



counsel + care 
for older people, their families and carers

guide

Information from Counsel and Care: 3

Disability Benefits: Attendance Allowance and Disability Living Allowance

Attendance Allowance and Disability Living Allowance are non means-tested benefits for people who have health problems or have a physical or mental disability.

Attendance Allowance is a benefit for people aged 65 and over who need care or supervision. Disability Living Allowance is a benefit for people aged under 65 who need care or supervision, or who have mobility problems.

Counsel and Care is the national charity working with older people, their families and carers to get the best care and support. If you have found our service helpful, please consider making a donation or leaving a legacy in your Will. You can arrange this by telephoning 020 7241 8555 on our website www.counselandcare.org.uk.



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Your donations, legacies and payroll giving enable Counsel and Care to get the best care and support for older people, their families and carers

Counsel and Care is a national charity; however the creation of the Scottish Parliament, and the Welsh and Northern Ireland Assemblies means there are differences in the ways each country of the UK cares for and supports older people. The information in this guide applies essentially to England although there may be similarities with Scotland, Wales and Northern Ireland.

We also produce five separate guides for both Scotland and Wales covering the community care assessment of need process; paying care home fees and making a complaint which are the key areas where the policy and legislation differ significantly to England. All of the guides we publish can be downloaded from www.counselandcare.org.uk/advice-and-information or posted to you by calling the guide orderline on 020 7241 8522.

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1 Attendance Allowance

1.1 What is Attendance Allowance?

Attendance Allowance is a disability benefit for people who are 65 or over who are ill or disabled and need help with personal care or need supervision by another person to prevent them coming to harm.

It is important to note that the allowance is based on the help that you need - not the help you actually receive.

Attendance Allowance is a tax-free benefit paid by the Department for Work and Pensions. The Disability Benefit Unit makes the decision on new applications for Attendance Allowance. Claims are then passed to your local Disability Benefit Centre.

Attendance Allowance is not means-tested so it can be claimed whatever your income or savings. You do not have to have paid any National Insurance contributions.

1.2 Who can claim?

If you are 65 or over and are ill and/or disabled, you can claim Attendance Allowance. If you are nearly 65, you should claim Disability Living Allowance and not wait to claim Attendance Allowance, as Disability Living Allowance is a more generous benefit and continues beyond the age of 65 (see section 2). You can claim Attendance Allowance if you live alone or if you live with other people, regardless of whether you are working. Your claim is not affected by

whether or not you have a friend, relative or paid carer to look after you. If you receive Attendance Allowance, you do not have to use the money to pay for care, but if you receive services from your social services, Attendance Allowance will be taken into account to calculate your contribution towards your care package.

If you cannot manage your own affairs or you are confused, somebody else can make a claim for you on your behalf. There is a section on the claim form to fill in if you are claiming this benefit on behalf of another person.

Attendance Allowance is paid to you if you have a physical disability or mental health needs requiring supervision. To qualify for this benefit, you must have needed the care or supervision for six months before you claim. If you have a terminal illness, you can qualify from the time this was diagnosed (see section 1.6 on terminal illness for more information). You must also have lived in the UK for six out of the previous twelve months.

1.3 How to qualify

Attendance Allowance is paid if you need care or supervision because you have a disability. Care in this context means help with personal care. This is help to carry out day-to-day personal tasks, such as getting washed and dressed or using the toilet. Supervision means that you need somebody with you in case you injure or harm yourself or someone else. Look at the checklist below to see if you might qualify. This is not a complete checklist but gives some idea of who might qualify.

If you have difficulties with any of the following activities you should think about claiming Attendance Allowance:

- Getting dressed or undressed
- Taking baths or showers
- Washing, shaving or cleaning your teeth
- Brushing or washing your hair
- Using the toilet or dealing with incontinence (such as buying pads)
- Taking medication or receiving medical treatment
- Mobilising, which includes walking, standing or using stairs
- Sitting down or getting out of a chair
- Getting in or out of bed, or turning over in bed
- Preparing a hot meal

OR

- You are unsteady on your feet
- You might fall or have accidents
- You cannot see or hear very well
- You get confused or forgetful
- You might have a seizure or dizzy turn
- You find it difficult to control your behaviour
- You cannot be left alone

To be eligible for Attendance Allowance you must meet at least one of four conditions:

During the day you must be seen as needing assistance from another person for:

- Frequent attention throughout the day in connection with bodily functions; or
- Continual supervision throughout the day in order to avoid substantial danger to yourself or others.

During the night you must be seen as needing assistance from another person for:

- Prolonged or repeated attention in connection with your bodily functions; or
- A prolonged period, or at frequent intervals, for the purpose of watching over you to avoid substantial danger to yourself or others.

