

# Department for Work and Pensions

DECISION MAKING AND APPEALS

## Decision Makers Guide

### Volume 14

### Amendment 44 – October 2017

1. This letter provides details on Amendment 44; the changes have already been incorporated in to the Intranet and Internet versions of the DMG.
2. PDF amendment packages are also available. These can be printed with the amended pages being reproduced in full. Each page will contain the amendment number in the footer

PDF amendment packages can be found on the **Intranet** at:

<http://intranet/1/lq/acileeds/guidance/decision%20makers%20guide/index.asp>

or on the **Internet** at the 'Amdt Packages' tab on the following link:

<http://www.dwp.gov.uk/publications/specialist-guides/decision-makers-guide/>

Note: When printing PDF packages set the print properties to Duplex/Long Edge in order to produce double sided prints.

3. Amendment 44 affects chapters 83 & 85. The changes;
  - Make minor amendments to chapter 83 at para 83152
  - Incorporates DMG Memo 14/17 to Chapter 85 at para 85370
4. The last two amendment packages amending Volume 14 were  
Amendment 43 [June 2017]  
  
Amendment 42 [February 2017]
5. If using a PDF amendment package remove the sheets as stated in the left hand column of the Remove and Insert table below and insert the new sheets as stated in the right hand column (note the record of amendments at the back of the Volume).

**Remove**

**Abbs (5 pages)**

**Chapter 83**

83150 – 83999 (2 pages)

**Chapter 85**

85370 -85399 (1 page)

**Insert**

**Abbs (5 pages)**

**Chapter 83**

83150 – 83999 (2 pages)

**Chapter 85**

85370 -85399 (1 page)

## Abbreviations

AA	Attendance Allowance paid under s 64 of the SS (CB) Act 92
"AA"	Attendance Allowance as defined in IS (Gen) Regs, reg 2(1) or JSA, reg 1(3)
ADC	Actual Date of Confinement
ADF	Adviser Discretion Fund
ADI	Adult Dependency Increase
AFIP	Armed Forces Independence Payment
AIP	Assessed Income Period
AMG	Appropriate Minimum Guarantee
AP	Additional Pension
APP	Adoption Pay Period
Art	Article
ASE	Actively seeking employment
AT	Appeal Tribunal
AWT	All Work Test
BA	Bereavement Allowance
BACS	Bankers Automated Clearing System
BB	Bereavement Benefits
BL	Board and Lodging
BP	Basic Pension/Bereavement Premium
BPT	Bereavement Payment
BSP	Bereavement support payments
BTEC	Business and Technology Education Council
BWC	Benefit Week Commencing
BWE	Benefit Week Ending
CA	Carer's Allowance
CAA	Constant Attendance Allowance
Cat	Category
CB	Contributory Benefit
CC	Community Charge
CDI	Child Dependency Increase
CESC	Council of European Social Charter
CHB	Child Benefit
CHB(LP)	Child Benefit for Lone Parents
CJEU	Court of Justice of the European Union
CMB	Child Maintenance Bonus
CMP	Child Maintenance Premium
CP	Carer Premium
CPen	Civil Penalty
CSM	Child Support Maintenance

CT	Council Tax
CTA	Common Travel Area
CTB	Council Tax Benefit
CTC	Child Tax Credit
CTF	Community Task Force
CTM	Contribution to Maintenance
CWP	Cold Weather Payment
CwP	Community work Placements
DCP	Disabled Child Premium
DCT	Direct Credit Transfer
DH	Department of Health
Dis G	Disablement Gratuity
Dis P	Disablement Pension
DLA	Disability Living Allowance
DM	Decision Maker
DMA	Decision Making and Appeals
DMG	Decision Makers Guide
DO	District Office
DP	Disability premium
DPTC	Disabled Persons Tax Credit
DWA	Disability Working Allowance
DWP	Department for Work and Pensions
EC	European Community
ECHR	European convention for the Protection of Human Rights and Fundamental Freedoms
ECJ	European Court of Justice
ECSMA	European Convention on Social & Medical Assistance
EctHR	European Court of Human Rights
EDP	Enhanced Disability Premium
EEA	European Economic Area
EFC	Earnings factor credits
EFTA	European Free Trade Association
ELDS	Eligible loan deduction scheme
Emp O	Employment Officer
EO	Employment Option of New Deal for young people
EO(E)	Employed Employment Option
EO(S/E)	Self-Employed Employment Option of the New Deal for young people
EPP	Enhanced Pensioner Premium
ERC	Employment Rehabilitation Centre

