

Policy 14 DLA and PIP Appeals

Owner: ILF Scotland

Subject: DLA/PIP/AA/CAA

Version: 1.0

Last Amended: 1 July 2015

Date Reviewed:

1.0 Background

In order to remain eligible to receive ILF payments:

A **Group 1** user needs to remain entitled to at least the rate of the care component of Disability Living Allowance, Attendance Allowance or Constant Attendance Allowance that they were entitled to on the 1 October 2007 or they need to be receiving the daily living component of Personal Independence Payment (PIP) or Armed forces Independence Payment (AFIP).

Where a user is transferred from the Disability Living Allowance (DLA) to Personal Independence Payment (PIP) they will remain eligible for ILF funding provided they are in receipt of the daily living component of PIP regardless of the rate at which this is awarded.

Where a user is transferred from DLA to Armed Forces Independence Payment they will remain eligible.

A **Group 2** user needs to be in receipt of the highest rate care component of Disability Living Allowance, the highest rate of Attendance Allowance or at least the financially equivalent rate of constant attendance allowance or be in receipt of the daily living component of Personal Independence Payment (PIP) or Armed forces Independence Payment (AFIP).

Where a user is transferred from the Disability Living Allowance (DLA) to Personal Independence Payment (PIP) they will remain eligible for ILF funding provided they are in receipt of the daily living component of PIP regardless of the rate that this is awarded.

Where a user is transferred from DLA to Armed Forces Independence Payment (AFIP) they will remain eligible.

Contribution

Users are normally expected to contribute half the care component of their DLA, half their AA or CAA or half the rate of the Daily living component of PIP towards the cost of their care. The rate of AFIP taken into account will be the same rate as $\frac{1}{2}$ of the enhanced rate of the daily living component of PIP.

Loss or reduction of DLA/AA/PIP/AFIP

Where one of these benefits is reduced or a user ceases to be in receipt of them they have the option of requesting that this decision is reconsidered by DWP. If this is unsuccessful they can then take this to a first formal appeal. ILF Payments can continue where a user is requesting a reconsideration of the decision or is in the process of a first appeal. ILF payments may not continue should an appeal to the first tier tribunal be unsuccessful even if a further appeal is subsequently made.

DLA/AA/CAA recipients are normally given one month in which to request a revision of decision or appeal against the change by DWP in their benefit, unless there has been a change in circumstances since the decision was made, in which case a new decision is sought and the one month deadline does not apply.

Where a user is transferred to PIP and the user wishes to appeal against the outcome they must request a reconsideration of the decision within one month; they subsequently have a further month to make an appeal.

2.0 Policy 2.1 Review of decision or first formal appeal

Candidates who cease to be in group 1 or 2 only because they lost their qualifying rate of DLA/AA/CAA/PIP/AFIP, become candidates of group 4 if they request a revision of the decision.

As a candidate of group 4 the user should be paid a replacement award calculated to include half the care component (or equivalent) of the actual rate of DLA/AA/CAA/PIP that they are receiving, whilst they are in the process of a revision of decision or a first appeal against a reduction in their DLA/AA/CAA/PIP. No DLA/AA/CAA/PIP should be included within the Available income calculation where the benefit has been stopped.

Where a revision of decision or a first appeal is successful, the normal ILF award should be backdated to the date DLA/AA/CAA/PIP was reinstated at the relevant rate. This will usually create an overpayment of the award (where the replacement award is more than the normal award) which must be recovered in the usual way.

Where the appeal is unsuccessful, payments should cease from the date the decision was made not to reinstate the previous rate of DLA/AA/CAA/PIP (or

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award the user the daily living component of PIP). This also applies where a decision review is unsuccessful and the user does not pursue a formal appeal.

2.2 Further formal appeals

If the user is appealing to the upper tribunal (ie it is not the first appeal), which they can only do with permission, ILF payments should remain suspended unless and until the appeal is successful and the original rate of their benefit is reinstated (for Group 1 candidates this must be at least the rate that they were entitled to on 1 October 2007 and for group 2 candidates this must always be the higher rate DLA/CAA/AA).

Where an appeal, which is not a first appeal, is successful and ILF payments are reinstated, the normal award can be backdated to the date benefit was reinstated at the original rate if care costs were incurred during this time.

This also applies where someone was transferred from DLA to PIP.

Any overpayment of the grant raised as a result of payments made during the first appeal should be recovered in the usual way. Backdating requests will be considered in line with the backdating policy.

3.0 Source

4.0 Cross References

Run-off Payments Policy
Backdating policy

5.0 History Date Reviewed

1 July 2015