances concerned and the reason for the decision to approve allowable expenses outside the terms of the guidelines. In regard to short stay service users, it is in order for allowable expenses to be approved by the deciding officer.

A significant consideration may be whether, up to the service user’s admission date, payments in relation to the dependant’s exceptional outgoings concerned were met by the dependant concerned. If not, it may support a conclusion that undue hardship would not arise if the person originally responsible for the expense continues to meet it.

Exceptional outgoings which may be approved as allowable expenses could include agreed necessary once-off and substantial expenditure which the dependant cannot afford to meet from the dependant’s income, e.g. once-off medical expenses required due to illness of dependant which may not be covered by State services or health insurance. See *Guidelines Table* below and separate *Worked Examples*.

Guidelines – Expenses relating to dependants’ other exceptional outgoings

NB – To be read in conjunction with the generally-applicable guidelines (see section 2)

Approve as allowable expenses?

- **Generally no** - insofar as possible, exceptional once-off outgoings should generally be met from the dependant’s savings/cash assets.
- **However, in very exceptional cases, the HSE Central RSSMAC Office may approve (deciding officer may approve in respect of short stay service users), on the recommendation of the deciding officer, a dependant’s exceptional outgoings as allowable expenses** where failure to meet the expenses concerned would result in undue financial hardship on the part of the dependant(s) concerned, *noting that*:
 - It is necessary to obtain the approval of the HSE Central RSSMAC Office, which must record the exceptional circumstances concerned and the reason for the decision to approve allowable expenses outside the terms of the guidelines.
 - A date for an appropriate update should be confirmed.

Level of expenses to approve as allowable (step D)?

- An allowable expense may be approved by the HSE Central RSSMAC Office in the amount deemed reasonable to assist in meeting the essential outgoings concerned, on a weekly basis calculated to be spread over a specified period of weeks appropriate to the circumstances (*see separate Worked Examples*).

Note:

- When assessing waiver requests relating to exceptional outgoings, service providers should insofar as possible apply / adapt relevant national policies (e.g. if any support scheme is in place which is relevant to the outgoings concerned).

3.10 Advancing identified needs – necessary expenses

A service provider may determine that specific expenses, including expenses relating to care plan objectives, are necessary in advancing a service user’s identified medical, therapeutic, rehabilitative or health-related needs. Such **necessary (as distinct from beneficial) expenses may be approved as allowable expenses net of any related supports the service user may be entitled to** e.g. tax relief, reimbursement from a private health insurance policy, etc.

Waiver claims in respect of necessary medical, therapeutic, rehabilitative or health-related expenses should be assessed *without* reference to the service user’s cash assets/savings.

Where a service user has full medical card eligibility, allowable medical expenses may only be approved in respect of public medical costs which are *not* covered by the medical card scheme, including prescription charges.

Exceptional medical costs may be approved as allowable expenses in respect of service users, including service users who do not have full medical card eligibility, where such costs are incurred as part of treatment provided under the public health system or where costs are being incurred under the Drugs Payment Scheme.

In addition essential expenditure in respect of private health costs may be approved as allowable expenses for service users who do not have private health insurance cover or medical card eligibility e.g. in respect of required orthodontic treatment, GP visit / call-out fees etc.

Necessary therapeutic, rehabilitative and health-related expenses (e.g. costed care plan objectives) may be approved as allowable expenses on a case-by-case basis. Examples might include identification in a care plan of a service user’s need to be provided with a series of therapy sessions e.g. physiotherapy or to be enrolled in a weight-reduction, smoking-cessation or other programme, or avail of an orthodontic procedure etc.

See Guidelines Table below and separate Worked Examples.

Guidelines - Necessary expenses – advancement of identified needs (incl. care plan objectives)

NB – To be read in conjunction with the generally-applicable guidelines (see section 2)

Approve as allowable expenses?

- **Yes** – expenses considered by the service provider to be necessary (as distinct from beneficial) in advancing the service user’s identified medical, therapeutic, rehabilitative or health-related needs, including such expenses arising from care plan objectives, may be approved as allowable expenses, *noting that:*
 - If the service user is entitled to receive the services concerned free of charge or to full reimbursement, e.g. as a medical card holder or under the terms of a health insurance policy, the related expenses should not be approved as allowable expenses.
 - If a waiver is approved for expenses relating to a time-limited care need (e.g. an orthodontic programme planned over a 2-year period), appropriate date(s) for an update should be noted and updates should be carried out on that/those date(s).

Level of expenses to approve as allowable (step D)?

- An allowable expense may be approved in the amount of
 - Weekly cost of meeting the care plan or other needs identified as being necessary*net of:*
 - Service user’s eligibility, if any, for subsidisation of the services concerned e.g. by virtue of the terms of a health insurance policy etc.

3.11 Advancing identified needs - beneficial expenses (e.g. socialisation)

Expenses approved as being beneficial (as distinct from necessary) in advancing the service user's medical, therapeutic, rehabilitative or health-related needs, for example socialisation expenses set out in a care plan may be approved as allowable.