ERA	Employment Retention and Advancement
ESA	Employment and Support Allowance
ESA(Cont)	Employment and Support Allowance (contributory allowance)
ESA(IR)	Employment and Support Allowance (income-related allowance)
ESA(Y)	Employment and Support Allowance for those with limited capability for work in youth
ESDA	Exceptionally Severe Disablement Allowance
ET	Employment Training
ETFO	Environment Task Force Option of New Deal for young people
EU	European Union
EWC	Expected Week of Confinement
EZ	Employment Zone
FamC	Family Credit
FAS	Financial Assistance Scheme
FND	Flexible New Deal
FP	Family Premium
FP(LP)	Family Premium (Lone Parent Rate)
FRIY	Flat Rate Introduction Year
FRM	Flat Rate Maintenance
F/T	Full-Time
FTE	Full-Time Education
FTET	Full-Time Education and Training Option
FtT	First-tier Tribunal
GA	Guardian's Allowance
GB	Great Britain
GC	Guarantee Credit
GCE	General Certificate of Education
GCSE	General Certificate of Secondary Education
GMP	Guaranteed Minimum Pension
GNVQ	General National Vocational Qualification
GP	General Practitioner
GPoW	Genuine Prospect of Work
GRB	Graduated Retirement Benefit
GRC	Gender Recognition Certificate
GRP	Gender Recognition Panel
HA	Health Authority
HB	Housing Benefit
HBS	Housing Benefit Supplement
HCP	Health care professional
HWC	Health and Work Conversation

Hep C	Hepatitis C
HIV	Human Immunodeficiency Virus
HM	Her Majesty
HMF	Her Majesty's Forces
HMRC	Her Majesty's Revenue and Customs
HO	Home Office
HPP	Higher Pensioner Premium
HRP	Home Responsibilities Protection
IA	Industrial Accident
IAP	Intensive Activity Period for those aged 25 and over and under 50
IAP for 50+	Intensive Activity Period for those aged 50 or over
IB	Incapacity Benefit
IBLT	Long-term Incapacity Benefit
IBS	Infected Blood Schemes
IBST	Short-term Incapacity Benefit
IBST(H)	Higher rate of short-term Incapacity Benefit
IBST(L)	Lower rate of short-term Incapacity Benefit
IB(Y)	Incapacity Benefit for those incapacitated in youth
IC	Intermittent Custody
IDB	Industrial Death Benefit
IFM	Immediate Family Member
IfW	Incapacity for Work
II	Industrial Injury(ies)
IIDB	Industrial Injuries Disablement Benefit
Incs	Increments (of Retirement Pension)
IND	Immigration and Nationality Department
IPC	International Pension Centre
IPPIW	Immediate Past Period of Incapacity for Work
IS	Income Support
IT	Industrial Tribunal (now Employment Tribunal)
IVA	Invalidity Allowance
IVB	Invalidity Benefit
IVP	Invalidity Pension
IVS	Invalid Vehicle Scheme
JSA	Jobseeker's Allowance
JSA 18-21 Pilot Scheme	Jobseeker's Allowance 18-21 Work Skills Pilot Scheme
JSA(Cont)	Contribution based JSA
JSAg	Jobseeker's Agreement
JSA(IB)	Income based JSA
JSD	Jobseeker's Direction

JSP	Jobseeking Period
LA	Local Authority
LCW	Limited capability for work
LCWA	Limited capability for work assessment
LCWRA	Limited capability for work related activity
LEA	Local Education Authority
LEC	Local Enterprise Council
LEL	Lower Earnings Limit
LETS	Local Exchange Trading System
LPP	Lone Parent Premium
LPRO	Lone Parent run-on
LQPM	Legally Qualified Panel Member
LRP	Liable Relative Payment
LSC	Learning and Skills Council
LT	Linking Term
LTACP	Living Together as Civil Partners
LTAMC	Living Together as Married Couple
LTAHAW	Living Together as Husband And Wife
MA	Maternity Allowance
MAP	Maternity Allowance Period
MB	Maternity Benefit
MG	Maternity Grant
MID	Mortgage Interest Direct
MIRO	Mortgage Interest run-on
MP	Member of Parliament
MPP	Maternity Pay Period
MSC	Maximum Savings Credit
MSP	Member of the Scottish Parliament
NASS	National Asylum Support Service
NCET	National Council for Education and Training
NCIP	Non-Contributory Invalidity Pension
ND	New Deal
NDLP	New Deal for Lone Parents
NDP	New Deal for Partners
NDYP	New Deal for Young People
ND18-24	New Deal for 18-24 year olds
ND25+	New Deal for claimants aged 25 years and over
NHS	National Health Service
NI	National Insurance
NINO	National Insurance Number

