

**Welfare**

**R I G H T S**

# ***Attendance Allowance:***

## ***What is it?***

## ***How to claim***

April 2010

# CONTENTS

PAGE No.

<b>1. INTRODUCTION TO ATTENDANCE ALLOWANCE .....</b>	<b>2</b>
Who is this briefing note for and how will it help? .....	2
What is Attendance Allowance? .....	3
Attendance Allowance or Disability Living Allowance? .....	3
How much is Attendance Allowance? .....	3
Special Rules .....	4
<b>2. WHO CAN GET ATTENDANCE ALLOWANCE?.....</b>	<b>5</b>
The disability tests .....	5
Other issues .....	7
<b>3. MAKING A CLAIM AND DEALING WITH PROBLEMS.....</b>	<b>8</b>
How do I make a claim? .....	8
Filling in the form .....	9
Can anyone help me fill the form in? .....	9
Whose name should I give at the end of the form? .....	9
What happens next? .....	10
Getting a decision.....	10
Who is responsible for paying the money?.....	11
What if you are refused? .....	11
Help with your revision/supersession/appeal.....	12
<b>4. WHAT HAPPENS IF I GO INTO RESIDENTIAL/NURSING CARE OR HOSPITAL?.....</b>	<b>13</b>
Residential/nursing care .....	13
Hospital .....	13
<b>5. OTHER HELP .....</b>	<b>14</b>
Carers Allowance .....	14
Pension Credit, Housing & Council Tax Benefit .....	14
Grants for aids and adaptations .....	14
Council Tax discounts and banding reductions .....	14
Where can I get more information? .....	15

## **PART 1 – Introduction to Attendance Allowance**

### **Who is this briefing note for and how will it help?**

- \* you will find these notes useful if you are thinking of claiming Attendance Allowance yourself, or trying to help someone else to claim.
- \* it will not answer **all** your questions, but it will cover the main rules about Attendance Allowance.
- \* it is a practical guide, which tells you **how** to claim and **who** to contact for help.
- \* it tells you about which people are **likely** to qualify, and the kind of questions you need to think about.

### **WARNING:**

**The information in this briefing note is as accurate as possible at the time of printing. However, it is only a guide, and therefore cannot be completely accurate in every respect and cover every possible situation.**

**We therefore always recommend that you seek advice from a competent person in cases of doubt.**

## What is Attendance Allowance?

- \* Attendance Allowance is a tax free, cash payment.
- \* it is paid to people who have care needs due to a physical or mental illness or disability.
- \* Attendance Allowance is **not** affected by how much income or savings you have.
- \* you can still claim Attendance Allowance even if you live alone.
- \* Attendance Allowance is paid to the person who needs help with their care. It doesn't matter if you receive home care or care at a day centre, live in a warden controlled flat, or even if there is no one to look after you.
- \* it will **not** reduce other benefits. If you get **Pension Credit, Housing Benefit, or Council Tax Benefit** already, notify the Pension Service and your local council, as payment of **Attendance Allowance** will sometimes entitle you to **extra benefit**.

## Attendance Allowance or Disability Living Allowance?

Attendance Allowance is paid to people **aged 65 years or over** who need help with their personal care but does not take into account problems getting about out of doors. Disability Living Allowance is paid to people **under 65** and considers both care needs and mobility problems. If you are approaching 65, you can claim Disability Living Allowance and may get extra benefit (but you **must** submit your claim before you are 65). For advice about claiming this benefit please ask for a copy of our briefing note, *Disability Living Allowance- What is How to Claim*.

## How much is Attendance Allowance?

Attendance Allowance is paid at either a lower or a higher rate.

If you need help during the day **or** the night then you may qualify for the **lower rate**.

If you need help during the day **and** the night then you may qualify for the **higher rate**. Remember, if you are terminally ill then you automatically qualify for the higher rate.

*Please ask for a copy of the Welfare Rights Service's 'Guide to Benefits Rates' for current weekly amounts.*

## **Special Rules**

There are special rules for claiming Attendance Allowance if you have a **terminal illness**. You are regarded as terminally ill if you are suffering from a progressive disease and, in the opinion of a doctor, 'death can reasonably be expected within six months as a result of that disease'. This only means that you **may** not live longer than six months.