Many residents who are liable to pay RSSMACs, including those living in community settings/hostels, live largely independent lifestyles, assisted by appropriate supports, with an objective of realising their maximum potential to integrate with the local community. The RSSMAC rate structure (*see Background Note below*) in tandem with the waiver provisions are designed to take account of additional expenses incurred as a result of this independent lifestyle and to facilitate service users achieving care plan objectives.

Accordingly, **service providers may approve allowable expenses relating to approved beneficial socialisation objectives** (or other medical, therapeutic, rehabilitative or health-related needs, **subject to the generally-applicable guidelines** (*see section 2*) **and the special guideline below** (*See separate Worked Examples*).

Special guideline relating to beneficial expenses

To be read in conjunction with the generally-applicable guidelines (see section 2)

An allowable expense may be approved up to the amount of:

- The cost of meeting the care plan objectives identified in the care plan and determined by the deciding officer to be of significant benefit in advancing the service user's identified needs
- Net of the service user's retained income, if any, above €80 per week.

4. Reflection of separate contributions (e.g. rent/kitty)

A formal waiver assessment is not required in relation to rent/kitty-type arrangements. Compliance with the legislation is achieved by capping total contributions towards maintenance and accommodation (i.e. kitty, rent, RSSMACs etc.) at the Payable RSSMAC level. Service providers may not request or accept any higher level of payment.

The RSSMAC legislation provides both:

- For waivers to reflect any separate provision towards a service user's own maintenance or accommodation costs (net of any rent subsidies received) and
- That there is no authorisation in law for requiring a service user to pay any additional contribution towards maintenance and accommodation costs in excess of the statutory RSSMAC requirement.

As a result of these provisions, any such separate contribution (e.g. any agreed rent/kitty payment) is a 'waiver'. However, **no specific waiver assessment is required in order to reflect such contributions: compliance is achieved simply by capping all combined contributions (e.g. agreed rent/kitty – net of housing assistance payments, rent supplement etc. – and any balancing long-stay contribution) at the level of the Payable RSSMAC amount**, having applied any other appropriate waiver provisions i.e. in respect of hardship on the part of the service user (*see 3.1 – 3.5*) or on the part of his/her dependants (*3.6 – 3.9*) and/or identified care plan etc. needs (*3.10 – 3.11*).

This maximum amount may be paid in any combination agreed between the service provider and service user but may not be exceeded – i.e. **service providers may not request or accept any total payment in**

excess of the amount of the Payable RSSMAC determined for each individual service user, in accordance with these guidelines.

The amount of the weekly contribution amount towards “rent” (net of any relevant subsidies which the service user is entitled to receive) and/or “kitty” and/or “weekly household expenses contribution” etc., i.e. amount(s) must be agreed between the service provider and the service users in the residence concerned. The agreed amount(s) may vary from one residence to another (e.g. due to location, type of facility etc.).

The Payable RSSMAC must include such agreed separate payments made during the period concerned, noting that **no RSSMAC or kitty or rent may be required from a service user by a service provider for a day when residential support services are not received** by that person.

It should be made clear on relevant invoices / receipts / statements etc. that any agreed contributions to weekly living expenses (net of any rent allowances/subsidies received by the service user) are included in the total RSSMAC payable by the service user.

March 2019

Appendix A

Waiver legislation – Subsections 67D(1)-(8) of the Health Act 1970

Subsection 67D(1) provides for RSSMAC **waivers** (in whole or in part) if the HSE¹⁴ is of the opinion that, *having regard to the financial circumstances of that person, such waiver is –*

- necessary in order to avoid undue financial hardship in relation to that person or that person's dependants – *under 67D(1)(b)(i),*
- necessary, or of significant benefit, in advancing the medical, therapeutic, rehabilitative or health-related needs of the person concerned (including, where a care plan has been prepared for that person by or on behalf of the HSE, needs relating to meeting objectives specified in such a care plan) – *67D(1)(b)(ii), or*
- reasonable having regard to the extent to which the person concerned provides for his or her own maintenance or accommodation, or both – *67D(1)(b)(iii).*

Subsection 67D(2) requires that the **exercise of the waiver power must be in accordance with guidelines** standing approved by the Minister (i.e. these guidelines).

Subsection 67D(3) requires the **recording in writing of the basis for each waiver decision**. To comply with this provision, a written record setting out the basis for each such decision should be kept on the relevant service user's file(s). A set of copies of all such decisions should be maintained by each service provider (whether at HSE Community Healthcare Organisation/Local Health Office area level or at section 38 agency level) subject to appropriate confidentiality and data protection safeguards.

Subsections 67D(4) to (7) require the **HSE to prepare and submit waiver guidelines** to the Minister for Health and empower the **Minister to approve** the guidelines (or amended guidelines) with the consent of the Minister for Public Expenditure and Reform, or to refuse approval or revoke previously approved guidelines.