NMW	National Minimum Wage
NRP	Non-Resident Parent
NVQ	National Vocational Qualification
OOT	Own Occupation Test
OPB	One Parent Benefit
PA	Personal Adviser
PAYE	Pay As You Earn
PB and MDB	Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefits scheme
PCA	Personal Capability Assessment
PD	Prescribed Disease
PETA	Personal Expenses Transitional Addition
PFA	Person(s) From Abroad
PIE	Period of Interruption of Employment
PILON	Pay In Lieu Of Notice
PILOR	Pay In Lieu Of Remuneration
PIP	Personal Independence Payment
PIW	Period of Incapacity for Work
PLCW	Period of limited capability for work
PLCWA	Period of limited capability for work assessment
PO	Post Office
POAOB	Payment on Account of Benefit
POA	Power of Attorney
PP	Pensioner Premium
PR	Preserved Right
PSIC	Person Subject to Immigration Control
P/T	Part-Time
PW	Pay-Week
“PW”	Permitted work as defined in ESA Regs, reg 45(4)
PWC	Person With Care
PWHL	Permitted Work Higher Limit
PWHLs	Permitted Work Higher Limit subsequent period
PWK	Permitted Work
PWLL	Permitted Work Lower Limit
PWP	Permitted Work Period
QB	Qualifying Benefit
QBP	Qualifying Benefit or Pension
QD	Qualifying Days
QEF	Qualifying earnings factor
QI	Qualifying Income



QP	Qualifying Period
QRW	Qualifying remunerative work
QW	Qualifying Week
QWfl	Quarterly Work-focused interview
RA	Retirement Allowance
RBD	Reduced Benefit Direction
RCH	Residential Care Home
REA	Reduced Earnings Allowance
Reg(s)	Regulation(s)
Res A	Residential Allowance
RISWR	Redundant Iron and Steel Employees re-adaptation scheme
RMPS	Redundant Mineworkers Payment scheme
RP	Retirement Pension
RQC	Relevant Qualifying Condition
RVU	Relationship Validation Unit
S	Section (of an Act)
S2P	State Second Pension
SAP	Shared Additional Pension
SAYE	Save As You Earn
SB	Sickness Benefit
SC	Savings Credit
Sch	Schedule (as in an Act)
SCT	Savings Credit Threshold
SDA	Severe Disablement Allowance
SDM	Sector Decision Maker
SDP	Severe Disability Premium
S/E	Self-Employed
Sec	Section (of an Act)
SED	Scottish Education Department
SERPS	State Earnings Related Pension Scheme
Sev DP	Severely Disabled Person
SF	Social Fund
SFFP	Social Fund Funeral Payment(s)
SFO	Social Fund Officer
SHA	Special Hardship Allowance
SI	Statutory Instrument
SIR	Standard Interest Rate
SJP	Supervised Jobsearch Pilot Scheme
SMG	Standard Minimum Guarantee
SMP	Statutory Maternity Pay
SP	State Pensions

SPC	State Pension Credit
SpTA	Special Transitional Addition
SPW	Supported Permitted Work
SRPS	Shipbuilding Redundancy Payment Scheme
SS	Social Security
SS benefits	Benefits payable under SS(CB) Act 92
SSMG	Sure Start Maternity Grant
SSP	Statutory Sick Pay
STCP	Skills Training Conditionality Pilot
Supp B	Supplementary Benefit
SVQ	Scottish Vocational Qualification
TA	Transitional Addition
TAW	Temporary Allowance for Widow(ers)
TBI	Total Benefit Income
TD	Trade Dispute
TE	Transitional Element
TEC	Training and Enterprise Council
TFEU	Treaty on the Functioning of the European Union
TS	Tribunals Service
TT	Thalidomide Trust
TU	Trade Union
UB	Unemployment Benefit
UC	Universal Credit
UCP	Urgent Case Payment
UEL	Upper Earnings Limit
UK	United Kingdom
US	Unemployability Supplement
UT	Upper Tribunal
VAT	Value Added Tax
VSO	Voluntary Sector Option of New Deal for young people
WA	Widow's Allowance
WB	Widow's Benefit
WBLA	Work Based Learning for Adults
WBLfYP	Work Based Learning for Young People
WBTfA	Work Based Training for Adults
WBTfYP	Work Based Training for Young People
WC	Workmen's Compensation
WC(S)	The Workmen's Compensation (Supplementation) Scheme
WC (Supp)	Workmen's Compensation (supplementation) scheme

