

# DISABILITY LIVING ALLOWANCE FACTSHEET

## 1. Introduction

1.1. The information in this factsheet is intended to be a guide to the rules for Disability Living Allowance and does not cover every circumstance. It is possible that some of the information is over simplified or may become inaccurate over time, for example because of changes to the law. Any rates shown are applicable from April 2014 to March 2015 and the Limbless Association has made every effort to ensure that the information is correct at time of publication.

## 2. What is Disability Living Allowance?

2.1. Disability Living Allowance is a benefit for children and some adults up to the age of 64 who need help with their personal care or help to make sure they are safe, or have difficulty with their mobility. It recognises the increased costs an individual may face due to an illness or disability.

2.2. There are two components and you can receive either or both at the same time.

- The care component
  - Paid at three rates
- The mobility component
  - Paid at two rates

2.3. Disability Living Allowance is being replaced by Personal Independence Payment. New claims are only allowed for Disability Living Allowance in the following circumstances:

- If you live in Northern Ireland and are under 65
- If you live in England Scotland or Wales and you are under 16

2.4. Disability Living Allowance is:

- non-means tested (any income or capital you have will not affect the claim);
- not taxable;
- paid whether or not you are working

2.5. If you live in England, Scotland or Wales and already receive Disability Living Allowance, you can request a review of your claim if you feel that your care or mobility needs have increased. However, requesting a review may result in you needing to claim Personal Independence Payment instead.



2.6. As part of the introduction of Personal Independence Payment, the Department for Work and Pensions expects the majority of existing Disability Living Allowance claimants between the ages of 16 to 64 to be invited to claim Personal Independence Payment by the end of 2017. This change is taking place on a gradual basis depending on the area a claimant lives in. If you are receiving Disability Living Allowance and want to find out when you will be affected by the transition to Personal Independence Payment, visit the Department for Work and Pensions website <https://www.gov.uk/pip-checker>

2.7. To find out more about the transition process, please refer to our Changes to Disability Living Allowance Factsheet.

### 3. Who can claim?

3.1. You can claim Disability Living Allowance if:

- You live in Northern Ireland and are aged under 65 or  
You live in England, Scotland or Wales and are under 16 **and**
- You have had care or supervision needs for the last three months and they will last for a further six months (known as the qualifying period) **and**
- You satisfy one of the disability tests (see section 5) **and**
- You are not subject to immigration control **and**
- You meet the residence and presence tests (not applicable if you are terminally ill)
  - For England, Scotland and Wales you will need to have been present and resident for no less than 104 weeks in the last 156 weeks i.e. two out of the last three years;
    - For a baby under 6 months old a 13 week presence test applies
    - For a baby aged 6-36 months, the test is 26 weeks in the last 156 weeks
  - For Northern Ireland you will need to have been present and resident for no less than 26 weeks out of the last 52 weeks
    - For a baby under 6 months old a 13 week presence test applies

3.2. If you already receive one of the following disability benefits:

- Armed Forces Compensation Scheme;
- Constant Attendance Allowance with Industrial Injuries Benefits;
- Constant Attendance Allowance with War Pension

Then you will not be able to claim the care component of Disability Living Allowance, if these benefits are paid at an equivalent or higher amount than the care component.

**4. Terminal illness**

- 4.1. If you have a terminal illness, then you will qualify for the higher rate of the care component. A medical practitioner will need to complete a form called a DS1500 that states you are not expected to live beyond six months. You will automatically be considered to have passed the disability test, but would not be subject to the qualifying period.
- 4.2. To receive the mobility component, you will need to pass the mobility assessment (with the exception of meeting the required period condition).

**5. What are the disability tests?**

The disability tests consider a number of criteria before the appropriate benefit rate can be identified. The tests state that you must be ‘so severely disabled physically or mentally that you **require** from another person....