If you qualify under these rules you do not have to serve the six-month waiting period and will automatically qualify for the highest rate of Attendance Allowance.

Attendance Allowance claims under the special rules are simpler to make and dealt with more quickly – see Part 3. The Welfare Rights Service also produces a briefing note, which covers this issue in much greater detail, called *Disability Living Allowance/Attendance Allowance for the terminally ill*.

## **PART 2 - Who can get Attendance Allowance?**

Below are some basic rules about Attendance Allowance. You should consider these first **before** claiming:

- \* **Age** you must be aged 65 years or over to claim Attendance Allowance. People under 65 should claim Disability Living Allowance.
- \* **Waiting Period** you must have needed the required level of care for six months **before** you qualify (unless terminally ill).
- \* **Residence and Presence** you must be ordinarily resident in Great Britain and not subject to immigration control. You must have actually been in this country for six out of the last twelve months before you claim (unless terminally ill).
- \* **Hospital and Special Accommodation** if you are in hospital, or accommodation which is provided out of public funds, Attendance Allowance may stop after four weeks. This is explained in greater detail in Part 4.

If you satisfy the basic rules outlined above then you need to consider whether you will satisfy the disability tests.

Again it is best to consider these rules before actually making a claim.

Knowing something about the rules will help you to complete the claim form and increase your chances of a successful result. This briefing note will now go on to examine the disability tests.

A recent European Court of Justice ruling has stated that Attendance Allowance is an “exportable benefit”. This means that if you live in or are planning to move to an EEA state you can be paid Attendance Allowance. If this is the case **SEEK ADVICE** or contact:

- Exportability Co-ordinator  
Room C216  
Pension, Disability and Carers Service  
Warbreck House  
Warbreck Hill Road  
Blackpool  
FY2 0YE
- **Email address:** [exportability.team@dwp.gsi.gov.uk](mailto:exportability.team@dwp.gsi.gov.uk)

---

### **The disability tests**

You will qualify for Attendance Allowance if, due to your disability, you need help during **either** the day **and/or** during the night. The kind of help you need can be:

**During the Day**

**EITHER** ★ frequent help in connection with your personal care.

**THIS COULD MEAN YOU NEED HELP WITH THINGS SUCH AS:**

using the toilet or commode;	getting dressed or undressed;
getting in or out of bed;	getting about your home;
taking a bath or shower;	washing or shaving;
getting up or downstairs;	getting in or out of a chair;
seeing or hearing;	taking medication or other treatment at home.
eating;	

**OR** ★ you need continual **supervision** to avoid danger to yourself or others.

**THIS MIGHT MEAN THAT YOU NEED SOMEONE CLOSE BY BECAUSE...**

you are unsteady on your feet;	you are liable to falls or accidents;
you suffer from fits or attacks which you cannot cope with alone;	you cannot see or hear very well;
you get confused;	you find it hard to make simple decisions;
you may neglect yourself;	you find it difficult to control your behaviour.

**During the Night**

You need:

**EITHER** ★ prolonged or repeated help in connection with your personal care.

This means that you need help for at least 20 minutes, or more than once.

**OR** ★ another person to be awake for prolonged periods or at regular intervals to avoid substantial danger to yourself or others.

This means that you need somebody to get up during the night several times, or for long periods to check that you are safe.

If you need help during the day **or** the night then you may qualify for the **lower rate**.

If you need help during the day **and** the night then you may qualify for the **higher rate**.

The definition of **night** will depend on the household's habits, but it normally starts when you go to bed or, if you have a carer, when they go to bed, or would go to bed if they were not staying up to care for you.

### **Other issues**

It is important to note that what counts is whether you need help rather than whether there is somebody actually there to help you.

If you are physically capable of managing your personal care but, due perhaps to mental health problems, you would not do this without prompting, reminding and encouragement, then this help will be considered in exactly the same way.

The definition of *help with your personal care* includes help a person with disabilities needs with "**social, recreational and cultural activities**", for example help to pursue interests, hobbies or religious beliefs.