WCA	Work capability assessment
WDisP	War Disablement Pension
WFHRA	Work focused health related assessment
Wfl	Work-focused Interview
WFP	Winter Fuel Payment
WFTC	Working Families Tax Credit
WMA	Widowed Mother's Allowance
WMA(C)	WMA payable where late husband entitled to Cat C retirement pension
WP	Widow's Pension
Wp	Work programme
WPA	Widowed Parent's Allowance
WP(C)	Widow's Pension payable where late husband entitled to Cat C retirement Pension
WPT	Widow's Payment
WRAC	Work-related activity component
WRAG	Work-related activity group
WTB	Work and training beneficiary(ies)
WTC	Working Tax Credit
WtWB	Welfare to Work Beneficiary
WWP	War Widow's Pension/War Widower's Pension
YT	Youth Training



# Changes in retirement provision during an AIP

## Reductions in retirement provision during an AIP

83150 The rules for fixing a claimant's retirement provision do not prevent a DM from making a decision where a claimant's retirement provision reduces during an AIP and the claimant is entitled to an increase in their SPC.

83151 The DM can make a decision on the claimant's retirement provision at any time during the AIP where the<sup>1</sup>

1. decision is a supersession decision **and**
2. supersession results in an increase in the amount of SPC that the claimant is entitled to **and**
3. increase in SPC is due (or partly due) to the change in the claimant's retirement provision.

*1 SPC Act 02, s 8(1)*

83152 Where a supersession decision is made as in DMG 83151, then the claimant's remaining retirement provision is fixed until the end of the existing AIP<sup>1</sup>.

*1 SPC Act 02, s 8(3)*

**Note:** where the change occurs on, or after 6.4.16 **and** the AIP ends under existing rules (see DMG 83050), a PCR will be set.

### Example 1

Alice claimed SPC and because her retirement provision was stable the DM set an AIP for five years. Alice's benefit week commenced on a Monday.

Six months later (on 5.12.06) Alice told the DM that her income from one small occupational pension had ceased. Alice had given up £2.80 a week occupational pension she was entitled to in exchange for a one off lump sum payment of £3,000, which she had received on 1.12.06. Alice had no other savings. The DM did a full check of Alice's retirement provision to determine the overall effect.

The DM decided the occupational pension should no longer be taken into account and Alice's SPC increased by £2.80 a week from Monday 4.12.06.

### Example 2

Boris is in receipt of SPC and because his retirement provision was stable at the outset his AIP was set for five years. Boris' benefit week commences on a Monday.

Fours years later (on 27.10.17) the Department receives confirmation (via HMRC's RTI feed) that Boris' occupational pension has reduced. There are no other changes

to Boris' retirement provision and the overall effect is an increase in his SPC. The DM supercedes Boris' SPC award taking the new occupational pension rate into account from 23.10.17. The AIP is not affected by this decision and continues to apply until it expires at the end of the five year period it was originally set for.

83153 The condition at DMG 83151 **2.** and **3.** is also treated as satisfied if<sup>1</sup>

1. the supersession results in a decrease in the amount of SPC the claimant is entitled to **but**
2. the decrease is less (overall) than it would otherwise have been because there has been a change in the income which the claimant is required to report.

**Note:** This allows for the situation where the claimant's retirement provision decreases and the claimant's other income increases during the same benefit week resulting in an overall decrease in the amount of SPC to be paid.

*1 SPC Act 02, s 8(2)*

#### **Example 1**

Jack claimed SPC and because his retirement provision was stable the DM set an AIP for five years. Jack's benefit week commenced on a Monday

Two years later Jack told the DM about a change in his retirement provision. On 3.11.06 Jack declared that on 31.10.06 he had spent £9,000 from his savings (of £16,500) to pay for essential repairs to his home. He also declared that from 10.11.06 he would receive £30 a week earnings.

