

Personal Independence Payment

4. Supplementary payments



Law Centre (NI)

At a glance

Personal Independence Payment is a new benefit introduced in Northern Ireland on 20 June 2016.

From that date it has not been possible for a person aged 16 to 64 to make a claim for Disability Living Allowance (DLA) and they have had to claim PIP instead.

This briefing is aimed at:

- advisers who are assisting claimants in receipt of DLA and who may be financially disadvantaged following transition to PIP.

It explains what Supplementary Payments are available and the conditions of entitlement.

Law Centre (NI)

- promotes social justice and provides specialist legal services to advice organisations and disadvantaged individuals
- in five areas of law: social security, community care, mental health, employment, trafficking and asylum
- through advice, casework, training, information and policy services

Our advice line

9.30 to 1pm, Monday to Friday: 9024 4401

Introduction

Personal Independence Payment (PIP) is a new benefit which was introduced in Northern Ireland on 20 June 2016. It has replaced Disability Living Allowance (DLA) as the main benefit paid to disabled people of working age (16-64) who need help getting around and/or with daily living activities.

If you were aged over 65 on 20 June 2016 and were in receipt of DLA your DLA will continue to be paid as usual.

If you are claiming for a child who is aged under 16, DLA will continue until the Department for Communities (the Department) writes to you to invite you to apply for PIP instead.

If you are making a new claim for a child under 16 you will still apply for DLA.

See Law Centre (NI) information briefings *Personal Independence Payment 1, 2 and 3* for more detail on PIP, how to apply and the transition from DLA to PIP. The full list of these briefings and where they can be found is available on page 10.

Welfare reform mitigations

To address concerns that the most vulnerable people in our society would be unduly disadvantaged by the changes coming through welfare reform, Northern Ireland has secured additional funding in order to put in place a series of mitigations to try to alleviate the immediate impact.

Parts of these mitigations are directed at people who are in receipt of DLA and who, as part of welfare reform, will be required to instead claim PIP.

The mitigations mainly consist of supplementary payments for those who lose out financially as a result of welfare reform.

Supplementary payments for people moving from DLA to PIP

There are three types of supplementary payments available to people who are in receipt of DLA and are assessed for entitlement to PIP. These are:

- Pending Appeal Supplementary Payment
- Supplementary Payment where PIP award is lower than previous DLA award
- Conflict-related Injury Supplementary Payment

A person can only be entitled to one supplementary payment at a time. Although not specifically stated in the regulations, it is assumed that people will receive whichever

payment is most beneficial to them if their circumstances mean they may be entitled to more than one.

1. Pending appeal supplementary payment

To be entitled to this payment, the person must:

- be in receipt of DLA at any rate on the day s/he receives a notification to claim PIP or voluntarily decides to claim PIP; **and**
- the claim to PIP is refused and no award of benefit is made; **and**
- the person has appealed the PIP decision and is awaiting for the appeal to be heard by a tribunal.

Where a person has requested a Mandatory Reconsideration of the PIP decision, the supplementary payment will not be available until the person has received a decision on the Mandatory Reconsideration and then submitted an appeal against it. As appeals are now made directly to the Appeals Service instead of the benefit office, it may be useful to also inform the PIP office that the person has made an appeal. For more information on Mandatory Reconsideration, see Law Centre (NI) briefing *Mandatory Reconsideration and Direct Lodgement of Appeals*: <http://www.lawcentreni.org/Publications/Law-Centre-Information-Briefings/Mandatory-reconsideration-Law-Centre-NI-information-briefing-May-2016.pdf>.

1.1 Amount

This supplementary payment is paid at the equivalent of whatever the person's previous award of DLA was.

Supplementary payments are paid 4 weekly in arrears.

1.2 How long is it paid for?

The payment starts on the day after the person's entitlement to DLA ceases.

The supplementary payment will end:

- when the tribunal decides the appeal (see below as the person may be entitled to another supplementary payment), **or**
- if the PIP decision is revised or superseded in the person's favour before being decided by the tribunal, **or**
- at the latest, on 31 March 2020.

1.3 Supplementary Payment while appealing to the Social Security Commissioner

Where a person has appealed a benefit decision and received a decision from an appeal tribunal s/he has the right to appeal the tribunal's decision to the Social Security Commissioner.

A further supplementary payment is available to persons who were receiving a supplementary payment while waiting for a tribunal to decide their appeal and are now appealing to the Commissioner. This payment is only available where:

- the decision of the tribunal was that the person was entitled to no award of PIP (see below if the tribunal awarded some amount of PIP), **and**
- the person has been granted leave to appeal to the Commissioner.