Help needed with domestic chores cannot usually be considered when claiming Attendance Allowance unless these need to be carried out when the disabled person is there.

Assisting a disabled person so that **they** are able to perform some household tasks for themselves may count. For example, helping a disabled person to do the cooking or shopping for themselves.

Some kidney patients who receive dialysis at home or in a "self care unit" may qualify for the lower rate of Attendance Allowance regardless of the disability test.

## **PART 3 - Making a claim and dealing with problems**

### **How do I make a claim?**

You will need to fill in an Attendance Allowance claim (form AA1A). You can get a claim pack by:

- telephoning the Department for Works and Pensions (DWP) Benefits Enquiry Line on 0800 88 22 00 or contacting your local DWP office and asking for an Attendance Allowance claim pack or calling the DBU on 08457 123456 **or**
- asking for an Attendance Allowance claim pack at your local Citizens Advice Bureau, or Social Services Office **or**
- Going online at <http://www.direct.gov.uk> and fill in the form online or download a claim form and fill it in and send to your local Disability Benefits Centre

New claims for Leicestershire should be sent to:

FREEPOST PLUS  
DLA Benefits Centre  
PO Box 34  
Birmingham  
B99 1AR

It is important to claim as soon as possible as new claims **cannot** be backdated. The date that you first contact any DWP office to claim Attendance Allowance is treated as the date of claim as long as you return the completed claim form within **six weeks**.

It is proposed to end the current practice of double-dating claim forms (see above) and replace this with an automatic 2 week backdating of all successful Attendance Allowance claims. At the time of publication there is no definite time for this to take place.

It is important to note that a successful claim for Attendance Allowance may entitle the claimant to **Pension Credit**. Therefore it is advisable to make a claim for **Pension Credit** at the same time. See Part 5 for further details.

## Filling in the form

- \* the form asks questions about some of the needs listed earlier in this briefing note, but the questions may not include all the relevant ones to allow you to give a complete picture. There is only a limited space for your answers; it may therefore be useful to send a covering letter with the form.
- \* give yourself time to think about the questions **before** filling the form in. If it would help you to put into words what your care needs are, try keeping a diary, and send this with your claim.
- \* it is in your interests to put down as much information on the form as possible. It is better to put too much than not enough. Try to explain exactly what sort of problems you have - i.e. what pain you suffer, what help you need to complete activities safely and satisfactorily. It is important to state how often you need help, how long it takes, and why.
- \* if the disabled person is unable to act for themselves, it is possible for a friend, relative or carer to apply on their behalf to act as their **appointee**. Benefit will then be paid to you as appointee and you will be responsible for notifying the DWP if circumstances change.
- \* if a claim is made under the special rules, for someone who is terminally ill, then the claim can be made by another person without the authority or knowledge of the disabled person. There is no need to complete the whole of the Attendance Allowance claim form in these cases. However, you will need to provide a form from your doctor or specialist, called a DS1500. If getting this form is likely to cause a delay, then send in your claim form first and forward the DS1500 later.

## Can anyone help me fill the form in?

The claim forms have recently been made much shorter but you may still need help to complete them. A friend or relative who knows you well could be very helpful here. Citizens Advice Bureaux, Age Concern or other advice agencies may be able to help to complete the form. Forms can be completed over the phone by phoning the DWP Benefits Enquiry Line on 0800 88 22 00. If you need further advice about how best to answer some of the questions and you live in the **County**, contact a local advice agency. If you live in the **City**, ring (0116) 254 3399, 1.00 pm – 4 pm Monday to Wednesday.

## Whose name should I give at the end of the form?

The form asks for someone who knows about your disabilities to sign a statement on the form. This can be a friend, relative, or someone who helps care for you. However, we recommend that the statement is filled in by your family doctor (your GP) or another health care professional if possible.

If you cannot get anyone to fill in the statement, return the form to the Disability Benefits Centre in Birmingham anyway. The DWP will then normally arrange for an independent doctor to examine you and send them a report.

