

STATES OF JERSEY



DRAFT INCOME SUPPORT (SPECIAL PAYMENTS) (CHILD PERSONAL CARE) (JERSEY) REGULATIONS 201- (P.90/2014): AMENDMENT

Lodged au Greffe on 12th June 2014
by Deputy J.A. Martin of St. Helier

STATES GREFFE

PAGE 9, REGULATION 2 –

For Regulation 2 substitute the following Regulation –

“2 Special payment for child personal care

- (1) Subject to paragraph (2), the Minister may make a special payment to any household in which –
 - (a) a member of the household is a child who –
 - (i) meets the requirements for the impairment component under paragraph 5 of Schedule 1 to the 2007 Regulations, and
 - (ii) but for being a child, meets the criteria for the rate payable in respect of the personal care element of the impairment component for an adult under paragraph 6(3) of Schedule 1 to the 2007 Regulations; and
 - (b) another member of the household is an adult who meets the requirement under Article 2(1)(b) of the Income Support (Jersey) Law 2007,
to defray general expenses in respect of the personal care of that child.
- (2) The amount of the special payment under paragraph (1) shall be the same as that payable to an adult who meets the criteria for the rate payable in respect of the personal care element of the impairment component under paragraph 6(3)(a), (b) or (c) of Schedule 1 to the 2007 Regulations, as the case may be.”.

DEPUTY J.A. MARTIN OF ST. HELIER

REPORT

My amendments to the Minister's draft Regulations, if accepted, will take Personal Care provision 1 and 2 for disabled children out of Income Support.

The introduction of a fully means-tested, household benefit has been endorsed by the States several times since May 2000. The Income Support benefit was designed, in line with these decisions, to provide for a variety of costs, including the cost of disability. However, following the shift to this entirely means-tested, household benefit, it was acknowledged that households that included a child with a severe illness or disability constituted a distinct group with unusual and particular financial needs.

At the introduction of Income Support, many families qualified for the new benefit, and received an additional allowance for a child who qualified for the highest level of the personal care element of the Income Support medical component (Personal Care level 3; henceforth abbreviated to PC3). Other households were awarded a generous provision in the Income Support transitional arrangements that preserved the value of their disability benefit regardless of parental income or assets. Since then, successive Ministers have made payments equivalent to the value of PC3 (currently £145.25 per week) to other parents of children with these high-level care needs who are under school-leaving age but who do not qualify for the Income Support scheme. These payments have been made by the Minister as exceptional payments under Article 8 of the Law.

Prior to the introduction of the Income Support benefit, children with the highest level of disability were awarded Attendance Allowance. This benefit was subject to an income bar, but as the income test was imposed on the child, rather than the household, it was more or less universally available.

The first paragraph above states that the introduction of a fully means-tested household benefit has been endorsed by the States several times since May 2000.

This is not the case, The States have never discussed if the benefit for a child with a disability should be theirs in their own right or means-tested on parents' income. This amendment is all about this principle. States Members were told at the introduction of Income Support that there would be winners and losers, but have the States targeted the right people?

For some background information: Deputy G.P. Southern of St. Helier, former Deputy S. Pitman of St. Helier and myself were on the original Scrutiny Panel which looked at the introduction of Income Support. We worked with the Minister and he worked well with the Panel and our adviser. We did have some challenges, but most were worked through, and there was also Island-wide consultation.

Approximately 3 months before the debate, the Panel were asked to attend a meeting with parents at Mont à l'Abbé School. These parents had just realised what effect this wholly new means-tested scheme would have on their children and their ability and difficulty in supporting them without this money. After much discussion, and as the debate on Income Support drew closer, the then Minister for Social Security told the parents involved that all the children already receiving Attendance Allowance (as it

was then called) could keep it until a child reached the age of 16. They could then claim for themselves under the new Income Support scheme.

The Minister's report accompanying P.90/2014 also states that other households were awarded 'a generous provision in the Income Support transitional arrangements that preserved the value of their disability benefit regardless of the parent's income'. This was done to reflect the above decision. I would question the word 'generous' as it is not above the level 3 payment.

