

# Chapter 02 - Claims

## Contents

<b>Introduction</b> .....	02001
National insurance credits.....	02002
Definitions.....	02003
The relevant law .....	02007
<b>Making a claim</b>	
General requirement to make a claim.....	02008
<b>Benefits for which a claim is not required</b> .....	02009
Exemption from claiming Cat A or Cat B Retirement Pension.....	02010
Deferment and De-retirement .....	02015
Dependency increases.....	02016
<b>Who can claim benefits</b> .....	02038
Change of claimant	
JSA.....	02041
IS.....	02043
Treating another person as the claimant .....	02044
<b>How to make a claim</b> .....	02048
Appropriate offices .....	02049
Alternative offices .....	02052
Claimants affected .....	02053
Persons who have not yet attained qualifying age .....	02054
Definitions .....	02055
The procedures.....	02057
Rights and responsibilities of local authorities and county councils in England.....	02059
Date of claim .....	02061
AA and DLA .....	02064
Use of information provided to a local authority in connection with a claim for HB or CTB.....	02066
Social security information verified by a local authority .....	02068

Claims made electronically .....	02069
Claims for IIDB, SFFP, BB, RP, GRB, SAPs, SP, WPA and BSP made by telephone .....	02073
<b>Claims made in the prescribed manner</b>	
The prescribed manner for making a claim.....	02080
Written communication - sufficient to constitute a claim for benefit.....	02085
Claims for IS and JSA .....	02092
Procedure on receiving a possible IS or JSA claim.....	02095
Claims for IS or JSA in the prescribed manner.....	02096
Defective IS or JSA claims.....	02097
After a claim has been disallowed as defective .....	02104
Notification of an intention to claim IS or JSA.....	02106
Claim made after a defective claim or notification of intention to claim..	02107
Claims for benefits other than IS, JSA and SPC.....	02108
Procedure on receiving a possible claim for a benefit other than IS, JSA and SPC	
Item in writing has been received but it is not a claim .....	02109
Claim in writing received but not on a claim form or in some other sufficient manner.....	02110
Claim made on an approved form but the form has not been properly completed .....	02111
After a claim has been disallowed as defective .....	02112
Dependency increases.....	02113
Claim for adult dependants.....	02114
Effect of CHB extension on dependency increases.....	02117
Claiming SPC	
In writing .....	02127
By telephone .....	02131
Making a claim .....	02134
Defective claims - SPC tele-claims .....	02136
Intention to claim .....	02140
Defective claims made in writing.....	02141

Telephone claims for IIDB, SFFP, BB, RP, GRB and SAPs.....	02148
Claiming ESA	
General .....	02153
By telephone .....	02155
In writing.....	02159
Members of a couple .....	02164
Information, evidence and corroboration .....	02166
Information relating to personal pensions and retirement annuity contracts .....	02171
Requirement to attend for medical examination .....	02174
Provision of NINOs.....	02175
NINO Exemptions .....	02183
<b>Date of claim</b> .....	02200
JSA - claimant who is not a member of a joint-claim couple .....	02205
JSA - joint-claim couples.....	02220
DLA and AA .....	02242
IS.....	02246
RP - late payment of Class 3 contributions.....	02248
Date of claim - SPC tele-claims .....	02251
Date of claim for SPC - in writing or in person.....	02252
Telephone claims for SFFP, BB, RP, GRB and SAPs.....	02253
Claims for IB other than in writing .....	02254
Telephone Claims to ESA.....	02257
Award of qualifying benefit	
Introduction .....	02260
Definitions .....	02261
Transitional Protection - disabled person goes into hospital or similar institution .....	02266
Benefits except IB .....	02267
Reclaim following termination .....	02269
IB.....	02271

IS or JSA(IB) terminated.....	02273
Claims for IB or ESA where there is no entitlement to SSP .....	02274
CA .....	02277
Claims for MA where there is no entitlement to SMP .....	02280
<b>Time for claiming.....</b>	<b>02330</b>
Bereavement payment .....	02339
Bereavement support payment.....	02340
Bereavement benefits where death difficult to establish.....	02341
Less than twelve months have elapsed since date of death .....	02342
More than twelve months have elapsed since date of death.....	02343
IB/SDA/IIDB/REA/ESA .....	02344
RP/GRB/SAP/SP.....	02364
IS/JSA .....	02371
Extending the time for claiming IS and JSA.....	02372
One month extension.....	02374
Three months extension .....	02376
Special groups	
Persons employed on the continental shelf, mariners and aircrew .....	02387
<b>Amending claims and withdrawing claims .....</b>	<b>02400</b>
Amendment and withdrawal of claims .....	02406
In person .....	02407
Couples .....	02408
<b>Period of claims, awards and disallowances</b>	
Period of claims.....	02420
Awards and disallowances: entitlement and payability.....	02422
Period of awards and disallowances.....	02423
Advance awards.....	02425
Considering the claimants entitlement down to the date of decision .....	02428
Staying a decision .....	02431

**Representatives and claims at death**

Appointees .....02440

Power of attorney .....02441

Deputies/Guardians .....02444

Claims at death .....02450

Cat A and Cat B RP/GRB/SAPs/SP.....02465

Automatic payment of arrears of benefits to a spouse or  
civil partner upon death .....02472

**Treating a claim for one benefit as a claim for another benefit .....02500**

Claim for CHB .....02503

    Claim to be regarded as a claim to CHB .....02504

MA claimed before confinement .....02505

MA claimed after confinement .....02507

**Advance claims**

AA & DLA .....02530

MA .....02535

RP, SAP and SP .....02537

IB and SDA.....02539

    IB - failure to satisfy contribution conditions .....02542

SF funeral and maternity payments .....02543

SPC

    Making a claim before attaining qualifying age .....02560

    Meaning of qualifying age .....02564

    Advance claims of SPC .....02565

**Good cause.....02600**

Application

Meaning of good cause .....02601

Ignorance “of itself” .....02603

Failure to make enquiries .....02605

New legislation .....02607

Difficulty with language .....	02609
Postal delays .....	02610
Misled by official information .....	02611
Misled by unofficial information .....	02614
Advice from a doctor .....	02616
Advice from a solicitor or accountant .....	02617
Deliberately does not claim .....	02618
Carelessness, thoughtlessness or indifference .....	02620
Health .....	02621
Claim by appointee .....	02623
Claim by person other than appointee .....	02625
Youthful claimant.....	02626
Belief that solicitors or trade union would claim.....	02627
Imprisonment.....	02629

# Chapter 02 - Claims

## Introduction

02001 This chapter is about decision making on claims for SS benefits (which includes regulated SF payments). Procedural guidance should be consulted for

1. SF (discretionary scheme)
2. Vaccine Damage Payments.

## National insurance credits

02002 The Department is responsible for making decisions on NI credits. Because the method of claiming or applying for them is not the same as it is for benefits, information about them is contained in the relevant operational guides.

## Definitions

02003 “Claimant” generally means a person who has claimed benefit. It includes a person who has applied for a declaration that an accident was or was not an IA<sup>1</sup>.

*1 SS A Act 92, s 191, SS Act 98, s 29*

02004 “Couple” means<sup>1</sup>

1. two people who are married to, or civil partners of, each other and are members of the same household **or**
2. two people who are not married to, or civil partners of, each other but are LTAMC

**Note:** For guidance on “living together” See DMG Chapter 11.

*1 JS Act 95, s 35(1); SS CB Act 92, s 137(1); WR Act 07, Sch 1, para 6; SPC Act 02, s 17(1); JSA Regs, reg 1(3); IS (Gen) Regs, reg 2(1); ESA Regs, reg 2(1); SPC Regs, reg 1(2); SS (C&P) Regs, reg 2(1); SS CS (D&A) Regs, reg 1(3); SFWFP Regs, reg 1(2); SFMFE (Gen) Regs, reg 3(1); SS Ben (C of E) Regs, reg 2(1); SS Ben (Dep) Regs, Sch 2, para 2C*

02005 “Partner” means one of a couple.

02006 In the case of joint-claims to JSA, the definitions of “claimant”, “joint claim couples” and “joint claims JSA” should also generally be applied to this Chapter. See DMG Chapter 22.

## The relevant law

02007 Two sorts of law apply to claims and application

1. substantive law dealing with rules on entitlement **and**

**2.** procedural law or administrative law

Procedural law includes claims and payments provisions. It controls the determining and enforcement of entitlement<sup>1</sup>. It is a general principle in procedural law that the DM applies whichever procedural rules are in force when the claim or application is made. This applies even though the entitlement arose some time ago and the procedural rules have since changed<sup>2</sup>.

*1 R(P) 3/93; 2 The Alexander (1841) 1W Rob 288 Eng Rep Vol 166 p580*



# Making a claim

## General requirement to make a claim

02008 In general, it is a condition of entitlement to benefit that a claim is made, or is treated as made, in the time and manner specified for that benefit in the regulations<sup>1</sup>. If this condition is not satisfied the claim can be disallowed. It is not necessary for the other conditions of entitlement to be considered. "Claim" includes an application for an IA declaration<sup>2</sup>. There are some benefits and questions that do not require a claim or application<sup>3</sup>.

*1 SSA Act 92, s 1(1); 2 SS (C&P) Regs, reg 2(1); 3 reg 3*



## Benefits for which a claim is not required

02009 A claim is not required for

1. Cat A RP where a claimant who is already entitled to any category of RP other than Cat A RP becomes divorced or has a civil partnership which is dissolved<sup>1</sup>
2. Cat B RP where
  - 2.1 a claimant is already entitled to
    - 2.1.a Cat A RP **or**
    - 2.1.b GRB **or**
    - 2.1.c both **and**
  - 2.2 marries or enters a civil partnership with a person who is entitled to Cat A RP or SP in their own right<sup>2</sup> **or**
  - 2.3 the spouse or civil partner of the claimant becomes entitled to Cat A RP or SP in their own right<sup>2</sup> **or**
  - 2.4 the spouse or civil partner of the claimant dies and they were entitled to Cat A RP or SP at the date of death<sup>2</sup>
3. Cat A RP, Cat B RP or SP<sup>3</sup> where the beneficiary is a woman
  - 3.1 over the age of 65 and entitled to WMA or WPA on her ceasing to be so entitled **or**
  - 3.2 under the age of 65 and in receipt of WP on her reaching pensionable age
4. Cat C RP<sup>4</sup> where the beneficiary is already in receipt of
  - 4.1 another RP **or**
  - 4.2 WB **or**
  - 4.3 benefit corresponding to WP or WMA **or**
  - 4.4 WPA
5. Cat D RP<sup>5</sup> where the beneficiary
  - 5.1 was ordinarily resident in GB on the day on which age 80 was reached **and**
  - 5.2 is in receipt of another category of RP
6. age addition for a pensioner attaining age 80<sup>6</sup>
7. CWP
8. RA<sup>7</sup>
9. dependency increases where entitlement has ended because of earnings (see DMG 02037).

10. JSA where
  - 10.1 JSA has previously been awarded **and**
  - 10.2 payment under that award has been suspended<sup>8</sup> for a definite or indefinite period **and**
  - 10.3 that suspension expires or is cancelled in part only **and**
  - 10.4 the DM decides that there was no entitlement to JSA during any part of the period of suspension **and**
  - 10.5 the claimant's entitlement is not in doubt

a new claim is not needed to cover days immediately following the suspension period<sup>9</sup>
11. IS, where the claimant is treated as not being in remunerative work because the claimant is in receipt of IS by way of MIRO (see DMG 20530)<sup>10</sup>
12. WPA where, immediately before a full GRC is issued, a female to male transsexual claimant was in receipt of WMA<sup>11</sup>
13. SAP where the beneficiary is in receipt of any category of RP<sup>12</sup>
14. BPT where the beneficiary is in receipt of RP of any category or SP at the date of death of the spouse or civil partner and satisfies the conditions of entitlement<sup>13</sup>
15. ESA where the claimant has made and is pursuing an appeal against a relevant decision of the Secretary of State and that appeal relates to a decision to terminate or not award a benefit for which a claim was made<sup>14</sup>. A relevant decision means a decision that embodies the first determination by the Secretary of State that the claimant does not have LCW. It is also a decision that embodies the first determination by the Secretary of State that the claimant does not have LCW since a previous determination by the Secretary of State or appellate authority does not have LCW. An appellate authority is the FtT, UT, Court of Appeal, Court of Session or the Supreme Court<sup>15</sup>.
16. A claim for SP<sup>16</sup> under specified legislation<sup>17</sup> is not required where the beneficiary is entitled to
  - 16.1 SP under a different section of the prescribed legislation<sup>18</sup> **or**
  - 16.2 another SP under the same section of the prescribed legislation

**Note 1:** A Cat B pension also includes a pension awarded under section 51A of the SS CB Act 92. This is sometimes known as an ABL pension.

**Note 2:** The award of ESA will begin on the day after the last day of entitlement of the award which is the subject of the appeal or on the day the medical evidence begins if later.

**Note 3:** “SP” at DMG 02009 2. means SP at the transitional rate.

**Note 4:** The guidance at DMG 02009 3.2 will also apply where a person is entitled to BA on 5.4.17<sup>19</sup>. However, it will cease to apply where a person is no longer entitled to BA<sup>20</sup>.

**Note 5:** The guidance at DMG 02009 4. will also apply where a person is entitled to BPT or BA on 5.4.17<sup>21</sup>. However, it will cease to apply where a person is no longer entitled to BPT or BA<sup>22</sup>.

**Note 6:** The guidance at DMG 02009 14. will only apply where a person is entitled to BPT 5.4.17<sup>23</sup>. However, it will cease to apply where a person is no longer entitled to BPT<sup>24</sup>.

*1 SS (C&P) Regs, reg 3(1)(ca); 2 reg 3(1)(cb), (i, ii & iii); 3 reg 3(1)(d); 4 reg 3(1)(a); 5 reg 3(1)(b); 6 reg 3(1)(c); 7 reg 3(1)(e); 8 SS CS (D&A) Regs, reg 16(2); 9 SS (C&P) Regs, reg 3(1)(g); 10 reg 3(1)(h); 11 GR Act 04, Sch 5, para 3(2); 12 SS (C&P) Regs, reg 3(1)(i); 13 reg 3(1)(da) & SS CB Act 92, s 36(1); 14 SS (C&P) Regs, reg 3(1)(j); 15 reg 3(2); 16 reg 3(1)(ja); 17 & 18 Pensions Act 14; 19, 20, 21, 22, 23 & 24 Pensions Act 14 (Commencement No. 10) Order, art 4; Pensions Act 14 (Cons, Supp & Inci Amdts) Order, art 2*

### **Example 1**

Heather’s entitlement to ESA ends when she fails the WCA. She appeals and ESA is awarded from the date of disallowance. No claim is required. Her appeal is dismissed. The FtT decision notice is received on 13.7.10. Heather’s benefit week ends on Monday. The DM treats her as not having LCW from 20.7.10 and the award of ESA is superseded and terminated from 20.7.10. Heather makes an appeal against this decision. A further claim though is required to consider entitlement to ESA.

### **Example 2**

Kathryn is entitled to SP at the transitional rate. She is subsequently widowed and becomes entitled to survivor’s SP based on inheritance of SP. No claim is required.

## **Exemption from claiming Cat A or Cat B Retirement Pension**

02010 A claim is not required for Cat A or Cat B RP in the circumstances set out below.

02011 No claim<sup>1</sup> is required from a beneficiary who has received written notification to that effect from the Secretary of State

1. at least 2 weeks before the day they reach pensionable age<sup>2</sup> **or**
2. later if the Secretary of State considers that reasonable

*1 SS (C&P) Regs, reg 3A(1 & 2); 2 Pensions Act 1995, Sch 4, para 1*

02012 The Secretary of State can only give a notification in a case where, 8 weeks before the day on which the beneficiary reaches pensionable age they<sup>1</sup>

1. are in receipt of an exempt benefit (including those who have been awarded benefit but have not received their first payment)<sup>2</sup> **or**

2. would be in receipt of an exempt benefit but for it not being payable because of<sup>3</sup>
  - 2.1 a sanction (JSA and joint claim JSA - DMG Chapter 34)<sup>4</sup> **or**
  - 2.2 a failure to attend on the date or at the time specified in a notice (JSA and joint claim JSA - DMG Chapter 20)<sup>5</sup> **or**
  - 2.3 a disqualification for misconduct (IBLT and IS where it is paid on grounds of incapacity - DMG Chapter 13; ESA - DMG Chapter 53)<sup>6</sup> **or**
  - 2.4 any provision of the Social Security Fraud Act 2001<sup>7</sup> **and**
3. are neither entitled to, nor awaiting the determination of, a claim for a non-exempt benefit<sup>8</sup>

*1 SS (C&P) Regs, reg 3A(3); 2 reg 3A(3 & 5); 3 reg 3A(7); 4 JS Act 95, s 19 & 20A; 5 s 8(2)(a) & JSA Regs, reg 27A; 6 SS (IfW) (Gen) Regs, reg 18 & ESA Regs, reg 157; 7 SS (C&P) Regs, reg 3A(7)(ca); 8 reg 3A(3)(b)*

### Example

Jeremy is in receipt of ESA. He reaches pensionable age in 8 weeks time, on 5 March 2012. On 20 February he receives a notification that he does not have to make a claim for Cat A RP.

02013 Exempt benefit<sup>1</sup> means

1. ESA
2. IS
3. JSA
4. IBLT
5. SPC

*1 SS (C&P) Regs, reg 3A(6)*

02014 Non exempt benefit<sup>1</sup> means

1. CA
2. IBST
3. SDA
4. WMA
5. WP

*1 SS (C&P) Regs, reg 3A(6)*

## Deferral and De-retirement

02015 A person who, in accordance with specified legislation

1. before pensionable age, inform the Secretary of State that they want their entitlement to Cat A or Cat B RP to be deferred<sup>1</sup> **or**

2. after reaching pensionable age, elects to de-retire<sup>2</sup>

must make a claim in order to subsequently be entitled to Cat A or Cat B RP<sup>3</sup>

*1 SS CB Act 92, s 55(3)(a); 2 SS (WB&RP) Regs, reg 2; 3 SS (C&P) Regs, reg 3A(4)*

## Dependency increases

02016 For some increases for adult dependants entitlement ends when the earnings of the dependant are more than a certain amount (see DMG Chapter 16). An award of benefit continues, but an increase for a dependant is not payable for the relevant week or weeks affected by those earnings<sup>1</sup> where

1. entitlement to the increase ends only because of the dependant's earnings  
**and**
2. entitlement would have continued if those earnings were ignored.

In these circumstances a new claim is not needed before the increase can be considered again.

*1 SS CB Act 92, s 92*

02017 - 02037





## Who can claim benefits

02038 Any person can make a claim for benefit but there are rules applying to couples who claim ESA(IR), IS, JSA(IB) or SPC. In the case of a couple the claim for ESA(IR), IS, JSA(IB) or SPC should be made by whichever partner they agree should claim<sup>1</sup>. If there is no agreement the DM decides who should claim using benefit specific guidance. There is no right of appeal against such a decision (see DMG Vol 1, Annex E). Claims may also be made by a person appointed by the Secretary of State to act on behalf of the claimant, by a person with POA (see DMG 02441) or a receiver appointed by the court of protection.

*1 SS (C&P) Regs, reg 4(3), (3B)(a), 4I & 4D(7)*

02039 DMG Chapter 11 describes situations where couples are not treated as LTAHAW or LTACP because the circumstances are prohibited, illegal or not acceptable. A claim by a person other than the agreed partner is not acceptable as a claim.

02040 Where benefit may be claimed by either of two partners, the Secretary of State may require that one partner consents in writing to the other partner making the claim<sup>1</sup> although such agreement is not normally required.

*1 SS (C&P) Regs, reg 7(2)*

## Change of claimant

### JSA

02041 Where one of a couple claims but is not entitled to JSA(Cont) and the other partner claims JSA(IB) that claim will be treated as having been made on the date the JSA(Cont) claim was made<sup>1</sup>. Special guidance on joint-claim JSA is given at DMG 20017 et seq.

*1 SS (C&P) Regs, reg 4(3B)(b)*

02042 Where one of a couple becomes entitled to JSA(IB) immediately following JSA(Cont) and the other partner makes a claim for JSA

1. the claim of the first partner will end **and**
2. the claim of the second partner will be treated as having been made on the day after the last day of JSA(Cont)<sup>1</sup>.

*1 SS (C&P) Regs, reg 4(3B)(c)*

### IS

02043 Where one of a couple is entitled to IS, but the other partner wishes with the claimant's agreement to claim, entitlement to IS of the first partner ends on the day before that claim is made or treated as made<sup>1</sup>. The second partner must make a new claim. The earliest day on which that claim can be treated as made is the day following that on which the first partner's claim ended<sup>2</sup>. Special provisions apply where the DP is involved.

*1 SS (C&P) Regs, reg 4(4); 2 SS CB Act 92, s 134(2)*

## Treating another person as the claimant

02044 If a person claims benefit but is not entitled, the claim can be treated as having been made by another person for an increase of that benefit. Where the claim is accepted the date of claim is the date the original claim was received<sup>1</sup>. The DM should not decide that a claim has been properly made unless the person who will be treated as claiming has stated that they want to claim.

*1 SS (C&P) Regs, reg 9(4) & (7)*

### Example

A man is in receipt of IB. His wife makes a claim for IB but does not satisfy the contribution conditions. The husband states that he wants to claim an increase for her. Her claim is treated as a claim for an adult dependency increase by her husband. The date of claim is the date of the wife's claim.

02045 Where a person claims but is not entitled to an increase of benefit for a child or adult dependant the claim may be treated as made by another person for the same increase for that dependant<sup>1</sup>. The additional conditions mentioned in DMG 02044 also apply.

*1 SS (C&P) Regs, reg 9(5) & (7)*

02046 - 02047

## How to make a claim

02048 Claims for benefit may be made

1. in writing at an appropriate office (see DMG 02049)
2. in writing at an alternative office (see DMG 02052)
3. under the Customer Management System in which a form containing information provided by the claimant over the telephone is sent out to the claimant for signing and returning as a claim form
4. by electronic means - (see DMG 02069)
5. by telephone without the need for a written claim form for SFFP, BB, RP, GRB, WFP and SAPs (see DMG 02073)
6. by telephone without the need for a written claim for SPC (see DMG 02131)
7. by telephone without the need for a written claim for ESA (see DMG 02155)
8. by telephone in some instances for IS and JSA (see DMG 02086).

### Appropriate offices

02049 Claims for benefit can be made by delivering or sending the form to the appropriate office. The appropriate office is

1. an office of the DWP **or**
2. a postal address specified by the Secretary of State where any provision in specified legislation relates to a claim, notice or other document being received, sent, delivered or otherwise furnished in writing to an appropriate office<sup>1</sup>.

But see also DMG 02052 et seq.

*1 SS (C&P) Regs, reg 2(1)*

02050 A wide interpretation is given to the requirement to make a claim at an appropriate office.

#### Example

A claim for a centrally administered benefit which is received in another office is accepted as made on the date the claim was received at that office.