1.4 How much you will receive

Depending on which conditions you meet, you will be paid either the lower rate or higher rate of Attendance Allowance.

The lower rate is £49.30 a week. This is paid if you need help either during the day or during the night, which means that you have met either one of the day conditions or one of the night conditions.

The higher rate is £73.60 a week. You are paid this rate if you need care or supervision during both the day and night, which means that you have met one of the day conditions and one of the night conditions.

If you are not sure whether to make a claim, contact Counsel and Care's advice service (tel.: 0845 300 7585; www.counselandcare.org.uk) or another advice agency such as your local Age UK or Citizens Advice Bureau.

1.5 How to claim

You can claim Attendance Allowance by filling in form AA1A from the Department for Work and Pensions. You can obtain a claim form by telephoning the Benefits Enquiry Line (tel.: 0800 88 22 00) or download a form from the government website: www.direct.gov.uk. Attendance Allowance cannot be backdated but, if you provide your national insurance number over the phone when you request a form, the claim will start from the date you request the form, rather than from the date you return the completed form.

Staff at the Benefits Enquiry Line can complete the form with you over the phone and post it back for you to check and sign. If you are filling in the form yourself, and want some assistance or advice, an agency such as your local Citizens Advice Bureau (www.citizensadvice.org.uk) or local Age UK (tel.: 0800 169 6565; www.ageuk.org.uk) can assist or may be able to arrange for someone to visit you in your own home to help you complete the form. Your local council social services welfare section might also be able to help you or put you in touch with someone who can help.

For more information about making a claim for Attendance Allowance, contact the Benefits Enquiry Line (tel.: 0800 88 22 00). If you are already receiving a disability benefit but wish to discuss your claim call the Attendance Allowance Unit helpline (tel.: 08457 123 456).

2 Disability Living Allowance

2.1 What is Disability Living Allowance?

Disability Living Allowance is presently the disability benefit available for people who are under 65 who need help looking after themselves or find it difficult to mobilise. The government is planning to replace Disability Living Allowance with a new Personal Independence Payment. The new benefit will be implemented by 2013/14, but so far there have been few details of how the new benefit will be phased in.

To receive Disability Living Allowance you don't need to be actually receiving help or services from your local council. Once you are awarded Disability Living Allowance, it can continue to be paid after you reach 65.

As with Attendance Allowance, Disability Living Allowance is tax-free and not affected by income tax or your savings, earnings or other benefits. New claims are decided by the Disability Benefit Unit. Claims are then passed to your local Disability Benefit Centre. To claim Disability Living Allowance, you have to have needed the help for three months and be likely to need the help for at least another six months, or have a terminal illness (please refer to section 5).

2.2 How you qualify

Unlike Attendance Allowance, Disability Living Allowance is divided into two components: care and mobility.

Care component

There are three rates for the care component:

- a) Lower **£19.55**
- b) Middle **£49.30**
- c) Higher **£73.60**

The higher rate is paid if you need care or supervision during the day *and* night. The middle rate is paid if you need the help during the day or night. The lower rate is paid if you cannot cook a hot main meal or you need help for about an hour a day. This could be for 30 minutes in the morning and 30 minutes in the evening.

Mobility component

There are two rates for the mobility component.

- a) Higher **£51.40**
- b) Lower **£19.55**

Higher rate mobility component

The higher rate mobility component may be paid if you satisfy any of the following conditions:

- You cannot walk at all
- You are virtually unable to walk
- You are deaf and blind
- You are registered or certified as severely sight impaired (a recent addition from 11th April 2011)
- The effort of walking could be dangerous for you

- You are severely disabled and cannot control your behaviour.

Lower rate mobility component

The lower rate mobility component may be paid if you are able to walk but, due to a mental or physical disability, cannot walk outside in an unfamiliar area without guidance or supervision.

2.3 How to claim

You can claim Disability Living Allowance by filling in form DLA1A obtained by telephoning the Benefits Enquiry Line (tel.: 0800 88 22 00) or the Disability Living Allowance Helpline (tel.: 08457 123 456) or by downloading the form from the government website: www.direct.gov.uk. For advice on filling in the form, see section 1.5 about Attendance Allowance.

You should receive notification of whether you have been successful within 39 working days. If you are claiming and you have a terminal illness, you should receive notification within eight working days. For further information please refer to section 5.

Disability Living Allowance cannot be backdated.

2.4 How long will the award last?

Disability Living Allowance is given either for a fixed period or an indefinite period. If you get both a mobility and a care component, they will both be awarded for the same amount of time.