There was also an assurance that a review would be undertaken so that all children with disabilities would be treated the same. The outcome of this review has never come to the States. I would presume that some work has been done, and this is why the Minister has decided to take PC3 out of Income Support. This will give Child Personal Care level 3 to all children with the highest disability, regardless of their parents' income.

With the Minister's amendment, we are left with the fact that children with a disability are not treated the same. We have a mess; we have some covered under the old scheme, we now have the proposal to take PC level 3 out and leave the others in.

Is this the way to treat children with a disability and their families that need all the support we can give them?

We must remember that children with disabilities and their families in Jersey are, in the main, known to each other. The system we have now and the one the Minister is planning will continue to divide these families. Some can have this benefit and others will have to ask for exceptional payments under Article 8 of the Law. This will happen when Personal Care level 3 is taken out of Income Support. It will leave the Minister for Social Security in the position of deciding on an individual's circumstances on a case-by-case basis.

Children with disabilities in our Island who are just below PC level 3 under the Minister's amendment, and whose parents are just over the Income Support income level, will not receive the benefit, **unless the parent makes a very good case to the Minister.**

- Level 1 is £22.96
- Level 2 is £101.15
- Level 3 is £145.25.

There is a big financial jump from level 1 and 2, but not that much between 2 and 3, and if my amendments are not accepted, many children who fall just short of level 3 will be assessed on their parents' income. Families who have more than one child with a disability below level 3 will also fall outside the benefit as amended by the Minister.

Do States Members want this situation to continue?

What we have now is a child with a disability who is assessed below level 3 and the parents' income is above the Income Support level = No payment of benefits.

Parents needing to go to the Minister (as Personal Care level 3 do now) and make their case for an exceptional payment under Article 8 of the Law for their child (some receiving this and others not).

Can it be right to force some families who have a child with a disability to have to make their case for extra financial help to the Minister? Do States Members want this inequitable system to continue? These families already face very real challenges on a daily basis.

It is for you to decide, but hopefully now that the current system has been laid out, I hope that the States Assembly will support my amendments.

Attached at the **Appendix** to this report is the guide to the Disability Living Allowance (DLA) for children from www.gov.uk. This is not means-tested on the parents' income, and the levels – Low, Medium and High – are practically the same amount in money as our levels 1, 2 and 3, and go to the child.

Financial and manpower implications

It is difficult to estimate this cost without undertaking detailed research in respect of the prevalence of disability and long-term conditions amongst local children. A budget of at least £750,000 should be allowed until more accurate data is available. This sum would need to be met from other tax-funded benefits within the Minister for Social Security's budget and transferred into the Personal Care Fund for Children.



Disability Living Allowance (DLA) for children, a guide from GOV.UK from GOV.UK

NOTES

1. Overview

Disability Living Allowance (DLA) for children may help with the extra costs of looking after a child who:

- is under 16
- has difficulties walking or needs more looking after than a child of the same age who doesn't have a disability

They will need to meet all the [eligibility requirements](#).

The DLA rate is between [£21.55 and £138.05](#) a week and depends on the level of help the child needs. The child may need an [assessment](#) to work out what help they need.

2. DLA rates for children

Disability Living Allowance (DLA) for children is a tax-free benefit made up of 2 components (parts). The child might [qualify](#) for one or both components.

Care component

Care component	Weekly rate
Lowest	£21.55
Middle	£54.45
Highest	£81.30

Mobility component

Mobility component	Weekly rate
Lower	£21.55
Higher	£56.75

How DLA for children is paid

DLA is usually paid every 4 weeks.

All benefits, pensions and allowances are paid [into an account](#), eg your bank account.

Extra help

You might qualify for [Carer's Allowance](#) if you spend at least 35 hours a week caring for a child who gets the middle or highest care rate of DLA.

Change of circumstances

You must contact the [Disability benefits helpline](#) as soon as the child's circumstances change - this can affect how much they get. For example, their disability gets worse or they go abroad for medical treatment.