Subsection 67D(8) requires the HSE to arrange for the **publication**, in such manner as it considers appropriate, of waiver guidelines approved by the Minister for Health. The publication of these guidelines, approved on 12 April 2019 (with effect from 29 March 2019), on the HSE website (www.hse.ie/longstaycontributions) fulfils that statutory obligation. These guidelines are an updated and revised version of the previous (April 2018) guidelines. They reflect rate changes in the Health (Residential Support Services Maintenance and Accommodation) (Amendment) Regulations 2019.

¹⁴ Determination of whether to waive and the extent of any waiver granted is undertaken by a deciding officer designated by the relevant service provider, whether HSE itself or an agency providing the residential support services on HSE's behalf (under section 38 of the Health Act 2004).

Appendix B

Standard RSSMAC rates by Accommodation Category

| Schedule 1 - Category A accommodation | | Schedule 2 - Category B accommodation | | Schedule 3 - Category C accommodation | |
|---------------------------------------|---------------|---------------------------------------|---------------|---------------------------------------|---------------|
| Weekly income | RSSMAC weekly | Weekly income | RSSMAC weekly | Weekly income | RSSMAC weekly |
| €223.00 or More | €179.00 | €209.00 or more | €134.00 | €203.00 or more | €74.00 |
| €218.00 to €222.99 | €174.00 | €204.00 to €208.99 | €129.00 | €199.50 to €202.99 | €70.50 |
| €213.00 to €217.99 | €169.00 | €199.00 to €203.99 | €124.00 | €196.00 to €199.49 | €67.00 |
| €208.00 to €212.99 | €164.00 | €194.00 to €198.99 | €119.00 | €192.50 to €195.99 | €63.50 |
| €203.00 to €207.99 | €159.00 | €189.00 to €193.99 | €114.00 | €189.00 to €192.49 | €60.00 |
| €198.00 to €202.99 | €154.00 | €184.00 to €188.99 | €109.00 | €185.50 to €188.99 | €56.50 |
| €193.00 to €197.99 | €149.00 | €179.00 to €183.99 | €104.00 | €182.00 to €185.49 | €53.00 |
| €188.00 to €192.99 | €144.00 | €174.00 to €178.99 | €99.00 | €178.50 to €181.99 | €49.50 |
| €183.00 to €187.99 | €139.00 | €169.00 to €173.99 | €94.00 | €175.00 to €178.49 | €46.00 |
| €178.00 to €182.99 | €134.00 | €164.00 to €168.99 | €89.00 | €171.50 to €174.99 | €42.50 |
| €173.00 to €177.99 | €129.00 | €159.00 to €163.99 | €84.00 | €168.00 to €171.49 | €39.00 |
| €168.00 to €172.99 | €124.00 | €154.00 to €158.99 | €79.00 | €164.50 to €167.99 | €35.50 |
| €163.00 to €167.99 | €119.00 | €149.00 to €153.99 | €74.00 | €161.00 to €164.49 | €32.00 |
| €158.00 to €162.99 | €114.00 | €144.00 to €148.99 | €69.00 | €157.50 to €160.99 | €28.50 |
| €153.00 to €157.99 | €109.00 | €139.00 to €143.99 | €64.00 | €154.00 to €157.49 | €25.00 |
| €148.00 to €152.99 | €104.00 | €134.00 to €138.99 | €59.00 | €150.50 to €153.99 | €21.50 |
| €143.00 to €147.99 | €99.00 | €129.00 to €133.99 | €54.00 | €147.00 to €150.49 | €18.00 |
| €138.00 to €142.99 | €94.00 | €124.00 to €128.99 | €49.00 | €143.50 to €146.99 | €14.50 |
| €133.00 to €137.99 | €89.00 | €119.00 to €123.99 | €44.00 | €140.00 to €143.49 | €11.00 |
| €128.00 to €132.99 | €84.00 | €114.00 to €118.99 | €39.00 | €136.50 to €139.99 | €7.50 |
| €123.00 to €127.99 | €79.00 | €109.00 to €113.99 | €34.00 | €133.00 to €136.49 | €4.00 |
| €118.00 to €122.99 | €74.00 | €104.00 to €108.99 | €29.00 | €132.99 or less | Nil |
| €113.00 to €117.99 | €69.00 | €99.00 to €103.99 | €24.00 | | |
| €108.00 to €112.99 | €64.00 | €94.00 to €98.99 | €19.00 | | |
| €103.00 to €107.99 | €59.00 | €89.00 to €93.99 | €14.00 | | |
| €98.00 to €102.99 | €54.00 | €84.00 to €88.99 | €9.00 | | |
| €93.00 to €97.99 | €49.00 | €79.00 to €83.99 | €4.00 | | |
| €88.00 to €92.99 | €44.00 | €78.99 or any less | Nil | | |
| €83.00 to €87.99 | €39.00 | | | | |
| €78.00 to €82.99 | €34.00 | | | | |
| €73.00 to €77.99 | €29.00 | | | | |
| €68.00 to €72.99 | €24.00 | | | | |
| €63.00 to €67.99 | €19.00 | | | | |
| €58.00 to €62.99 | €14.00 | | | | |
| €53.00 to €57.99 | €9.00 | | | | |
| €48.00 to €52.99 | €4.00 | | | | |
| €47.99 or less | Nil | | | | |