

Social Security Contributions and Benefits Act 1992

Sections 71-76 (as amended)

Disability Living Allowance

71.—(1) Disability living allowance shall consist of a care component and a mobility component.

(2) A person's entitlement to a disability living allowance may be an entitlement to either component or to both of them.

(3) A person may be awarded either component for a fixed period or for an indefinite period, but if his award of a disability living allowance consists of both components, he may not be awarded the components for different fixed periods.

(4) The weekly rate of a person's disability living allowance for a week for which he has only been awarded one component is the appropriate weekly rate for that component as determined in accordance with this Act or regulations under it.

(5) The weekly rate of a person's disability living allowance for a week for which he has been awarded both components is the aggregate of the appropriate weekly rates for the two components and so determined.

(6) A person shall not be entitled to a disability living allowance unless he satisfies prescribed conditions as to residence and presence in Great Britain.

The care component

72.—(1) Subject to the provisions of this Act, a person shall be entitled to the care component of a disability living allowance for any period throughout which —

- (a) he is so severely disabled physically or mentally that —
 - (i) he requires in connection with his bodily functions attention from another person for a significant portion of the day (whether during a single period or a number of periods); or
 - (ii) he cannot prepare a cooked main meal for himself if he has the ingredients; or
- (b) he is so severely disabled physically or mentally that, by day, he requires from another person —
 - (i) frequent attention throughout the day in connection with his bodily functions; or
 - (ii) continual supervision throughout the day in order to avoid substantial danger to himself or others; or
- (c) he is so severely disabled physically or mentally that, at night,—
 - (i) he requires from another person prolonged or repeated attention in connection with his bodily functions; or
 - (ii) in order to avoid substantial danger to himself or others he requires another person to be awake for a prolonged period or at frequent intervals for the purpose of watching over him.

(1A) In its application to a person in relation to so much of a period as falls before the day on which he reaches the age of 16, subsection (1) has effect subject to the following modifications —

- (a) the condition mentioned in subsection (1)(a)(ii) shall not apply, and
- (b) none of the other conditions mentioned in subsection (1) shall be taken to be satisfied unless —
 - (i) he has requirements of a description mentioned in the condition substantially in excess of the normal requirements of persons of his age, or
 - (ii) he has substantial requirements of such a description which younger persons in normal physical and mental health may also have but which persons of his age and in normal physical and mental health would not have.

(2) Subject to the following provisions of this section, a person shall not be entitled to the care component of a disability living allowance unless —

- (a) throughout —
 - (i) the period of three months immediately preceding the date on which the award of that component would begin; or
 - (ii) such other period of three months as may be prescribed, he has satisfied or is likely to satisfy one or other of the conditions mentioned in subsection (1)(a) to (c) above; and
- (b) he is likely to continue to satisfy one or other of those conditions throughout —
 - (i) the period of six months beginning with that date; or
 - (ii) (if his death is expected within the period of six months beginning with that date) the period so beginning and ending with his death.

(2A) The modifications mentioned in subsection (1A) shall have effect in relation to the application of subsection (1) for the purposes of subsection (2), but only —

- (a) in the case of a person who is under the age of 16 on the date on which the award of the care component would begin, and
- (b) in relation to so much of any period mentioned in subsection (2) as falls before the day on which he reaches the age of 16.

(3) Three weekly rates of the care component shall be prescribed.

(4) The weekly rate of the care component payable to a person for each week in the period for which he is awarded that component shall be —

- (a) the highest rate, if he falls within subsection (2) above by virtue of having satisfied or being likely to satisfy both the conditions mentioned in subsection (1)(b) and (c) above throughout both the period mentioned in paragraph (a) of subsection (2) above and that mentioned in paragraph (b) of that subsection;
- (b) the middle rate, if he falls within that subsection by virtue of having satisfied or being likely to satisfy one or other of those conditions throughout both those periods; and
- (c) the lowest rate in any other case.

(5) For the purposes of this section, a person who is terminally ill, as defined in section 66(2) above, and makes a claim expressly on the ground that he is such a person, shall (notwithstanding subsection (1A)(b)) be taken —

- (a) to have satisfied the conditions mentioned in subsection (1)(b) and (c) above for the period of three months immediately preceding the date of the claim, or, if later, the first date on which he is terminally ill (so however that the care component shall not be payable by virtue of this paragraph for any period preceding that date); and
- (b) to satisfy or to be likely to satisfy those conditions for so much of the period for which he is terminally ill as does not fall before the date of the claim.