5.1. Care Component

Applicable criteria	Applicable rate
<ul style="list-style-type: none"> <li>• <b>attention</b> for a <b>significant portion</b> of the day in connection with your <b>bodily functions</b> whether during a single period or a number of periods <u>or</u></li> <li>• are aged 16 or over (and claim before aged 65) and <b>cannot prepare a cooked main meal</b> for yourself if you have all the ingredients to hand</li> </ul>	<b>Lowest rate care</b>
<p>During the day</p> <ul style="list-style-type: none"> <li>• <b>frequent attention throughout the day</b> in connection with your <b>bodily functions</b> <u>or</u></li> <li>• <b>continual supervision</b> throughout the day in order to avoid a <b>substantial danger</b> to yourself or others <u>or</u></li> </ul> <p>During the night</p> <ul style="list-style-type: none"> <li>• <b>prolonged or repeated attention</b> in connection with your <b>bodily functions</b> <u>or</u></li> </ul>	<b>Middle rate care</b>



<ul style="list-style-type: none"> <li>in order to avoid a <b>substantial danger</b> to yourself or others another person to be awake for a <b>prolonged</b> period or at <b>frequent</b> intervals for the purpose of watching over you</li> </ul>	
Meet a daytime <b>and</b> night time test from the middle rate criteria	<b>Highest rate care</b>

5.2. Mobility Component

<b>Applicable criteria</b>	<b>Applicable rate</b>
Be aged five or over <b>and</b> <ul style="list-style-type: none"> <li>You must be so severely disabled physically or mentally that, you cannot take advantage of the faculty out of doors in unfamiliar places without <b>guidance or supervision</b> from another person most of the time</li> </ul>	<b>Lower rate mobility</b>
Be aged 3 or over <b>and</b> <ul style="list-style-type: none"> <li>Be <b>unable to walk</b> <u>or</u></li> <li>Be <b>virtually unable to walk</b> <u>or</u></li> <li>The exertion required to walk would constitute a <b>danger to life</b> or would likely lead to a <b>significant deterioration in health</b> <u>or</u></li> <li>Have <b>no legs or feet</b> <u>or</u></li> <li>Have a <b>severe visual impairment</b> <u>or</u></li> <li>Are both <b>deaf and blind</b> <u>or</u></li> <li>Are entitled to the highest rate care component and are <b>severely mentally impaired</b> with extremely disruptive and dangerous behavioural problems</li> </ul>	<b>Higher rate mobility</b>

5.3. To help ensure consistency in determining the awarding of this benefit, the words highlighted above have a defined legal meaning. For the meaning of the words, please refer to our Disability Living Allowance Meaning of Terms factsheet.

**6. Claiming for children**

6.1. With regard to claiming Disability Living Allowance for a child, their needs must be 'substantially in excess' of what is normally required by a child of the same age. All very young children need a lot of care and attention. Therefore, the younger your child, the harder it can be to show that they require more help than other children of the same age. Disability Living Allowance can be awarded if you are able to show

that your child either needs a different type of care than other children, or requires care to be provided more frequently, or over a longer period. This extra condition does not apply to a child who is terminally ill.

**7. How much is it?**

7.1. As stated, Disability Living Allowance has two components. Subject to your disability or condition you may receive either one or both components.

Component	Amount	Description
<b>Care</b>		
Lowest rate	£21.55 per week	Part time care needs
Middle rate	£54.45 per week	Day <b>or</b> night time needs
Highest rate	£81.30 per week	Day <b>and</b> night time needs
<b>Mobility</b>		
Lower rate	£21.55 per week	Guidance and supervision
Higher rate	£56.75 per week	Physical difficulty walking or other more severe difficulty

**8. How long is Disability Living Allowance awarded for?**

8.1. Disability Living Allowance may be awarded to you for an indefinite period or for a fixed period of time. Please note that there is no legal minimum length for an award. You will normally be sent a renewal claim form four months before your existing claim runs out.

8.2. Depending on your age and where you live you may be expected to claim Personal Independence Payment instead (see ‘What is Disability Living Allowance’ section 2). This will include those with an indefinite award.

**9. What if I go into hospital?**

Children

9.1. If your child spends more than 84 days (12 weeks) in hospital, Disability Living Allowance will be suspended. It can restart when your child returns home so long as they continue to meet the claim criteria. If your child has more periods in hospital these can be added together if they are separated by 28 days or less.

Adults and children 16 or over

9.2. If you spend more than 28 days in hospital Disability Living Allowance is suspended. It can restart when you return home as long as you continue to meet the claim



criteria. If you have more periods in hospital these can be added together if they are separated by 28 days or less.

### Motability

- 9.3. If you have used your Disability Living Allowance mobility component to lease a car through the Motability scheme, periods in hospital can affect this. You will need to contact Motability 0300 456 4566 if your Disability Living Allowance is suspended by a stay in hospital (as described above).