### **What happens next?**

When a claim for Attendance Allowance is received by the DWP, a decision may be made using the information provided on the claim form alone. However, if further information is required, the DWP may write to your GP or arrange for an independent doctor to visit you.

- \* if a doctor visits, tell them exactly what help you need, even if you do not actually receive this help. Make notes beforehand to remind you what to say. Explain very clearly all the difficulties you have. Do not assume that the doctor will know your needs.
  
- \* it usually helps if you have a friend, relative or carer with you when the doctor comes. They can help you to explain things and confirm what care you need. If you have difficulty explaining things in English, ask somebody to be there to interpret for you. You may request that the doctor who visits is able to speak your preferred language, but this may not always be possible.

### **Getting a decision**

Initial decisions are usually made within six weeks of a claim. If you are successful, the decision will tell you the rate at which you will be paid, the date from which you will be paid, and the length of your award. The DWP are presently encouraging everyone to receive benefit through a bank account. It is however still possible to ask to be paid by order book.

Check that:

- \* you have been awarded Attendance Allowance at the correct rate
  
- \* you have been awarded Attendance Allowance from the correct date

Attendance Allowance is normally awarded from the date that you made your claim provided you have already needed help for six months. Otherwise it should be awarded from six months after the date your needs first arose (unless you are terminally ill).

If you do not think you have been given the right rate of Attendance Allowance or have not been awarded this benefit from the correct date, you can ask for the decision to be looked at again (see overleaf).

### **Who is responsible for paying the money?**

Payment will be made from Blackpool, or by your local DWP (Pension Service) office. Attendance Allowance is usually paid directly into your bank/building society account. If you are already receiving Pension Credit or Retirement Pension, Attendance Allowance will normally be paid in the same way.

### **What if you are refused?**

If you are refused Attendance Allowance or are not happy with your decision you can challenge this.

There are three ways of challenging a DWP decision. These are:

#### **Revision**

This is usually the quickest way to get a decision changed. You are simply asking the DWP to look at their decision again.

A request for a revision must be made within one month of the initial decision being sent to you. This period, known as the dispute period, will be increased by 14 days if you ask for written reasons for the decision. If the written reasons for the decision are not supplied within the month, the 14 day extension will begin from the date they are provided.

Further information or evidence should be submitted to the DWP to support your request. It is possible to request a late revision outside of the dispute period in limited circumstances. If you have missed the deadline, then seek expert advice.

#### **Supersession**

These rules do not prevent you from asking the DWP to look at a decision again at any time. This can be done by asking for a supersession when there is a change in your circumstances. If you do this within one month of it happening, then benefit can be backdated to the date of the change, otherwise no backdating is possible.

#### **Appeals**

If the DWP refuse to change a decision, you should consider **appealing** to The Tribunals Service for an independent hearing. Applications should be made on form GL24 within one month of the date of the letter notifying you of the initial decision, revision or supersession, giving full reasons why you disagree with the decision. The GL24 is available from your local DWP office or the Disability Benefits Centre.

Always seek expert advice if you wish to appeal. Appeals are heard by independent panels sitting locally. You will be given a choice of going to the hearing or having this heard without

you. It is best to go along so that you can explain your situation. You will always be allowed to have your say. In some circumstances it may be possible to have a representative with you. To find out whether this is possible ask you local Citizens Advice Bureaux, advice centre or call our Advice Line (see page 15) and speak to an experienced advisor who will talk you through the process and explain how best to present your case.

If you are still dissatisfied with the decision after the Appeal Tribunal, in some circumstances you can ask for the decision to be 'set aside' or appeal to the Social Security Commissioners. You can only appeal to the Commissioners on a 'point of law', so it is essential to seek expert advice at this stage.

### **Help with your revision/supersession/appeal**

If you have asked an adviser to assist, you may be asked to complete the following:

- (1) authorisation for your adviser to receive details of your medical history from your GP or specialist
- (2) a diary - to be kept by the disabled person or their carer, showing the times they needed assistance, why and the amount of help that was needed.

If you have any further difficulties writing down the information you have been asked for, or understanding what details your adviser requires, please let your adviser know as they will be happy to assist you.