(6) *[Repealed]*

(7) Subject to subsection (5) above, circumstances may be prescribed in which a person is to be taken to satisfy or not to satisfy such of the conditions mentioned in subsection (1)(a) to (c) above as may be prescribed.

(7A) Subsection (1A) has effect subject to regulations made under subsection (7) (except as otherwise prescribed).

(8) Regulations may provide that no amount in respect of a disability living allowance which is attributable to entitlement to the care component shall be payable in respect of a person for a period when he is a resident of a care home in circumstances in which any of the costs of any qualifying services provided for him are borne out of public or local funds under a specified enactment.

(9) The reference in subsection (8) to a care home is to an establishment that provides accommodation together with nursing or personal care.

(10) The following are qualifying services for the purposes of subsection (8)—

- (a) accommodation,
- (b) board, and
- (c) personal care.

(11) The reference in subsection (8) to a specified enactment is to an enactment which is, or is of a description, specified for the purposes of that subsection by regulations.

(12) The power to specify an enactment for the purposes of subsection (8) includes power to specify it only in relation to its application for a particular purpose.

(13) In this section, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.

The mobility component

73.—(1) Subject to the provisions of this Act, a person shall be entitled to the mobility component of a disability living allowance for any period in which he is over the relevant age and throughout which —

- (a) he is suffering from physical disablement such that he is either unable to walk or virtually unable to do so; or
- (b) he falls within subsection (2) below; or
- (c) he falls within subsection (3) below; or

- (d) he is able to walk but is so severely disabled physically or mentally that, disregarding any ability he may have to use routes which are familiar to him on his own, he cannot take advantage of the faculty out of doors without guidance or supervision from another person most of the time.

(1A) In subsection (1) above “the relevant age” means —

- (a) in relation to the conditions mentioned in paragraph (a), (b) or (c) of that subsection, the age of 3;
- (b) in relation to the conditions mentioned in paragraph (d) of that subsection, the age of 5.

(2) A person falls within this subsection if —

- (a) he is both blind and deaf; and
- (b) he satisfies such other conditions as may be prescribed.

(3) A person falls within this subsection if —

- (a) he is severely mentally impaired; and
- (b) he displays severe behavioural problems; and
- (c) he satisfies both the conditions mentioned in section 72(1)(b) and (c) above.

(4A) In its application to a person in relation to so much of a period as falls before the day on which he reaches the age of 16, subsection (1) has effect subject to the modification that the condition mentioned in paragraph (d) shall not be taken to be satisfied unless —

- (a) he requires substantially more guidance or supervision from another person than persons of his age in normal physical and mental health would require, or
- (b) persons of his age in normal physical and mental health would not require such guidance or supervision

(5) ..., circumstances may be prescribed in which a person is to be taken to satisfy or not to satisfy a condition mentioned in subsection (1)(a) or (d) or subsection (2)(a) above.

(5A) Subsection (4A) has effect subject to regulations made under subsection (5) (except as otherwise prescribed).

(6) Regulations shall specify the cases which fall within subsection (3)(a) and (b) above.

(7) A person who is to be taken for the purposes of section 72 above to satisfy or not to satisfy a condition mentioned in subsection (1)(b) or (c) of that section is to be taken to satisfy or not to satisfy it for the purposes of subsection (3)(c) above.

(8) A person shall not be entitled to the mobility component for a period unless during most of that period his condition will be such as permits him from time to time to benefit from enhanced facilities for locomotion.

(9) A person shall not be entitled to the mobility component of a disability living allowance unless —

- (a) throughout —
 - (i) the period of three months immediately preceding the date on which the award of that component would begin; or

(ii) such other period of three months as may be prescribed, he has satisfied or is likely to satisfy one or other of the conditions mentioned in subsection (1) (a) to (d) above; and

(b) he is likely to continue to satisfy one or other of those conditions throughout —

(i) the period of six months beginning with that date; or

(ii) (if his death is expected within the period of six months beginning with that date) the period so beginning and ending with his death.

(9A) The modifications mentioned in subsection (4A) shall have effect in relation to the application of subsection (1) for the purposes of subsection (9), but only —

(a) in the case of a person who is under the age of 16 on the date on which the award of the mobility component would begin, and

(b) in relation to so much of any period mentioned in subsection (9) as falls before the day on which he reaches the age of 16.

(10) Two weekly rates of the mobility component shall be prescribed.

