



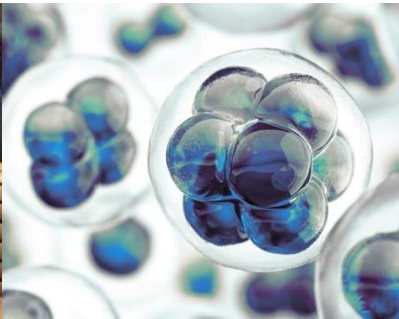
## Systemic

problem of the application of Article 69 (3) and (4)

**Article 69 (3) ServReg  
Dependants' Status**



**Article 69 (4) ServRegs  
Dependant's Allowance**



# Article 69 (1) and (2)

## Defines the general terms

(1) A dependants' allowance shall be payable, under the conditions laid down in this Article, to an employee who has:

- I. one or more **dependent children**;
- II. one or more **dependent disabled children**.

(2) Not more than **one dependants' allowance** shall be paid in respect of **any dependent child** within the meaning of this Article.

## Article 69 (3).

Defines 'when' a child is to be **considered dependent**.

### I. Dependent children

(3) For the purposes of these Regulations **a dependent child shall be:**

(a) the **legitimate, natural or adopted** child of an employee, or of his spouse, who is mainly and **continuously supported** by the employee or his spouse;

(b) the child for whom an application for adoption has been lodged and the adoption procedure started;

(c) any other child who is normally resident with and mainly and continuously supported by the employee or his spouse.

**(There is NO requirement for the child to be in full time education in order to be considered dependent)**

## Article 69 (4)

Defines 'when' a child shall be **granted dependants' allowance.**

(4) The allowance shall be granted:

(a) for all children under eighteen years of age;

(b) on application by the employee, with supporting evidence, for children who have not reached twenty-six years of age and are receiving educational or vocational training.

**(There IS a requirement to receive education / vocational training  
in order to be granted an allowance  
but NOT to be considered dependent)**

# Article 69 (3) IS NOT to be equated to Article 69(4)

## Step 1

Article 69 (3) deals with the consideration of the **status of a child**  
(dependent or not)

Every child that fulfils the requirements of Article 69(3)(a-c) is dependent.

## Step 2

Article 69 (4) deals with the consideration of **an allowance** for a  
dependent recognised child.

(**if dependent** allowance or not)

Not every dependent child receives a dependants' allowance.

Article 69 ServRegs

Step 1

Use Circular 82 to determine when a child is **dependent**

**NO** Cigna insurance,  
**NO** dependants' allowance

NO

Article 69 (3)  
Determining  
the child's  
dependency  
status

YES

Cigna health insurance

dependants' allowance

Step 2

NO circular to  
determine a child's  
**allowance**

**NO** Dependants' allowance  
but still dependent

NO

Article 69 (4)  
Determining  
the child's  
dependants'  
allowance

YES

Dependants' allowance

# The problem is in Circular 82

Circular 82 deals with the implementation of Article 69(3)(a) and (c). This article deals with the child's dependency status and NOT the allowance.

## Rule 1

- (1) Subject to paragraph (2), a legitimate, natural or adopted child (Art. 69(3)(a) ServRegs) shall be assumed to be mainly and continuously supported by the employee or his spouse if the child is not gainfully employed (Rule 3) and is
  - (a) under 18 years of age, or
  - (b) has not reached the age of twenty-six **and is receiving educational or vocational training**, or
  - (c) prevented by serious illness or invalidity from earning a livelihood, irrespective of age.

# The problem lies in mixing requirements from Art. 69(4) into Art 69(3).

- Article 69(3) does not deal with 'education or vocational training' that is Article 69(4).

**(3)** For the purposes of these Regulations a **dependent child** shall be:

(a) the legitimate, natural or adopted child of an employee, or of his spouse, who is mainly and continuously supported by the employee or his spouse;

**(4) The allowance** shall be granted:

(a) for all children under eighteen years of age;

(b) on application by the employee, with supporting evidence, for children who have not reached twenty-six years of age and **are receiving educational or vocational training**.

- As such Circular 82 adds unallowable restrictions from Article 69(4) to restrict the implementation of the **dependency status** of children in Article 69(3).

**Dependency status** should not to be confused with receiving an **allowance**



# Implications for staff

Mixing requirements of Article 69(4) (**Approving and allowance**) into Article 69(3) (**determining the dependency status of a child**) has devastating effects for the staff and child and the EPO.

List of problems (for the child):

- (1) Child is not health-insured immediately after secondary school until the start of post-secondary school.
- (2) Child is not health-insured for months during vacations in post-secondary school (June-September).
- (3) Child is not insured immediately after the last exam in the university which can be months before the end of the education year or full employment.
- (4) Child or staff are unaware that the child may not be health-insured because Article 69(3) ServRegs does not require that the child be in **educational or vocational training** to qualify as dependent to receive health insurance.
- (5) Child is forced to undergo surgery if need be, during the education year/exams.

## List of problems for staff and child at **national level**

- (1) Illegal in NL not to have a child health insured.
- (2) In NL not possible to request an ID without health insurance.
- (3) It is against the legal status in DE since a child is still classified as dependent up to 21 years (Civil code Section 207) (this is a legal obligation).
- (4) Difficult if not impossible to request a health insurance retroactively outside of the Office.
- (5) ....

List of problems for the **Staff and Office**

- (1) In many (if not all) cases the Office retroactively claims the health medical cost. Which shows that the office is aware of this systemic problem.
- (2) The staff is forced to pay retroactively any hospitalisation cost for the dependant child.
- (3) Such cost can be quite large and therefore litigations are unavoidable.
- (4) The Office is not supportive in that although it has the information for every child it does not inform the staff about the immediate dangers. Like if the child finishes school there is not health insurance until post-secondary school starts.
- (5) .....



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# Thank You