02051 Conventions with other countries sometimes allow for a claim made to an authority in another country to be accepted as a claim made in GB. For Member States of the EU any claim should be accepted if it should have been submitted to an authority in one Member State within a prescribed time and it is submitted within the same period to a corresponding authority in another Member State<sup>1</sup>. For “prescribed time”

see DMG 02330. For details about conventions with other countries and European law, see DMG Chapter 07 Part 1.

*1 Reg (EC) No. 1408/71, Art 86*

## Alternative offices

02052 Certain groups of claimants can make their claim at an alternative office.

### Claimants affected

02053 The provisions in DMG 02057 apply to persons who have reached the **qualifying age** who claim one of the following benefits<sup>1</sup>

1. AA
2. WPA
3. CA
4. DLA
5. IB
6. RP of any category for which a claim is required
7. SAP for which a claim is required
8. a WFP for which a claim is required under specific legislation<sup>2</sup>
9. SP.

**Note 1:** Similar rules apply to SPC - see DMG 02129.

**Note 2:** The guidance at DMG 02053 **2.** will also apply where a person is entitled to BPT or BA on 5.4.17<sup>3</sup>. However, it will cease to apply where a person is no longer entitled to BPT or BA<sup>4</sup>.

*1 SS (C&P) Regs, reg 4(6A)(a); 2 SFWFP Regs, reg 3(1)(b); 3 & 4 Pensions Act 14 (Commencement No. 10) Order, art 4; Pensions Act 14 (Cons, Supp & Inci Amdts) Order, art 2*

## Persons who have not yet attained qualifying age

02054 The provisions in DMG 02057 also apply<sup>1</sup> to a person who has not yet attained the qualifying age but makes a claim for RP, SP or a SAP in advance in accordance with specific legislation<sup>2</sup>. Claims for CA, DLA, ESA, and IB persons below qualifying age can also be made at alternative offices<sup>3</sup>. IS claims can similarly be made and are not dependent upon whether the claimant has reached qualifying age or not<sup>4</sup>.

*1 SS (C&P) Regs, reg 4 (6A)(b); 2 reg 15(1); 3 reg 4(6A)(d); 4 reg 4(6A)(c)*

## Definitions

02055 "Bereavement benefit" means<sup>1</sup>

1. BPT under legislation<sup>2</sup> in force before it was repealed<sup>3</sup>

2. BA under legislation<sup>4</sup> in force before it was repealed<sup>5</sup> **and**
3. WPA.

**Note:** The repeals in DMG 02055 will **not** apply where a person is entitled to BPT or BA on 5.4.17<sup>6</sup>. However, they will apply where a person is no longer entitled to BPT or BA<sup>7</sup>.

*1 SS (C&P) Regs, reg 2(1); 2 SS CB Act 92, s 36; 3 Pensions Act 14, Sch 16, para 8;  
4 SS CB Act 92, s 39B; 5 Pensions Act 14, Sch 16, para 13; 6 & 7 Pensions Act 14  
(Commencement No. 10) Order, art 4; Pensions Act 14 (Cons, Supp & Inci Amdts) Order, art 2*

02056 “Qualifying age” means<sup>1</sup>

1. in the case of a woman, pensionable age **or**
2. in the case of a man, the age which would be the pensionable age of a woman born on the same date as that man.

*1 SS (C&P) Regs, reg 2(1); SPC Act 02, s 1(6)*

### **The procedures**

02057 In addition to being able to claim at an appropriate office, persons to whom DMG 02053 or 02054 apply can make their claim by sending or delivering it, or making it in person at<sup>1</sup>

1. an office designated by the Secretary of State for accepting such claims **or**
2. the offices of
  - 2.1 a LA administering HB or CTB **or**
  - 2.2 a county council in England **or**
  - 2.3 a person providing services to an LA or county council as in **2.1** or **2.2** **or**
  - 2.4 a person authorized to exercise any function of a LA relating to HB or CTB **or**
  - 2.5 a person authorized to exercise any function of a county council in England<sup>2</sup>

**provided** the Secretary of State has arranged with the LA, county council or person referred to in DMG 02057 **2.3**, **2.4** or **2.5** for them to receive claims.

**Note 1:** Decisions about designating offices and making arrangements with LAs are made centrally.

**Note 2:** For ease of reference the offices listed in DMG 02057 **1.** & **2.** are referred to as “alternative offices” in DMG 02059 to 02065.

*1 SS (C&P) Regs, reg 4(6B); 2 SS Admin Act s 7A*

02058 A claim made under DMG 02057 must be on a form approved by the Secretary of State which has instructions for completing and returning printed on it<sup>1</sup>.

*1 SS (C&P) Regs, reg 4(6B)*

## Rights and responsibilities of local authorities and county councils in England

02059 On receipt of a claim, the LA, county council or person specified in DMG 02057 **2.3**, **2.4** or **2.5**

1. must forward the claim as soon as reasonably practicable to the Secretary of State<sup>1</sup>
2. may receive information or evidence relating to the claim supplied by the claimant and/or other persons and must forward it to the Secretary of State as soon as reasonably practicable<sup>2</sup>
3. may obtain information or evidence from the claimant in connection with the claim (but not medical information or evidence except for that which the claimant must provide in accordance with the instructions on the claim form) and must forward it as soon as possible to the Secretary of State<sup>3</sup>
4. may verify any non medical evidence or information supplied or obtained and must forward it as soon as possible to the Secretary of State<sup>4</sup>
5. may record information or evidence relating to the claim supplied under DMG 02059 **2.** or obtained under DMG 02059 **3.** and hold it for the purpose of forwarding it to the Secretary of State<sup>5</sup>
6. may give the claimant information and advice relating to the claim<sup>6</sup>.

**Note:** The functions at DMG 02059 **2.** to **6.** may be carried out by one of these offices even if the original claim was made at a different office.

*1 SS (C&P) Regs, reg 4(6C)(a); 2 reg 4(6C)(b); 3 reg 4(6C)(c); 4 reg 4(6C)(cc); 5 reg 4(6C)(d); 6 reg 4(6C)(e)*

02060 Where any of the organisations referred to in DMG 02057 has arranged with the Secretary of State to receive claims for a specified benefit (DMG 02066) or to obtain information or evidence relating to claims for a specified benefit then the authority may

1. receive information or evidence which relates to an award of that benefit and which is supplied by either
  - 1.1 the person to whom the award has been made **or**
  - 1.2 other persons in connection with the award **and**
2. shall forward it to the Secretary of State as soon as reasonably practicable
3. verify any information or evidence supplied **and**
4. record the information or evidence supplied and retain it for the purpose of forwarding it to the Secretary of State<sup>1</sup>.

*1 SS (C&P) Regs, reg 32B*

## Date of claim

- 02061 Where a person who has attained the qualifying age makes a claim for a benefit listed in DMG 02053 at an alternative office, the date of claim will be the date that the claim is received at that office<sup>1</sup>.

*1 SS (C&P) Regs, reg 6(1ZA) & reg 6(1)(a)*

- 02062 Where a person who has attained the qualifying age makes a claim at an alternative office and that claim is either

1. defective **or**
2. not on an approved form

the Secretary of State may refer the defective claim form to the claimant or supply the claimant with an approved claim form<sup>1</sup>.

*1 SS (C&P) Regs, reg 4(7)*

- 02063 If the claim form, properly completed, is received within one month (or such longer period as the Secretary of State may consider reasonable) from the date it was referred or supplied, then the claim will be treated as properly made on the date it was first received at the alternative office. That date will therefore be the date of claim<sup>1</sup>.

*1 SS (C&P) Regs, reg 6(1ZA) & reg 6(1)(b)*

## AA and DLA

- 02064 Where a person claims AA and DLA at an alternative office then where

1. a request for a claim form is received in an alternative office **and**
2. in response to that request a claim form for AA or DLA is issued to the claimant **and**
3. the claim form, properly completed, is received in an alternative office within six weeks (or such longer period as the Secretary of State may consider reasonable) from the date on which the request in DMG 02064 1. was received

the date of claim is<sup>1</sup> the date the request in DMG 02064 1. was received. (See also DMG 02242 et seq).

*1 SS (C&P) Regs, reg 6(8B) & (8)*

- 02065 Where

1. it is not possible to determine the date the request for a claim form made under DMG 02064 1. was received **and**
2. this is because of a failure to record that date or because there is no clear evidence on the case

the claim shall be treated as made on the date six weeks before the properly completed claim form is received in the alternative office<sup>1</sup>.

*1 SS (C&P) Regs, reg 6(8B) & (8A)*

## **Use of information provided to a local authority in connection with a claim for HB or CTB**

02066 When a claimant supplies information to a LA for the purpose of claiming HB or CTB and this information is supplied to DWP, the Secretary of State must use this information without verifying its accuracy<sup>1</sup>. This information can be used for the purpose of a claim for, or award of a specified benefit<sup>2</sup>. A specified benefit is one or more of the following benefits<sup>3</sup>

1. AA
2. BSP
3. CA
4. DLA
5. ESA
6. IB
7. IS
8. JSA
9. RP
10. SPC
11. WPA
12. WFP
13. SP.

**Note:** The guidance at DMG 02066 will also apply where a person is entitled to BPT or BA on 5.4.17<sup>4</sup>. However, it will cease to apply where a person is no longer entitled to BPT or BA<sup>5</sup>.

*1 SS (C&I) Regs, reg 3(2); 2 reg 3(1)(b); 3 reg 1(3); 4 & 5 Pensions Act 14 (Commencement No. 10) Order, art 4; Pensions Act 14 (Cons, Supp & Inci Amdts) Order, art 2.*

02067 Information provided as in DMG 02066 above does not have to be used without further checks on its accuracy if

1. it is supplied more than 12 months after it was used by an LA for HB or CTB purposes<sup>1</sup> **or**
2. the information is supplied within 12 months of its use by the LA but the Secretary of State has reasonable grounds for believing the information has changed in the period between its use by the LA and its supply to him<sup>2</sup> **or**
3. the date on which the information was used by the LA cannot be determined<sup>3</sup>.

*1 SS (C&P) Regs, reg 3(3)(a); 2 reg 3(3)(b); 3 reg 3(3)(c)*



## Example

A claimant provides evidence of his savings to support his claim for HB. The LA verifies that his savings are £10,000 - this includes shares. The information is sent to DWP. Eight months later a claim for IS is made. The Secretary of State requests that the claimant provides evidence of his savings as it is likely that the amount of savings will have changed.

## Social security information verified by a local authority

02068 Where SS information is verified by a LA and forwarded to DWP the Secretary of State must use this information without verifying its accuracy for the purpose of a claim for or an award of a specified benefit<sup>1</sup>. However, information may be checked if either the Secretary of State has reasonable grounds for believing the information is inaccurate or the information is received more than four weeks after it was verified by the LA<sup>2</sup>. SS information means information relating to SS, child support or war pensions or evidence obtained in connection with a claim for or an award of a specified benefit<sup>3</sup>.

*1 SS (C&I) Regs, reg 4(2); 2 reg 4(3); 3 SS Admin Act, s 7B(4)*

## Claims made electronically

02069 The following benefits (together with any dependency increase) may be claimed electronically<sup>1</sup>

1. CA
2. AA
3. DLA
4. RP
5. GRB
6. SAP
7. JSA
8. SP
9. ESA
10. IIDB

Detailed guidance on the conditions for the use of electronic communications and the Secretary of State's directions authorizing the use of such means are set out at Annex B. This means that electronic claims must be made using the claim form and the methods set down on the DWP website. If any other methods are used then the claim is treated as not having been submitted<sup>2</sup>.

**Note:** BSP will be added to the list when the Secretary of State issues a direction.

*1 SS (C&P) Regs, reg 4ZC; 2 Sch 9ZC, para 2(7)*

02070 A claim made electronically is deemed to have been delivered in the manner or form as described at DMG 02080 et seq.

02071 Where a claim is made electronically the date of claim is the date the claim is recorded as having been received on the Department's computer system (i.e. at the Government Gateway)<sup>1</sup>. This might not be the same as the date the claim is received in the appropriate office.

*1 SS (C&P) Regs, Sch 9ZC, para 4(1)*

02072 The following should also be noted (see also Annex B, Appendices A & B)

1. for AA and DLA only - a claim form may be requested electronically
2. for CA only - any certificate, notice, information or evidence in connection with the claim may be provided electronically
3. for CA only - changes of circumstances can be notified electronically.
4. for SP information, including a change of circumstances can also be given electronically.

## **Claims for IIDB, SFFP, BB, RP, GRB, SAPs, SP, WPA and BSP made by telephone**

02073 Unless the Secretary of State directs that in any particular case a claim must be made in writing, claims to IIDB, SFFP, RP, GRB, WFP, SAPs, SP, WPA and BSP may also be made by telephone to a telephone number specified by the Secretary of State for the purpose of the benefit for which the claim is made<sup>1</sup>. No claim form is issued and no signature obtained. Claims made in this way cannot be made to alternative offices (see DMG 02052).

**Note:** This will also apply where a person is entitled to BPT or BA on 5.4.17<sup>2</sup>.

However, it will cease to apply where a person is no longer entitled to BPT or BA<sup>3</sup>.

*1 SS (C&P) Regs, reg 4(11) ; 2 & 3 Pensions Act 14 (Commencement No. 10) Order, art 4; Pensions Act 14 (Cons, Supp & Inci Amdts) Order, art 2*

02074 A statement of details is incorporated into any outcome decision in these cases so that claimants can check the accuracy of the facts used to determine their entitlement.

02075 - 02079

# Claims made in the prescribed manner

## The prescribed manner for making a claim

02080 A claim made in the prescribed manner is one that

1. is made on the approved form for that benefit or (except for IS and JSA) in some other written way that is satisfactory to the Secretary of State (for example a printed form of words such as a statement with the claimant's signature or mark<sup>1</sup>) **and**
2. is properly completed in accordance with the instructions on the form **and**
  - 2.1 for IS and JSA satisfies the evidence requirements (see DMG 02086 - 02090)<sup>2</sup>.

**Note:** See DMG 02069 et seq for claims made electronically. See DMG 02073, 02148, 02253 and 02257 for telephone claims. See DMG 02127 et seq for guidance on claims for SPC.

*1 Inte Act 78, Sch 1; 2 SS (C&P) Regs, reg 4(1)*

02081 A form that has been produced under the Customer Management System procedures with the claimant's answers already entered on it and then sent to the claimant to be signed and returned as a claim for benefit is an approved claim form. But a claim in the prescribed manner will not be received until the

1. claimant has completed the form and adopted it by his signature **and**
2. form has been returned to an appropriate office (together, in the case of IS and JSA, with the information and evidence it requests).

02082 The requirement to complete the form in accordance with instructions on it is satisfied if the relevant information or evidence is provided somewhere on the claim form or in documents that the claimant refers to and submits along with the claim form. The condition is also satisfied when questions about entitlement to or payability of the benefit being claimed are answered. Answering other questions on the form is not necessary for the form to be accepted as properly completed. For example, where a claim form for a personal benefit includes questions about whether the claimant also wishes to claim an increase for a dependant, any failure to answer those questions will not make the personal benefit claim defective. Nor will failure to provide details about payment arrangements<sup>1</sup>.

*1 SS (C&P) Regs, reg 4(1) & (1A); R(IS) 6/04*

02083 An intention to claim can be notified by any means. It does not have to be in writing<sup>1</sup>.

*1 SS (C&P) Regs, reg 4(5)*

02084 An intention to claim stated in a phone conversation is not a claim in the prescribed manner<sup>1</sup> (but see DMG 02073, and 02131 for claims to SFFP, BB, RP, GRB, SAPs and SPC made by telephone). For AA and DLA there are provisions which allow the date of claim to be backdated to the date of a request for a claim form. This includes oral requests made, for example, using the Benefit Enquiry Line.

*1 R(F) 1/92*

## **Written communication - sufficient to constitute a claim for benefit**

02085 Regulations<sup>1</sup> provide that claims to benefit (with certain exceptions<sup>2</sup>) shall be made in writing on an approved form or in such other manner (in writing) as the Secretary of State may accept as sufficient in the circumstances of any particular case. The Secretary of State has discretion whether to accept that a written request for benefit which is not on the official form is sufficient for establishing a claim to benefit. This discretion **does not** apply to claims for ESA<sup>3</sup>, IS or JSA<sup>4</sup>. Written claims for these benefits must be made on a form approved by the Secretary of State. Guidance at paragraphs 02085 - 02091 therefore does not apply to these benefits.

*1 SS (C&P) Regs, reg 4(1), reg 4D; 2 regs 4(10-11B); 3 reg 4H(2); 4 reg 4 (1A)(a)*

02086 Regulations<sup>1</sup> provide that where a claim is received and is not made in the prescribed manner then the claim is defective. When a defective claim is received<sup>2</sup> the claim form should be returned to the claimant for completion or the claimant should be supplied with the approved form. If a properly completed claim form is submitted within the timescale provided in regulations it can be backdated to the date of the earlier defective claim. Guidance in paragraphs 02085 to 02091 addresses the question of when a written communication, which is not made on an approved form and which is also not accepted as “sufficient” under the regulations referred above, is nonetheless capable of being sufficient to amount to a “claim” for a particular benefit, albeit a defective one.

*1 SS (C&P) Regs, reg 4(7), 4(7ZA) & reg 4H(6); 2 reg 4(7), 4(7ZA) & reg 4H(7)*

02087 In considering whether a written communication from a claimant is capable of amounting to a defective claim then three principles should be applied. These principles derive from a Court of Appeal judgement which concerned HB but affects other benefits as well<sup>1</sup>. The first is that it must be clear from the document that the claimant wishes to claim benefit and is not, for example, just asking for information. A general enquiry as to what benefits can be claimed, does not constitute a claim. Similarly, for example, a request for a claim form will usually amount only to a notification that a claimant intends to claim benefit in the future, and will not amount

to a claim (not even a defective one); the receipt of a medical certificate on its own would not constitute a claim for DLA, for example. In the judgment the claimant had stated that she wanted the benefits to which she was entitled to be backdated, so it was clear that she was not just asking for information about her benefit position. She had also described herself as “applying” for benefits. However, the Court commented that the position would have been different if the claimant had said that she would be claiming at a future date and would be asking for her benefit to be backdated. If that was the case it would be clear that no claim was yet being made.

*1 Novitskaya vs London Borough of Brent & S of S for Work and Pensions [2009] EWCA Civ 1260*

02088 The second principle is that the particular benefit does not necessarily have to be named in the written document. For example, the claimant might not know the correct name of the benefit that they want to claim. However, the Court reached this conclusion on the basis that a reasonable official receiving the document could understand which benefits were being claimed. In this particular case it was clear that the document had been understood to be a claim for HB because the word “HB” had been written on it by an official. Discretion should be applied when the DM is determining such cases, for example if a claimant uses the wrong name for a benefit then this should not necessarily be fatal. If it is reasonably clear what benefit is being claimed then the document should be treated as a defective claim for that benefit. On the other hand, if the information provided is so vague that it is not remotely possible to determine what benefit the claimant wanted then a contrary approach may be taken. DMs should consider all the available evidence and the claimant’s circumstances when determining whether the communication can be treated as a defective claim for a particular benefit.

02089 The third principle established by the judgement is that, in determining whether a defective claim for benefit was made, the written document should not be looked at in isolation. It must be looked at along with any other information such as other documents provided by the claimant at the time, or statements that they have made in a telephone or face to face conversation.

02090 Where such a written notification is received, then the claim will be defective. A claim form should be sent to the claimant to complete. The claimant has one month, or such longer time as is considered reasonable, to return the claim form to the Department<sup>1</sup>. Upon receipt within these timescales the date of claim will be the date of receipt of the original notification.

*1 SS (C&P) Regs, reg 4(7), reg 4(7ZA), reg 4(7A), reg 4(7B), reg 4D(6C, 6D, 6E, 10 & 11), reg 4H(7)*

02091 In some cases it will be clear what benefit the claimant is referring to. For example a 65 year old man may submit a written notification that they want to claim their pension or a person may write in to say that their spouse or civil partner has recently died. Alternatively, it may be the case that contact will be needed with the

claimant to establish what benefits they may be entitled to. Similarly, it may be the case that the claimant's details should be passed to the LA to consider a claim for CTB, HB or HMRC to consider tax credits.

## Claims for IS and JSA

02092 A claim for IS or JSA must

1. be made in writing on the official form for the benefit being claimed (but see DMG 02093 below) **and**
2. be made in accordance with the instructions on the form, unless any of the reasons listed in DMG 02094 applies **and**
3. include any information or evidence in connection with the claim as the claim form may require, unless any of the reasons listed in DMG 02094 applies<sup>1</sup> **and**
4. be delivered or sent to an appropriate office<sup>2</sup> (if so directed a JSA claimant must attend for interview at a place and time specified and must provide a properly completed claim form on or before that occasion<sup>3</sup>).

**Note:** The claimant can be permitted an extension of the time allowed for the provision of a fully completed claim form, provided it is done so no later than one month from the date the claimant first notified their intention to make their claim<sup>4</sup>.

*1 SS (C&P) Regs, reg 4(1A); 2 reg 4(6)(b); 3 regs 4(6)(a) & 6(4AA); 4 reg 6(4AB)*

02093 The Secretary of State also has discretion to accept telephone claims to IS and JSA<sup>1</sup>. Information and evidence required for written claims must similarly be produced if the claim is made by telephone<sup>2</sup>. A claim made by telephone is properly completed if the Secretary of State is provided with all the information required to determine the claim and the claim is defective if not so completed<sup>3</sup>. Information can be required which cannot be provided during the call such as hard copies and original documents. The rules for correcting a defective telephone claim correspond with the rules for correcting a defective written claim<sup>4</sup>. The claimant has one month from the date an intention to claim was notified<sup>5</sup> this is not capable of being extended by the Secretary of State. The date of claim for telephone claims is determined in the same way as if the claim was made in writing<sup>6</sup>. In some circumstances IS claimants who are lone parents may have their Wfl deferred. A telephone claim made in these circumstances still requires a signed Customer Statement. The telephone call is recorded and retained for up to 14 months following the date of initial contact.

*1 SS (C&P) Regs, reg 4(11A); 2 reg 4(12); 3 reg 4(12); 4 reg 4(13); 5 reg 4(7A) & 4(7B);  
6 reg 6(1A), 6(4ZC) & 6(4A)*

02094 The reasons referred to in DMG 02092 **2.** and **3.** are<sup>1</sup>

1. because of a physical, learning, mental or communication difficulty
  - 1.1 the claimant is unable to complete the form in accordance with the instructions **or**
  - 1.2 the claimant is unable to obtain the required information or evidence **and**
  - 1.3 it is not reasonably practicable for the claimant to get help from someone else to complete the form or obtain the information or evidence within the one-month deadline in DMG 02098 **or**
2. the information or evidence required
  - 2.1 does not exist **or**
  - 2.2 can only be obtained at serious risk of physical or mental harm to the claimant, and it is not reasonably practicable for the claimant to obtain the information or evidence within the one-month deadline in DMG 02098 in some other way **or**
  - 2.3 can only be obtained from a third party, and it is not reasonably practicable for the claimant to obtain the information or evidence from them within the one-month deadline in DMG 02098 **or**
3. the claim is not by a joint-claim couple and the Secretary of State considers that the person making the claim has provided enough information or evidence to show that there is no entitlement to benefit, and there is nothing to be gained by asking for anything further **or**
4. the claim is by a joint-claim couple and the Secretary of State considers that either member of the couple has provided enough information or evidence to show that there is no entitlement to benefit, and there is nothing to be gained by asking for anything further.

