

Citizens Advice Camden, GOSH

Information Sheet 1: Disability Benefits

020 7829 8896

Take home message

- *You do not need a diagnosis to get DLA - it is the care and mobility needs which are important*
- *Different rates are paid depending on clinical presentation*
- *People aged 16+ who get DLA must be very careful before reporting any changes of circumstances as they may be invited to claim PIP and lose their benefit*
- *It is important to claim DLA even if no payments will be made as the underlying entitlement links to other income*
- *As a healthcare professional, there are things you can do to help if asked to provide evidence*

People from abroad

- A person must have been in the UK for at least two years out of the preceding three to get disability benefits - exceptions may apply to some people. Additionally, most people with no recourse to public funds cannot get them. See Sheet 8. People from abroad should be referred to us.

The main disability benefits

- The two main disability benefits are:
 - Disability Living Allowance (DLA)
 - Personal Independence Payment (PIP)
- This sheet focuses on DLA. There is also a benefit for carers called Carer's Allowance (CA).

Passports from disability benefits

- Disability benefits are worth money in their own right but can also passport people on to other essential sources of help such as CA (see below), the Blue Badge, extra money on tax credits (Sheet 3) and exemption from the Benefit Cap (Sheet 4).
- Often this extra support is worth more than the DLA itself.

Who can claim DLA?

- To claim DLA, a person must satisfy the immigration conditions.
- They must be aged under 16.
- They must have care and mobility needs above and beyond those of a healthy person of the same age.
- Their needs must also have been extant for 3 months and expected to last for 6 more months.

Structure of DLA

- DLA has two components: care and mobility.
- The care component has three rates: lowest, middle, highest.
- The mobility component has two rates: lower and higher.
- Both components can be paid together or one can be paid alone.

Mobility

- **Higher rate mobility** is paid where the claimant is unable or virtually unable to walk. This is a tough test where being able to walk just 60 or 70 metres may mean no entitlement.
- Other routes include a substantial risk of harm caused by walking, e.g. some severe cardio-respiratory conditions might cause this.
- There is also a 'severe mental impairment' route. There must be severe unpredictable behaviour which requires physical restraint to prevent harm to the claimant or others, e.g. running into traffic.
- Eligibility to the higher rate can also be by being blind, which relates to specific scores on the Snellen test. Where the Snellen test is not used, evidence as to an equivalent measures is needed.
- The **lower rate** looks at different criteria. The claimant must need supervision or guidance when walking on an unfamiliar route outdoors.
- Supervision could mean needing someone with them to prevent harm, e.g. from falls; or someone to give emergency medical attention, e.g. in the case of a fit.
- The need for supervision does not mean that incidents of harm always need to be present. It is enough that there is a risk and this risk is unpredictable, e.g. epilepsy.

Care

- The **lowest rate care** is awarded if, during the day, another person is needed for care needs for in total an hour. This criterion might be met by needing medications, particularly if the child is uncooperative.
- The **middle rate** is awarded in a number of different circumstances:
 - Where the claimant needs frequent attention throughout the day. There is no minimum time period, e.g. regular medications which take a few minutes.
 - Where the claimant needs continual supervision throughout the day to prevent harm to self or others. This could be related to behavioural problems or a risk of an unpredictable and sudden deterioration in health. The risk is important, not the number of times the risk manifests itself.
 - Where the claimant needs someone to watch over them during the night at frequent intervals (at least 3 times) to prevent harm; or someone needs to give attention for at least 20 minutes during the night or on more than one occasion.
- The **highest rate** is awarded where the claimant satisfies at least one day and one night middle rate condition.

Claims under the special rules: terminally ill claimants

- If the claimant is terminally ill, they will be automatically awarded the highest rate of the care component. They do not need to satisfy the 'three month back' test for either component, though they will need to meet the other criteria for mobility if they wish to claim this.
- A doctor must sign form DS1500, which declares that the claimant has a progressive illness from which it is reasonable to expect they will die within six months. This does not mean it must be more likely than not that they will die, but that death would not be unexpected.

If the child is an inpatient

- DLA will not be paid if, when the claim is first made, the child is an inpatient. Payment is due once the child is discharged and will stop again if re-admitted within 28 days. There may be challenges in the courts to this rule so anyone affected should be referred to us. **It is still important to claim DLA even if no payments will be made.** The 'underlying entitlement' to DLA may give access to the linked income.

- Until recently, if a child who already gets DLA is admitted to hospital for 84 days or more, their DLA will stop. This has been ruled unlawful by the Supreme Court so anyone affected should be referred to us.

Carer's Allowance

- Someone who provides at least 35 hours' care pw for someone who gets middle or highest DLA care will be entitled to Carer's Allowance (CA).
- The carer must not be earning more than £110 pw at current rates. If they earn more than this, but have associated care costs, then the amount of their income taken into account may be reduced, bringing them below the threshold. E.g., they might be paying someone to provide care.
- A claim should only be made once an award of the middle or highest rate of DLA care is given.
- **If CA is claimed within three months of the DLA award, then CA will be backdated to the date when the DLA starts.** This is so even if it takes many months for the DLA claim to be decided. If the three month deadline is missed, then CA will be 'clerically' backdated for a maximum of three months.
- CA is a 'weekly benefit'. This means that if you put the start date on the CA claim form as the same as the DLA decision date and this is after Monday, then payment will start the following Monday. If you put a start date which is any date in the preceding week, then the person will get CA from the actual DLA start (rather than the following week).

Personal Independence Payment (PIP)

- DLA used to be for everyone under 65. Now, people aged 16-64 will claim an alternative benefit called PIP. PIP is much tougher to get than DLA and everyone 16 or over currently on DLA will gradually be transferred to PIP. This is being rolled out gradually. **Anyone aged 16 or over who reports a change of circumstances may trigger a PIP assessment and their DLA will stop.** Care must be taken with these clients as they may not meet the stricter PIP requirements.

If you are asked to help

020 7829 8896

- Clinicians at GOSH or elsewhere may be asked to provide evidence in support of a DLA claim or appeal.
- Remember that it is a person's supervision, attention or mobility needs which are important - not their diagnosis.
- Please keep the following in mind if you receive a request for evidence:
 - **Please do not** refer to 'deserving' cases. Whether someone 'deserves' DLA is a decision for the decision-maker or the Tribunal based on the statutory criteria.
 - **Please do not** try to guess what you think the decision-maker or Tribunal wants to hear.
 - It is unlikely that you will be approached by the DWP for evidence unless the claimant specifically mentions you on the claim form. Your evidence is still important to enable the decision-maker or Tribunal come to a fair result. **Please do not** withhold evidence just because the DWP have not asked for it.
 - There is a page on the claim form which invites a statement from a professional who knows the child. **You do not need** to fill this in. Do not delay sending in a form just because this page is blank.
 - **Please do** provide your un-biased, professional opinion.
 - **Please do** explain any specialist terminology you use. The majority of people reading your evidence will not be medically trained - and anyone who is will not share your specialist knowledge or expertise.
 - **Please do** relate your patient's condition to what you know of their day-to-day life and the limitations placed upon them. For example, if your patient has a respiratory condition which limits their walking, state that their condition can limit their ability to walk.
 - If you are not sure what we are asking for, or why, **do** call and speak to us. We will not try to influence your evidence but we can explain the entitlement criteria and why your evidence is important.

Disclaimer

June 2016

We have endeavoured to ensure the information in these sheets is correct at the time of print. Social security law, however, is a rapidly developing area of law and the information in these sheets may soon be out of date. No liability is accepted for their use by any party.

Any queries regarding these sheets should be directed to us on 020 7829 8896.