The DM did a full check of Jack's retirement provision to determine the overall effect. As a result of the overall changes (£25 earnings to be taken into account and £18 no longer deducted for deemed weekly income) Jack's SPC decreased by £7 a week from Monday 6.11.06.

#### **Example 2**

Mary claimed SPC and because her retirement provision was stable an AIP was set for 5 years. Mary's benefit week commenced on a Monday.

Six months later on 20.7.07 Mary reported her savings had increased from £5,500 to £10,600. She also reported that from 21.7.07 she would be receiving £60 a week for providing her niece with board and lodging.

The DM does not action the increase in Mary's savings during her AIP because this would not be a beneficial change to her retirement provision. The DM only actions the change in Mary's other income (under the usual rules for dealing with a non retirement provision income change).

As a result of the additional income from her boarder Mary's SPC decreased by £20 a week (after the BL disregard was applied) from Monday 23.7.07

83154 - 83159

## **Increases in retirement provision during an AIP**

83160 Where the claimant reports a change in retirement provision which would result in the amount of SPC that the claimant is entitled to decreasing then the DM is prevented from making a supersession decision<sup>1</sup>. The claimant's retirement provision has to remain fixed until the end of the AIP.

**Note:** This does not apply to changes reported to **new** awards made on, or after 6.4.16, or those existing awards where the AIP has **already** ended on a date on, or after 6.4.16. Those claimants will be expected to report all relevant changes of circumstances, such as changes to their marital status or retirement provision, as they happen.

*1 SPC Act 02, s 7(3) & (5)*

### **Example 1**

Leslie is in receipt of SPC with an AIP which has 2 years left to run.

He reports to the DM that his capital has decreased but that the income from his occupational pension has increased significantly. The overall effect of these changes would be that the amount of SPC which Leslie is entitled to would reduce if the changes were put into effect on the award of SPC.

The DM cannot make a supersession decision and Leslie's entitlement to SPC continues unchanged.

### **Example 2**

Walter is in receipt of SPC with a 3 year PCR set.

On 16.5.16 he reports that his savings have increased after he inherited a small lump sum from a deceased relative's estate. As a result, the amount of SPC that Walter is entitled to is reduced.

The DM supersedes Walter's entitlement to SPC and sets a new 3 year PCR.

83161 - 83999





4. personal possessions
5. assets of any business owned in whole or in part by the claimant for the purposes of which he is engaged as a S/E earner or, if he has ceased to be engaged, for a reasonable period to allow for disposal of those assets
6. assets of any business owned in whole or in part by the claimant if he is not engaged as a S/E earner by reason of some disease or disablement but he intends to return to work as a S/E earner as soon as he recovers
7. surrender value of any life insurance policy
8. value of any funeral plan contract
9. amount of any ex-gratia payment made in consequence of imprisonment or internment by the Japanese during the second World War
10. amount of any trust payment made to a claimant or claimant's partner due to suffering from variant Creutzfeld-Jakob disease (see DMG Chapter 84)
11. amount of any compensation payment due to being a slave labourer, suffering property loss or personal injury or the loss of a child during second World War
12. any payment made from the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust, MFET Limited or the Independent Living Fund (2006) (- but see note below), the Skipton Fund, the London Bombings Relief Charitable Fund (see DMG Chapter 84), the Scottish Infected Blood Support Scheme, the London Emergencies Trust (LET) and the We Love Manchester Emergency Fund (WLMEF).
13. the amount of any payment made in consequence of personal injury to the claimant or partner
14. amounts paid under an insurance policy in respect of loss or damage to the property occupied as the home or personal possessions
15. amounts paid or deposited in the claimant's name for the purpose of purchasing a home or making repairs to the property occupied as the home
16. any amount paid by way of arrears of benefit, by way of compensation for late payment of benefit, in lieu of payment of benefit or by a LA out of money provided by the Supporting People scheme under certain legislation
17. any banking charge or commission payable in converting capital into sterling
18. value of the right to receive income from an occupational or personal pension scheme
19. value of the right to receive income under a retirement annuity contract.

*1 SPC Regs, reg 17(8)(a), Sch V, Part I; 2 Sch V, Part 1, para 1A*

**Note:** the Independent Living Fund (2006) closed on 30.6.15 with funding responsibilities transferring to Local Authorities in England, the Welsh Independent Living Grant in Wales and the Independent Living Fund Scotland for Northern Ireland and Scotland. Please contact DMA Leeds for advice if the claimant receives funding from any of these schemes.

85371 - 85399