If a person making a claim is unable to complete the claim form, or supply the information or evidence, because any of the above reasons applies, the person may notify the appropriate office as in DMG 02049 by any means, for example, by phone, in person, in writing, or by a third party.

**Note:** 1.1 - 1.3 does not apply to a joint-claim couple to the extent that the member of the couple who is unable to complete the form or obtain the information in question can obtain assistance from the other member of the couple<sup>2</sup>.

*1 SS (C&P) Regs, reg 4(1B); 2 reg 4(1BA)*

## Procedure on receiving a possible IS or JSA claim

02095 Whenever a communication that is possibly related to claiming IS or JSA is received from a person who is not already receiving that benefit, the DM must consider whether it is

1. a claim in the prescribed manner **or**
2. a defective claim **or**
3. a notification of intention to claim.

## Claim for IS or JSA in the prescribed manner

02096 A claim in the prescribed manner is one that satisfies DMG 02086. Once such a claim has been made, the DM must investigate and decide whether the claimant satisfies all the other conditions of entitlement.

## Defective IS or JSA claims

02097 A defective claim is something that

1. expressly states that a claim is being made<sup>1</sup> **but**
2. does not satisfy DMG 02086<sup>2</sup>.

*1 R(S) 1/63; 2 SS (C&P) Regs, reg 4(9)*

02098 If a claim is defective when it is made the claimant or each member of a JSA joint-claim couple should be told

1. why the claim is defective **and**
2. that there is one month to submit a corrected claim starting from the date
  - 2.1 the defective claim was made **or**
  - 2.2 the claimant first notified an intention to claim benefit (if that was earlier) **and**
3. that a properly completed claim that is made within the one-month deadline will be treated as made on the relevant date in **2.1** or **2.2** **and**
4. the date of claim will be the date the properly completed claim is received if the one month deadline is missed<sup>1</sup>.

*1 SS (C&P) Regs, reg 4(7A) & (7B), 6(4ZA), 6(4A)*



02099 No decision on the claim should be made until the claimant has been given an opportunity to correct the defects in it. The decision should be deferred until the date by which the defect must be rectified in order for the claim to be treated as made on the date on which the initial defective claim was made, namely one month from the date on which an intention to claim was first notified<sup>1</sup>.

*1 SS (C&P) Regs, reg 6(1A)(b)*

02100 If the defects in the claim have not been corrected by the time allowed in DMG 02095 the DM should consider whether it is appropriate to delay making an outcome decision on the claim. If it appears that the required information or evidence can be provided very shortly the outcome decision may be deferred so as to avoid the need for a new claim. Failing this, a decision should be given without delay to disallow the claim.

02101 Should a claimant contact DWP and say that they wish to claim IS or JSA then it should be accepted that the process of making a claim has been started. If that claim is not completed then it is defective and the claimant must be given an opportunity to complete the process<sup>1</sup>.

*1 SS (C&P) Regs, reg 4(7A) & 7(B)*

02102 In circumstances where the process of making a claim has been started but not all the information and supporting evidence has been supplied, or the claimant has not attended a mandatory interview, by one month after the initial date of contact, an outcome decision should be issued. This decision will disallow IS or JSA on the basis that the claim is defective.

02103 If a person other than the claimant contacts DWP and says that the claimant wishes to claim IS or JSA then there is, as yet, no claim. Instead the claimant has merely notified an intention to claim<sup>1</sup>.

*1 SS (C&P) Regs, reg 4(5)*

### **After a claim has been disallowed as defective**

02104 If the claimant disputes the decision that the claim was defective because there was no need to provide the information the DM should

1. consider all of the available evidence, including any provided since the decision was given **and**
2. determine whether
  - 2.1 the claimant's circumstances on or before the date of the defective claim decision fell within one of the exceptions in DMG 02094 **and**
  - 2.2 there are grounds to revise the defective claim decision under normal rules.

**Note:** To benefit from one of the exceptions in DMG 02094 the claimant does not have to show that an exception applies within the one-month period in DMG 02098

2. The DM should not refuse to revise merely because evidence that one of the exceptions applied was submitted after the one-month period. The normal time limits for revision apply (see DMG Chapter 3).

- 02105 If a claim has been disallowed as defective because information or evidence was not submitted but the claimant later provides that information or evidence, the DM should
1. consider whether the decision can be revised because an exception applies (see DMG 02094) **and**
  2. if no exception applies
    - 2.1 decide that the defective claim
      - 2.1.a cannot be revised because the submission of the missing material is a change of circumstances<sup>1</sup> **and**
      - 2.1.b cannot be superseded because the change of circumstances occurred after the claim was decided and that a new claim is required<sup>2</sup> **and**
    - 2.2 consider whether DMG 02092 1. now applies to the new communication.

*1 SS CS (D&A) Regs, reg 3(9)(a); 2 SS Act 98, s 8(2)(b)*

### **Notification of an intention to claim IS or JSA**

- 02106 If a notification of an intention to claim is received, the claimant should be provided with a claim form<sup>1</sup>. The claimant should be told the date by which a properly completed claim form must be received in order for the claim to be treated as made on the date the claimant first notified their intention to claim. Such a notification is not an outcome decision and does not carry a right of appeal. No outcome decision is required until a claim has been made.

*1 SS (C&P) Regs, reg 4(5)*

### **Claim made after a defective claim or notification of intention to claim**

- 02107 When a claim is made that satisfies the conditions in DMG 02092, the DM should determine whether the claim is one made within one month of the earliest defective claim or notification of intention to claim. If the claimant's attempt to claim has involved more than one notification or defective claim, the month starts on the date on which the earliest defective claim or notification was received. Then
1. if the claim is made at an appropriate office within the one month period, the new claim should be treated as made on the date of the earliest defective claim or notification of intention to claim<sup>1</sup>

2. if the claim was made outside the one month period, the DM should consider whether there are any other grounds on which the claim can be treated as made earlier than the date on which it was received. If the claim cannot be backdated in this way, the date of claim is the date that the claim that satisfies the conditions in DMG 02086 was received at an appropriate office<sup>2</sup>. The one month period cannot be extended under any circumstances.

*1 SS (C&P) Regs, reg 6(1A)(b); 2 reg 6 (1A)(a)*

## **Claims for benefits other than IS, JSA and SPC**

02108 Except for claims made by telephone (see DMG 02073, 02131) in order to be made in the prescribed manner, a claim must be made

1. in writing **and**
2. either
  - 2.1 on a claim form that has been
    - 2.1.a approved by the Secretary of State for the purpose of claiming the benefit in question **and**
    - 2.1.b properly completed in accordance with the instructions on the form **or**
  - 2.2 in some other manner, in writing, that the Secretary of State accepts as sufficient in the circumstances<sup>1</sup>.

**Note:** See DMG 02069 et seq for claims made electronically.

*1 SS (C&P) Regs, reg 4(1)*

## **Procedure on receiving a possible claim for a benefit other than IS, JSA and SPC**

### **Item in writing has been received but it is not a claim**

- 02109 If the claimant implies in writing that a claim is intended but does not say so expressly, a claim form should be sent for the claimant to complete<sup>1</sup>. Then if the claim form
1. is returned properly completed, the date of claim will be the date the form was received at an appropriate or alternative office<sup>2</sup> (but see also DMG 02242 for DLA or AA) **or**
  2. is returned but has not been properly completed, see DMG 02111 **or**
  3. is not returned and there is no other communication from the claimant, no further action is required.

*1 SS (C&P) Regs, reg 4(5); 2 reg 6(1), (8), (8A) & (8B)*

## **Claim in writing received but not on a claim form or in some other sufficient manner**

02110 If the claimant states expressly in writing that a claim is intended but the claim is not made on a claim form or in a manner that is sufficient in the circumstances, a claim form should be sent to the claimant<sup>1</sup>. If the claim form

1. is returned properly completed within one month of the date it was sent to the claimant or such longer period as the Secretary of State considers reasonable, the claim should be treated as made on the date the initial written claim was received<sup>2</sup> **or**
2. is not returned at all after one month or such longer period as the Secretary of State considers reasonable the claim should be disallowed on the ground that it is defective and thus does not satisfy the condition of entitlement that a claim is to be made in the manner prescribed by regulations<sup>3</sup> **or**
3. is returned more than one month after the date it was sent to the claimant or such longer period as the Secretary of State considers reasonable, and no decision has yet been given on the claim, the claim should be treated as made on the date the properly completed claim was finally received<sup>4</sup> **or**
4. is returned more than one month after the date it was sent to the claimant or such longer period as the Secretary of State considers reasonable, but the initial claim has already been disallowed, the DM should
  - 4.1 consider whether there are grounds to revise or supersede the disallowance **and**
  - 4.2 treat the claim as made on the date a properly completed claim was received<sup>5</sup>.

**Note:** Where a DLA or AA claim form has been requested from an appropriate office, the claimant should be given six weeks from the date the request was received (or such longer period as the Secretary of State may consider reasonable) to return the form before a decision is made. (See DMG 02242) for guidance on the date of claim in these circumstances).

*1 SS (C&P) Regs, reg 4(5); 2 regs 4(7) & 6(1)(b); 3 regs 4(1) & 4(8) & SS A Act 92, s 1(1);  
4 SS (C&P) Regs, reg 6(1)(a); 5 reg 6(1)(a)*

## **Claim made on an approved form but the form has not been properly completed**

02111 If a claim form has been received but all of the questions relating to entitlement have not been answered, the claim form should be returned to the claimant for completion<sup>1</sup>. If the claim form

1. is received properly completed at an appropriate office within one month of the date it was returned to the claimant or such longer period as the Secretary of State considers reasonable, the claim should be treated as made on the date the initial written claim was received<sup>2</sup> **or**
2. is not returned to an appropriate office at all after one month or such longer period as the Secretary of State considers reasonable the claim should be disallowed on the ground that it is defective and thus does not satisfy the condition of entitlement that a claim is made in the manner prescribed by regulations<sup>3</sup> **or**
3. is returned more than one month after the date it was returned to the claimant or such longer period as the Secretary of State considers reasonable and no decision has yet been given on the claim, the claim should be treated as made on the date the properly completed claim was received<sup>4</sup> **or**
4. is returned more than one month after the date it was sent to the claimant or such longer period as the Secretary of State considers reasonable but the initial claim has already been disallowed the DM should
  - 4.1 consider whether there are grounds to revise or supersede the disallowance **and**
  - 4.2 treat the claim as made on the date the properly completed claim was received<sup>5</sup>.

*1 SS (C&P) Regs, reg 4(7); 2 regs 4(7) & 6(1)(b); 3 regs 4(1) & 4(8) & SS A Act 92, s 1(1);*

*4 SS (C&P) Regs, reg 6(1)(a); 5 reg 6(1)(a)*

## **After a claim has been disallowed as defective**

02112 If a claimant seeks to correct the defects in a claim after it has been disallowed as defective, the DM should

1. decide that the disallowance cannot be revised or superseded because the submission of the new information or evidence is a change of circumstances that occurred after the claim was decided<sup>1</sup> **and**
2. consider whether the new communication can now be taken as the start of an attempt to make a new claim. If an intention to claim is accepted, a claim form should be sent<sup>2</sup>.

*1 SS CS (D&A) Regs, reg 3(9)(a); SS Act 98, s 8(2)(b); 2 SS (C&P) Regs, reg 4(5)*

## Dependency increases

- 02113 For claim purposes, an increase of benefit for a child, or an adult dependant, is treated as a separate benefit<sup>1</sup>. A separate claim must be made for a dependency benefit on a form approved by the Secretary of State, and within the prescribed time<sup>2</sup>.

*1 SS (C&P) Regs, reg 2(3); 2 SS A Act 92, s 1(1); SS (C&P) Regs, reg 19(3)(h)*

## Claim for adult dependants

- 02114 A claim for an adult dependant can only be accepted as a claim for the person named in the claim form, and the particular increase specified. A separate claim will normally be required for an increase for a different person, and a different increase for the same person.
- 02115 Where a decision has been given on a claim for an increase, whether by allowing or disallowing, a further claim is necessary. For example a further claim is necessary where a claim for a dependent wife is disallowed, and there is entitlement to an increase for a different person having care of a child.

**Note:** A fresh claim is not needed for entitlement to be considered again<sup>1</sup> where entitlement to the increase ended because of the dependant's earnings.

*1 SS CB Act 92, s 92*

- 02116 Where
1. payments have already been made for one adult dependant **and**
  2. it is found that no entitlement for an increase existed **and**
  3. there was entitlement (subject to claim) to an increase for a second dependant

the claim for the second dependant cannot be considered as a claim for a person having care of a child.

If it is discovered that entitlement existed for the claimant's partner but not the person having care, the claim cannot be regarded as a claim for the partner.

**Note:** This applies even where the dependent for whom the increase is claimed is the same person.

### Example

A claim is made for an increase of benefit and entitlement is established. At a later date it is discovered that the marriage was not valid, although entitlement could have been established for the dependant as a person having care of children.

The claim originally made for the partner cannot be accepted as a claim for a person having care of children.

## Effect of CHB extension on dependency increases

02117 A period of entitlement to CHB can be extended for a person who is

1. under the age of 18 **and**
2. who is not in FTE<sup>1</sup>

if a request is made for the extension.

*1 CHB (Gen) Regs, reg 7D*

02118 Where the period of entitlement to CHB is extended, there may also be entitlement to an additional period of dependency increase for

1. a dependent child **or**
2. a person caring for a child.

A fresh claim may be necessary to establish entitlement to CHB and to the dependency increases during the extended period because it remains a basic condition of entitlement that a claim is made<sup>1</sup>.

*1 SS A Act 92, s 13(1); SS (C&P) Regs, reg 2(3); CWS 36/50*

02119 When deciding if a fresh claim for CHB is necessary the DM should consider whether the request for the extension was made before or after an award has ended. Where a request<sup>1</sup> is made **before** entitlement to CHB would usually have ended a fresh claim will not be necessary.

*1 CHB (Gen) Regs, reg 7D(1)(e)*

### Example

A child leaves school in July 2000, when she is 16, but is still regarded as a child until the next terminal date, 4.9.00<sup>1</sup>. No decision is given fixing the end of the award. On 2.8.00 an extension is requested. As the request is made before the date on which entitlement would ordinarily have ended a fresh claim is not required.

*1 CHB (Gen) Regs, reg 7(1) & (2)*

02120 A fresh claim for the extended period is needed where

1. no request is made before the normal terminal date **and**
2. the Secretary of State has stopped payment of benefit.

Although not superseded, the award does not continue in force beyond the date on which it was ended<sup>1</sup>.

*1 R(F) 8/61*

### Example

A child leaves school in July 2000, when he is 16, but is still regarded as a child until the next terminal date, 4.9.00. CHB continues up to 10.9.00 (the last order being 4.9.00) but from 11.9.00 payment of the benefit is stopped.

On 18.9.00 a request for the extension of CHB is received. Although no decision has been given ending the award, payment was stopped by the Secretary of State on 10.9.00. Before entitlement can be considered again a fresh claim must be made.

02121 A fresh claim is required where a

1. DM has made a decision fixing the end of entitlement to CHB **and**
2. request for an extension is made **after** the date fixed by the DM.

If the request for an extension is made **before** the date fixed, the DM can supersede the decision to end entitlement.

02122 A fresh claim is needed to establish entitlement to the increase during the extended period if the original award of the increase was for

1. a definite period<sup>1</sup> **or**
2. an indefinite period<sup>2</sup>, but entitlement to the increase had ended when CHB entitlement was extended. This includes claims where payment of the benefit had been stopped by the Secretary of State<sup>3</sup>.

*1 SS (C&P) Regs, reg 17(3); 2 reg 17(1); 3 R(F) 8/61*

02123 A fresh claim for the increase is not necessary if

1. the original award of the increase was for an indefinite period<sup>1</sup> **and**
2. entitlement to CHB is extended whilst the increase is still payable.

*1 SS (C&P) Regs, reg 17(1)*

02124 - 02126

## Claiming SPC

### In writing

02127 A claim for SPC may be made in writing, by telephone or in person<sup>1</sup>. A claim only has to be in writing if, in a particular case, the Secretary of State directs that it must be<sup>2</sup>.

*1 SS (C&P) Regs, reg 4D; 2 reg 4D(1)*



- 02128 A claim is made in writing<sup>1</sup> either
1. by completing and returning (in accordance with the instructions printed on it) a claim form provided by or approved by the Secretary of State **or**
  2. in such other written form as the Secretary of State accepts as sufficient in the circumstances of the case.

*1 SS (C&P) Regs, reg 4D(2)*

- 02129 Claims in writing may be made
1. to an appropriate office<sup>1</sup> (see DMG 02048) **or**
  2. to an office designated by the Secretary of State for accepting claims for SPC<sup>2</sup>
  3. at the offices of<sup>3</sup>
    - 3.1 a LA administering HB or CTB **or**
    - 3.2 a county council in England **or**
    - 3.3 a person providing services to such authorities **or**
    - 3.4 a person authorised to exercise any function of a LA relating to HB or CTB **or**
    - 3.5 a person authorised to exercise any function of a county council in England

**provided** the Secretary of State has arranged with the LA, county council or person referred to in **3.3, 3.4** and **3.5** for them to receive SPC claims.

*1 SS (C&P) Regs, reg 4D(3); 2 reg 4D(3A); 3 reg 4D(4)*

- 02130 Where a claim is made in accordance with DMG 02129 **3.** the LA, county council or person who received the claim
1. must forward the claim to the Secretary of State as soon as reasonably practicable<sup>1</sup>
  2. may receive information or evidence relating to the claim supplied by the claimant and/or other persons and must forward it to the Secretary of State as soon as reasonably practicable<sup>2</sup>
  3. may obtain information or evidence relating to the claim from the claimant and must forward it to the Secretary of State as soon as reasonably practicable<sup>3</sup>
  4. may verify any non medical evidence or information supplied or obtained and shall forward it to the Secretary of State as soon as reasonably practicable<sup>4</sup>

5. may record information or evidence relating to the claim supplied under DMG 02130 2. or obtained under DMG 02130 3. and hold it for the purpose of forwarding it to the Secretary of State<sup>5</sup>
6. may give the claimant information and advice relating to the claim<sup>6</sup>.

*1 SS (C&P) Regs, reg 4D(5)(a); 2 reg 4D(5)(b); 3 reg 4D(5)(c); 4 reg 4D(5)(cc); 5 reg 4D(5)(d); 6 reg 4D(5)(e)*

**Note:** The functions at DMG 02130 2. to 6. may be carried out by one of these offices even if the original claim was made at a different office.

### **By telephone**

02131 Claims to SPC may be made entirely by telephone to the Pension Centre telephone number specified by the Secretary of State<sup>1</sup>. No claim form will be issued to the claimant and no signed declaration obtained. Instead the information given over the phone will constitute the claim.

*1 SS (C&P) Regs, reg 4D(6A)*

02132 It is no longer necessary for claimants to provide a written statement of their circumstances unless

1. the Secretary of State so directs in any particular case<sup>1</sup> (see DMG 02127 et seq) **or**
2. during a telephone conversation a person states they wish to claim in writing.

Provision also continues for claims to be made in writing at approved or alternative offices (see DMG 02129) for those claimants who are unable or unwilling to claim by phone. Written claims can also be made to DWP offices (see DMG 02129).

On ringing the Pension Centre number the claimant will be told how long the call might last and will be given the option of either continuing with the call or arranging for a call back at a more convenient time.

*1 SS (C&P) Regs, reg 4D(6B)*

02133 When a claim made by telephone has been determined a decision notice and a statement of details will be sent out. Claimants will be asked to check the accuracy of the facts contained in the statement of details and notify the Department immediately if there are any inaccuracies, changes or omissions. Claimants will also be reminded of their responsibility to notify future changes in their circumstances.

## Making a claim

02134 A claim to benefit is made as soon as a claimant gives a clear indication to that effect. This will usually occur towards the start of the telephone conversation when the authentication and validation procedures have been completed. Up to that point the person may simply be expressing an intention to claim benefit, for example, they may be making general enquiries about the benefit or they may want to make a paper claim (see DMG 02137). Once made, the claim is valid but will be defective until the person has provided the Secretary of State with all the information necessary to determine the claim.

*1 SS (C&P) Regs, reg 4D(6C)*

02135 If all information necessary to determine a claim is provided but further verification is required, the claimant has one month (or such longer reasonable period as allowed) in which to provide it (see DMG 02171)<sup>1</sup>. But the claim is not defective.

*1 SS (C&P) Regs, reg 7(1)*

## Defective claims - SPC tele-claims

02136 In most cases it is expected that all the information necessary to determine a claim will be provided during the initial telephone conversation. If the information is not provided during that telephone call (for example, if the conversation is cut short unexpectedly) the claim will be defective<sup>1</sup>. In these circumstances the Secretary of State must give the claimant the opportunity to provide the missing information<sup>2</sup>. This can be done by the most suitable means i.e. by phone or in writing. A valid claim will also be defective until full information is provided where, following an initial telephone conversation, the claimant asks for a call back to be arranged at a later date.

*1 SS (C&P) Regs, reg 4D(6C); 2 reg 4D(6D)*

02137 If the missing information is provided within one month of a defect being drawn to the claimant's attention (or within such longer period as the Secretary of State considers reasonable) the claim will be treated as having been properly made in the first instance. Where the person has been asked for information on more than one occasion the time limit starts from the date the defect was first drawn to the claimant's attention<sup>1</sup>.

*1 SS (C&P) Regs, reg 4D(6E)*

02138 If the missing information is not supplied within the time allowed

1. the claim should be disallowed on the basis that it is defective and not made in the prescribed manner<sup>1</sup> **and**
2. the claimant should be notified of
  - 2.1 the decision made on the claim<sup>2</sup> **and**

**2.2** the right to request a statement of the reasons for the decision within one month<sup>3</sup> **and**

**2.3** the right to appeal against the decision<sup>4</sup>.

*1 SS (C&P) Regs, reg 4D(6C), (6D), (6E), SS A Act 92, s 1(1); 2 SS CS (D&A) Regs, reg 28(1)(a); 3 reg 28(1)(b); 4 reg 28(1)(c)*

02139 If the missing information is supplied outside the one-month time limit and

**1.** no decision has yet been made on the claim **and**

**1.1** the delay is accepted as reasonable - the date of claim will be treated as the date the claim was first made<sup>1</sup> **or**

**1.2** the delay is not accepted as reasonable - the date of claim will be the date the missing information is supplied<sup>2</sup> **or**

**2.** the initial claim has been disallowed on the grounds that it was not made in the prescribed manner, the DM should

**2.1** consider whether the original decision can be revised on the grounds that it was reasonable to extend the one-month time limit **or**

**2.2** decide that the disallowance cannot be revised or superseded because the submission of the information is a change of circumstances occurring after the claim was decided<sup>3</sup>.