## **10. How do I claim?**

### 10.1. England, Scotland and Wales

#### ***Children under 16***

You will need claim form DLA1A child. You can request the claim form by calling the Disability Living Allowance helpline:

Telephone: 0345 712 3456 or 0845 712 3456

Textphone (for hard of hearing claimants): 0345 722 4433 or 0845 722 4433

Online: <https://www.gov.uk/disability-living-allowance-children/how-to-claim> to download a claim form

#### ***Adults***

As no new claims can be made for Disability Living Allowance for people aged 16 and over, you can only have a renewal of your current award e.g. if your current award is time limited and due for renewal, or if you think your needs have changed.

It could be decided that your award is reduced, or you may no longer meet the criteria at all. You may come under an area where your claim would be affected by Personal Independent Payment (see 'What is Disability Living Allowance' section 2)

### 10.2. Northern Ireland

#### ***Children and Adults***

You will need claim form DLA1A child (for under 16s) or DLA1A adult. You can request the claim form by calling the Benefits Enquiry Line:

Telephone: 0800 220 674

Textphone (for hard of hearing claimants): 028 9031 1092

Online: <http://www.nidirect.gov.uk/disability-living-allowance-rates-and-how-to-claim> to download a claim form



- 10.3. All forms requested by telephone will be stamped with the request date. If Disability Living Allowance is awarded to you, it will be paid from this date, provided you have returned the form within six weeks of your claim request. Otherwise, your date of claim will register from the day your form is received by the Disability Benefits Centre.
- 10.4. You can include extra evidence when sending the form in if you wish. This could include a medical report, a diary where you have recorded your day to day difficulties over a period of time or anything else you think would support your case. You should write your name and national insurance number on anything you send in. You may find it helpful to use our Disability Living Allowance hints and tips when completing the claim form.
- 10.5. It is advisable to copy your form and any supporting evidence you send in so that you have your submitted information to hand should you need to challenge the decision.
- 11. What if I am unhappy with the decision?**
- 11.1. If your application is refused, or you are awarded a lower rate than you feel you should be entitled to, you may challenge the decision. It is important to note that challenging the decision causes a risk in that if, for example, you have been awarded a lower rate and you subsequently challenge the decision you may end up losing your award completely.
- 12. How do I challenge a decision?**
- 12.1. You can have three attempts to challenge a decision, but there is a strict process to follow. There is a one month time limit for you to register each stage of the process and you will need to follow each stage in order.
- 12.2. You should be notified in writing of any decisions made on your claim. The decision notice should set out your rights to challenge the decision. You can ask for written reasons for the decision if none were given in the decision notice. You must ask for these within one month of the date on the original decision notice.
- 12.3. Late challenges can be requested in certain circumstances. You will need to show it was not practical for you to apply in time and you should provide a clear and reasoned explanation for the delay. There is no guarantee that a late appeal will be accepted.
- 12.4. Mandatory reconsideration (Revision in Northern Ireland)
- 12.5. This is the first stage of challenging a decision. Within one month of the date on the notification letter you will need to register the mandatory reconsideration /

revision. If you wish you can send in some extra supporting evidence such as a letter from yourself documenting why you disagree with the decision or evidence from a medical professional. A mandatory reconsideration will result in the Department for Work and Pensions reconsidering your award 'in house'. For Northern Ireland, revisions are considered by the relevant Social Security Agency.

12.6. Appeal to First Tier Tribunal

12.7. If your mandatory reconsideration / revision is unsuccessful, you have another opportunity to challenge the decision. This must be registered within one month of the date on the mandatory decision / revision notification letter. Her Majesty's Court and Tribunal Service is responsible for these in England, Scotland and Wales, while In Northern Ireland it is the responsibility of The Appeals Service. Both are independent from either the Department for Works and Pension or Social Security Agency. You have the opportunity to have your case heard on paper or in person, although there is a higher success rate if you attend in person. Appeals can take several months. However, if you are successful, the award is backdated to the date of your claim.

12.8. Appeal to the Upper Tribunal

12.9. If your first tier tribunal is unsuccessful you have another opportunity to challenge the decision through Her Majesty's Court and Tribunal Service / The Appeals Service, within one month of the first tier tribunal notification of the decision. The appeal needs to be based on a point of law. As a result, these appeals can be complex and it would be advisable to seek specialist advice.