Although you cannot be given a mobility component if you are 65 or over, if someone is awarded the mobility component before the age of 65, it can continue until the end of the fixed period or until the end of your life.

If you are 65 and over and you were given a mobility component for a fixed period that is coming to an end, you will normally be sent a claim pack to renew your award. You must renew within a year in order to continue receiving Disability Living Allowance, otherwise you will need to claim Attendance Allowance.

2.5 Motability Scheme

If you get the higher rate mobility component, you may be able to get a car, scooter or electric wheelchair under the Motability Scheme (tel.: 0845 456 4566 for the car scheme or 0845 607 6260 for the wheelchair and scooter scheme; www.motability.co.uk).

You do not have to pay Road Fund Licence (Road Tax) if you get the mobility component. You should also contact your local council to apply for a 'Blue Badge', which allows you to park in restricted places.

3 Filling in the forms

Take your time to fill the forms in the claim pack and try and write something in every large white box that applies to you. Remember, your claim form is usually the only information the Disability Benefits Unit has to reach a decision about whether you qualify. It is important to give as many details of your difficulties as possible, including the time it takes you and how many times you may need help (even if you do not have anyone to help you) so that they can get a clear picture of your problems.

Here are some additional tips for you to consider when filling in the forms:

- Keep in mind that a medical diagnosis alone will not win you a disability benefits award. If you have a medical condition or diagnosis, give its medical name if you know it and explain how this affects your day to day life and the difficulties you experience in undertaking your daily living activities. Don't assume that the decision-maker knows about your condition or its symptoms and effects.
- Ask for help from family, friends or carers, as they know you well, to help you fill in the form. Some people find they have lived so long with their disability, or that their difficulties have increased over a prolonged period of time, that it is easy for them to overlook or underestimate their problems. It can help to have someone else's view. It may help to keep a diary of your everyday activities, recording the problems you face during the day and night.

- Remember that for Attendance Allowance and Disability Living Allowance, the Disability Benefits Unit is interested in what you *cannot* do, not what you can do. If you struggle to do things, find them painful or it takes you a long time, you should emphasise this on the form.
- You should answer as many questions as possible and put down as much detail as you can, even about things that you find embarrassing or seem too trivial. Give examples of your difficulties, such as if you have fallen or hurt yourself trying to do tasks. It can be useful to include supporting letters from your GP or your consultant.
- It is important to provide your GP's contact details and permission to contact them or it may delay your claim.
- If there are things you avoid doing because it is difficult for you, put this on the form.
- At some times, you are able to do more for yourself than at other times. Do not fill in the form as if it was one of your best days. Include in the form the details of the help you need on bad days and say how often this happens.

Once you have filled in the claim forms, you should send them to the Disability Benefit Unit in the pre-paid envelope that is in the claim pack. If you have downloaded the form from the internet, you can find the address for your local Disability Benefit Unit at the back of the form.

4 Examples of who may qualify

Examples of people who may qualify for a disability benefit:

- Miss Robinson had a stroke a year ago. She manages quite well living alone but she is unsteady on her feet and has experienced several falls. Since her most recent fall, Miss Robinson has lost her confidence in going out of the house on her own. Miss Robinson now tends to use her furniture to lean on as she moves around her home to try and keep her balance. She is now unable to carry plates and hot drinks.
- Mr Philby has arthritis in his hips, knees and hands. Mr Philby has always been very independent but now finds that it takes him so much longer to undertake his daily tasks. One example of this is that when Mr Philby walks to his local shop to buy groceries, he has to stop regularly to rest. The shop is only about 180 metres away but Mr Philby needs to rest two or three times, using the seat at the bus stop and sitting on garden walls.
- Mrs Nessa was diagnosed with diabetes some years ago and now needs regular insulin injections. She also takes other regular medication. However, Mrs Nessa has become increasingly forgetful and has started to forget when she needs her insulin injection and when to take her tablets.
- Mr Hamilton needs regular renal dialysis at home. He needs help and supervision from his wife each time he has this treatment.
- Mr David is 93, is frail and neglects himself. He needs prompting to eat, drink, wash or change his clothes. Mr David has now stopped using his bed and sleeps in his clothes sitting in his armchair. His ankles are swollen and he has sores breaking out on his legs.

5 If you have a terminal illness

There are special rules which help people who have a terminal illness get their benefit as quickly as possible. The special rules are for people who have a progressive disease where there are fears that their life expectancy may be limited to six months or less. Claims under the special rules are not subject to the six month qualifying period and claims should be dealt with within 15 days, without the need for a medical examination.