This supplementary payment is again paid at the same level of the person's previous DLA award. The payment starts the day after the tribunal or Commissioner grants leave to appeal. It will continue until the Commissioner makes a decision on the appeal or until 31 March 2020, whichever comes first.

If the Commissioner remits the case back to a new tribunal to decide the appeal again, the supplementary payment will continue until the new tribunal makes a decision on the appeal.

Anyone who is considering appealing a tribunal decision to the Social Security Commissioner should contact our advice line for assistance.

2. Supplementary payment where pip award is lower than previous DLA award

To be entitled to this payment, the person must:

- be in receipt of DLA at any rate on the day s/he receives a notification to claim PIP or voluntarily decides to claim PIP; **and**
- be awarded PIP but at a lower amount than the person was previously receiving from DLA.

In order to receive this payment the difference between the original DLA award and the PIP award must be at least £10 per week.

2.1 Amount

This supplementary payment is 75% of the difference between the old DLA award and the new PIP award.

Supplementary payments are paid 4 weekly in arrears.

2.2 How long is it paid for?

The payment starts on the day after the person's entitlement to DLA ceases.

The supplementary payment lasts for 1 year from the date it was first paid or up to March 2020, whichever comes first.

2.3 Changes in circumstances

If a person's circumstances change during the year that s/he is in receipt of this supplementary payment, the amount or eligibility for payment can be affected.

If a person loses entitlement to PIP altogether or the difference between the new PIP award and the old DLA falls to less than £10, the supplementary payment will stop.

If a person's entitlement to PIP increases then the amount of the supplementary payment must be recalculated using the new amount and the supplementary payment will be reduced accordingly.

If a person's entitlement to PIP decreases, the amount of the supplementary payment remains the same and cannot be increased.

2.4 Supplementary Payment after a 'Pending Appeal Supplementary Payment'

Where a person has received a pending appeal supplementary payment and the tribunal (or the Department on revision or supersession) has awarded the person PIP which is lower than the person's original DLA award, then s/he can also be entitled to an additional supplementary payment.

This payment is still paid at 75% of the difference between the old DLA award and the new PIP award (as long as the difference is at least £10).

It is paid for 1 year but the 1 year period starts on the date that the pending appeal supplementary payment started.

3. Conflict-related injury supplementary payment

To be entitled to this payment, a person must have a 'conflict related injury' and::

- be in receipt of DLA at any rate on the day s/he receives a notification to claim PIP or voluntarily decides to claim PIP; **and**

- have had PIP refused and no award of benefit made; **and**
- have scored at least 4 points for either the Daily Living Component or the Mobility Component.

This payment is also available to a person with a conflict related injury who was receiving a pending appeal supplementary award and the tribunal (or Department by revision or supersession) make a decision that the person is not entitled to PIP but scores at least 4 points.

3.1 Conflict related injury

A 'conflict related injury' is defined as being where the person is or has been physically or psychologically injured as a result of, or in consequence of a violent incident in connection with the affairs of Northern Ireland.

The violent incident must have occurred in or after 1966, and before the person's entitlement to DLA ended.

A person may be psychologically injured as a result of or in consequence of witnessing a violent incident or the consequences of such an incident or providing medical or other emergency assistance to an individual in connection with a violent incident.

3.2 Evidence of a conflict related injury

Where a person has had her/his DLA stopped due to being reassessed for PIP, the decision on the PIP claim is that the person is not entitled and the person has scored at least 4 points, then the Department has four weeks to issue a request to that person to provide evidence of having a conflict related injury. The request is to be made by the Department and the legislation imposes a positive obligation on them to make this request. Once the request is issued, the person has one month to submit the evidence.

The evidence of whether a person has a conflict related injury must come from one of the following:

- a member of the Police Service of Northern Ireland;
- a registered medical practitioner;
- a registered nurse;
 - an occupational therapist or physiotherapist registered with the appropriate registering body;
 - a body providing services and support to victims and survivors which is in receipt of certain grants under the Victims and Survivors (NI) Order 2006.

The legislation also gives the Department power to consult with the Commission for Victims and Survivors when deciding if a person is entitled to a conflict related injury supplementary payment.

3.3 Amount

Where the person has scored at least 4 points under the activities for the Daily Living Component, the amount of the supplementary payment is equivalent to the amount of the standard rate of the Daily Living Component, currently £55.10 per week.

In any other case where the person is entitled to a conflict related injury supplementary payment, the amount is equivalent to the standard rate of the Mobility Component, currently £21.80 per week.

3.4 How long is it paid for?

The payment starts on the day after the person's entitlement to DLA ceases. Where a person was in receipt of a pending appeal supplementary payment which ended and the person becomes entitled to a conflict related injury supplementary payment, the payment starts on the day after the pending appeal award stops.