Their DLA won't usually be affected if they go:

- into a local authority care home for less than 28 days
- into a hospital for less than 84 days
- abroad for less than 13 weeks
- abroad for less than 26 weeks to get medical treatment for a condition which began before they left

3. Eligibility

Usually, to qualify for Disability Living Allowance (DLA) for children the child must:

- be under 16
- need extra looking after or have walking difficulties
- be in Great Britain, another European Economic Area (EEA) country or Switzerland when you claim - there are some exceptions, eg family members of the Armed Forces
- have lived in Great Britain for 2 out of the last 3 years if over 3 years old
- be allowed to enter or stay in the UK

! You can claim DLA for children if you're in or out of work.

Children under 3

A child under 6 months must have lived in Great Britain for at least 13 weeks.

A child aged between 6 months and 3 years must have lived in Great Britain for at least 26 of the last 156 weeks.

! The rules on residence do not normally apply if a child is terminally ill.

The child's disability or health condition

The child's disability or health condition must mean one or both of the following apply:

- they need more looking after than a child of the same age who doesn't have a disability
- they have difficulty getting about

They must have had these difficulties for at least 3 months and expect them to last for at least 6 months. If they're terminally ill (ie not expected to live more than 6 months), they don't need to have had these difficulties for 3 months.

Care component

The rate the child gets depends on the level of looking after they need eg:

- lowest rate - help for some of the day or night
- middle rate - frequent help or constant supervision during the day, supervision at night or someone to help while they're on dialysis
- highest rate - help or supervision throughout both day and night, or they're terminally ill

Mobility component

The rate the child gets depends on the level of help they need getting about eg:

- lowest rate - they can walk but need help and or supervision when outdoors
- highest rate - they can't walk, can only walk a short distance without severe discomfort, could become very ill if they try to walk or they're blind, severely sight impaired

Assessments

You might get a letter saying the child needs an assessment to check their eligibility. The letter explains:

- why and where they must go
- what paperwork you must bring, eg a passport or birth certificate as proof of identity for yourself and the child.

4. How to claim

Use the [DLA claim form](#) to apply for Disability Living Allowance (DLA) for children under 16. The form tells you where to send your application.

You can order a printed form by telephoning the Disability Living Allowance helpline.

Disability Living Allowance
Telephone: 0845 712 3456
Textphone: 0845 722 4433
Monday to Friday, 8am to 6pm
[Find out about call charges](#)

What you need to know

DLA can only be claimed for children under 16 - anyone over 16 must apply for [Personal Independence Payment](#).

You can claim DLA for a child as long as you look after them as if you're their parent. 'Parent' includes step-parents, guardians, grandparents, foster-parents, and even older brothers or sisters.

DLA can't be backdated. The date of your claim will usually be the date the form is received or the date you call the enquiry line (if you return the claim pack within 6 weeks).

It usually takes 40 working days to deal with a DLA claim.

The child may need an [assessment](#) to complete the application.

Terminal illness

There are special rules if the child is not expected to live more than 6 months, so they can get DLA more quickly. You must:

- complete a [DLA claim form](#)
- include a DS1500 medical condition report with your claim form or send it soon after - these are free and you can only get them from a doctor, specialist or consultant

Appeal a decision

You can [appeal](#) a decision about your Disability Living Allowance if you're unhappy with it.

5. When your child turns 16

Your child may be affected by [Personal Independence Payment](#) (PIP) when they turn 16. This is a new benefit that's replacing Disability Living Allowance (DLA) for people aged 16 to 64.

Use the [PIP checker](#) to find out what happens to their DLA when they turn 16.

Terminal illness

Usually, children awarded DLA under the rules for people who are terminally ill won't be affected by PIP.

Moving from DLA to PIP

Children living in Wales, East Midlands, West Midlands and East Anglia who turn 16 on or after 7 October 2013 will be invited to claim PIP.

You'll be sent a letter at least 5 months before they turn 16 explaining:

- what will happen to their DLA
- how and when they can claim PIP

This also applies if their postcode begins with:

- DG (Dumfries and Galloway)
- EH (Edinburgh)
- TD (Galashiels)
- ML (Motherwell)
- CA (Carlisle)
- DL (Darlington)
- HG (Harrogate)
- LA (Lancaster)

- YO (York)

When they apply for PIP

They can apply for PIP when asked (even if they get an indefinite or lifetime DLA award). Their DLA will continue for at least 28 days after the decision is made about their claim.

Their DLA will end if they decide not to apply.

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