(11) The weekly rate of the mobility component payable to a person for each week in the period for which he is awarded that component shall be —

(a) the higher rate, if he falls within subsection (9) above by virtue of having satisfied or being likely to satisfy one or other of the conditions mentioned in subsection (1)(a), (b) and (c) above throughout both the period mentioned in paragraph (a) of subsection (9) above and that mentioned in paragraph (b) of that subsection; and

(b) the lower rate in any other case.

(12) For the purposes of this section in its application to a person who is terminally ill, as defined in section 66(2) above, and who makes a claim expressly on the ground that he is such a person —

(a) subsection (9)(a) above shall be omitted; and

(b) subsection (11)(a) above shall have effect as if for the words from “both” to “subsection”, in the fourth place where it occurs, there were substituted the words “the period mentioned in subsection (9)(b) above”.

(13) Regulations may prescribe cases in which a person who has the use —

(a) of an invalid carriage or other vehicle provided by the Welsh Ministers under paragraph 9 of Schedule 1 to the National Health Service (Wales) Act 2006, or the Secretary of State under paragraph 9 of Schedule 1 to the National Health Service Act 2006 or under section 46 of the National Health Service (Scotland) Act 1978 or provided under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972; or

(b) of any prescribed description of appliance supplied under the enactments relating to the National Health Service being such an appliance as is primarily designed to afford a means of personal and independent locomotion out of doors,

is not to be paid any amount attributable to entitlement to the mobility component or is to be paid disability living allowance at a reduced rate in so far as it is attributable to that component.

(14) A payment to or in respect of any person which is attributable to his entitlement to the mobility component, and the right to receive such a payment, shall (except in prescribed circumstances and for

prescribed purposes) be disregarded in applying any enactment or instrument under which regard is to be had to a person's means.

Mobility component for certain persons eligible for invalid carriages

74.—(1) Regulations may provide for the issue, variation and cancellation of certificates in respect of prescribed categories of persons to whom this section applies; and a person in respect of whom such a certificate is issued shall, during any period while the certificate is in force, be deemed for the purposes of section 73 above to satisfy the condition mentioned in subsection (1)(a) of that section and to fall within paragraphs (a) and (b) of subsection (9) by virtue of having satisfied or being likely to satisfy that condition throughout both the periods mentioned in those paragraphs.

(2) This section applies to any person whom the Secretary of State considers —

- (a) was on 1st January 1976 in possession of an invalid carriage or other vehicle provided in pursuance of section 33 of the Health Services and Public Health Act 1968 (which related to vehicles for persons suffering from physical defect or disability) or receiving payments in pursuance of subsection (3) of that section; or
- (b) had at that date, or at a later date specified by the Secretary of State, made an application which the Secretary of State approved for such a carriage or vehicle or for such payments; or
- (c) was, both at some time during a prescribed period before that date and at some time during a prescribed period after that date, in possession of such a carriage or vehicle or receiving such payments; or
- (d) would have been, by virtue of any of the preceding paragraphs, a person to whom this section applies but for some error or delay for which in the opinion of the Secretary of State the person was not responsible and which was brought to the attention of the Secretary of State within the period of one year beginning with 30th March 1977 (the date of the passing of the Social Security (Miscellaneous Provisions) Act 1977, section 13 of which made provisions corresponding to the provision made by this section).

Persons who have attained pensionable age

75.—(1) Except to the extent to which regulations provide otherwise, no person shall be entitled to either component of a disability living allowance for any period after he attains pensionable age otherwise than by virtue of an award made before he attains that age.

(2) Regulations may provide in relation to persons who are entitled to a component of a disability living allowance by virtue of subsection (1) above that any provisions of this Act which relates to disability living allowance, other than section 74 above, so far as it so relates, and any provision of the Administration Act which is relevant to disability living allowance —

- (a) shall have effect subject to modifications, additions or amendments; or
- (b) shall not have effect.

Disability living allowance – supplementary

76.—(1) Subject to subsection (2) below, a person shall not be entitled to a disability living allowance for any period preceding the date on which a claim for it is made or treated as made by him or on his behalf.

(2) Notwithstanding anything in subsection (1) above, provision may be made by regulations for a person to be entitled to a component of a disability living allowance for a period preceding the date on which a claim for such an allowance is made or treated as made by him or on his behalf if he has previously been entitled to that component.

(3) For the purposes of sections 72(5) and 73(12) above where –

- (a) a person purports to make a claim for a disability living allowance on behalf of another;
and
- (b) the claim is made expressly on the ground that the person on whose behalf it purports to be made is terminally ill,

that person shall be regarded as making the claim notwithstanding that it is made without his knowledge or authority.