You do not have to fill in the whole form but you do need to tick the box that says you are claiming under the special rules. You should ask your doctor or consultant to complete a DS1500 form, which gives details of your condition. This form should be provided free of charge and provides the necessary information required to process your application. If you have a completed DS1500 form to support your application, you do not need to complete all of the Attendance Allowance form, or the care component section of the Disability Allowance form. You will automatically be awarded the higher rate of Attendance Allowance or the higher rate of the care component of Disability Living Allowance (if you are under 65).

Awards made under the special rules since September 2006 are awarded for a fixed period of 3 years and reviewed at the end of this period. Awards made under the special rules before September 2006 were awarded for life. However, since October 2007 the Department for Work and Pensions has introduced a review of special rule awards that have been in place for more than three years. If you are 85 or over, you will be exempt from this review.

If you are caring for someone who is terminally ill but who does not know how seriously ill they are, you can claim on their behalf. The benefit will still be paid directly to the person who is ill but there will be no indication on the award of their prognosis.

6 Being awarded a disability benefit

You should hear the result of your claim within one to two months. Most claims are decided on the basis of the information on the form but, in a few cases, a doctor will visit you to obtain more details or they will write to your GP. You will be informed in writing if you have been awarded Attendance Allowance or Disability Living Allowance, and the rate that you are eligible for.

You can use your weekly benefit to buy anything you want; you do not have to use it to pay for care or help. If you receive services from your local social services while living in your own home, then your Attendance Allowance, or the care component of Disability Living Allowance, will be taken into account in your financial assessment. However, any expenses incurred by yourself because of your disability, such as incontinence pads or a special diet, should be deducted from your assessed income.

6.1 How disability benefits affect your other benefits

Attendance Allowance and Disability Living Allowance are not included in the calculation for Pension Credit, Housing Benefit or Council Tax Benefit. In many cases, being awarded Attendance Allowance or Disability Living Allowance means you are entitled to more of these benefits, especially if you live alone, or the person who lives with you also receives Attendance Allowance or Disability Living Allowance.

If you are already in receipt of Pension Guarantee Credit, Housing Benefit or Council Tax Benefit and you start to receive Attendance Allowance or Disability Living Allowance, you should inform the Benefit Offices straight away, as receiving a disability benefit may increase the amount you receive.

If you do not already claim Pension Credit, Housing Benefit or Council Tax Benefit, then you should check whether you are now eligible for these benefits, as receiving Attendance Allowance or Disability Living Allowance makes it more likely you would qualify for these benefits.

If you have a carer and you are awarded Attendance Allowance or Disability Living Allowance, your carer may now be entitled to Carer's Allowance or have an 'underlying entitlement' to Carer's Allowance. If your carer claims Carer's Allowance, it can have an effect on both their benefits and yours, so it is advisable to seek advice before making a claim. For further information about Carer's Allowance and to obtain a claim form (DS700) please contact the Benefit Enquiries Line (tel.: 0800 88 22 00). You may also want to see our guide:

Carers: What support is available? (guide number 10).

7 If you are turned down for a disability benefit

If your claim is refused, you can ask for a written or spoken explanation of reasons for the decision, a revision, or lodge an appeal against the decision. You have one calendar month to challenge the decision but this can be extended if there are special circumstances for the delay. You can lodge an appeal using a GL24 form. The form is available from:

<http://www.dwp.gov.uk/docs/gl24dwp.pdf>

Alternatively, you can ask for the original decision to be superseded but you must give a reason why this should be done. For instance, you might ask for the original decision to be superseded because your care needs have increased since your original application.

At this stage it may be best to seek support from an advice agency such as a Citizens Advice Bureau (www.citizensadvice.org.uk) or your local Age UK (tel.: 0800 169 6565; www.ageuk.org.uk). An advice agency can help to draft a letter of appeal on your behalf and help you explain why you disagree with the decision. If you can, send medical evidence or a supporting statement from your doctor or your consultant to help with your appeal.

8 If your needs or situation changes

If your needs change you should contact the Disability Benefits Unit dealing with your claim. If you already receive the low rate of Attendance Allowance or the low or medium care component of Disability Living Allowance but anticipate that you will need a higher level of care or supervision, your award may be increased to the higher rate. For Attendance Allowance, you need to meet the criteria for the higher rate for the six month qualifying period before it will be paid (although you can apply for the increase before the six months are up). For Disability Living Allowance, you need to qualify for the higher rate for three months before it will be paid.

If you are receiving Disability Living Allowance after the age of 65 (see section 2) and your condition changes then you can become eligible for the medium or higher rate of the care component. If you are over 65 and receiving only the care component of Disability Living Allowance, you can only apply for the mobility component if you can prove that you met the qualifying conditions before the age of 65.

