

# DMG Memo 09-21: Disability Assistance for children and young people - consequential amendments to Social Security Regulations

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## INTRODUCTION

1. This memo gives guidance on The Social Security (Scotland) Act (Disability Assistance for Children and Young People) (Consequential Modifications) Order 2021 [SS(S)A(DACYP)(Con Mod) Order 2021] SI: 2021 No 786. The changes come into effect from 26.7.21<sup>1</sup>.

1 [SS\(S\)A\(DACYP\)\(Con Mod\)Order 2021](#)

## BACKGROUND

2. These regulations<sup>1</sup> introduce arrangements for the payment of disability assistance for children and young people in the form of a “child disability payment” (CDP). The CDP replaces the disability living allowance for children in Scotland<sup>1</sup>.

1 [SS\(S\)A\(DACYP\)\(Con Mod\)Order 2021](#)

## IS

3. For the purpose of whether the claimant is
  1. in the category of caring for another person<sup>1</sup>**or**
  2. treated as not in remunerative work as a carer<sup>2</sup>

CDP is added to the list of qualifying benefits claimed by or awarded to the person being cared for<sup>1</sup>. See [DMG Chapter 20](#) for further guidance.

1 IS (Gen) Regs, Sch 1B, para 4(a); 2 reg 6(4)(c)

4. For the purpose of whether the claimant is entitled to any premiums, CDP is added to the list of qualifying benefits awarded to the claimant or a member of their family.<sup>1</sup>

1 IS (Gen) Regs, Sch 2, paras 12, 13, 13(A), 14

5. For the purposes of whether a non-dependant deduction should be made from allowable housing costs, CDP is added to the list of benefits awarded to the claimant<sup>1</sup>

1 IS (Gen) Regs, Sch 3, para 18

## JSA

Changes to the meaning of a person in hardship

6. [DMG 35106](#) provides guidance on what the conditions are for being treated as a member of a vulnerable group for hardship purposes. From 26.7.21 this will include CDP at the higher or middle rate<sup>1</sup>.

1 JSA Regs, reg 140(1)(h) & 146A(1)(e)

7. For the purpose of whether the claimant is
  1. in remunerative work where they are a carer<sup>1</sup>**or**
  2. a member of a joint claim couple who does not have to satisfy the conditions of entitlement<sup>2</sup> (see [DMG 20017](#)) because they are a carer<sup>3</sup>

CDP is added to the list of qualifying benefits. See [Chapter 20](#) (JSA conditions of entitlement) for further details.

1 JSA Regs, reg 51(3)(c); 2 JS Act 95, s 1(2B)(b); 3 JSA Regs, Sch A1, para 3(a)

8. For the purpose of whether the claimant is entitled to any premiums, CDP is added to the list of qualifying benefits awarded to the claimant or a member of their family.<sup>1</sup>

1 JSA Regs, Sch 1, paras 8(2), 15A, 16

9. For the purposes of whether a non-dependant deduction should be made from allowable housing costs, CDP is added to the list of benefits awarded to the claimant<sup>1</sup>

1 JSA Regs, Sch 2, para 17

## **SPC**

10. A claimant's maximum amount includes an amount for any child or qualifying young person for whom they are responsible. CDP is added to the list of qualifying benefits when considering whether an additional amount for a disabled child is payable<sup>1</sup>.

1 SPC Regs, Sch 2A, para 9

## **ESA**

11. Normally a claimant is not entitled to ESA(IR) where they are receiving education<sup>1</sup>. CDP is added to the list of qualifying benefits where a claimant in education is not required to satisfy the education condition<sup>2</sup>.

1 WR Act 07, Sch 1, para 6(1)(g); 2 ESA Regs, reg 18

12. For the purposes of whether a non-dependant deduction should be made from allowable housing costs, CDP is added to the list of benefits awarded to the claimant<sup>1</sup>.

1 ESA Regs, Sch 6, para 15(11)(b), 19(6)(b)

13. For the purpose of whether a claimant is not disqualified for misconduct<sup>1</sup> because they are a person in hardship<sup>2</sup>, CDP is added to the list of qualifying benefits.

1 ESA regs, reg 157 (3) (b), reg 158 (3)

## **REVISING DECISIONS ON LINKED BENEFITS**

14. Where there is entitlement to a benefit and the claimant or another member of the family is awarded

1. another relevant benefit **or**

2. CDP **or**

3. an increase of another relevant benefit or CDP

for a period, which includes the date on which the award of the first benefit took effect, the first decision can be revised<sup>1</sup>.

1 SS CS (D&A) Regs , reg 3(7)(b)

### **Example**

Amer has been in receipt of JSA since 26.7.21. On 23.9.21 Amer's son makes a claim to CDP and is awarded CDP from 26.7.21. The JSA award is revised from 26.7.21 to take into account the CDP award.

## **SUPERSEDING DECISIONS AND EFFECTIVE DATES FOR LINKED BENEFITS**

15. Where the Secretary of State has awarded a relevant benefit (benefit 1) to a claimant **and**

1. after the first day of the period of entitlement to benefit 1 that claimant (or a member of the claimant's family) becomes entitled to another relevant benefit **or**

2. CDP (benefit 2) **or**

3. an increase in another relevant benefit or CDP (benefit 2) **and**

the award of or increase to benefit 2 has an effect on benefit 1, benefit 1 may be superseded<sup>1</sup>, the effective date is the first day of the period of entitlement for which benefit 2 (or an increase to benefit 2) is awarded<sup>2</sup>.

1 SS CS (D&A) Regs , reg 6(2)(e)(ii); 2 SS CS (D&A) Regs, reg 7(7)(a)

### **Example**

Fiona is in receipt of ESA from the 01.08.21. On the 09.09.21 Fiona's son claimed CDP which was awarded from the 09.09.21. The ESA award is superseded from the 09.09.21.

## **ANNOTATIONS**

Please annotate the number of this memo (DMG Memo 09/21) against the following DMG paragraphs: [20027](#), [20116](#), [20120](#), [20252](#), [20253](#), [20502](#), [20503](#), [41552](#), [03350](#), [04004](#), [04350](#), [04354](#), [23046](#), [23122](#), [23123](#), [23127](#), [23128](#), [23202](#), [23204](#), [23181](#), [23122](#), [23127](#), [23202](#), [23204](#), [23181](#), [23243](#), [23770](#), [35106](#), [44136](#), [53251](#), [78558](#), [78559](#)

## **CONTACTS**

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, 3E

zone E, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in –  
Memo [4/19](#) Requesting case guidance from DMA Leeds for all benefits.

DMA Leeds: August 2021

**The content of the examples in this document (including use of imagery) is for illustrative purposes only**