Where DMG 02139 **2.2** above applies the DM should consider whether a further claim to benefit has been made.

*1 SS (C&P) Regs, reg 4D(6E); 2 reg 4F(2)(b); 3 SS CS (D&A) Regs, reg 3(9)(a); SS Act 98, s 8(2)(b)*

## **Intention to claim**

02140 If a claimant

**1.** informs by whatever means (eg. another person can act on the claimant's behalf)

**1.1** an appropriate office **or**

**1.2** an office designated by the Secretary of State for accepting claims for SPC **or**

**1.3** one of the offices described in DMG 02129 **3.** (provided the Secretary of State has arranged with the LA or person providing services to a LA for them to receive SPC claims)

of their intention to claim **and**

**2.** subsequently makes a claim in accordance with DMG 02127 to 02131 within one month of the date they inform one of the offices in 02129 **1.** ("an appropriate office") of their intention to claim, or within such longer period as the Secretary of State may allow, the claim may, where in the circumstances

of the case it is appropriate to do so, be treated as made on the day the claimant first informed an appropriate office of his intention to claim<sup>1</sup>.

*1 SS (C&P) Regs, reg 4F(3)*

### **Defective claims made in writing**

02141 If the claim for SPC is defective when first received, the Secretary of State must provide the claimant with an opportunity to correct that defect<sup>1</sup>.

*1 SS (C&P) Regs, reg 4D(10)*

02142 If the claimant<sup>1</sup> corrects the defect with the result that the claim is made in accordance with DMG 02128 and does so within one month or such longer period as the Secretary of State considers reasonable of the date the Secretary of State first drew attention to the defect, the claim shall be treated as made on the date

1. the defective claim was first received by the Secretary of State or a person acting on his behalf<sup>2</sup>
2. if DMG 02140 applied, the claimant informed an appropriate office of an intention to claim SPC<sup>3</sup>.

*1 SS (C&P) Regs, reg 4D(11); 2 reg 4D(11)(a); 3 reg 4D(11)(b)*

**Note:** Where a defective claim is made during the advance period, it may be corrected at any time during that period.

02143 There is no definition of a “defective claim” in the context of SPC. However it is clear that a claim in writing is defective if it fails to satisfy the conditions in DMG 02128. Thus, if a claim is made on an approved form it is defective if

1. it is not completed in accordance with the instructions printed on it **and**
2. in addition it is not accepted by the Secretary of State as being sufficient in the circumstances of the case.

02144 There will be cases where a claim is not defective (that is, it satisfies the conditions in DMG 02127 to 02131) but the DM still needs further information or evidence for the claim to be decided. Failure by a claimant to provide this information or evidence **does not** render the claim defective. After allowing a reasonable period of time for the claimant to respond the DM must proceed to a decision on the claim made on the balance of probabilities (see DMG 02169).

02145 - 02147

### **Telephone claims for IIDB, SFFP, BB, RP, GRB and SAPs**

02148 A claim for IIDB, SFFP, BB, RP, GRB or a SAP made by telephone (see DMG 02073) is made in the prescribed manner if the claimant provides the Secretary of State with all the information necessary to determine the claim during the initial

telephone conversation. Otherwise, (for example if the telephone conversation is cut short unexpectedly) the claim will be regarded as defective<sup>1</sup>.

*1 SS (C&P) Regs, reg 4(12)*

02149 Where a claim would otherwise be defective every effort should be made to re-establish contact with the claimant so that missing information can be obtained. Where attempts to contact the claimant by telephone are unsuccessful a partially completed claim form should be sent out and the claimant told what information is required (and the date by which it must be supplied) for the claim to be properly made<sup>1</sup>. The information can be supplied by any means (for example by completing the claim form or by telephone).

*1 SS (C&P) Regs, reg 4(13)*

02150 If the claimant corrects the defect within one month (or such longer period as the DM considers reasonable) the claim will be treated as having been properly made in the first instance (ie. the date of the initial telephone conversation)<sup>1</sup>.

*1 SS (C&P) Regs, reg 4(7)*

02151 If the missing information is not supplied within the time allowed in DMG 02168

1. the claim should be disallowed on the basis that it is defective and not made in accordance with the legislation<sup>1</sup> **and**
2. the claimant should be notified accordingly<sup>2</sup>.

*1 SS (C&P) Regs, reg 4(11) & (12), SS A Act 92, s 1(1);  
2 SS CS (D&A) Regs, reg 28(1)(a), reg 28(1)(b); reg 28(1)(c)*

02152 If the missing information is supplied outside the time allowed in DMG 02168 and

1. no decision has yet been made on the claim then the date of claim is the date the missing information was supplied **or**
2. the initial claim has already been disallowed the DM should
  - 2.1 consider whether the original decision was correct **or**
  - 2.2 decide that the disallowed claim cannot be revised or superseded because the submission of the information is a change of circumstance occurring after the claim was decided<sup>1</sup> **and**
  - 2.3 consider whether a further claim to benefit has been made.

*1 SS CS (D&A) Regs, reg 3(9)(a); SS Act 98, s 8(2)(b)*

## Claiming ESA

### General

02153 When a claim to ESA is made and there is sufficient information to make an award of ESA(Cont) but insufficient information to enable an award of ESA(IR) to be made then the DM may make an award of ESA(Cont). No defective claim decision should be made. The DM should request information from the claimant in relation to ESA(IR).

ESA is a single benefit comprising of two components – ESA(Cont) and ESA(IR). The two components do not have to be claimed separately. A claimant who states that they do not wish to “claim” ESA(IR) is merely waiving the need of the DM to consider entitlement to that component rather than failing to claim it. A claimant in receipt of ESA(Cont) whose circumstances change has to request a supersession if they want entitlement to ESA(IR) to be considered (not a new claim)<sup>1</sup>. This approach equally applies to JSA. See DMG Chapter 04 for guidance on supersession.

*1 LH v SSWP (ESA) [2014] UKUT 0480 (AAC)*

- 02154 If a claimant says that they wish to “claim” only one element and a decision is made in respect of that element then if the claimant thinks it was a mistake not to ask for both elements an application for revision should be made. A decision can also be revised on the basis of official error if the DM does not award one of the components where there is no evidence that the claimant wishes not to be considered for it. See DMG Chapter 03 for guidance on revision.

### **By telephone**

- 02155 Claims to ESA may be made entirely by telephone to the telephone number specified by the Secretary of State<sup>1</sup>. No claim form will be issued to the claimant and no signed declaration obtained. Instead the information given over the phone will constitute the claim. The date of claim is the date of the telephone call or the first day in respect of which the claim is made, if later<sup>2</sup>.

*1 SS (C&P) Regs, reg 4G; 2 reg 6(1F)(a)*

- 02156 It is not necessary for the claimant to approve a written statement of their circumstances unless

1. the Secretary of State so directs in any particular case<sup>1</sup> **or**
2. during a telephone conversation a person states they wish to claim in writing.

*1 SS (C&P) Regs, reg 4G(2)*

- 02157 In most cases it is expected that all the information necessary to determine a claim will be provided during the initial telephone conversation. If the information is not provided during that telephone call (for example, if the conversation is cut short unexpectedly) the claim will be defective<sup>1</sup>. In these circumstances the Secretary of State must give the claimant the opportunity to provide the missing information and also tell them what the deadline is if the date of the initial phone call is to be the date on which the claim is treated as made<sup>2</sup>. Information can be sent by the most suitable means i.e. by phone or in writing. A claim will also be defective until full information is provided where, following an initial telephone conversation, the claimant asks for a call back to be arranged at a later date.

*1 SS (C&P) Regs, reg 4G(3); 2 reg 4G(4)*

- 02158 If the missing information is provided within one month of a defect being drawn to the claimant’s attention (or within such longer period as the Secretary of State

considers reasonable) the claim will be treated as having been properly made in the first instance. Where the person has been asked for information on more than one occasion the time limit starts from the date the defect was first drawn to the claimant's attention<sup>1</sup>.

*1 SS (C&P) Regs, reg 4G(5)*

## **In writing**

02159 A claim for ESA may be made in writing and must be made on an approved form and in accordance with the instructions on the form<sup>1</sup>. The date of claim is the date the claim form was received in an appropriate office or office mentioned in DMG 02158 below or the first day in respect of the claim, if later<sup>2</sup>. A claim only has to be in writing if, in a particular case, the Secretary of State directs that it must be<sup>3</sup>. Where the claimant notifies the Secretary of State (by whatever means) of his intention of making a claim to ESA and within one month or such longer period that is considered reasonable of first notification then the date of claim made in writing, received in an appropriate office or office mentioned in DMG 02158 below, is the date notification was made or the first day in respect of which the claim is made, if later<sup>4</sup>.

*1 SS (C&P) Regs, reg 4H(2); 2 reg 6(1F)(b); 3 reg 4(H)(1); 4 reg 6(1F)(c)*

02160 Claims in writing may also be made

1. at a LA administering HB or CTB **or**
2. by a person providing to such an authority services relating to HB or CTB **or**
3. by a person authorised to exercise the function of a LA relating to HB or CTB

**provided** the Secretary of State has arranged with the LA or person referred to in **2. or 3.** for them to receive ESA claims<sup>1</sup>.

*1 SS (C&P) Regs, reg 4H(3)*

02161 Where a written claim is made as above the LA or other person

1. must forward the claim to the Secretary of State as soon as reasonably practicable<sup>1</sup>
2. may receive information or evidence relating to the claim supplied by the claimant and/or other persons and must forward it to the Secretary of State as soon as reasonably practicable<sup>2</sup>
3. may obtain information or evidence relating to the claim from the person who has made the claim (but not any medical information or evidence except for that which the claimant must provide) and must forward it to the Secretary of State as soon as reasonably practicable<sup>3</sup>
4. may record information or evidence relating to the claim supplied or obtained under **2. or 3.** and hold it for the purposes of forwarding it to the Secretary of State<sup>4</sup>



5. may give information and advice with respect to the claim to the person who makes or who has made the claim<sup>5</sup>.

**Note:** The functions at 2. to 5. may be carried out by one of these offices even if the original claim was made at a different office.

*1 SS (C&P) Regs, reg 4H(4)(a); 2 reg 4H(4)(b); 3 reg 4H(4)(c); 4 reg 4H(4)(d); 5 reg 4(H)(4)(e)*

- 02162 If a written claim is defective when first received, the person making the claim is to be advised of the defect and the provisions relating to the date of claim<sup>1</sup>.

*1 SS (C&P) Regs, reg 4(H)(6)*

- 02163 If the defect is corrected so that the claim satisfies the requirements of DMG 02157 above and this is done within one month, or such longer period as the Secretary of State considers reasonable, of the date the Secretary of State first drew attention to the defect, the claim must be treated as having been properly made in the first instance.

## **Members of a couple**

- 02164 Where a person who is a member of a couple may be entitled to ESA(IR), the claim for ESA must be made by whichever member of the couple they agree should claim or, in default of agreement, by such one of them as the Secretary of State may choose<sup>1</sup>.

*1 SS (C&P) Regs, reg 4I(1)*

- 02165 Where one member of a couple (“the former claimant”) is entitled to ESA(IR) but a claim for ESA is made by the other member of the couple and the Secretary of State considers that the other member is entitled to ESA(IR) and if both members of the couple confirm in writing that they wish the claimant to be the other member, the former claimant’s entitlement terminates on the day the partner’s claim is actually made or, if earlier, treated as made<sup>1</sup>.

*1 SS (C&P) Regs, reg 4I(2)*

## **Information, evidence and corroboration**

- 02166 A form or document may meet all the criteria to be a claim made in the prescribed manner but the information and evidence it contains may be insufficient or need corroboration before an outcome decision can be made. The claimant is required to produce any certificates, documents, information and evidence as required by the Secretary of State but must be given the opportunity to do so<sup>1</sup> (for CA this information may be provided electronically - see DMG 02069). The claimant has a set time to reply as specified for each benefit. SPC claimants are required to provide information or evidence as to the likelihood of future changes of circumstances so that a decision can be made<sup>2</sup> on whether an AIP should be set and if so of what length. Except where DMG 02563 applies, this must be provided within one month of the date the requirement is notified or such longer period as the DM considers

reasonable<sup>3</sup>. If the claimant is unable to produce a document because it has been destroyed see DMG Chapter 03.

*1 SS (C&P) Regs, reg 7(1); 2 reg 7(1A); 3 reg 7(1B)*

02167 Where entitlement to benefit may be affected by the circumstances of the claimant's partner, a written statement from that partner can be obtained confirming that the information given is correct, if required by the Secretary of State<sup>1</sup>.

*1 SS (C&P) Regs, reg 7(2)*

02168 Where

1. for benefits other than IS or JSA, a claimant claims in the prescribed manner but fails to provide additional information or evidence required under DMG 02166 **or**
2. for IS and JSA, a claimant claims in the prescribed manner as described in DMG 02086 but has not provided additional information or evidence required under DMG 02166

an outcome decision has to be made.

02169 The DM should

1. accept that a claim has been made **and**
2. consider whether, on the balance of probability, the evidence that is available shows that the claimant satisfies all the conditions of entitlement **and**
3. if the evidence relating to a condition of entitlement is insufficient, disallow the claim on the ground that that specific condition of entitlement is not satisfied<sup>1</sup>.

**Note:** JSA(Cont) can be awarded if it is clear that the claimant does not qualify for JSA(IB). No further information is required from the claimant.

*1 R(IS) 4/93*

02170 In making the decision the DM should note that

1. the claimant is responsible for showing entitlement to benefit when a claim is made<sup>1</sup>
2. a claim should not be disallowed until the claimant has been allowed the specified time to supply the missing information
3. if insufficient information is held, then the DM should disallow the claim<sup>2</sup>
4. disallowance should be based upon the specific point that cannot be proved, not on the actual failure to provide the necessary information or evidence.

These decisions are outcome decisions and give the claimant a right of appeal (see DMG Chapter 01).

*1 R(I) 1/71; 2 R(SB) 29/83; SS (Gen Ben) Regs, reg 40(2)*

## Information relating to personal pensions and retirement annuity contracts

02171 Where a IS, JSA, SPC or ESA claimant or their partner has attained the qualifying age and is

1. a member of, or a person deriving entitlement to a pension under, a personal pension scheme **or**
2. a party to, or a person deriving entitlement to a pension under, a retirement annuity contract

they must provide information where required to do so by the Secretary of State<sup>1</sup>.

*1 SS (C&P) Regs, reg 7(4)*

02172 That information is

1. the name and address of the pension fund holder<sup>1</sup> **and**
2. such other information including any reference or policy number needed to enable the personal pension scheme or retirement annuity contract to be identified<sup>2</sup>.

*1 SS (C&P) Regs, reg 7(4)(a); 2 reg 7(4)(b)*

02173 Where the pension fund holder receives a request from the Secretary of State for details of the personal pension scheme or retirement annuity contract as above then they shall provide the Secretary of State with information calculated as specified under regulations<sup>1</sup>.

**Note:** See DMG 02056 for a definition of “qualifying age”

*1 SS (C&P) Regs, reg 7(6)*

## Requirement to attend for medical examination

02174 Before making a decision on a claim for a relevant benefit the claimant can be referred to a HCP<sup>1</sup> by the Secretary of State to attend or submit to an examination and report<sup>2</sup>. Referral is made if it is considered necessary for the purpose of providing the information for use in making the decision. Relevant benefits are listed at Annex A to this Volume. The benefits principally affected by this provision are

1. SDA
2. IIDB
3. DLA
4. AA<sup>3</sup>.

This does not apply to IB and ESA which have separate provisions. For further information see DMG Chapters 1, 13 and 42.

*1 SS (C&P) Regs 1979, reg 2(1); 2 SS Act 98, s 19; 3 s 8(3)*

## Provision of NINOs

02175 The provision of sufficient information or evidence to establish the NINO is a specific requirement for<sup>1</sup>

1. AA
2. DLA
3. IB (personal benefit and ADI)
4. IS
5. A declaration that an accident was an IA
6. IIDB
7. CA (personal benefit and ADI)
8. JSA
9. MA (personal benefit and ADI)
10. RP (personal benefit and ADI)
11. BB
12. SPC
13. SAP
14. ESA.

*1 SS A Act 92, s 1(1A) & (1B)*

02176 The provision of sufficient information or evidence to establish the NINO is not a specific requirement for DLA for a person under 16 years of age<sup>1</sup>.

*1 SS (DLA) Regs, reg 1A*

02177 There is no entitlement to the benefits in DMG 02175 unless the claim is accompanied by sufficient information or evidence

1. to confirm the NINO quoted belongs to the claimant and any adult affected by the provisions
2. to enable the NINO to be traced where the NINO is unknown
3. to enable a NINO to be allocated where the claimant or adult does not have a NINO and they apply for one<sup>1</sup>.

*1 SS (NINO: Exemption) Reg 97*

02178 The DM should also consider the provisions in DMG 02179.

### Example

The claimant does not hold a NINO. The claimant should make an application for a NINO and provide sufficient information and evidence to enable a NINO to be traced or allocated.

- 02179 The requirements must be satisfied each time a relevant claim to benefit is made. The DM should not accept that they are satisfied simply because they were accepted as satisfied on an earlier claim. Conflicts in the evidence from the claimant and Departmental records should be resolved before the claim is referred to the DM.
- 02180 If the provisions are not satisfied the DM decides that there is no entitlement because a condition of entitlement is not met. If the NINO is produced after a disallowance, or there is a doubt about a number during an award, reconsideration may be appropriate (see DMG Chapters 03 and 04).
- 02181 Where a claim is made for a personal benefit and an ADI the NINO provisions must be satisfied for the claimant and the adult dependant. If the conditions are not satisfied for either the claimant or the adult the personal benefit and the ADI should be disallowed. Personal benefit may already be in payment when an ADI is claimed. If the NINO provisions are not satisfied for the adult dependant the award of personal benefit should be reconsidered (see DMG Chapters 03 and 04). For non means tested benefits such as IB or RP these conditions only apply to the person in respect of whom an ADI is claimed. If a claimant does not make a claim to ADI, but a partner resides in the house then the conditions as outlined at DMG 02179 do not apply
- 02182 Where ESA, SPC JSA or IS are claimed the NINO provisions must be satisfied by the claimant and any adult included in the claim. If the condition is not satisfied for the claimant or the adult the claim should be disallowed. ESA, SPC, JSA or IS may already be in payment when the claimant claims for another adult. If the NINO provisions are not satisfied for the adult the award of ESA, SPC, JSA or IS should be reconsidered (see DMG Chapters 03 and 04). The requirement to provide a NINO in respect of either the claimant or a partner in a claim to JSA or with respect to a partner in a claim to IS does not apply where a claim was made, or treated as made, before 5.10.98<sup>1</sup>.

*1 IS (Gen) Regs, reg 2A; JSA Regs, reg 2A*

## **NINO Exemptions**

- 02183 Where a claim to benefit is received a NINO is required for both the claimant and any adult included in the claim. In the majority of cases where a NINO cannot be allocated to either the claimant or any adult in the claim there are grounds for deciding that the claimant is not entitled to the benefit.
- 02184 In a small number of cases a NINO will not be allocated to an adult dependant or a partner of the claimant where these individuals have no right to be in the UK and do not already have a NINO. These claims should not be disallowed. However if the partner or adult dependant already possesses a NINO they are required to state this on the claim form.

02185 A NINO will not be allocated to an adult dependant who

1. is a person in respect of whom a claim for an increase of CA, RP, MA, or IB is made<sup>1</sup> **and**
2. is subject to immigration control and requires leave to enter or remain in the UK but does not have it<sup>2</sup> **and**
3. has not previously been allocated a NINO

*1 SS (ICA) Regs, reg 2A(d); SS (WB & RP) Regs, reg 1A(c); SS (MA) Regs, reg 1A; SS (IB) Regs, reg 2A(c);  
2 I & A Act 99; s 115(9)(a)*

02186 A NINO will not be allocated to a partner who

1. is part of a claim made to IS, JSA, SPC or ESA<sup>1</sup> **and**
2. is subject to immigration control and requires leave to enter or remain in the UK but does not have it<sup>2</sup> **and**
3. is not entitled to IS, JSA, SPC or ESA **and**
4. has not previously been allocated a NINO.

*1 IS (Gen) Regs, reg 2A(c); JSA Regs, reg 2A(c); SPC Regs, reg 1A; ESA Regs, reg 2A;  
2 I & A Act 99; s 115(9)(a)*

02187 - 02199

## Date of claim

02200 The date of claim for all benefits is usually the date the claim is received in an office of the DWP<sup>1</sup>. Exceptions are

1. claims where a different person is treated as claiming (see DMG 02044 and 02045)
2. claims that could have been received earlier had the local office not been closed (see DMG 02201)
3. some claims made abroad (see DMG 02051)
4. claims treated as made on an earlier date than the date of the claim when made by an appointee (see DMG 02457)
5. benefit specific rules which may allow for the date of claim to be treated as made on a date earlier than the date of receipt
6. claims made at alternative offices (see DMG 02052 et seq)
7. claims made electronically (see DMG 02069)
8. late payment of class 3 contributions in RP cases (see DMG 02248 et seq)
9. claims for SFFP, BB, RP, GRB, SAPs or SPC made by telephone (see DMG 02073, 02251 and 02131)
10. claims for IB other than in writing (see DMG 02252 et seq)
11. telephone claims to ESA (see DMG 02257).

*1 SS (C&P) Regs, reg 6(1)*

02201 If the office is closed, for example at the weekend, and a claim is delivered by hand (or a claim would have been delivered by post if arrangements had not been made that the PO would not deliver mail) a different date of claim applies. In such cases the date of claim is the date the claim is delivered by hand or would have been delivered had the office not been closed<sup>1</sup>.

**Note:** This does not apply to JSA.

*1 R(SB) 8/89*

02202 The fact of sending a claim form by post is not an act which is relevant for the purposes of determining the date on which the claim is made or treated as having been made. The date of claim is not determined by reference to the date of posting. It is not the case that the acceptance that a claim has been sent means that it must also be regarded as having been made. The date which is of relevance is the date on which the claim is made and that is the date on which the claim is received by an appropriate office<sup>1</sup>, not the date of sending the claim.

**Note:** This principle does not apply to claims for lump sum payments for Pneumoconiosis<sup>2</sup> and Mesothelioma<sup>3</sup>. This means that in these cases if the claims

were properly addressed and any postage required properly paid, they are deemed to have been received by the Department in the ordinary course of posting, unless there is evidence to the contrary. Therefore, if satisfied, on a balance of probability, that the evidence provided shows that the claims were sent, then it is to be presumed that they were received. In exercising this discretion it is important that any decision is not so unreasonable that no decision maker fully apprised of the facts would have come to it.

*1 SS (C&P) Regs, reg 6(1)(a); R(G) 2/06; 2 Pneumoconiosis etc (Workers' Compensation) Act 1979;  
3 Child Maintenance and Other Payments Act 2008; Inte Act 78, s 7*

02203 In deciding the date of claim the following are relevant

1. the claimant's statements
2. the date of the letter or form
3. whether the claim was posted or handed in
4. whether extra time has been allowed. If so, the claimant will be given a specified time in which to reply. As long as the claim form or information is received within the specified time the original date of claim is unaffected. If it is received outside that time the date of claim is the date that the form or information is received.

**Note:** This does not apply to JSA.

02204 If the evidence is unclear or conflicting the DM should

1. decide the date of claim in the claimant's favour
2. take the initiative in deciding whether an earlier date of claim can be accepted.

**Note:** This does not apply to JSA.

### **JSA - claimant who is not a member of a joint-claim couple**

02205 Where a person contacts the Jobcentre by whatever means with a view to claiming JSA an appointment is usually made for them to attend the Jobcentre and make a claim. If the claimant attends at the time and place notified and provides a properly completed claim form at or before the interview, the claim is treated as made

1. on the date the claimant originally notified the Jobcentre **or**
2. on the first day for which JSA is claimed

whichever is the later<sup>1</sup>.

If the person fails to attend, without good cause, the claim is treated as having been made on the first day on which they attend at the time and place notified, if they provide a properly completed claim form on or before that date<sup>2</sup>. For "good cause" the DM should consider the guidance at DMG 02601 et seq.

*1 SS (C&P) Regs, reg 6(4A)(a)(i); 2 reg 6(4A)(a)(ii)*



### **Example 1**

A person phones the Jobcentre on 8.3.00 and says that he wishes to claim JSA from that date. He is given an appointment to attend on 10.3.00. He does not attend and when asked why says that he overslept. He is given a second appointment for 16.3.00. He attends on that day and during the interview his claim form is fully completed. The DM decides that he does not have good cause for failing to attend on 10.3.00 and that his claim is treated as made on 16.3.00.

### **Example 2**

A person phones the Jobcentre on 10.2.00 and says that she wishes to claim JSA from 9.2.00. She is given an appointment for 11.2.00. She does not attend. On 14.2.00 she calls at the Jobcentre, says that she completely forgot about the appointment until too late and hands in a completed claim form. She is given a second appointment for 17.2.00. She attends on that day. The DM decides that she does not have good cause for failing to attend the first interview and that her claim is treated as made on 17.2.00.

### **Example 3**

A person calls at the Jobcentre on 15.8.00 and says he wishes to claim JSA from that date. He is given an appointment for 17.8.00. He does not attend because he has a ticket for a cricket match and does not wish to miss it. He is given a second appointment for 21.8.00 which he does attend. At the interview he does not provide information about his occupational pension. None of the circumstances in DMG 02101 applies. The information and the completed claim form are received on 24.8.00. The DM decides that he does not have good cause for failure to attend the interview on 17.8.00 and that his claim is treated as made on 24.8.00.

02206 If a JSA claimant is not required to attend for interview, the claim is treated as made<sup>1</sup>

1. on the date on which a properly completed claim form is received in an appropriate office, **or**
2. on the date of the first notification of intention to claim, if a properly completed claim form is received in an appropriate office within one month of that date, **or**
3. on the first day for which the claim is made if that is later than the above dates.

*1 SS (C&P) Regs, reg 6(4A)(b)*

02207 Where

1. a claimant who is normally required to attend a Jobcentre has their entitlement to JSA ended because they failed to
  - 1.1 attend the Jobcentre **or**

1.2 provide a signed declaration **and**

2. the reasons for their failure come within those set out in DMG 20939 **and**
3. the claimant makes another claim for JSA on the day immediately following the date on which those reasons cease to apply

the claim shall be treated as having been made on the day following that on which entitlement to JSA ended<sup>1</sup>.

*1 SS (C&P) Regs, reg 6(4B)(a)*

02208 - 02214

02215 Where a claimant

1. had not normally been required to attend a Jobcentre in person **and**
2. is then notified to attend **and**
3. loses entitlement to JSA because of their failure to attend **and**
4. can show that they did not receive the notice **and**
5. makes a claim immediately

the claim shall be treated as having been made on the day following that on which entitlement to JSA ended<sup>1</sup>.

*1 SS (C&P) Regs, reg 6(4B)(b)*

02216 Where a claimant has been warned about failure to attend the Jobcentre on time and attends late on the next occasion, entitlement to JSA will end (see DMG 20921). A new claim made on the day of late attendance is treated as having been made on the following day<sup>1</sup>.

*1 SS (C&P) Regs, reg 6(4C)*

02217 Where

1. a claimant who is not a member of a joint-claim couple claims but is not entitled to JSA(Cont) **and**
2. their partner wishes to claim JSA(IB)

the claim for JSA(IB) is treated as having been made at the same time as the partner's claim for JSA(Cont)<sup>1</sup>.

*1 SS (C&P) Regs, reg 4(3B)(b)(ii)*

02218 Where

1. a member of a joint-claim couple claims but is not entitled to JSA(Cont) ("claim one") **and**
2. that member later claims a joint-claim JSA with the other member of the joint-claim couple ("claim two")

claim two is treated as made on the same date as claim one was made<sup>1</sup>.

*1 SS (C&P) Regs, reg 4(3B)(b)(i)*

02219 Where

1. a claimant becomes entitled to JSA(IB) immediately after having received the maximum entitlement to JSA(Cont) **and**
2. their partner then claims JSA(IB)

the award of JSA will be terminated and the partner's claim for JSA(IB) is treated as having been made on the day after entitlement to JSA(Cont) ended<sup>1</sup>.

*1 SS (C&P) Regs, reg 4(3B)(c)*

### **JSA - joint-claim couples**

02220 This is an initiative to help into work either or both members of certain couples who have been awarded JSA.

02221 Couples to whom it applies are known as joint-claim couples, and are only entitled to JSA if they make a claim for it jointly and both members, where required, comply with the requirements of entitlement for that benefit.

02222 Joint-claims for JSA applies to joint-claim couples.

02223 Claimant<sup>1</sup> in relation to a joint-claim couple means the couple, or each member of the couple as the context requires.

*1 SS Act 98, s 39(1); JS Act 95, s 35(1)*

02224 A joint-claim couple<sup>1</sup> means a couple

1. who are not members of any family which includes a person in respect of whom a member of the couple is entitled to CHB **and**
2. where at least one member of the couple was born after 28 October 1947 and is aged at least 18 **and**
3. neither member of which<sup>2</sup>
  - 3.1 is treated as responsible for a child or young person **or**
  - 3.2 has a child or young person
    - 3.2.a placed with them by the LA or a voluntary organization **or**
    - 3.2.b boarded out with them (Scotland) **or**
    - 3.2.c placed with them prior to adoption or while a decision is awaited on adoption **or**
    - 3.2.d living with either of them in order to attend an educational establishment at which they are receiving relevant education.

*1 JS Act 95, s 1(4); 2 JSA (JC) Regs, reg 3A(1)*

02225 Where a person would be a member of more than one joint-claim couple<sup>1</sup>, joint-claim couple means the couple of which they are a member

1. which they have nominated **or**
2. if they have not made such a nomination, the Secretary of State has nominated, to the exclusion of any other couple of which they are a member.

*1 JSA (JC) Regs, reg 3A(2)*

02226 Where a claimant is entitled to JSA(IB) on 24.02.08<sup>1</sup> they can continue to receive JSA(IB) without having to make a joint claim with their partner (only until the day their partner is required to attend a place specified by an Emp O in a notification given or sent to the partner) if

1. they satisfy the conditions of entitlement for JSA(IB)<sup>2</sup> **and**
2. their partner does not satisfy all the following conditions of entitlement<sup>3</sup>
  - 2.1 being available
  - 2.2 having a JSAg
  - 2.3 ASE
  - 2.4 not being in remunerative work
  - 2.5 being capable
  - 2.6 not being in relevant education
  - 2.7 being under pension age
  - 2.8 being in GB.

*1 JSA (JC) Regs, reg 3E(2)(l); 2 reg 3E(1)(a); 3 reg 3E(1)(c)*

02227 A joint-claim JSA<sup>1</sup> means JSA to which a joint-claim couple are entitled if

1. a claim for JSA is made jointly by the couple **and**
2. each member of the couple satisfies the conditions of entitlement to JSA(IB).

*1 JS Act 95, s 1(4)*

02228 Certain categories of members of a joint claim couple are not required to satisfy the normal entitlement conditions<sup>1</sup>. This means that JSA(IB) is paid to some couples who would normally be required to claim jointly, without both members meeting the availability and actively seeking work conditions (see DMG 20023).

*1 JS Act 95, Sch A1*

02229 The nominated member<sup>1</sup> in relation to a joint-claim couple is the member of the couple who

1. they have nominated JSA to be paid to **or**
2. the Secretary of State has nominated, where they have not made such a nomination **or**
3. is the other member of the couple, where the one member of the joint-claim couple is sanctioned.

*1 JS Act 95, s 53*

02230 To be entitled to JSA, a joint-claim couple must claim JSA jointly<sup>1</sup>.

*1 JS Act 95, s 1(2B)(a)*

02231 A joint-claim couple may be treated as having claimed JSA jointly where they have become a joint-claim couple because the child or all the children for whom they were responsible have

1. died **or**
2. ceased to be a child or children for which the couple are responsible **or**
3. reached the age of 16 and are no longer receiving full-time education for CHB purposes<sup>1</sup>.

*1 JSA (JC) Regs, reg 3C(1)*

02232 To be treated as having made a JSA claim jointly in these circumstances, the Secretary of State must have

1. sufficient evidence to decide whether a new award should be made **and**
2. been told which member of the couple is to be the nominated member for payment purposes<sup>1</sup>.

*1 JSA (JC) Regs, reg 3C(3)*

02233 Where these conditions are satisfied

1. any claim made by either member of the joint-claim couple should be treated as made by both members of the couple **and**
2. the joint-claim should be treated as made on the date on which the claim now treated as a joint-claim was itself treated as made **and**
3. any award of JSA(IB), or a replacement award, to either member of the couple should be terminated and replaced by a new award to the couple<sup>1</sup>.

*1 JSA (JC) Regs, reg 3(C)(2) & (4)*

02234 A member of a couple may be treated as having claimed JSA where the couple has ceased to be a joint-claim couple because they have become responsible, or treated as responsible, for one or more children<sup>1</sup>.

To be treated as having made a JSA claim in these circumstances, a member of the couple must

1. provide such evidence as the Secretary of State requires confirming that the couple are responsible for one or more children **and**
2. advise the Secretary of State which member of the couple is to be a claimant<sup>2</sup>.

*1 JSA (JC) Regs, reg 3B(1); 2 reg 3B(2)*

02235 Where these conditions are satisfied

1. any claim made by both members of the couple should be treated as made by either member of the couple **and**
2. the claim should be treated as made on the date on which the claimant and partner were treated as having made a joint claim **and**
3. any award of joint-claim JSA should be terminated and replaced by a new award to the claimant<sup>1</sup>.

*1 JSA (JC) Regs, reg 3(B)(2) & (3)*

02236 Where a member of a joint-claim couple notifies the Jobcentre by any means of a wish to claim JSA, either one member or each member of the couple will be required to attend the Jobcentre in connection with the claim.

02237 Where

1. each member of the joint-claim couple is required to attend **and**
2. each member of the couple attends at the time and place notified **and**
3. a properly completed claim form is provided at or before the interview

the claim should be treated as made on the later of the date on which an intention to claim was notified to the DWP or the first day for which the claim is made<sup>1</sup>.

*1 JSA (JC) Regs, reg 6(4ZA) & (4ZB)(a)*

02238 Where

1. each member of the joint-claim couple is required to attend **and**
2. without good cause (see DMG 02601), either member fails to attend at the time or place notified or fails to provide a properly completed claim form at or before the interview the claim should be treated as made on the first day on which a member of the couple attends at a time and place notified and provides a properly completed claim form at or before the interview<sup>1</sup>.

*1 JSA (JC) Regs, reg 6(4ZA) & (4ZB)(b)*

02239 Where only one member of the joint-claim couple is required to attend and that member attends at the time and place notified the claim should be treated as made on

1. the date a properly completed claim form is received at an appropriate office **or**
2. the first day for which the claim is made, if this is later than the date on which the properly completed claim form was received at an appropriate office **or**
3. the date on which an intention to claim was notified to the DWP, if a properly completed claim form is received at an appropriate office within one month of the date the intention to claim was notified<sup>1</sup>.

*1 SS (C&P) Regs, reg 6(4ZA), (4ZA)(b) & (4ZC)(a)*

02240 Where

1. only one member of the joint-claim couple is required to attend **and**
2. without good cause (see DMG 02601), that member fails to attend at the time or place notified or fails to provide a properly completed claim form at or

before the interview the claim should be treated as made on the first day on which the member of the couple who is required to attend attends at a time and place notified and provides a properly completed claim form at or before the interview<sup>1</sup>.

*1 SS (C&P) Regs, reg 6(4ZA) & (4ZC)(c)*

02241 Where

1. one member of a joint-claim couple is temporarily absent from GB on the date the other member notifies the Jobcentre of an intention to claim **and**
2. DMG 072150 applied on the date the intention to claim was notified the claim should not be treated as made more than three months before the date on which the date the intention to claim was notified by the member who remained in GB<sup>1</sup>.

*1 SS (C&P) Regs, reg 6(4ZA) & (4ZD)*

## **DLA and AA**

02242 Where a written claim for DLA or AA is received and

1. has been delayed by postal disruption **and**
2. that disruption was caused by industrial action

the claim should be treated as received on the day it would ordinarily have been delivered<sup>1</sup>.

*1 SS (C&P) Regs, reg 6(5)*

02243 The DM should not wait for the claimant to suggest that there has been some disruption but should consider from available evidence whether the post may have been disrupted by industrial action.

02244 The DM should generally decide that the claim was received the day after posting. The date of posting should normally be accepted as the date on the claim form or letter. In deciding the date of claim the DM should also consider the guidance at DMG 02061 - 02063 and 02052 et seq.

02245 The date of claim for DLA or AA is the date on which a request for a claim pack is received in an appropriate office (or the date the claim was accessed on-line if made electronically) if the claimant

1. completes the claim form properly **and**
2. returns the form within six weeks of the date the request was received (or such longer period as the Secretary of State may consider reasonable)<sup>1</sup>.

Where the date a claim form was requested is not known (for example, because there is no clear evidence in the case or the date has not been recorded) the claim is treated as made on the date six weeks before receipt of the properly completed claim form<sup>2</sup>.

**Note:** See DMG 02052 et seq for advice on where a claim for DLA or AA is made at an alternative office.

*1 SS (C&P) Regs, reg 6(8); 2 reg 6(8A)*

## **IS**

02246 Where a properly completed claim for IS is received in an appropriate office within one month of the first notification of intention to claim, the date of claim is

1. the date the claimant first notifies an intention to make a claim **or**
2. the first day for which benefit is claimed, if later<sup>1</sup>.

**Note:** Notification of intention to make a claim is deemed to be made on the date when an appropriate office receives<sup>2</sup> a notification, by whatever means, of an intention to claim IS or a defective claim.

*1 SS (C&P) Regs, reg 6(1A)(b); 2 reg 6(1A)(c)*

### **Example 1**

On 6.7.00 a social worker telephones the office to notify that a person wishes to claim IS from 6.7.00. A claim form is issued. On 12.7.00 a properly completed claim form with all the required information and evidence is received in the office. The date of claim is 6.7.00.

### **Example 2**

On 6.7.00 the claimant telephones the office to claim IS from that day. On 12.7.00 the claim form is received in the office but evidence of final earnings has not been provided. The missing evidence is received on 9.8.00. The date of claim is 9.8.00, because the properly completed claim form was not received within one month of the first notification of intention to claim, on 6.7.00.



### Example 3

On 6.7.00 the claimant calls at the office, is given a claim form and hands it in partially completed. The claimant is asked to provide the missing information and does so on 18.7.00. The date of claim is 6.7.00.

02247 Where

1. a person has claimed WTC **and**
2. the claim is disallowed because the claimant or partner is not in remunerative work **and**
3. a claim for IS or JSA is made within 14 days of benefit being disallowed

the claim for IS or JSA can be treated as made on the date of the original claim for WTC or a later date specified by the claimant<sup>1</sup>.

*1 SS (C&P) Regs, reg 6(28)*

### RP - late payment of Class 3 contributions

02248 Where a claim to a Cat A or Cat B RP is received and the circumstances shown in DMG 02249 apply, the claim may be treated as made on

1. 1.10.98 **or**
2. the date on which the claimant, for a Cat A claim, or their spouse or civil partner for a Cat B claim reached pensionable age whichever is the later<sup>1</sup>.

*1 SS (C&P) Regs, reg 6(31)*

02249 The circumstances referred to in DMG 02248 are that

1. the claimant (and their spouse or civil partner in a Cat B claim) has attained pensionable age but previously made no claim to RP
2. Class 3 contributions for the tax years 1996-97 to 2001-02 which have been paid after the due date have been accepted by HMRC<sup>1</sup>
3. the contributions have been treated by HMRC as having been paid at an earlier date<sup>2</sup> **and**
4. the person has subsequently claimed a Cat A or Cat B RP<sup>3</sup>.

*1 SS (Contributions) Regs 2001, reg 50A; 2 SS (Crediting and Treatment of Contributions and NI Numbers) Regs 2001, reg 6A; 3 SS (C&P) Regs, reg 6(31)*

**Note:** As 1.10.98 is the earliest date on which contributions can be treated as paid there can be no entitlement to RP before this date.

02250 DMG 02248 does not apply where entitlement to a

1. Cat A or Cat B RP **and/or**
2. GRB

has been deferred (see DMG Chapter 75)<sup>1</sup>. In these circumstances the normal rules for claiming will apply (DMG 02330).

*1 SS (C&P) Regs, reg 6(32)*

## Date of claim - SPC tele-claims

02251 Where a person claims SPC after reaching the qualifying age the date of claim made by telephone is

1. where the claim is not defective - the date details of the claimant's circumstances are provided by telephone<sup>1</sup> **or**
2. where the claim is defective but corrected within the time allowed by the Secretary of State - the date the claim is treated as made in the first instance<sup>2</sup> **or**
3. where the claim is made within one month (or such longer permitted period) of the first notification of an intention to claim benefit - the date of that notification<sup>3</sup>.

*1 SS (C&P) Regs, reg 4F(2)(b); 2 reg 4F(2)(c) & 4D(6E); 3 reg 4F(3)*

### Example

A telephone claim is received on 6.11.06. A call-back interview is arranged for 10.11.06 when all information necessary to determine the claim is provided. Although the claim made on 6.11.06 was defective when made (because information was not provided during that telephone conversation), the defect was corrected within one month. The date of claim is therefore 6.11.06.

## Date of claim for SPC - in writing or in person

02252 Where a person claims SPC after reaching the qualifying age, the date of claim is

1. where the claim is made in writing and is not defective, the date on which the claim is first received
  - 1.1 by the Secretary of State or the person acting on his behalf<sup>1</sup> **or**
  - 1.2 at an office described in DMG 02129 **3**.<sup>2</sup>
2. where the claim is made in person
  - 2.1 the date details of the claimant's circumstances are provided by the claimant at an appropriate office (see DMG 02129)<sup>3</sup>.

*1 SS (C&P) Regs, reg 4F(2)(a)(i); 2 reg 4F(2)(a)(ii); 3 reg 4F(2)(b)*

## Telephone claims for SFFP, BB, RP, GRB and SAPs

02253 The date of claim for claims to SFFP, BB, RP, GRB or SAPs when made by telephone and which are either

1. not defective **or**
2. defective, but corrected within the time limit allowed by the DM (See DMG 02166 - 02170)

is the date of the initial telephone call<sup>1</sup>.

*1 SS (C&P) Regs, reg 6(1)(c)(d)*

## **Claims for IB other than in writing**

02254 Where a person notifies **by any means** an appropriate office (or an alternative office for someone of qualifying age claiming IB) of an intention to claim benefit, the date of claim will be the later of

1. the date on which that notification is received **or**
2. the first day in respect of which the claim is made

provided that a properly completed claim is received in an appropriate (or alternative) office within one month of the notification of intention to claim<sup>1</sup>. A properly completed claim is a claim that is made on the form approved for the benefit and completed in accordance with the instructions on it<sup>2</sup>. If such a claim is not made within the one-month period, the date of claim will be the date the claim is received<sup>3</sup>. The one-month period is fixed and cannot be extended under any circumstances.

### **Example 1**

Carol rings to claim IB on 10.11.06. A call back interview is arranged for 15.11.06 and full details of the claim taken. A statement of the claimant's details is issued on 17.11.06 and returned on 1.12.06. The DM determines the date of claim to be 10.11.06.

Similar provisions apply where a person is required to take part in a work-focused interview (see DMG Chapter 05)<sup>4</sup>.

*1 SS (C&P) Regs, reg 6(1D), (1ZA); 2 reg 4(6); 3 reg 6(1)(a); 4 reg 6A(2)(d)*

02255 A notification to claim benefit is a communication that states or implies that the person concerned wishes to claim benefit. The above applies to an intention to claim benefit notified by any means. An intention to claim benefit may be notified

1. by telephone
2. in person
3. by e-mail **or**
4. by any other means of communication.

**Note:** A record should be kept of a communication made other than in writing.

02256 The backdating provision at DMG 02251 is in addition<sup>1</sup> to the one in DMG 02103 that applies to a claim in writing that is

1. a defective claim (i.e. on an approved claim form that has not been properly completed) **or**
2. not made on an approved claim form or an acceptable alternative<sup>2</sup>.

#### **Example 1**

Ryan contacts a Contact Centre on 6.7.06 to claim IB. Following a subsequent telephone conversation a partially completed claim form is issued on 14.7.06 and the claimant asked to complete the form and return it. The form is returned signed but still incomplete on 20.7.06. The form is again returned to the claimant on 24.7.06 and subsequently received, properly completed, on 4.8.06. The DM determines that the date of claim is 6.7.06.

#### **Example 2**

Judith sends a letter to an appropriate office to say she wishes to claim IB. This is received on 6.7.06. Following a subsequent telephone conversation a partially completed claim form is issued on 14.7.06 and the claimant asked to complete the form and return it. The form is returned properly completed on 21.8.06. The delay in returning the form is the result of the claimant's illness. The DM considers the time taken to complete and return the form to be reasonable in the circumstances. The date of claim is determined to be 6.7.06.

*1 SS (C&P) Regs, reg 4(8); 2 regs 4(7) & 6(1)(b)*

### **Telephone Claims to ESA**

02257 The date on which a claim for ESA is made or treated as made is the first

1. date on which
  - 1.1 a properly completed telephone claim is made<sup>1</sup> **or**
  - 1.2 a defective claim is made but is treated as properly made in the first instance<sup>2</sup> **or**
  - 1.3 the Secretary of State is notified of an intention to claim and within one month or such period as considered reasonable a claim is properly completed<sup>3</sup> **or**
2. the first day in respect of which the claim is made if later.

*1 SS (C&P) Regs, reg 6(1F)(a); 2 reg 6(1F)(b); 3 reg 6(1F)(c)*

02258 - 02259

## Award of qualifying benefit

### Introduction

02260 There are special rules for determining the date of claim where entitlement to a benefit depends on entitlement to another benefit. These apply where a further claim is made following

1. disallowance of an earlier claim **or**
2. termination of an earlier award

and a decision on a qualifying benefit is made.

### Definitions

02261 The following definitions apply to DMG 02266 - 02268.

02262 A decision on a qualifying benefit includes a decision in the claimant's or disabled person's favour

1. on revision or supersession by a DM **or**
2. on appeal by a FtT, UT or a court<sup>1</sup>.

*1 SS (C&P) Regs, reg 6(26)*

02263 "Relevant benefit" means<sup>1</sup>

1. any benefit listed in Annex A (but not IB - see DMG 02269 et seq)
2. IS
3. JSA
4. SF maternity and funeral payments, CWP and WFP.
5. CHB
6. SPC.

*1 SS (C&P) Regs, reg 6(22)*

02264 "Qualifying benefit" means<sup>1</sup>

1. for SDA, the highest rate of the care component of DLA
2. for CA, any of the benefits or payments referred to in DMG Chapter 60
3. for SF maternity expenses, ESA(IR), IS, JSA(IB), SPC, WTC (where the disability or severe disability element is included in the award) CTC (payable at a rate higher than the family element)
4. for SF funeral expenses, ESA(IR), IS, JSA(IB), SPC, WTC (where the disability or severe disability element is included in the award), CTC (payable at a rate higher than the family element), HB or CTB

5. any other relevant benefit that has the effect of making another relevant benefit payable or payable at an increased rate.

*1 SS (C&P) Regs, reg 6(22)*

02265 “Member of the claimant’s family” has the same meaning<sup>1</sup> as in DMG Chapter 22. In the case of SPC “member of his family” means the other member of a couple where the claimant is a member of a couple<sup>2</sup>.

*1 SS (C&P) Regs, reg 6(22); SS CB Act 92 s 137(1); JS Act 95, s 35(1); 2 SS (C&P) Regs, reg 6(22)*

### **Transitional Protection - disabled person goes into hospital or similar institution**

02266 Benefits transitionally protected<sup>1</sup> are not lost when a person in receipt of a qualifying benefit goes into hospital or similar institution and payability of that benefit is affected by supersession<sup>2</sup>.

*1 Tax Credits Act 2002 (Commencement No 3 and Transitional Provisions and Savings Order) 2003 Article 3(3)(c);*

*2 SS (C&P) Regs, reg 6(19-21A)*

#### **Example**

A DLA claimant goes into hospital. Their carer loses entitlement to CA and CDI. Upon discharge from hospital DLA is re-instated. If CA and CDI are re-claimed within 3 months of the date of discharge, the date of claim shall be treated as the day on which DLA became payable again.

### **Benefits except IB**

02267 Where

1. a claim (the original claim) for a relevant benefit has been refused<sup>1</sup> in the case of any relevant benefit, except IB, because the claimant or a member of the claimant’s family had not been awarded a qualifying benefit **and**
2. a further claim for the relevant benefit is made where the circumstances specified in DMG 02268 apply

then the further claim will be treated as made on whichever is the later<sup>2</sup> of the date of the original claim, or the first day in respect of which the qualifying benefit was awarded whether or not it is payable.

**Note:** In the case of IS and JSA DMG 02267 includes where a claim has been refused on the grounds that income exceeds because the lack of a qualifying benefit means that an element of the applicable amount (usually a premium) cannot be awarded.

*1 SS (C&P) Regs, reg 6(17); 2 reg 6(16)*

02268 The circumstances referred to in DMG 02267 2.<sup>1</sup> are that

1. a claim for the qualifying benefit had been made not later than ten working days after the date of the original claim but had not been decided **and**
2. after the original claim had been refused, the claim for the qualifying benefit was decided in the claimant's or family member's (or in the case of CA, the disabled person's) favour **and**
3. a further claim to the relevant benefit is made within three months of the date on which the claim for the qualifying benefit was decided.

**Note:** This does not apply to claims for CA - see DMG 02277.

*1 SS (C&P) Regs, reg 6(18)*

### **Example**

A person claims IS because they are caring for an elderly relative. The relative has been disallowed AA, and the IS claim is accordingly disallowed. The AA disallowance is overturned on appeal. The carer claims IS again. The second claim is treated as made on the date of the first claim.

### **Reclaim following termination**

02269 Where an award of a relevant benefit is terminated or payment ceases under certain circumstances<sup>1</sup> and a further claim is made then that further claim is treated as made (subject to DMG 02270) on the date of termination of the original award or on the first date in respect of which the qualifying benefit is awarded, re-awarded or becomes payable again<sup>2</sup>.

*1 SS (C&P) Regs, reg 6(20); 2 reg 6(19)*

02270 In order for the date of claim to be determined in accordance with DMG 02269, the further claim for the relevant benefit must be made within 3 months of the date on which the decision to award, re-award or restart payments of the qualifying benefit on the grounds that either of the following circumstances were satisfied<sup>1</sup>

1. that after the original award has been terminated the claim for the qualifying benefit is decided in favour of the claimant, a member of his family or the disabled person **or**
2. the qualifying benefit is re-awarded following revision, supersession or appeal **or**
3. the qualifying benefit is re-awarded on a renewal claim where an award for a fixed period expires **or**
4. the cessation of payment ends when the claimant leaves hospital or similar institution or accommodation.

**Note:** The date of claim of the relevant benefit is determined by **either** reference to DMG 02269 above **or** by applying the prescribed time for claiming.

*1 SS (C&P) Regs, reg 6(21)*

### **Example 1**

Richard is in receipt of CA because he is caring for a severely disabled person who gets DLA. The award of DLA terminates on 1.3.05 because the fixed period award expires. At the same time CA terminates because the qualifying benefit has stopped. A further claim for DLA is made on 1.4.05 which is decided on 1.6.05, effective from 1.4.05. Richard then makes a further claim for CA on 1.8.05. The claim for CA is treated as made on 1.4.05 because the claim was made within 3 months of the decision to make a fresh award of DLA and so CA is awarded from 1.4.05.

### **Example 2**

Sukaina is in receipt of CA. The fixed period award of DLA to the severely disabled person expires on 1.3.05. At the same time CA terminates because the qualifying benefit has stopped. A further claim to DLA is made on 2.5.05 which is decided on 1.6.05, effective from 2.5.05. Sukaina then makes a further claim for CA on 11.10.05. CA is awarded from 12.7.05 because the claim was not made within three months of the fresh award of DLA.

### **Example 3**

A claimant is in receipt of IS and IB and makes a claim to DLA on 6 November. The IS award is terminated from 20 November because IB exceeds the IS applicable amount. No decision has yet been made on the DLA claim. On 15 December, DLA middle rate care component is subsequently awarded from 6 November. The award of DLA entitles the claimant to SDP as part of the IS applicable amount. The award of IS would have exceeded IB if DLA had been decided at the time. The claimant makes a new claim to IS on 29 December and this is awarded from the date of termination of his earlier award on 20 November. The DM also supersedes the previous IS awarding decision to include the SDP for the period 6 - 19 November.

## **IB**

02271 Where

1. a person has ceased to be entitled to IB in the following circumstances
  - 1.1 entitlement ceased because the claimant was not incapable of work **and**
  - 1.2 at the date entitlement to IB ceased, the claimant had claimed a qualifying benefit and that claim had not yet been decided **and**



- 1.3 after entitlement to IB ceased the claim for the qualifying benefit was decided in the claimant's favour **and**
- 1.4 the further claim for IB was made within three months of the date on which the claim for the qualifying benefit was decided
- 2. the further claim for IB will be treated as made on the later<sup>1</sup> of the
  - 2.1 date on which entitlement to IB ceased **or**
  - 2.2 first day in respect of which the qualifying benefit was payable.

*1 SS (C&P) Regs, reg 6(23) & (24)*

02272 In DMG 02269 "qualifying benefit" means<sup>1</sup>

- 1. DLA care component at the highest rate
- 2. an increase of a disablement pension for constant attendance which is higher than the lower rate, or is at the higher rate of such an increase
- 3. CAA under the War Pensions or Personal Injury for Civilians schemes.

*1 SS (C&P) Regs, reg 6(25)*

### **IS or JSA(IB) terminated**

02273 Where

- 1. an award of IS or JSA(IB) is terminated **and**
- 2. a claim for a qualifying benefit is made **and**
- 3. a further claim for IS or JSA(IB) is made within three months of the date on which the qualifying benefit is decided

the further claim is treated as made on the date the previous award was terminated, or the date from which the qualifying benefit is awarded, whichever is later<sup>1</sup>.

*1 SS (C&P) Regs, reg 6(30)*

### **Example**

A single claimant is in receipt of IB and IS. When the IB award is increased to IBLT, his income exceeds his applicable amount and the award of IS is superseded and disallowed from 20.5.07. On 5.8.07 he is awarded the middle rate of the care component of DLA from 31.5.07, the date of the DLA claim. He makes a further claim for IS on 28.10.07, which is treated as made on 31.5.07. The new award of IS includes the SDP.

## Claims for IB or ESA where there is no entitlement to SSP

02274 A claim for IB or ESA is treated as made on an earlier date where a person

1. has previously given notice of incapacity to an employer **and**
2. has been notified in writing by the employer that there is no title to SSP<sup>1</sup>.

*1 SSP (Gen) Regs, reg 7*

02275 The claim is treated as made<sup>1</sup> on the date that the employer accepts as the first day of incapacity provided that the claim is made within three months beginning with the day on which the claimant is notified in writing that there is no title to SSP<sup>2</sup>.

*1 SS (C&P) Regs, reg 10(1), 10(1A) & (2); 2 reg 10(2)(a) & Sch 4*

### Example

Colin becomes unable to work following a road traffic accident on 6 July. On 20 September he is informed by his employer that he is not entitled to SSP. He makes a claim to ESA on 15 December. The claim for ESA is treated as made on 6 July.

02276

## CA

02277 Where a person makes a claim for CA or an increase for an adult or a child within three months of a decision awarding a qualifying benefit to the disabled person whether on a claim, an application for revision or supersession or an appeal to a FtT, UT or court, the date of the CA claim should be treated as the first day of the benefit week in which the award of the qualifying benefit is payable<sup>1</sup>. This has the effect that the carer receives benefit for the whole of the week in which the qualifying benefit is first paid. If a renewal award of a qualifying benefit is made then the date of a new claim to CA is treated as the date on which the renewal award of the qualifying benefit came into effect<sup>2</sup>.

*1 SS (C&P) Regs, reg 6(33); 2 reg 6(34)*

### Example

An award of DLA ends on 1.08.07. A repeat claim is made on 1.04.07. CA is claimed on 1.07.07 and is paid from that date rather than 2.08.07.

02278 - 02279

## Claims for MA where there is no entitlement to SMP

- 02280 A claim for MA is treated as made on an earlier date where a woman has
1. previously given notice of absence from work to her employer<sup>1</sup> **and**
  2. been notified in writing by her employer that she has no title to SMP.

*1 SMP (Gen) Regs, reg 23*

- 02281 The claim is treated as made on the later of<sup>1</sup> the
1. date notice of absence from work was given to the employer **or**
  2. start of the 14th week before the EWC.

*1 SS (C&P) Regs, reg 10(3) & (4)*

- 02282 The claim for MA must be made within three months of the claimant being notified in writing that she has no title to SMP<sup>1</sup>.

*1 SS (C&P) Regs, reg 10(4)(a)*

- 02283 A claim to MA may be late where
1. a woman has received SMP **and**
  2. it is later discovered that she was not entitled to it.

In these circumstances the DM should treat the claim as made from either of the dates at DMG 02281 so that entitlement to MA for the full MAP can be considered.

02284 - 02329



## Time for claiming

02330 For some benefits the claimant is not entitled for some or all of the period of claim if a claim is not made within the prescribed time. Claims to

1. CA
2. dependency increases
3. MA
4. WPA
5. BA
6. SPC

have an absolute time limit for claiming of three months<sup>1</sup> beginning on any day when the claimant would be entitled to the benefit concerned had a claim been made on time.

In calculating the three months beginning on a particular date that date is **included**. A month means a calendar month<sup>2</sup>. DMs will often wish to calculate the earliest date of entitlement working back from the date of claim. The system to use in making such a calculation is: firstly find the appropriate month; secondly find the date in that month that is equivalent to the date of claim (if there is no exact equivalent find the nearest date in the appropriate month); and finally add one day.

*1 SS A Act 92, s 1; SS (C&P) Regs, reg 19; 2 Inter Act 78*

### Example 1

A claim is received in an appropriate office on 8.8.05. The appropriate month is May 2005. The equivalent date in May is 8.5.05, adding one day gives 9.5.05. Thus this claimant has claimed in time for 9.5.05 onwards.

### Example 2

A claim is received on 28.2.05. The appropriate month is November 2004. The equivalent date is 28.11.04. Adding one day gives 29.11.04. As all the other conditions were satisfied this claimant is entitled to benefit from 29.11.04.

### Example 3

A claim is received in an appropriate office on 31.5.05. The appropriate month is February. There is no equivalent to a date of the 31st in February. The DM therefore sought the nearest date to the 31st in February. That was 28.2.05. The DM then added one day. Thus in this case the claim can be backdated to 1.3.05.

### Example 4

A claim is received on 29.5.03. The appropriate month is February. Again there is no equivalent to the 29<sup>th</sup> in February 2003 so the DM seeks the nearest equivalent

in February which is 28.2.03. Adding one day gives 1.3.03. Thus in this case the claimant has claimed in time for 1.3.03 onwards.

### **Example 5**

A claim is received on 28.5.04. The appropriate month is February 2004. The equivalent date is 28.2.04, adding one day in this case gives 29.2.04 (2004 is a leap year). So in this case the claimant has claimed within the prescribed time for 29.2.04 onwards.

02331 - 02338

## **Bereavement payment**

02339 With effect from 1.4.03 the prescribed time for claiming BPT is twelve months beginning on any day when the claimant would be entitled to such a payment<sup>1</sup>. However this only has effect for a person who is entitled to a BPT because of the death of a spouse or civil partner which occurred on or after 1.4.03<sup>2</sup>.

**Note:** This will only apply where a person is entitled to BPT on 5.4.17<sup>3</sup>. However, it will cease to apply where a person is no longer entitled to BPT<sup>4</sup>.

*1 SS (C&P) Regs, reg 19(3A); 2 SS (C&P & Misc Amdts) (No. 3) Regs, reg 4; 3 & 4 Pensions Act 14 (Commencement No. 10) Order, art 4; Pensions Act 14 (Cons, Supp & Inci Amdts) Order, art 2*

## **Bereavement support payment**

02340 The prescribed time limit for claiming<sup>1</sup> in respect of the additional payment of BSP for the first month (£3,500 or £2,500) is 12 months beginning with the date of death of the claimant's spouse or civil partner.

*1 SS (C&P) Regs, reg 19(3BA)*

## **Bereavement benefits where death difficult to establish**

02341 The normal time for claiming bereavement benefits (BPT, BA and WPA - see DMG 02330 and 02340) may be extended where

1. the dead person's body has not been discovered or identified and death is presumed **or**
2. a surviving partner has been separated for some time from their spouse or civil partner and was unaware of the death or discovery and identification of the body.

**Note:** For BPT and BA, this will only apply where a person is entitled on 5.4.17<sup>1</sup>. However, it will cease to apply where a person is no longer entitled to BPT or BA<sup>2</sup>.

*1 & 2 Pensions Act 14 (Commencement No. 10) Order, art 4; Pensions Act 14 (Cons, Supp & Inci Amdts) Order, art 2*

## **Less than twelve months have elapsed since date of death**

02342 Where

1. a claimant's spouse or civil partner has died or is presumed to have died **and**
2. less than twelve months have elapsed since the date of death (or presumed death) **and**
  - 2.1 the deceased person's body has not been discovered or identified **or**
  - 2.2 the claimant is unaware of (or only finds out belatedly about) the discovery and identification

the time for claiming is the date of death (or presumed death) and the period of twelve months immediately following that date<sup>1</sup>.

*1 SS (C&P) Regs, reg 19(3B)*

### **Example**

The claimant's spouse disappeared on 26.12.04, feared lost in the Asian tsunami. On 24.8.05 the claimant claims a BPT and allowance saying that her spouse's body had not yet been found and identified. The DM decides on the balance of probabilities that the spouse had died on 26.12.04 and that the claimant is entitled to a BPT and a BA from 26.12.04.

## **More than twelve months have elapsed since date of death**

02343 Where

1. a claimant's spouse or civil partner has died or is presumed to have died **and**
2. more than twelve months have elapsed since the date of death (or presumed death) **and**
  - 2.1 the deceased person's body has not been discovered or identified (or if it has the claimant was unaware of this)<sup>1</sup> **and**
  - 2.2 the claim is made within twelve months of the date on which the DM presumes death<sup>2</sup> **or**
  - 2.3 the deceased person's body has been discovered and identified and less than twelve months have elapsed since the claimant first knew of this<sup>3</sup> **and**
  - 2.4 identification of the body took place not more than twelve months before the claimant became aware of it<sup>4</sup> **and**
  - 2.5 the claim is made within twelve months of the claimant learning of the discovery and identification of the body<sup>5</sup>

the claimant's entitlement to benefit starts from the date the partner died or is presumed to have died<sup>6</sup>.

*1 SS A Act 92, s 3(1)(b)(i); 2 s 3(2)(a); 3 s 3(1)(b)(ii); 4 s 3(2)(b); 5 s 3(2)(b); 6 s 3(3)*

### Example

The claimant had been separated from her spouse for a number of years and had lost all contact with him. On 3.7.06 she learned that he had died abroad in a natural disaster on 12.6.05 but it was not until 14.1.06 that his body had been identified. She makes a claim for bereavement benefits on 27.7.06. The DM decides that she is entitled to a BPT and a BA from 12.6.05.

### IB/SDA/IIDB/REA/ESA

02344 The time for claiming ESA, IB or SDA is the day for which benefit is claimed and the three months following<sup>1</sup>. A month means a calendar month<sup>2</sup>.

*1 SS (C&P) Regs, reg 19 and Sch 4, para 2 & 16; 2 Inte Act 78*

02345 The time for claiming IIDB (and increases for CAA and ESDA) and REA is any day of entitlement and the period of three months immediately following it<sup>1</sup>. See DMG Chapter 67 for claims to PD A10.

*1 SS (C&P) Regs, reg 19 and Sch 4, paras 3, 4, 5*

### Example

If the first day of entitlement to a benefit is 4.7.05 the period of three months from that date will end on 4.10.05. To avoid a disallowance the date of claim must be no later than 4.10.05.

02346 - 02363

### RP/GRB/SAP/SP

02364 The time for claiming RP/GRB/SAP/SP (where a claim is required - see DMG 02036) is any day on which the claimant is entitled to the benefit and the period of twelve months immediately following it<sup>1</sup>. This means, for example, that for entitlement to arise on 27.11.16, a claim must be made no later than 27.11.17.

*1 SS (C&P) Regs, reg 19 and Sch 4, paras 12-14*

02365 - 02370

### IS/JSA

02371 For IS and JSA the prescribed time for claiming is the first day of the period claimed for<sup>1</sup>. The DM has the power to extend the time for claiming in specified circumstances.

*1 SS (C&P) Regs, Sch 4, paras 1 and 6*

### Extending the time for claiming IS and JSA

02372 The time for claiming IS or JSA may be extended by a period of up to

1. one month (see DMG 02374) **or**
2. three months (see DMG 02376)

if certain conditions are satisfied<sup>1</sup>. But the periods cannot be added together<sup>2</sup>.

*1 SS (C&P) Regs, reg 19(4), (5), (6) & (7); 2 R(IS) 3/01*



02373 In both cases the period of extension is that falling immediately before the date of claim. It does not necessarily run from the first day of the period claimed for<sup>1</sup>. In appropriate circumstances a claim can be taken as including a claim for a period starting with the earliest date which would make the claim in time<sup>2</sup>.

*1 R(IS) 3/01; 2 R(IS) 16/04*

### **One month extension**

02374 The conditions are that

1. the claim is made late **and**
2. one or more of the circumstances specified in DMG 02375 apply **and**
3. as a result of those circumstances the claimant could not reasonably have been expected to make the claim earlier<sup>1</sup>.

*1 SS (C&P) Regs, reg 19(6), R(IS) 16/04*

02375 The circumstances are<sup>1</sup>

1. the office where the claimant would be expected to make a claim was closed and alternative arrangements had not been made
2. the claimant was unable to attend the appropriate office due to difficulties with the normal mode of transport and there was no reasonable alternative available
3. there were adverse postal conditions
4. the claimant was previously in receipt of another benefit, and notification of expiry of entitlement to that benefit was not sent to the claimant before the date on which entitlement expired
5. in a claim for **IS** or **JSA** the claimant had ceased to be a member of a couple within the period of one month before the claim was made
6. during the period of one month before the claim was made, a close relative of the claimant died. "Close relative" means a partner, parent, son, daughter, brother or sister
7. a claim is made by one member of a joint-claim couple and the other member has failed to attend at a time and place specified by the Secretary of State for the purpose of claiming a joint-claim JSA
8. the claimant's partner was previously in receipt of another benefit, and notification of expiry of entitlement to that benefit was not sent to the claimant's partner before the date on which entitlement expired
9. the claimant was unable to make telephone contact with the appropriate office because the telephone lines were busy or inoperative.

*1 SS (C&P) Regs, reg 19(7)*

## Three months extension

02376 The conditions are that

1. the claim is made late **and**
2. one or more of the circumstances specified in DMG 02377 apply **and**
3. as a result of those circumstances the claimant could not reasonably be expected to make the claim earlier<sup>1</sup>.

*1 SS (C&P) Regs, reg 19(4), R(IS) 16/04*

02377 The circumstances are<sup>1</sup>

1. the claimant has difficulty communicating because of
  - 1.1 learning, language, or literacy difficulties **or**
  - 1.2 deafness or blindnessand it was not reasonably practicable for the claimant to obtain assistance from another person to make the claim
2. except in the case of a claim for JSA, the claimant was ill or disabled, and it was not reasonably practicable for the claimant to obtain assistance from another person to make the claim
3. the claimant was caring for a person who was ill or disabled, and it was not reasonably practicable to get help from another person to make the claim
4. the claimant was given information by an officer of the DWP or HMRC which led the claimant to believe that a claim for benefit would not succeed<sup>2</sup>
5. the claimant was given written advice by a solicitor or other professional adviser, a medical practitioner, an LA, or a person working in a Citizens Advice Bureau or a similar advice agency, which led the claimant to believe that a claim for benefit would not succeed
6. the claimant or partner was given written information about income or capital by an employer or former employer, or by a bank or building society, which led the claimant to believe that a claim for benefit would not succeed
7. the claimant was required to deal with a domestic emergency and it was not reasonably practicable to obtain assistance from another person to make the claim
8. the claimant was prevented by adverse weather conditions from attending the appropriate office.

*1 SS (C&P) Regs, reg 19(5); 2 R(IS) 3/01*

### **Example 1**

A person contacts the Jobcentre on 18 January with the intention of making a claim for JSA. He is given an appointment on 20 January. At the interview he says that he last worked on 5 January and wished to claim from 6 January. He says that he has not made a claim sooner because he had contacted the secretary of his trade union who advised him in writing that he should not register as unemployed or claim benefit until the reasons for his dismissal had been fully investigated. The DM decides that he has been given written advice by an adviser which led him to believe that a claim for JSA would not succeed and extends the time for claiming from 6 January to 18 January.

### **Example 2**

A person in receipt of JSA falls sick on 25 January. He contacts the Jobcentre on that day and is advised to claim IB, but is not told anything more. He is informed on 3 February that he does not satisfy the contribution conditions for IB and he then makes a claim for IS. He says that he was under the impression that IB was all he could claim and did not realize that he could claim IS as well as IB.

The DM decides that the person has been given information by an officer of the DWP which led him to believe that a claim for benefit would not succeed and extends the time for claiming IS from 25 January to 3 February.

02378 - 02386

## **Special groups**

### **Persons employed on the continental shelf, mariners and aircrew**

02387 Where because of their employment

1. mariners<sup>1</sup>
2. aircrew<sup>2</sup> or
3. workers on the continental shelf in British designated areas

are unable to claim benefits other than IS or CHB within the prescribed time, the claim is treated as made in time if it is made as soon as reasonably practicable<sup>3</sup>.

*1 SS (Mariners) Regs, reg 1(2); 2 SS (Airmen) Regs, reg 1(2);  
3 reg (3); SS (Mariners) Regs, reg 9; SS Ben (PA) Regs, reg 11(4)*

02388 - 02399



## Amending claims and withdrawing claims

02400 A claimant who has made a claim may amend it at any time before a determination has been made<sup>1</sup>. An amendment may be made

1. in writing at an appropriate office (see DMG 02049) **or**
2. by telephone call to a telephone number specified by the Secretary of State **or**
3. in such other manner as the Secretary of State may decide to accept.

Any claim amended as above may be treated as if it had been so amended in the first instance<sup>2</sup>.

*1 SS (C&P) Regs, reg 5(1); 2 reg 5(1A)*

02401 If a DM has decided a claim but has overlooked an amendment made by the claimant, reconsideration of the decision may be appropriate. A claimant may also notify that they wish to amend the claim. This information may allow the decision as to the claimant's entitlement to benefit to be reconsidered. For further details about reconsideration, see Chapter 03 and Chapter 04.

02402 A claim for benefit can be withdrawn at any time before a decision is made on the claim<sup>1</sup>. The withdrawal does not need to be made in writing but must be made at an appropriate office. A claim can be withdrawn after a decision has been made only if it is decided that notice of withdrawal was given before the decision was made. This also applies to a claim withdrawn at one office when a decision is made at another office before notification. In such circumstances reconsideration of the decision including revision or supersession may be required. For further details about reconsideration see Chapter 03 and Chapter 04.

**Note:** A claim for benefit cannot be withdrawn in part.

*1 SS (C&P) Regs, reg 5(2); R(H) 2/06*

### Example

A claim to JSA is made. The claimant visits the office and asks to withdraw the JSA(IB) element of the claim. Because a claim for benefit cannot be withdrawn in part the claimant has to withdraw the whole claim. A fresh claim is made with only the questions relating to JSA(C) completed - the claimant in effect concedes that they have no entitlement to JSA(IB).

02403 The date of a withdrawal is the date a written notice is received or a verbal statement is made. If it is stated that a claim has been withdrawn but there is no record, the DM decides whether there has been a withdrawal and the date. Confirmation of such a contention is necessary only if there are grounds to doubt the claimant's statement<sup>1</sup>.

*1 R(I) 2/51; R(SB) 33/85*

02404 If it is contended that a claim was not intended and it is not possible to withdraw the claim, reconsideration procedures may apply. The claimant's intent when making the claim should be considered particularly if the decision resulted in payment of benefit which has been received and retained<sup>1</sup>. Further details about reconsideration including revision and supersession are in Chapter 03 and Chapter 04.

*1 R(G) 1/82*

02405 An award of benefit may be surrendered for a future period. Any request to withdraw a claim for a date after the date the award began should be treated as an application for supersession. See DMG Chapter 04 for further guidance.

### **Amendment and withdrawal of claims**

02406 A claim that has been made by telephone may be amended or withdrawn either by telephone or in writing at any time before it is determined<sup>1</sup>. If a claimant decides therefore during a telephone conversation not to proceed with a claim (for example because it is clear there is no entitlement to benefit) it should be accepted that the claim has been withdrawn. No formal decision is necessary. If the claimant wishes to continue with the claim a formal decision on entitlement should be given.

*1 SS (C&P) Regs, reg 5(1) & (2)*

### **In person**

02407 A claim for SPC may be made in person to an appropriate office<sup>1</sup>. A claim made in person will be defective unless a written statement of the claimants circumstances is provided<sup>2</sup>. This means signing and returning a completed claim form.

*1 SS (C&P) Regs, reg 4D(3); 2 reg 4D(6)*

### **Couples**

02408 A couple may agree between themselves who is to be the claimant<sup>1</sup>. However, in the absence of such an agreement, the Secretary of State will decide which partner is to make the claim for SPC<sup>1</sup>. There is no right of appeal against this decision.

*1 SS (C&P) Regs, reg 4D(7)*

02409 Where one member of a couple ("partner 1") is entitled to SPC under an award and a claim is made by the other member of the couple ("partner 2") then, provided both members of the couple confirm in writing that they wish partner 2 to be the claimant, partner 1's entitlement will terminate on the last day of the benefit week in which partner 2's claim is made or treated as made<sup>1</sup>.

*1 SS (C&P) Regs, reg 4D(8) & (9)*

02410 - 02419

# Period of claims, awards and disallowances

## Period of claims

02420 The DM decides the period of the claim as part of the outcome decision. Normally the period of claim is indefinite (from and including a particular date)<sup>1</sup>. In some cases it will be for a definite period (from one date to another date inclusive). A definite period of claim is appropriate where entitlement

1. is related to conditions which are only satisfied for a specific period **or**
2. has ended at the time the DM decides the claim<sup>2</sup> **or**
3. will end in the near future (this should be decided on the basis of what is reasonable or practical)<sup>3</sup>.

Regulated SF payments are not made for a period of time. They are one-off payments.

*1 SS A Act 92, s 1; SS (C&P) Regs, reg 17(1);  
2 SS A Act 92, s 1; SS (C&P) Regs, reg 17(3); 3 R(S) 1/92*

02421 A claim ceases to exist once it has been decided by the Secretary of State<sup>1</sup>. If a claim is disallowed it cannot be superseded because of a change in circumstances which occurred after the decision. A further claim may be made as a result of the change of circumstances. Further details about the finality of decisions are in Chapter 01. Further details about supersession are in Chapter 04.

*1 SS Act 98, s 8(2)*

## Awards and disallowances: entitlement and payability

02422 The whole of the period of a claim is decided by an outcome decision which awards or disallows benefit. The terms “award” and “disallowance” relate to entitlement rather than payability issues which are relevant to some non-income related benefits (such as earnings, hospital adjustments, overlapping benefits). The award made by a DM is the full rate of entitlement even though part of that benefit may not be payable. Benefit specific guidance provides further details. A disallowance is a decision that there is no entitlement to the benefit concerned for all or part of the period under consideration.

### Example 1

A man is awarded an increase of RP for his wife. At a later date she works for three weeks and her earnings exceed the relevant limit. The increase is not payable for three weeks but payment can resume afterwards without the need for a further claim. This is because an underlying entitlement to the increase remains.

### **Example 2**

A man is awarded SDA. Later it is discovered that he satisfies the contribution conditions for IB and an award is made. The overlapping regulations are applied and the payable rate of SDA is reduced to nil. Although SDA is no longer payable the underlying entitlement remains.

## **Period of awards and disallowances**

02423 There should be consistency between the decisions on the period of claim and the award or disallowance. An indefinite period of claim should be decided by an indefinite award or indefinite disallowance. Similarly a claim for a definite period of time should be decided by an award or disallowance for a definite period. The period of claim may be decided by a combination of an award and a disallowance or vice versa.

### **Example 1**

IS is claimed from 5 January and the DM decides that the conditions of entitlement are satisfied. There is no evidence of any fact which would limit the duration of the period of claim. The DM decides that the period of claim is indefinite. IS is awarded for an indefinite period from 5 January. If a disallowance had been appropriate it would have been for an indefinite period from the same date.

### **Example 2**

A claimant dies on 18 November having claimed JSA from 12 November but before an award is made. An appointee continues the claim. At the date the DM considers the claim entitlement can only be up to the date of death. The claim is treated as made for the definite period 12 to 18 November and an award of JSA is made for the same period.

### **Example 3**

A man claims an increase of RP for his wife from 13 December. The DM considers the claim on 7 February when it is known that his wife will be awarded RP in her own right from 6 March. The DM decides that the claim is for a definite period from 13 December to 5 March. The claimant's wife has earnings which exceed the relevant limit. The DM disallows the claim from 13 December to 5 March.

### **Example 4**

On 23 October the DM considers a claim to IB made on 20 October. The evidence shows that the claimant became ill and was unable to work on 16 September. The claimant wishes to claim from that date. The claimant returned to work from 24 to 30 September before becoming ill again on 1 October. The DM accepts that the incapacity condition is satisfied for the periods of illness. The DM decides that the period of claim is indefinite from 16 September. Allowing for three waiting days the



DM makes a definite award for the period 19 to 23 September. This is followed by a disallowance for the definite period 24 to 30 September and an indefinite award from 1 October.

- 02424 Benefits such as BPT and regulated SF payments are not related to a period of time. Others such as MA and JSA (where it has been claimed only on the basis of contributions) are for specified periods. An award for these benefits is for one sum or related directly to the period of entitlement<sup>1</sup>.

*1 R(SB) 8/89*

## **Advance awards**

- 02425 The guidance about advance awards in the following paragraphs does not apply to

1. MA, or where it is treated as a claim for IB or SDA
2. RP, or an increase of RP
3. DLA
4. AA
5. SPC
6. SAP
7. SF funeral and maternity payments.

See DMG 02530 et seq.

- 02426 An advance award may be possible if a claimant does not satisfy the conditions of entitlement on the date on which a claim is made but will satisfy them for a future period. The future period must begin on a day which is no more than three months after the date of claim. The DM treats the claim as made for a period beginning with the date from which entitlement will begin. No disallowance is needed for the period from the date claimed to the date entitlement begins<sup>1</sup>. The advance award provisions do not apply to IS, JSA(IB) and ESA(IR) claimants from abroad (including claimants who are not habitually resident in the UK)<sup>2</sup>.

*1 SS (C&P) Regs, reg 13; 2 reg 13(3) & 13(9)*

### **Example**

A claimant receiving IS makes a claim for a maternity payment 15 weeks before her expected date of confinement. If the DM considers it will be likely that the claimant will still be getting IS in four weeks time (the start of the prescribed time for claiming), the claim date can be advanced and an award considered.

- 02427 The claim should only be treated as made in advance if the day on which entitlement would begin is fixed and certain. If it is not, a disallowance should be given and the claimant advised to claim at a later date. If an advance award is made

it is subject to the claimant satisfying the conditions for entitlement when the date from which benefit is to be awarded is reached. The DM should reconsider an award made in advance if, on the date entitlement would start, the claimant does not satisfy conditions for entitlement because, for example, there has been a change of circumstances in the meantime<sup>1</sup> (see DMG Chapter 04).

*1 SS (C&P) Regs, reg 13*

## **Considering the claimant's entitlement down to the date of decision**

02428 A claim for a future period continues to run until it is decided by the DM<sup>1</sup>. When giving a decision on the claim, the DM must consider the claimant's entitlement for each day in the period starting with the first day claimed for and ending with the date of the DM's decision. This may mean that further information should be obtained from the claimant to ensure that there has been no further change of circumstances since the claim was made.

*1 SS Act 98, s 8(2)(a)*

02429 If the claimant is entitled to benefit for any day in that period, benefit should be awarded. This is so even if the claimant later ceased to be entitled. If the claimant is entitled to benefit on the date of the DM's decision, a definite or indefinite period award for the future should be made, as appropriate.

### **Example**

The claimant claims JSA on 30.6.06 but on that date she has capital over the statutory limit. On 10.7.06 she reduces her capital below the limit by repaying a loan that legally must be repaid immediately. On 14.7.06 the DM decides that the claimant is entitled to JSA from 10.7.06 and makes an indefinite award from and including that day. Note that in this case the DM makes an award at a time when the claimant is entitled to benefit.

02430 Where the date of claim is more than three months (or four months for RP and SPC) before the DM decides it, it is not necessary to consider the advance award provisions. In such a case, the whole of the advance claim period as well as any period after that will fall to be decided under the principle above.

## **Staying a decision**

02431 The DM has no power to leave a valid claim or application undecided but in some circumstances the DM may stay making a decision. Staying means that the DM does not have to make a decision (or may make a restricted decision) in cases which would be affected by the outcome of an appeal to the courts in another case which has yet to be decided<sup>1</sup>. Further details about staying are in DMG Chapter 06.

*1 SS Act 98, s 25*

02432 - 02439

# Representatives and claims at death

## Appointees

02440 The Secretary of State can appoint a person to act on behalf of someone who is or may be entitled to benefit and is unable to act, for example because of senility or mental illness. The DM should treat any action of an appointee as if it had been taken by the claimant, noting that

1. appointments are unnecessary if someone has already been legally appointed to act on behalf of the claimant. In Scotland this might be a judicial factor or any guardian acting or appointed under specific legislation who has the power to act on behalf of the claimant<sup>1</sup>
2. the person must apply in writing. Individual appointees must be at least 18 years old<sup>2</sup>
3. an appointee can be a body of people such as a firm of solicitors or a health authority<sup>3</sup>.
4. where someone has been appointed to act for a person unable to act for themselves in respect of a claim to HB or CTB under specific legislation<sup>4</sup> by a LA administering

### 4.1 HB or

### 4.2 CTB

the Secretary of State may, with the person's agreement, treat them as an appointee also for SS purposes<sup>5</sup>.

For further details about the appointment of appointees, you should refer to the Agents, Appointees, Attorneys and Deputies Guide.

*1 Adults with Incapacity (Scotland) Act 2000; 2 SS (C&P) Regs, reg 33; 3 R(SB) 2/87; R(A) 2/81; 4 HB (Gen) Regs, reg 71(3); CTB (Gen) Regs, reg 61(3); 5 SS (C&P) Regs, reg 33(1A)*

## Power of attorney

02441 Power of Attorney (PoA) is a legal document (a deed) by which one person gives another person authority to handle their affairs. The power may be a

1. general power - to handle all the person's affairs
2. specific power - to handle some of the person's affairs
3. power for a limited period - for example, while the person is ill or abroad<sup>1</sup>.

*1 Power of Attorney Act 71*

02442 In England and Wales a PoA is only valid while the customer is mentally capable and it expires when the customer becomes mentally incapable. But an enduring PoA is intended to continue when the person become mentally incapable<sup>1</sup>. No new enduring PoA can now be created<sup>2</sup> (but powers granted earlier remain valid). An

enduring PoA had to be granted while a person had mental capacity. Depending on its terms, it could take effect immediately or could be delayed until the person lost capacity. In either case, the power had to be registered after the person lost capacity. Pending registration, the Attorney's authority was severely limited.

*1 Enduring Power of Attorney Act 85; 2 Mental Capacity Act 05*

02443 In Scotland the validity of a PoA when a person becomes mentally incapable depends on the authority used to grant the power and the date it was granted<sup>1</sup>.

*1 Adults with Incapacity (Scotland) Act 2000*

**Note:** For further details about PoA, see the Agents, Appointees, Attorneys and Deputies Guide.

## Deputies/Guardians

02444 Where a person is incapable of managing their own affairs and therefore incapable of authorising someone else to act on their behalf, the Court of Protection may appoint a deputy to act for the person. A deputy who is appointed to act in all matters may make claims to benefit without further authority from the Secretary of State. Deputies replaced receivers in England and Wales as a consequence of The Mental Capacity Act 2005. People already appointed as receivers under the Mental Health Act 1983 will continue in that capacity but will be treated as deputies<sup>1</sup>.

*1 SS (C&P) Regs, reg 33(1)(c)*

02445 In Scotland the Office of the Public Guardian may appoint a guardian to act in a similar way to a deputy.

**Note:** For further details about Deputies/Guardians, see the Agents, Appointees, Attorneys and Deputies Guide.

02446 - 02449

## Claims at death

02450 Existing appointments end immediately when the claimant dies. A new appointment may be made to the same person, or another responsible person. In England and Wales, where a person who has made a claim dies, that claim (or any related issue of revision, supersession or appeal) may continue if the person continuing with the claim is

1. the executor for the grant of probate **or**
2. the administrator from the grant of letters of administration **or**
3. appointed to act on behalf of the estate by a DM **and**

4. the grant or appointment is submitted to the DM before any decision is made<sup>1</sup>.

*1 SS (C&P) Regs, reg 30(1)*

02451 In Scotland, where no executor has been named, a person who wishes to continue with a claim on behalf of the deceased must apply to the Court to be appointed as executor. Where the deceased had left a will naming an executor, that nominated executor can apply to the Secretary of State to continue with a claim (or any related issue of revision, supersession or appeal) on behalf of the deceased. Alternatively<sup>1</sup>, the person may be appointed to proceed with the claim by the DM<sup>2</sup>.

*1 R(SB) 8/88; 2 SS (C&P) Regs, reg 30(1)*

02452 Where a person dies without having claimed, a claim on the deceased's behalf may be made if there would have been entitlement before death had a claim been made in the prescribed manner and within the prescribed time. For the following benefits a posthumous claim cannot be made

1. IS
2. JSA
3. SPC
4. SF<sup>1</sup>.

*1 SS (C&P) Regs, reg 30(5)*

02453 For a valid claim to be made after the claimant's death the following conditions must be satisfied

1. a written application to be appointed to act should be made to the Secretary of State within six months of the date of death or, for IIDB benefits, the date of issue of the death certificate **and**
2. a person must be appointed by the Secretary of State to make the claim **and**
3. the claim must be made within six months of the person being appointed<sup>1</sup>.

*1 SS (C&P) Regs, reg 30(6A); reg 30(6B)(b)*

02454 Where appropriate the time to apply for appointment may be extended by up to six months. Where this is done the time for claiming is reduced by the same amount. Similarly the time for claiming benefit may be extended by up to six months where an application for appointment has been made within six months<sup>1</sup>.

*1 SS (C&P) Regs, reg 30(6D)(a)*

02455 There is an overriding limitation that a claim cannot be made more than twelve months after the date of death<sup>1</sup>. In calculating the period of twelve months, the time between the receipt of the application to be appointed and the authorization of the appointment is disregarded<sup>2</sup>.

*1 SS (C&P) Regs, reg 30(6D)(b); 2 reg 30(6D)(c)*

02456 For IIDB and REA “date of death” in DMG 02453 - 02455 should read as “date of issue of the death certificate”<sup>1</sup>.

*1 SS (C&P) Regs, reg 30(6B)*

02457 A claim made in time by the appointed person is treated as if it had been made by the deceased on the date of death<sup>1</sup>.

*1 SS (C&P) Regs, reg 30(7)*

02458 - 02464

## **CAT A and CAT B RP/GRB/SAPs/SP**

02465 The following paragraphs describe the special rules that apply to posthumous claims for Cat A and B RP, GRB, SAPs or SP. They also describe the claiming provisions where the deceased was deferring entitlement to these benefits at the date of death<sup>1</sup>. Full guidance about deferment of benefit can be found in DMG Chapter 75.

*1 SS (C&P) Regs, reg 30(5)-(5G)*

02466 A claim may be made on behalf of a deceased person to any Cat A or Cat B RP or GRB to which they may have been entitled provided that the deceased was neither

1. married **nor**
2. in a civil partnership

at the date of death. This is because of the normal inheritance provisions for such couples (see DMG Chapter 75)<sup>1</sup>.

*1 SS (C&P) Regs, reg 30(5A)*

02467 However the rule in DMG 02466 creates an anomaly for certain widowers and civil partners who cannot benefit from the main deferral provisions (see DMG Chapter 75). This anomaly will disappear from 6.4.10 when the inheritance provisions between men and women are equalized. Until that time a claim for a Cat A or B RP or GRB on behalf of a deceased person may also be made by a widower or surviving civil partner who is

1. under pensionable age on the date of their wife’s or civil partner’s death **and**
2. due to reach pensionable age before 6.4.10<sup>1</sup>.

*1 SS (C&P) Regs, reg 30(5B)*

02468 The amount of benefit that can be claimed under DMG 02466 and DMG 02467 or for a SAP or SP is the amount that person would have been entitled to had they claimed it within the prescribed time for claiming. For this purpose the prescribed time is three months beginning with any day of entitlement to the benefit and ending on the date of death<sup>1</sup>. The maximum amount that can be claimed is therefore three months benefit.

*1 SS (C&P) Regs, reg 30(5C)*

02469 Where a deceased person had deferred their entitlement to a Cat A or B RP, GRB or SAP (see DMG Chapter 75) throughout the period of twelve months before the date of death they will be treated as having made an election in favour of an increase in their weekly pension or benefit. The lump sum payment is not available to a person making a posthumous claim<sup>1</sup>.

*1 SS (C&P) Regs, reg 30(5D), (5E)*

02470 Where the deceased person was a widow, widower or surviving civil partner

1. whose deceased spouse or civil partner had deferred entitlement to a Cat A or B RP or GRB throughout the period of twelve months before the date of their death **and**
2. the widow, widower or surviving civil partner had made no election in relation to that period of deferment or choice under specified legislation<sup>1</sup>

they will be treated as having made an election in favour of an increase of benefit. The lump sum payment is not available to a person making a posthumous claim<sup>2</sup>.

*1 Pensions Act 14, s 10; 2 SS (C&P) Regs, reg 30(5F), (5G)*

02471 Where a person makes a claim to SP<sup>1</sup> as in DMG 02465 then the deceased person shall be treated as having made a choice to be paid SP based under

1. survivor's pension based on inheritance of deferred old state pension<sup>2</sup> **or**
2. prescribed legislation which make corresponding provisions<sup>3</sup>

*1 SS (C&P) Regs, reg 30(5H); 2 Pensions Act 14, s 9 & s 8(2)(b); 3 s 8(2)(b), 9 & 10*

## **Automatic payment of arrears of benefits to a spouse or civil partner upon death**

02472 If the claimant was in receipt of RP, SP or SPC or any other benefit combined for payment purposes with either of those benefits then any arrears of benefit will be paid automatically to a spouse or civil partner when the claimant dies. No written application is required.

02473 Arrears will only be paid if an executor or administrator has not been appointed and the spouse or civil partner was living with the claimant at the time of death. It also applies if the spouse or civil partner would have been living with the claimant at the time of death but for the fact that one or both of them was in a RCH, nursing home or hospital<sup>1</sup>.

*1 SS (C&P) Regs, reg 30(4 & 4B)*

02474 - 02499





## Treating a claim for one benefit as a claim for another benefit

02500 A claim for one benefit may in some circumstances be treated as a claim for a different benefit or it may be treated as a claim for an additional benefit<sup>1</sup>. The DM must consider if the minimum standards of information and evidence for the different or additional benefit are met if the claim is to be valid (see DMG 02080).

*1 SS (C&P) Regs, reg 9(4)*

02501 A claim for the benefit listed in column 1 of the table below **may** be treated as a claim for the different or additional benefit listed in column 2<sup>1</sup>. This provision is not mandatory and should not be employed if detrimental to the claimant.

<b>Column 1</b>	<b>Column 2</b>
<b>Benefit claimed</b>	<b>Benefit which may be treated as if claimed</b>
AA	DLA or an increase of IIDB where constant attendance is needed
DLA	AA or an increase of IIDB where constant attendance is needed
An increase of IIDB where constant attendance is needed	AA and DLA
ESA for a woman	MA
IS	CA
IB for a woman	MA
MA (see also DMG 02585 and 02507)	IB, SDA or ESA
RP (of any category)	BB, RP of any other category, GRB or SAP
SDA	IB
SP	Any other type of SP
SDA for a woman	MA
BB	RP (of any category), GRB, SP or BSP
BSP	BB
Increase of SDA	Increase of IB

*1 SS (C&P) Regs, Sch 1, Part 1*

02502 A claim for an increase of benefit can be accepted as

1. a claim for the same increase of a different benefit **or**

2. a claim for a different increase of the same or a different benefit.

### **Example 1**

A claim for an increase of IB for a partner can be accepted also as a claim for an increase of SDA for a partner.

### **Example 2**

Where a valid marriage or civil partnership is not accepted, a claim for an increase of IB for a partner can be accepted as a claim for an increase for a person having care of children.

## **Claim for CHB**

02503 Where a person who has claimed CHB may be entitled instead or also to

1. GA
2. MA or
3. a child dependency increase<sup>1</sup>

for the same child, the Secretary of State may treat that claim as a claim in the alternative or also to one of those benefits<sup>2</sup>.

*1 SS CB Act 92, s 80; 2 SS (C&P) Regs, reg 9(3) & Sch 1, Part II*

## **Claim to be regarded as a claim to CHB**

02504 Where a claim is made for one of the following benefits and the claimant may be entitled to CHB for the same child the Secretary of State may treat the claim as a claim instead or also for CHB or GA, or MA claimed after confinement or a child dependency increase<sup>1</sup>

*1 SS CB Act 92, s 80*

## **MA claimed before confinement**

02505 Where

1. it has been certified<sup>1</sup> that a woman is expected to be confined **and**
2. she makes a claim for MA before the confinement

that claim may, unless the DM decides otherwise, be treated as a claim for ESA, IB or SDA<sup>2</sup>.

*1 SS (Med Ev) Regs; 2 SS (C&P) Regs, reg 11(1)*

02506 The claim for MA can be treated as a claim to ESA, IB or SDA

1. from the earlier of

- 1.1 the beginning of the 6th week before the EWC **or**
  - 1.2 the ADC
2. to the 14th day after the ADC.

## **MA claimed after confinement**

02507 Where

1. it has been certified<sup>1</sup> that a woman has been confined **and**
2. she makes a claim for MA within three months of the date of confinement

that claim may be treated as a claim instead or also for ESA, IB or SDA<sup>2</sup>

*1 SS (Med Ev) Regs; 2 SS (C&P) Regs, reg 11(2)*

02508 The claim to MA can be treated as a claim for ESA, IB or SDA for the period

1. beginning with the ADC **and**
2. ending 14 days after that date.

02509 - 02529



# Advance claims

## AA & DLA

02530 A claim for AA or DLA may be made

1. for AA - within the six month qualifying period<sup>1</sup>
2. for DLA - within the three month qualifying period<sup>2</sup>
3. for both benefits - in the six months before a current award ends<sup>3</sup>.

*1 SS CB Act 92, s 65(6)(a); 2 SS (C&P) Regs, reg 13A; 3 reg 13(c)*

02531 Where a claim is decided in advance it must be decided on circumstances obtaining at the date of decision. This excludes any prediction of what a person's circumstances might be at the date of entitlement<sup>1</sup>. However, the DM can take account of any change that will inevitably occur within three months following the renewal date. A change of circumstances occurring after the claim is decided and before the date of entitlement should be dealt with by way of revision<sup>2</sup> (see DMG Chapter 03) or supersession<sup>3</sup> (see DMG Chapter 04).

*1 R(DLA) 4/05; 2 SS Act 98, s 9; SS (C&P) Regs, reg 13C(3); 3 SS CS (D&A) Regs, reg 6(2)(a)*

02532 Where a renewal claim is disallowed the disallowance does not subsist after the date of decision. A further claim may therefore be made between the date of the decision and the renewal date on the basis of changes that have occurred since the decision was given. Any award of benefit will be effective from the renewal date<sup>1</sup>.

*1 R(DLA) 4/05*

02533 Occasionally it might be appropriate to defer making a decision on a renewal claim. This might be when a claimant is particularly relying on an anticipated change of circumstances (for example, an operation to amputate a limb that would considerably increase care needs)<sup>1</sup>. But these cases are likely to be few in number and advice should be sought before taking action.

*1 R(DLA) 4/05*

02534 A decision on a renewal claim (especially where it is to disallow) will always raise the question of whether the existing award should be superseded<sup>1</sup>. But it will not always be appropriate to supersede and DMs should follow existing guidance.

*1 R(DLA) 4/05*

## MA

02535 A claim for personal MA, or for an increase of MA for an adult dependant cannot be made earlier than 14 weeks before the EWC<sup>1</sup>.

*1 SS (C&P) Regs, reg 14(1)*

02536 A claim for an increase of MA for an adult dependant cannot be made in advance if the conditions of entitlement for the increase are not satisfied at the date of claim<sup>1</sup>.

*1 SS (C&P) Regs, reg 14(2)*

## Example

A claimant with one child claims an increase of MA for a person caring for a child in the 8th week before her EWC. The claim is from the 6th week before the expected week of confinement when she considers that she will need help with her first child. At the date of claim there is no entitlement to the increase because the person does not have the care of the child. The advance claim for the dependant is not accepted as a valid claim.

## RP, SAP and SP

02537 A claim for RP of any category, SAP or SP can be made up to four months before the date that the claimant will become entitled to the benefit<sup>1</sup> (subject to the conditions of entitlement in DMG Chapter 75). Where entitlement to a Cat A or a Cat B RP (including any increase in that pension e.g GRB or ADI), SAP or SP is deferred (see DMG Chapter 75) a claim may be made up to four months before the period of deferment ends<sup>2</sup>. Where a claimant is in receipt of IB while over pensionable age (see DMG Chapter 56) entitlement to RP begins on

1. the first day to which the claim relates **or**
2. if that date is not the appropriate pay day for payment of RP, the next following pay day<sup>3</sup>.

*1 SS (C&P) Regs, reg 15(1); 2 reg 15B; 3 reg 15(5)*

02538 The DM should not accept that a valid claim has been made, where a claim is made more than four months before the stated day of entitlement. A further claim will be required for entitlement to be considered again.

## IB and SDA

02539 A claim for MA may be treated as a claim for IB or SDA

1. an expected date of confinement certificate has been issued **and**
2. the woman makes her claim for MA before her confinement<sup>1</sup>.

*1 SS (C&P) Regs, reg 11(1)*

02540 The claim for MA

1. can be made up to fourteen weeks before the EWC<sup>1</sup> **and**
2. can be treated as a claim for IB or SDA from the earlier of
  - 2.1 the start of the 6th week before the EWC **or**
  - 2.2 the ADC<sup>2</sup>.

*1 SS (C&P) Regs, reg 14(1); 2 reg 11(1)*

02541 A claim for MA which is

1. made between the 14th week before the EWC **and**
2. made up to the beginning of the 6th week before the EWC **and**
3. treated as a claim for IB or SDA

will be a claim in advance for those benefits. The claim can be treated as a claim for IB up to the 14th day following the ADC.

### **IB - failure to satisfy contribution conditions**

02542 Where a claim for IB is made and the DM is satisfied that

1. the contribution conditions are not met **and**
2. within three months the conditions would be satisfied for a PIW beginning in a later benefit year

the DM may treat the claim as made for a period starting with the first day on which the conditions are satisfied and award benefit<sup>1</sup>.

*1 SS (C&P) Regs, reg 13*

### **SF funeral and maternity payments**

02543 An advance claim for a funeral or maternity payment can be made up to three months before the normal time for claiming begins<sup>1</sup>. The normal time for claiming is

1. **for maternity payments** – the period beginning
  - 1.1 eleven weeks before the first day of the EWC and ending three months after the ADC<sup>2</sup> **or**
  - 1.2 with the date on which the claimant becomes responsible for the child and ending 3 months after that date<sup>3</sup> **or**
  - 1.3 with the date on which a qualifying order is made and ending 3 months after that date<sup>4</sup> **or**
  - 1.4 with the date on which the guardianship takes effect and ending 3 months after that date<sup>5</sup> **or**
  - 1.5 with the date on which the child is placed with the claimant or the claimant's partner for adoption and ending 3 months after that date<sup>6</sup> **or**
  - 1.6 with the date on which the adoption<sup>7</sup>
    - 1.6.1 takes effect in respect of an adoption under prescribed legislation<sup>8</sup> **or**
    - 1.6.2 is recognised under prescribed legislation and ending 3 months after that date<sup>9</sup>

2. **for funeral payments** - the period beginning with the date of death and ending six months after the date of the funeral<sup>10</sup>.

*1 SS (C&P) Regs, reg 13(1); 2 reg 19(1), Sch 4(8) & SFMFE (Gen) Regs, reg 5(3)(a); 3 reg 5(3)(b); 4 reg 5(3)(c); 5 reg 5(3)(d); 6 Reg 5(3)(e); 7 Reg 5(3)(f); 8 Adoption and Children Act 2002, s 66(1)(c), (d) & (e); 9 s 66(1)(e); 10 SS (C&P) Regs, reg 19(1) & Sch 4(9)*

02544 The DM should

1. decide whether a claim which has been made too early can be accepted as an advance claim **and**
2. if the claim is not accepted as an advance claim, disallow it because it has been made outside the normal time limits.

02545 The DM should accept that an advance claim has been made where the evidence shows that the conditions for entitlement will be satisfied

1. **for maternity payments** - on the first day of the eleventh week before the EWC
2. **for funeral payments** - on the date of the funeral.

Benefit will be paid on that day, subject to all the conditions for entitlement being satisfied<sup>1</sup>.

*1 SS (C&P) Regs, reg 13(1)(b)*

02546 - 02559

## SPC

### Making a claim before attaining qualifying age

02560 A claim for SPC may be made, and that claim may be determined, at any time within the advance period<sup>1</sup>.

*1 SS (C&P) Regs, reg 4E(1)*

02561 The advance period begins on the date four months before the day on which the claimant attains the qualifying age and ends on the day before the claimant reaches that age<sup>1</sup>.

*1 SS (C&P) Regs, reg 4E(2)*

02562 Where a claim made within the advance period is defective, the claimant may correct the defect at any time before the end of the advance period<sup>1</sup>.

*1 SS (C&P) Regs, reg 4E(3)*

02563 Where a claim for SPC is made during the advance period the information or evidence required by the Secretary of State in order to decide whether to set an AIP or the length of the AIP the time within which the claimant **must** provide that



information **starts** on the day the claimant reaches qualifying age<sup>1</sup>. That time will be one month or such longer period as the DM considers reasonable in the claimant's case.

*1 SS (C&P) Regs, reg 7(1C)*

### **Meaning of qualifying age**

02564 “Qualifying age” means<sup>1</sup>

1. in the case of a woman, pensionable age **or**
2. in the case of a man, the age which is the pensionable age of a woman born on the same day as that man.

*1 SPC Act 02, s 1(6)*

### **Advance claims of SPC**

02565 An advance claim for SPC may be made where<sup>1</sup>

1. a person does not satisfy the requirements for entitlement to SPC on the date the claim is made **and**
2. the DM is of the opinion that, unless there is a change of circumstances, the claimant will satisfy those requirements
  - 2.1 where the claim is made in the advance period, when he attains the qualifying age
  - 2.2 in any other case, within four months of the date on which the claim is made.

*1 SS (C&P) Regs, reg 13D(1)*

02566 SPC claimants who are not treated as being in GB are excluded from the advance claims provisions<sup>1</sup>.

*1 SS (C&P) Regs, reg 13D(4)*

02567 Where the conditions in DMG 02565 are satisfied, the DM can<sup>1</sup>

1. treat the claim as made for a period beginning on the day (“the relevant day”) the claimant
  - 1.1 attains the qualifying age, where the claim is made in the advance period **or**
  - 1.2 in any other case is likely to satisfy the requirements for entitlement **and**
2. if appropriate, award SPC accordingly, subject to the condition that the claimant satisfies the conditions of entitlement on the relevant day.

*1 SS (C&P) Regs, reg 13D(2)*

02568 An award under DMG 02565 may be revised if the claimant fails to satisfy the conditions of entitlement on the relevant day<sup>1</sup>.

*1 SS (C&P) Regs, reg 13D(3)*

02569 - 02599

## Good cause

02600 Good cause used to apply when considering claims for some benefits made before 7.4.97. Good cause remains a consideration in deciding whether the right to payment of benefit is extinguished although with the replacement of cheques with Simple Payments this is less likely. See DMG Chapter 34 for guidance on good cause in the context of JSA sanctions.

## Application

### Meaning of good cause

02601 Good cause is not defined in legislation but is dealt with in case law. It includes any facts which would probably have caused a reasonable person to act as the claimant did<sup>1</sup>, for example

1. the claimant's age, health, background and knowledge of the SS system
2. information the claimant had received or could have obtained.

It is for the claimant to show good cause<sup>2</sup> unless there is an appointee<sup>3</sup>. The claimant's explanation for the delay in claiming should be considered in the light of all the facts and circumstances<sup>4</sup>.

*1 CS 371/49(KL); R(SB) 6/83; 2 CS 371/49(KL); 3 SS (C&P) Regs, reg 33; 4 R(G) 2/74*

02602 Some of the conditions which may cause delay, and whether these can be accepted as good cause, are looked at in the following paragraphs.

### Ignorance “of itself”

02603 Good cause cannot be established by a claimant simply claiming to be ignorant of

1. the right to benefit **or**
2. the time limit for claiming<sup>1</sup>.

The question is whether the claimant's ignorance or mistaken belief was **reasonable**<sup>2</sup>.

*1 R(SB) 6/83; CS 35/48; 2 CS 371/49 (KL)*

02604 A plea of ignorance will not necessarily lead to disentitlement<sup>1</sup>. The DM must always

1. look at the reasons for the ignorance **and**
2. consider if it was reasonable for the claimant not to have enquired, or to think that there was nothing to enquire about<sup>2</sup>.

*1 R(S) 5/79; Walls Meat Co Ltd v Khan [1979] 1 CRS; 2 R(P) 1/79*

## Failure to make enquiries

02605 Claimants are expected to take reasonable steps to find out what their rights and duties are<sup>1</sup>. Claimants should

1. realize that they may be entitled to benefit **and**
2. find out how to claim by asking at a DWP office<sup>2</sup>.

The DM must look at the evidence and consider if the person has done what can be reasonably expected.

*1 CWG 2/49; R(G) 3/53; R(P) 1/79; R(S) 8/81;  
2 CWG 2/49; CSG 9/49; R(I) 82/53; R(U) 35/56; R(P) 5/61; R(SB) 6/83*

02606 Failure to make enquiries will not on its own necessarily mean that good cause has not been shown. The DM should not expect claimants to make it their top priority to find out about SS legislation, on the chance that they might be affected<sup>1</sup>.

*1 R(S) 3/79*

## New legislation

02607 New legislation may change the conditions of entitlement or payability of an existing benefit. Claimants who have

1. had a claim for benefit disallowed **or**
2. not claimed because it was clear there was no entitlement

may become entitled under the new legislation.

02608 If the claimant was unaware of a publicity campaign designed to attract claims under the new legislation good cause may be accepted for delay in claiming<sup>1</sup>. But if the claimant

1. saw the publicity **or**
2. was aware of the new legislation but **did not** make further enquiries

the DM should consider if the delay was reasonable.

*1 R(P) 1/79*

## Difficulty with language

02609 Difficulty with language is not in itself good cause for delay in claiming but difficulty in communication may be<sup>1</sup>. For example, a claimant who

1. has little or no understanding of English **and**
2. seeks advice from an interpreter at a DWP office

will be able to show good cause if the interpreter makes a mistake when passing on that advice.

Claimants are expected to seek help. Good cause should not be accepted unless there was no one who could have enquired on their behalf.

*1 R(G) 1/75*

## Postal delays

02610 Good cause should be accepted if there is

1. normal postal delay, that is the time taken for the delivery of post in normal circumstances **or**
2. unusual postal delay, that is any delay greater than in the 1st point **or**
3. general postal delay brought about by, industrial action for example.

Where there has been any postal delay, other than as in the 1st point, the DM should consider if it was reasonable for the claimant not to have enquired about the progress of the claim.

## Misled by official information

02611 If a claimant

1. enquires at an office **and**
2. acts on the information or advice given

good cause for the delay in claiming can be accepted from the day the advice was given if that advice was incorrect or misleading.

02612 If the claimant tried to carry out official advice but acted wrongly through misunderstanding, good cause may be accepted unless the claimant acted unreasonably<sup>1</sup>. The DM should consider if the delay in claiming was due to a mistaken belief that was reasonable<sup>2</sup>.

*1 R(G) 1/75; 2 R(P) 1/79; R(S) 8/81; R(SB) 6/83*

02613 A claimant could only reasonably expect advice about benefits which the office deals with. Good cause may be accepted where<sup>1</sup>

1. a claimant is
  - 1.1 not given advice **or**
  - 1.2 given misleading advice **and**
2. it would be reasonable to expect advice to have been given **and**
3. the advice or lack of it contributed to the delay in claiming.

*1 R(U) 3/60; CG 184/50*

## Misled by unofficial information

- 02614 Claimants acting on unofficial advice, for example from colleagues, friends or relatives, will not normally be able to prove good cause. But good cause may be accepted where it was reasonable for the claimant to believe that the advice was either official or reliable.
- 02615 Good cause may be accepted where the delay in claiming was due to the claimant relying on advice or information given by an organization which makes available claim forms or leaflets, for example
1. POs
  2. hospitals
  3. LA welfare rights offices
  4. Citizens Advice Bureaux<sup>1</sup>.

*1 R(U) 9/74*

## Advice from a doctor

- 02616 A person whose doctor gives incorrect advice about claiming benefit cannot show good cause **unless**
1. special circumstances, for example the claimant's age, health or experience make it reasonable to rely on the doctor's advice<sup>1</sup> **or**
  2. the claimant was acting on advice about a medical issue, for example whether pneumoconiosis could be diagnosed at the outset<sup>2</sup>.

*1 R(S) 5/56; 2 R(I) 40/59*

## Advice from a solicitor or accountant

- 02617 Good cause may be accepted where a claimant relies on advice given by a solicitor<sup>1</sup> or an accountant, on a legal question regarding claims and entitlement to benefit.

*1 CS 50/50*

## Deliberately does not claim

- 02618 A person who deliberately does not claim may not be able to show good cause<sup>1</sup>.

*1 CS 596/49; R(U) 34/51; CS 34/49; R(P) 3/59*

02619 Where a claimant deliberately does not claim the DM must decide if the delay was reasonable<sup>1</sup>. Factors to be considered include

1. the length of the delay
2. the claimant's actions during that period
3. any previous claims for the particular benefit
4. advice the claimant has sought or received.

*1 R(U) 2/92*

## **Carelessness, thoughtlessness or indifference**

02620 Carelessness, thoughtlessness or indifference do not constitute good cause. For example where the claim form was

1. obtained in time but mislaid<sup>1</sup> **or**
2. signed in time but not sent until the end of the claimant's holiday<sup>2</sup>.

*1 CG 15/48 (KL); 2 CSG 6/48*

## **Health**

02621 The claimant's health should always be considered when looking at good cause. Claimants who are unable to claim on time because they

1. have a serious illness **and**
2. were unable to ask someone to claim on their behalf

may show good cause while they are ill<sup>1</sup>. If, after a serious illness, the delay continues, good cause depends on whether the claimant has done all that could be reasonably expected in the circumstances<sup>2</sup>.

*1 CS 51/49; 2 CG 207/49*

02622 A claimant who

1. is unable to complete a claim form **or**
2. can complete a claim form but is unable to post or deliver it to the office

is expected to ask someone to complete, post or deliver it for them. Good cause will not be accepted unless it would be unreasonable for them to do this<sup>1</sup>.

*1 R(S) 21/54*

## Claim by appointee

02623 It is the claimant's responsibility to claim unless there is an appointee. Claimants with personal good cause, are not affected by the delay of someone who makes a claim on their behalf, unless that person is the appointee<sup>1</sup>. From the date of appointment the actions and inaction of an appointee are treated as those of the claimant and it is the appointee who has to show good cause<sup>2</sup>.

*1 R(SB) 17/83; R(SB) 9/84; 2 R(S) 2/51; R(P) 1/56; R(A) 2/81; R(SB) 17/83; R(SB) 9/84; R(P) 2/85*

02624 Where someone has been acting for the claimant before being appointed, the actions but **not the inactions** of that person may be taken into account when deciding good cause before the date of appointment<sup>1</sup>.

*1 R(S) 2/51; R(P) 1/56; R(A) 2/81; R(SB) 17/83; 9/84; R(P) 2/85*

## Claim by person other than appointee

02625 Where a claimant

1. is able to claim personally but for convenience asks someone else to make the claim<sup>1</sup> **or**
2. is unable to claim, for example because of illness, and someone takes on that responsibility<sup>2</sup>

good cause may be accepted where the claimant has done all that could be reasonably expected in the circumstances to ensure that the claim is made.

*1 CU 78/49; CG 1/50; R(S) 25/52; R(P) 2/85; 2 CWG 6/50; CS 100/49*

## Youthful claimant

02626 Whatever their age, claimants are responsible for making their own claims. However the experience of young claimants may be limited and DMs should bear this in mind when deciding good cause. For example, it may be reasonable for young people to rely on their parents to deal with claims on their behalf<sup>1</sup>.

*1 R(S) 4/52*



## **Belief that solicitors or trade union would claim**

02627 If a claimant

1. instructs a solicitor to make a claim **or**
2. hands over documents relating to a claim

good cause for delay may be accepted if the solicitor claims late<sup>1</sup>. In these circumstances a claimant is entitled to rely on the solicitor to be aware of, and observe, the time limits for claiming.

*1 R(G) 17/52*

02628 Good cause may be accepted where it was reasonable for a claimant to believe that their trade union or association would make the claim<sup>1</sup>.

*1 CU 78/49 (KL)*

## **Imprisonment**

02629 Imprisonment or detention in legal custody may provide good cause, but the DM should consider the question of disqualification (see DMG Chapter 12).

02630 - 02999

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