8.1 If you go into hospital or a care home

Hospital

Your Attendance Allowance or Disability Living Allowance will be stopped after 28 days if you are admitted to an NHS hospital, or similar type of facility (for example, a care home where you are fully funded by the NHS). It will re-start as soon as you return home. You will need to let the Disability Benefits Unit know the date you are discharged from hospital. If you were

not receiving Attendance Allowance or Disability Living Allowance before going into hospital you can claim while you are there but you will not receive payment until you go home and you must have had the needs for the qualifying period.

Care home

If you live in a private or voluntary-owned care home and you receive help towards the fees from the council social services (permanently or under the twelve week disregard), your Attendance Allowance or the care component of Disability Living Allowance will stop after 28 days. At the moment, the mobility component of Disability Living Allowance is not affected by moving into a care home but from April 2012, if you receive help from the council to fund your care home placement, the mobility component and the care component will both stop after 28 days.

If you have entered into a deferred payments arrangement to cover the period whilst your property is being sold, you are still entitled to receive Attendance Allowance (or Disability Living Allowance) and Pension Guarantee Credit. If you have entered into a deferred payments arrangement but do not have your property on the market, you are still entitled to receive Attendance Allowance but not Pension Guarantee Credit.

If you are paying your own fees, or you arranged your own placement independently of the council social services and they are not providing financial help towards the fees, it is important to claim Attendance Allowance (or Disability Living Allowance if you are under 65) to help with the cost of

the care home fees. You should usually get the higher rate if you have 24-hour care and/or supervision needs, but you may get the lower rate if you are self-funding your care home placement and you have needs during the day or night, but not both (see section 1.4 for more information).

If you are receiving care paid for by the NHS (called NHS Continuing Healthcare), you are not entitled to receive Attendance Allowance.

For further information please see our guide:

Care Home Fees: Paying them in England (guide number 16).

8.2 Respite care and temporary stays

You can only receive Attendance Allowance for the first 28 days after you are admitted to an NHS hospital, care home or an independent hospital that is provided with funding from a local authority or the NHS. The 28 days can be continuous or for short temporary or respite stays which add up to 28 days (the days when you go into and come out of respite care do not count for this purpose). These 'linking' rules also apply when you move in and out of hospital or respite care because of a fluctuating condition.

Once these 28 days have been used up, you must be out of hospital or a care home for at least 29 days before you can be paid Attendance Allowance or the care component of Disability Living Allowance for another 28 days of respite care. Therefore it is important to notify the Disability Benefit Unit if there are any changes in your situation.

8.3 Living or moving abroad and claiming Attendance Allowance or Disability Living Allowance

In 2007, the European Court of Justice ruled that certain disability and carers' benefits should be viewed as sickness benefits and may be paid to people who leave the UK to live elsewhere in the European Economic Area (EEA) or Switzerland. The new ruling refers to Attendance Allowance, the 'care component' of the Disability Living Allowance, and Carer's Allowance. Prior to this ruling, you could only continue to receive Attendance Allowance and Disability Living Allowance for up to 26 weeks if your absence from the UK was temporary. The exception to this was if you went to another EEA country and your Attendance Allowance or Disability Living Allowance entitlement began before 1st June 1992 and you met the other conditions of entitlement.

If you go abroad permanently to a non-EEA country, then your Attendance Allowance and Disability Living Allowance will stop.

If your Attendance Allowance or Disability Living Allowance stopped while you were abroad, you may experience difficulties with re-qualifying for benefits if you have been away for more than 26 weeks. You can get further advice from the disability benefits helpline (tel.: 08457 123 456). For more information see our guide

Moving to and returning from abroad: benefits and services (guide number 5).

9 Independent Living Fund

The Independent Living Fund (ILF) is money provided by the Government to help severely disabled people live independently rather than in residential care. It is money available to employ someone to support a disabled person in their own home. Unfortunately, the fund was shut to new applicants in 2010 due to funding issues, and will now be permanently closed to new applicants. Payments to existing users are to continue until 2015, when the fund will be phased out completely. For further information, if you are an existing user, please contact the Independent Living Fund (tel.: 0845 601 8815 ; www.ilf.org.uk).

Our advice workers can advise on a wide range of issues affecting older people, their relatives and carers. Counsel and Care produce a range of guides which can be downloaded from our website www.counselandcare.org.uk, or requested by calling our guide orderline on 020 7241 8522.

This guide is not a full explanation of the law and is aimed at people over 60.

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Registered Charity No. 203429 Counsel and Care for the Elderly

We are a member of the Federation of Information and Advice Centres (FIAC)

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