The payment continues for one year from the date it started or until 31 March 2020. However where the person was previously in receipt of a pending appeal payment, the payment stops one year after the pending appeal supplementary payment started.

3.5 Changes in circumstances

The conflict related supplementary payment will cease if a person either becomes entitled to PIP or scores less than 4 points.

4. Possible entitlement to more than one supplementary payment

It is possible that a person may be entitled to more than one supplementary payment. For example, a person in receipt of DLA at middle rate care and low rate mobility who is reassessed for PIP and gets no award, will be entitled to a pending appeal payment if s/he decides to appeal. However, if s/he also has a conflict related injury, then s/he may be entitled to a conflict related injury payment. In this case, the person would probably be better off getting the pending appeal payment (paid in this case at £76.90 per week).

However in some cases, the person may be entitled to a higher amount under the conflict related injury payment. This will apply particularly to those who are in receipt of low rate care of DLA only or those in receipt of low rate mobility only but who may score at least 4

points under the Daily Living activities for PIP. In these cases, the person is receiving £21.80 of DLA but may be entitled to £55.10 supplementary payment if they score at least 4 points in the Daily Living component. On the other hand, by appealing the person would be entitled to a pending appeal award of £21.80 until the appeal is heard. If the appeal is unsuccessful but the person scores at least 4 points in the Daily Living component, s/he would then be entitled to a conflict related injury supplementary payment of £55.10 (this would only continue though until one year after the date the pending appeal award started).

Advisers may need to be alert to the options available to clients and advise them accordingly. The legislation does not indicate how such issues may be resolved and whether the person has a choice as to what payment they can receive. Where a person believes they should be getting a different supplementary payment, please contact the Law Centre for advice.

5. Other general conditions of entitlement

5.1 Residence

In order to be entitled to any of the supplementary payments explained above, the person must be ordinarily resident and present in Northern Ireland. A person can continue to be entitled for 4 weeks during a temporary absence or for up to 13 weeks if the absence is solely for the purposes of getting medical treatment.

5.2 Care homes, hospitals and prison

Payment of a supplementary payment will cease after 28 days where the person is:

- resident in a care home where her/his stay is paid wholly or partly from public funds;
- a hospital in-patient;
- detained in prison.

6. Premiums and passported benefits

It is important to note that where a person is in receipt of a supplementary payment, it is not treated the same as being in receipt of an actual award of PIP. This means the person will not qualify for premiums, disregards or other passported advantages that come with entitlement to DLA or PIP. This will include things like access to the Motability scheme and exemption from the benefit cap.

There is separate protection for those are in receipt of certain disability premiums due to being in receipt of DLA and who then do not qualify for PIP. There is also specific protection for carers who care for a person who was getting DLA but has been refused PIP. See future Law Centre (NI) briefings for further details on these.

7. How are supplementary payments treated for other benefits?

Supplementary payments are specifically disregarded for other benefits and particularly for means-tested benefits.

However, it is not clear at the moment how the payments will be treated for Tax Credit purposes or tax purposes. We expect further information will be available on this in the near future.

8. Recovery of supplementary payments

There are currently no specific provisions dealing with how supplementary payments can be recovered by the Department. However our understanding is that the Department does intend to recover the payments in certain circumstances. For example, a person may be receiving a pending appeal supplementary payment and is then awarded PIP by the tribunal. The person will be entitled to arrears of PIP back to the date the award of DLA ended. As the person has also received a supplementary payment for that period, it is the Department's intention to recover that amount. We expect further regulations later this year which will explain how this is to be done.

9. Disputes

There is also a dispute system to be set up where a person can ask for the decision on their entitlement to a supplementary payment to be reviewed. A panel of up to 3 people nominated by the Department may consider any review applications.

Law Centre (NI) social security advice line

Advisers are welcome to contact the Law Centre's social security legal advice line with queries about this and other benefit issues.

(028) 9024 4401, 9.30 to 1pm, Monday to Friday

Law Centre (NI) briefings on Personal Independence Payment

Personal Independence Payment 1. Introduction

www.lawcentreni.org/Publications/Law-Centre-Information-Briefings/PIP-1.Introduction-September-2016.pdf

Personal Independence Payment 2. Making a claim

www.lawcentreni.org/Publications/Law-Centre-Information-Briefings/PIP-2.Making-a-Claim-September-2016.pdf

Personal Independence Payment 3. Moving from DLA to PIP

www.lawcentreni.org/Publications/Law-Centre-Information-Briefings/PIP-3.Moving-from-DLA-to-PIP-September-2016.pdf

Personal Independence Payment 4. Supplementary payments

www.lawcentreni.org/Publications/Law-Centre-Information-Briefings/PIP-4.Supplementary-Payments-September-2016.pdf

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