Benefits Factsheet

Disability Living Allowance – April 2019

Disability Living Allowance (DLA) is a tax-free benefit for adults and children who have disabilities. It is not means tested so it does not matter how much income or capital a person has. Since 10 June 2013 no new claims for people aged 16 or over have been possible. Instead people of this age can claim the new Personal Independence Payment (PIP). People aged over 16 who already receive DLA will have to apply for the PIP in future. See our factsheets on Personal Independence Payment.

New claims for Disability Living Allowance can still be made for children under the age of 16. People who start to have disability problems after the pension are still able to claim Attendance Allowance.

There are two components of DLA – the care component and the mobility component. Some people can get both components, while others may get one. This depends on the nature of their problems. There are different rates of both components, again depending on the effect the disability has on a person’s life.

The Extra Test for Children
To qualify for the care component or the lower mobility component a child must pass the disability tests shown above. In addition they must also show that the need for care, supervision or guidance is substantially more than for another child of the same age.

The Care Component

High Rate Care Component
This can be payable to people who need help with personal care, or who need supervision both by day and by night, or who are terminally ill.

- The ‘day’ condition is that someone must be so severely disabled that they require from another person either frequent attention throughout the day with their bodily functions, or continual supervision to avoid severe harm to self or others.

- The ‘night’ condition is that they must be so severely disabled that they reasonably require either repeated (at least twice) or prolonged (at least 20 minutes) attention with bodily functions or someone to be awake for a prolonged period or at frequent intervals for the purpose of watching over them.

The help with bodily functions, or with supervision, is what is reasonably needed, not what is medically needed, nor what is actually provided. For example if a person can dress him or herself, but it takes half an hour and causes pain, then it can be argued that he or she reasonably needs help with dressing.

‘Bodily functions’ means things relating to the body. Examples are: dressing & undressing, washing & bathing, getting in & out of bed, going to the toilet, moving around the home, seeing, hearing & breathing. The help can include prompting, encouraging and reminding as well as actual physical help. It does not cover housework so this should not be mentioned on the claim pack. The only exception is where the claim pack asks questions about cooking.
Any help a child needs because of a delay in development is taken into account as help with a bodily function.

Help with bodily functions by day needs to be frequently throughout the day. So the help has to be needed to be several times, and in the middle of the day as well as at the beginning and end of the day. Supervision in the day needs to be continual. This means most of the time, not every minute of the day.

If a person has a progressive disease where death can reasonably be expected within 6 months they can qualify for the high rate care component under the ‘Special Rules’.

Middle Rate Care Component
This can be payable if the person meets either the day or night condition.

Low Rate Care Component
This can be awarded where:

- The person reasonably requires attention with bodily functions for a significant portion of the day (at least one hour)
- Existing claimants who are getting DLA may be able to qualify for the lower rate if they are aged at least 16 and, because of disability, would not be able to cook a main meal if they had the ingredients before them.

The Mobility Component
This is for people who have either physical problems with walking or who can walk but need somebody with them when walking in unfamiliar areas. There are two rates of mobility component:

High Rate Mobility Component
This is for:

- People who are unable to walk at all
- People who are ‘virtually unable to walk’

A person’s ability to walk should only be considered until s/he suffers ‘severe discomfort’. This includes pain and breathlessness. The Disability Benefits Centre (DBC) should look at how the person walks, the distance they can cover, the speed they walk and how long it takes them to walk before they suffer severe discomfort (not until they are unable to move any more). If a person has a suitable artificial aid such as a walking stick or artificial limb their ability to walk is judged using that aid.

- People who can walk, but walking would seriously endanger their health
- People who are both blind and deaf and, because of that, they would not be able to walk safely outside without another person being with them
- People who have no feet, whether from birth or because of amputation
- People who are registered Severely Visually Impaired and have:
  - visual acuity of 3/60 or
- visual acuity between 3/60 and 6/60 and complete loss of peripheral vision and severely restricted central vision

- Some people with very severe learning disability and severe behavioural problems
To qualify under this route a person must meet all of the following conditions:

Entitled to the high rate care component (even if not payable), and
Have arrested or incomplete development of the brain, and
Exhibit disruptive behaviour which is extreme, and
Regularly require another person to physically restrain them to avoid damage to self, or others or property, AND
Is so unpredictable that they need another person to be present and watching over them whenever they are awake

Low Rate Mobility Component
This is for people who can walk, but would not be able to walk along an unfamiliar route without guidance or supervision from another person most of the time.

The lower rate of mobility component is often awarded to people with sensory problems, learning disabilities or mental health problems.

Note that the law talks about the ability to walk in unfamiliar areas. There is no mention in the law of difficulties using public transport. This is irrelevant and should not be mentioned when claiming.

Timing
Unless the claimant is terminally ill and claiming under the Special Rules they have to have had the problem for at least 3 months before they can start to get DLA. The problem must be expected to continue for at least a further 6 months.

The higher rate mobility component can be payable to children from the age of 3. The lower rate can be payable from the age of 5.

Making a new claim for DLA – only for children under the age of 16
To start the process people should ring 0800 121 4600 and ask for a DLA claim pack for a child.

Most claimants will need to be present in the UK and satisfy the past presence test:

- Present in the UK for not less than 104 out of the last 156 weeks
- For baby’s under 6 months, a 13 week past presence test is applied until their 1st birthday
- Baby’s aged 6 – 36 months, the test is 26 weeks in the last 156 weeks
- Past presence test is waived if the claimant is terminally ill
Challenging Decisions

If claimants are not happy with the initial decision they can challenge it. People can’t appeal immediately. They must first ask the DWP to reconsider the decision within one calendar month. This is called a Mandatory reconsideration. If they are still unhappy with that decision they can then appeal directly to the Tribunal Service. They need to send a copy of the reconsideration decision with the appeal.

It is important to provide good reasons for challenging a decision or seeking an appeal. People must explain clearly why they think they meet the condition for getting benefit, or why they think they should get a higher rate than was awarded. They should get extra evidence from doctors or other health or social care professionals to back up the challenge. It is important to seek advice before challenging a decision.

Some people get DLA at one rate and then their condition deteriorates. They might then meet the condition for getting a higher rate of benefit. They do not have to make a fresh claim. Instead they can write to the benefit office to ask them to reconsider their entitlement because their circumstances have changed. Before a person can move up to a higher rate they have to have met the new conditions for at least three months.

People need to be aware that, if they already get some DLA and they ask it to be reconsidered, there is a risk that they could have their benefit reduced or stopped altogether. In addition, if people aged 16 or over try to increase their DLA award they could have to claim the new Personal Independence Payment instead.

Accommodation and Hospital

If adults are in an NHS hospital for 28 days, or more, DLA care and mobility components stop being paid until they return to the community. Short spells in hospital are ‘linked’ together unless the person goes home for at least 29 consecutive days.

For children, both care and mobility components can continue to be paid while the child is in hospital. If they are approaching 16, most children would be invited to claim Personal Independence Payment from their 16th birthday and DLA would stop 4 weeks after the decision was made on the PIP claim. However for children in hospital DLA will continue to be paid, until they are discharged from hospital, or they reach their 18th birthday.

The care component can stop being paid for both adults and children if they go into certain types of accommodation. There are two more factsheets that look in detail at this subject, one for children, and one for adults both available on our website.

It is the duty of the claimant or appointee to tell the Disability Benefits Centre about any stays in hospital or residential accommodation that might affect their entitlement to benefits. If a carer is entitled to Carers Allowance this is also affected if the disabled person’s care component stops.

This factsheet is a general guide. It is not a full statement of the law