## **PART 4 - What happens if I go into residential/nursing care or hospital?**

### **Residential/nursing care**

Your Attendance Allowance is affected if you go into a local authority or a private residential or nursing home, or similar types of accommodation, and the local authority is paying towards the cost of your care.

In these situations your Attendance Allowance is withdrawn after four weeks. Any stays in the previous 28 days including stays in hospital will be added together. **It is important to notify the DWP if you go into residential or nursing care for more than four weeks** to avoid being overpaid benefit and having to repay this. Let them know again if you go home for any period as Attendance Allowance can then be put back into payment.

People who enter residential or nursing care without financial help from Social Services, or those that have to repay this, will normally be able to keep their Attendance Allowance for as long as they remain in this situation. Also, residents who transfer from local authority funding to "self-funding" will be able to reclaim Attendance Allowance. For more information about this please see our briefing note *Funding Your Own Residential Care*.

### **Hospital**

If you go into hospital, Attendance Allowance is also withdrawn after four weeks. If you have been in the hospital or in residential or nursing care in the previous 28 days, then these periods are added together.

**It is important to notify the DWP if you go into hospital for more than four weeks to avoid being overpaid benefit and having to repay this. Let them know again if you go home for any period as Attendance Allowance can then be put back into payment.** Most other benefits that you receive will not be reduced when you are in hospital, however any additional amounts you receive because of payment of Attendance Allowance will stop when the Attendance Allowance stops.

## **PART 5 – Other help**

### **Carers Allowance**

If a disabled person qualifies for Attendance Allowance their carer may qualify for Carers Allowance (CA). The carer must be over 16, earning less than the current earnings limit and be providing care for at least 35 hours each week. The carer will then qualify for a carers premium to be included in the calculation of their entitlement to Pension Credit, Housing Benefit or Council Tax Benefit. **However, in some circumstances this can affect the disabled person's entitlement to benefits so please see below before claiming Carers Allowance.**

### **Pension Credit, Housing Benefit & Council Tax Benefit**

If you qualify for Attendance Allowance you may be entitled to the **severe disability premium** (which may entitle you to more Housing or Council Tax Benefit) or the **severely disabled additional amount** (which may entitle you to more Pension Credit). This will be possible if you live alone (but do not count children, lodgers, other people getting Attendance Allowance or middle/higher rate care component of Disability Living Allowance) **and** no-one gets Carers Allowance for looking after you.

Depending on each person's circumstances, your carer may have more to gain from claiming Carers Allowance, or you might be better off claiming the severe disability premium/additional amount instead, **so ask for expert advice about this.**

If you do not already receive Pension Credit, but think you may be entitled if you get Attendance Allowance, you should claim Pension Credit at the same time. If your claim for Pension Credit is refused, you should ask for it to be looked at again as soon as Attendance Allowance is awarded. Payment of Pension Credit can then be backdated.

### **Grants for aids and adaptations**

If your home needs altering due to your disability, there are grants available through your local authority. Getting Attendance Allowance could help you get a higher grant, as it qualifies you for extra help in the "means test" for this.

### **Council Tax discounts and banding reductions**

Even if you do not qualify for Council Tax benefit, you may be entitled to get your council tax reduced through a discount or banding reduction.

The 'Severe Mental Impairment' discount can be claimed by people with conditions such as dementia.

A banding reduction can be claimed by people who have a second kitchen or bathroom or another room adapted for a disabled person's use (for example a downstairs bedroom) or where a property is suitable for the use of a wheelchair indoors.

For more information about discounts and reductions, you should contact your District Council, or see the Welfare Rights briefing note *Council Tax: Discounts, Exemptions, Reductions and Benefit*.

**Where can I get more information?**

You can get more information from your local CAB, or advice centre

If you have any suggestions to improve this briefing note, please send your comments on the cut off slip below, to:

Welfare Rights Team  
Bassett Street Social Services  
Bassett Street  
SOUTH WIGSTON  
LE18 4PE



**ATTENDANCE ALLOWANCE**  
**What is it?- How to claim**  
**April 2010**

I should like to make the following comments/suggestions: