

Chapter 60 - Carer's Allowance

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Chapter 60 - Carer's Allowance

Introduction

60001 CA is a benefit to help people who are unable to work because they are regularly and substantially engaged in caring for a severely disabled person.

Note: See DMG 60033 for the meaning of severely disabled person.

60002 Increases of CA are payable for

1. children for whom the claimant is entitled or treated as entitled to CHB **and**
2. the claimant's spouse, civil partner or a person having care of the claimant's children.

Note: See DMG Chapter 16 for full guidance on CDIs and ADIs. See also DMG 60098 et seq for further guidance on ADIs.

60003 CA is a weekly benefit payable in advance. It is payable on Mondays unless the severely disabled person gets CAA when it is payable on Wednesdays¹. CA is payable at the weekly rate specified².

Note: See DMG Chapter 08 for full guidance on payment of benefit.

1 SS (C&P) Regs, reg 22(3) & Sch 6; 2 SS CB Act 92, s 70(9) & Sch 4, Part III, para 4

60004 In addition to the guidance in this Chapter see DMG Chapter 02 for guidance on

1. claims and applications **and**
2. the time limits for claiming **and**
3. the requirement to provide a NINO.

60005 - 60024

Conditions for entitlement to Carer's Allowance

Introduction

- 60025 The conditions for entitlement are that the claimant
1. is engaged in caring for a severely disabled person for any day¹ (see DMG 60035 - 60042) **and**
 2. is regularly and substantially engaged in caring for that person² (see DMG 60035 - 60042) **and**
 3. is not gainfully employed³ (see DMG 60051 - 60052) **and**
 4. is aged 16 or over⁴ (see DMG 60058) **and**
 5. is not in FTE⁵ (see DMG 60068 - 60081) **and**
 6. satisfies prescribed conditions of residence or presence in GB⁶ (see DMG Chapter 07 Part 2).

Note 1: The claimant does not have to be related to the severely disabled person⁷.

Note 2: See DMG 60033 for the meaning of severely disabled person.

1 SS CB Act 92, s 70(1); 2 s 70(1)(a); 3 s 70(1)(b); 4 s 70(3); 5 s 70(3); 6 s 70(4); 7 SS (ICA) Regs, reg 6

- 60026 However, where two or more people are caring for the same severely disabled person, only one of them will be entitled to CA for any day¹. It will be up to them to choose and elect who will be entitled to CA² by giving the DM a notice in writing signed by all of them specifying who should be entitled to CA³. If there is no election the DM should decide who should have entitlement to CA⁴.

1 SS CB Act 92, s 70(7); 2 s 70(7)(a); 3 SS (ICA) Regs, reg 7(1); 4 SS CB Act 92, s 70(7)(b)

Example

Dennis cares for his mother-in-law whilst his wife works, from October to February, a period of 5 months. He then gets a full-time job so he relinquishes the CA as his wage disqualifies him. However, his wife decides to care for her mother, and reduces her hours and income so that she can do this. She then claims CA for her mother from the date that Dennis relinquished his caring responsibilities.

60027 - 60032

Meaning of severely disabled person

- 60033 "Severely disabled person" means a person for whom

1. AA¹ **or**
2. the care component of DLA at the highest or middle rate² **or**
3. CAA payable as

- 3.1 an increase of IIDB³ **or**
- 3.2 an increase of an old scheme allowance⁴ **or**
- 3.3 an increase of WC⁵ **or**
- 3.4 a WDisP⁶ **or**
- 4. the daily living component of PIP at the standard or enhanced rate⁷ **or**
- 5. AFIP⁸

is payable provided that it is payable at a weekly rate of at least that specified in legislation⁹.

Note: The meaning of WDisP is prescribed¹⁰.

1 SS CB Act 92, s 70(2); 2 s 70(2); 3 SS (ICA) Regs, reg 3(1)(a); 4 reg 3(1)(b); 5 reg 3(1)(c); 6 reg 3(1)(d); 7 SS CB Act 92, s 70(2); 8 s 70(2); 9 reg 3(1); SS CB Act 92, Sch 4, Part V, para 2(a); 10 SS (ICA) Regs, reg 3(2)

60034

The caring condition

60035 For the caring condition to be satisfied in any week, claimants must show that in that week they

- 1. are **or**
- 2. are likely to be

engaged and regularly engaged in caring for a severely disabled person for at least 35 hours a week¹ (see DMG 60045). For CA, a “caring week” means a period of seven days beginning on a Sunday².

1 SS (ICA) Regs, reg 4(1); 2 SS CB Act 92, s 122(1)

60036 As long as the total number of hours spent in caring amounts to 35 or more a week, the claimant does not need to care for the severely disabled person every day of the week. For example, care may be given for seven hours on five days of the week or over a shorter period such as a weekend (see DMG 60037).

60037 It is not essential for claimants to show that at the date of claim they have already been regularly engaged in caring for a severely disabled person. An intention to care for a severely disabled person should be taken into account in deciding if the condition at DMG 60035 is satisfied.

60038 When a severely disabled person who normally resides in a special school

- 1. is allowed home for the school holidays **or**
- 2. returns home for other visits, not necessarily every weekend

the person who provides the care in these periods can satisfy the caring condition at DMG 60035, **provided** that at least 35 hours each week are spent in caring.

60039 Where the severely disabled person

1. does not normally return home for the main holidays **and**
2. is allowed to make occasional or infrequent visits home

the care condition at DMG 60035 may not be satisfied because the care given is not regular and substantial.

60040 The claimant's statement that the required number of hours are spent in caring should be accepted without further enquiry **unless** there is good reason to doubt it.

Example

Denise and Lesley both claim CA for caring for Mick who is a severely disabled person. The DM decides to make further enquiries to establish who is entitled to CA (see DMG 60026).

60041 Although there is no legal definition of "caring", it is reasonable to expect that the severely disabled person and the carer are together for most of the time. There may be occasions when the claimant spends some time apart from the severely disabled person.

Example

Joanne cares for Karen who is a severely disabled person. Before Karen comes to stay with Joanne, Joanne spends four hours preparing for Karen's arrival. The DM decides that this is time reasonably spent. The DM therefore includes those four hours when deciding the amount of time Joanne cares for Karen.

60042 There may be situations where

1. the severely disabled person is living permanently in a care home or nursing home **and**
2. comes out of the care home for weekends or short stays to stay with the carer.

In this situation the claimant can still satisfy the caring condition provided the disabled person is paid the qualifying benefit for at least two days. The DM does not need to consider where the caring takes place, but **who provides that care** and if it is being provided for a severely disabled person.

Caring for two or more severely disabled people

60043 Claims

1. from people who are caring for two or more severely disabled people **and**
2. which begin in the period 19.11.92 to 16.8.93 inclusive

can have the hours spent in caring for all the severely disabled people added together to satisfy the 35 hours a week caring condition¹.

60044 From 17.8.93, where a person who is caring for two or more severely disabled people claims CA

1. the hours spent in caring are **not** added together **and**
2. there will only be entitlement to CA if a person spends at least 35 hours a week caring for one of the severely disabled people **and**
3. any time spent in caring for the other severely disabled person is not taken into account¹.

1 SS (ICA) Regs, reg 4(1A)

Breaks in care of the severely disabled person

60045 A week when a person does not satisfy the “caring condition” is treated as a week in which that condition **is** satisfied, if that person

1. has only temporarily ceased to satisfy the “caring condition” **and**
2. has satisfied the caring condition for at least 14 weeks in a 26 week period. The 26 week period ends with the first week that person no longer satisfied the caring condition **and**
3. would have satisfied it for at least 22 weeks in the 26 week period described in DMG 60045 2., but for the fact that

3.1 either that person **or**

3.2 the severely disabled person

was undergoing medical or other treatment, as an in-patient in a hospital or similar institution¹.

1 SS (ICA) Regs, reg 4(2)

60046 The effect of DMG 60045 is that a temporary break or series of temporary breaks in care may be ignored. Entitlement to CA will continue **provided that** the temporary breaks do not amount in total to more than

1. **twelve weeks** - where the claimant or the severely disabled person has spent at least eight of those weeks undergoing medical or other treatment as an in-patient in a hospital or similar institution **or**
2. **four weeks** - if the temporary break in care is for any other reason in any period of 26 weeks ending with the first week of the temporary break in care.

60047 Where a break in care

1. is for any reason other than hospital in-patient treatment **and**
2. lasts for more than four weeks in the 26 week period

no further breaks in care can be ignored in that 26 week period, even if they are in hospital.

60048

60049 The DM should consider the care position in the weeks before entitlement to CA begins if the temporary break in care began within the first 22 weeks of entitlement.

Break in care due to severely disabled person in hospital

60050 Where the reason for the temporary break in care is because the severely disabled person is in hospital, entitlement to CA will depend on the continuing payment of

1. AA **or**
2. the care component of DLA at the highest or middle rate **or**
3. CAA.

If payment of these benefits ends there can be no entitlement to CA¹. The severely disabled person in effect is not classed as severely disabled due to the fact that the benefit they are entitled to is no longer payable after a prescribed period of time in hospital. See DMG 60033 for meaning of severely disabled person.

1 SS CB Act 1992, s 70(2)

Gainful employment

60051 [\[See DMG Memo 4/18\]](#) (See DMG Memo 03/19) A person is in gainful employment on every day in a week where the earnings in the week immediately before are greater than the earnings limit (see Appendix 1 to this Chapter)¹. Earnings in one week affect entitlement to CA in the following week. It does not matter whether the person is still gainfully employed in the following week.

Note: See DMG Chapter 15 for full guidance on earnings, and DMG 60057.

1 SS (ICA) Regs, reg 8(1)

60052 When deciding if a person should be treated as being gainfully employed, that person's earnings should be ignored for any week which is classed as a temporary break in care¹ (see DMG 60045 - 60050).

1 SS (ICA) Regs, reg 8(2)(a)

The absence disregard before 12.12.95

60053 Before **12.12.95**, if a person was absent from work with the employer's authority, the earnings from that employment were ignored¹. This was known as "the absence disregard concession", and also applied to people who were off work sick getting SSP.

1 SS (ICA) Regs, reg 8(2)(b)

Absences from 12.12.95

60054 From **12.12.95**, changes in regulations mean that a person's earnings cannot be ignored when absent from work for whatever reason¹.

1 Social Security (Invalid Care Allowance) Amendment Regulations 1995, reg 2

Transitional provisions

60055 Where

1. the period covered by the claim **and**
2. any entitlement to CA

began **before 12.12.95**, any income can still be ignored if the person is absent from work with the employer's authority before **12.12.95**¹.

1 Social Security (Invalid Care Allowance) Amendment Regulations 1995, reg 3

60056 Where DMG 60055 applies, the concession continues to apply until

1. the claim ends **or**
2. the person stops being absent from work with the employer's authority.

Once ended, the concession cannot apply again. If the concession did not already apply at **11.12.95**, it can never apply.

Earnings in the week before the first week of entitlement

60057 Before **25.11.96**, regulations provided that any earnings in the week immediately before the first week of entitlement to CA could be ignored¹. This regulation was revoked from **25.11.96**. Any claims for a period starting before **25.11.96** can still have any earnings in the week immediately before the first week of entitlement to CA ignored².

Note: See DMG Chapter 15 for full guidance on earnings for the purpose of CA.

1 SS (ICA) Regs, reg 8(2)(c); 2 Social Security (Invalid Care allowance) Amendments Regulations 1996, reg 3

The age condition

60058 From 28.10.02¹ the upper age limit is abolished and carers aged 65 or over can qualify for CA. To satisfy the age conditions for CA a person must be at least 16 years of age².

1 Regulatory Reform (Carer's Allowance) Order 2002, art 3; Social Security Amendment (Carer's Allowance) Regulations 2002, reg 2(1)(b); 2 SS CB Act 92, s 70(3)

People who have reached age 65

60059 New claimants aged 65 or over, making a first claim, will have to satisfy all the conditions of entitlement. This includes the requirement to care for the severely disabled person and not being gainfully employed. CA is still subject to the overlapping benefit rules, with it being adjusted against other SS benefits (e.g. RP).

Transitional protection

60060 Before 28.10.02 a person over age 65 was entitled to CA if

1. they were entitled **or**

2. they could be treated as having been entitled

to CA immediately before reaching 65. They could be treated as having been entitled before reaching the age of 65 if they would have satisfied the conditions of entitlement but for the fact they were in receipt of an overlapping benefit.

60061 People who were entitled to CA immediately before reaching age 65 will still be entitled when 65, even if

1. they are no longer caring for a severely disabled person **or**
2. they are gainfully employed

provided that they became age 65 before 28.10.02 and they continue to satisfy all the other conditions of entitlement¹. This protection will end when entitlement to CA is lost (e.g. residence and presence conditions not satisfied). The claimant will need to satisfy all the conditions of entitlement on any re-claim. See DMG 60025 for the conditions of entitlement.

1 Regulatory Reform (Carer's Allowance) Order 2002, art 4

8 weeks run on

60062 From 28.10.02¹ entitlement to CA can continue for up to 8 weeks after the death of the disabled person being cared for², provided that all the other conditions are satisfied. Entitlement ceases on

1. the end of the week in which the claimant ceases to satisfy any other requirement as to the allowance **or**
2. the expiry of eight weeks beginning with the Sunday following the death (or the date of death if the death occurred on a Sunday)

whichever occurs first.

1 Regulatory Reform (Carer's Allowance) Order 2002, art 3; 2 SS CB Act 92, s 70(1A)

Women aged 65 before 28.10.94

60063 From 28.10.94¹, women who reached age 65 before 28.10.94 who

1. satisfied all the conditions of entitlement for CA immediately before reaching that age **except for**
 - 1.1 the over 60 pension age test² (see DMG 60066) **and**
 - 1.2 the requirement to actually make a claim³ **and**
2. were previously not entitled to CA because they were over 60 and failed the pension age test

are entitled to CA from 28.10.94 even if they are no longer caring for a severely disabled person or are gainfully employed⁴, provided that they continue to satisfy all the other conditions of entitlement.

1 Social Security (Severe Disablement Allowance and Invalid Care Allowance) Amendment Regulations 1994, reg 2(3); 2 SS (ICA) Regs, reg 10A; 3 SS A Act 92, s 1; 4 SS (ICA) Regs, reg 10A

60064 Where a woman

1. reaches age 65 before 28.10.94 **and**
2. claims benefit for a period before 28.10.94

she will have to rely on the provisions for equal treatment between men and women¹ (see DMG Chapter 07 Part 1).

1 CA, HL, ECJ, Secretary of State v. Thomas, Cooze, Beard, Murphy & Morley; Directive 79/7/EEC

60065 Where

1. a claim for benefit is made in the circumstances of DMG 60063 **and**
2. the woman is not helped by the Directive

the DM should disallow the claim for the period before 28.10.94 and award benefit from 28.10.94 provided that all the other conditions of entitlement are satisfied.

The pension age test

60066 Before 28.10.94¹, people over pension age were not entitled to CA unless they were entitled immediately before reaching that age. In the case of a woman, at the relevant time, the term pension age was defined as age 60².

1 Social Security (Severe Disablement Allowance and Invalid Care Allowance) Amendment Regulations 1994, reg 2(3); 2 SS CB Act 92, s 122

Men aged 65 before 28.10.94

60067 Men who

1. reached the age of 65 before 28.10.94 **and**
2. were entitled to CA immediately before reaching that age

continue to be entitled to CA even if they are no longer caring for a severely disabled person, or are in gainful employment, provided that they continue to satisfy all the other conditions of entitlement¹.

1 SS (ICA) Regs, reg 11A

Full-time education

60068 If it is clear that a person is in fact receiving FTE¹ the DM does not have to consider whether the claimant is treated as receiving FTE². If the course on which the claimant is enrolled is a F/T university course there is a presumption that the claimant is in FTE³.

1 SS CB Act 92, s 70(3); 2 SS (ICA) Regs, reg 5; 3 CA SSWP v Amanda Deane {2010} EWCA Civ 699

Exceptions

60069 However there can be exceptions to the presumption in DMG 60068¹. When a student claims and provides evidence that they have already completed parts of the course they should provide proof from the educational establishment that they have been granted exemption. For example, the claimant may have exemptions from part of the course because they

1. do not have to undertake all the modules **or**
2. have availed themselves of an “Accreditation of Prior Learning”².

Therefore, where the claimant is enrolled on a F/T university course but states they study P/T, the DM should consider whether there is an exception to the presumption that they are in FTE.

Note: Cases of doubt should be sent to DMA Leeds for advice.

1 SSWP v Amanda Deane [2010] EWCA Civ 699; 2 SSWP v ZC(CA) [2011] UKUT 2 (AAC)

Example

John is undertaking a 3 year post-graduate course at University. The University state the course is F/T and expect the student to study for 30 hours or more per week. John claims he only attends for lectures 20 hours per week, and therefore he is a P/T student. However, he is not able to provide evidence that he is exempt from any part of the course. Due to the designation of the course by the university, and also the expectations that the student will spend a minimum of 30 hours per week on the course, he is not entitled to CA.

60070 If the claimant is undertaking a course which is not a conventional university course, the exception to the presumption in DMG 60068 above may apply¹. Where the claimant is undertaking such a course, the DM should consider all relevant evidence in order to decide whether the claimant is in FTE. This includes evidence regarding the number of hours of study expected by the educational establishment, and consider if this is less or more than 21 hours per week.

Note: See DMG 01300 et seq for guidance on evidence.

1 SSWP v PW(CA) [2011] UKUT 3 (AAC)

Example 1

Linda attends a course at a local college to improve her prospects for work. Although when enquiries are made the college state that the course is F/T, the actual number of hours of attendance at college is only 18 hours per week. There is no expectation from the college that the claimant should be completing any private study outside of the college attendance. This is confirmed by the claimant. The DM looks at the relevant legislation for FTE first and decides that this does not apply.

Therefore the further regulations on the calculation of the number of hours have to be considered. As the course is less than 21 hours per week the claimant is entitled to CA.

Example 2

Sarah is undertaking a BTEC National Diploma course at college, and the college states the course is F/T. Also the college expects the claimant to complete 30 hours per week in attendance at college and private study and preparation of written work. Sarah maintains that she only attends college 16 hours per week, and therefore she is P/T. Sarah is unable to supply any evidence from the college that she is exempt from any part of the course and on the evidence available the DM decides she is indeed in F/T education. Sarah is therefore disallowed the CA.

60071 If it is decided that the course on which the claimant is enrolled is not F/T, the DM should then consider whether the claimant should be treated as receiving FTE¹ under the relevant regulations (see DMG 60072 et seq).

Note: The information required in all cases should include whether the course is F/T or P/T; the number of hours the claimant is expected to devote to the course to achieve the required standard; the number of hours spent on any of the activities mentioned in DMG 60074; whether there are any exceptions or exemptions to the course.

1 SS (ICA) Regs, reg 5

Treated as receiving full-time education

60072 People are treated as receiving FTE for any period during which they receive education for 21 hours or more a week, by attending a course of education at

1. university **or**
2. college **or**
3. school **or**
4. other educational establishment¹.

Note: See DMG 60081 for the meaning of university, college, school or other educational establishment.

1 SS (ICA) Regs, reg 5(1)

60073 Attending a course of education means enrolling upon and pursuing a course of education. Some time will be spent attending the educational establishment premises but it is not just confined to physical attendance¹.

1 Fleming v. Secretary of State; R(G) 2/02

60074 In calculating the hours of attendance the DM should include any time spent on any of the following,

1. receiving instruction or tuition

2. supervised study
3. examination or practical work
4. taking part in any
 - 4.1 exercise
 - 4.2 experiment
 - 4.3 project

which forms part of the course¹.

It will usually be sufficient to accept the evidence of the educational establishment rather than actual time spent by the student.²

Note: Supervised study need not be done in the presence of the tutor, but it must be study directed to the course and the curriculum of the course involved³.

*1 SS (ICA) Regs, reg 5(2)(a); 2 CA SSWP v Amanda Deane {2010} EWCA Civ 699;
3 Fleming v. Secretary of State; R(G) 2/02;*

60075 When considering DMG 60074 the DM should not include time spent on

1. meal breaks **or**
2. unsupervised study, whether on or off the educational premises¹.

1 SS (ICA) Regs, reg 5(2)(b)

60076 People who start on a course of education are treated as attending it for the usual number of hours each week during any vacation or temporary interruption as in term time until

1. the course ends **or**
2. they abandon it **or**
3. they are dismissed from it¹ **or**
4. they have an exemption from the full hours required (see DMG 60069).

1 SS (ICA) Regs, reg 5(3)

Meaning of temporary interruption

60077 [\[See DMG memo 2-17\]](#) Temporary interruption means any interruption to the period of study other than a permanent interruption due to abandonment of, or dismissal from, the course (see DMG 60078 - 60080).

Example

Anjana is attending university for 30 hours a week. On 29.3.10 she stops attending her course because she is pregnant. She gives birth to a daughter on 5.5.10. On 7.6.10 Anjana makes a claim for CA. She states that she will resume her course when her daughter is older, and this is agreed with the educational establishment. She has not abandoned the course. The DM decides that Anjana is not entitled to CA because she is treated as attending a course of education for 30 hours a week.

Meaning of end of the course

60078 The end of the course means the date on which the last day of the final academic term falls for the course on which the student is enrolled.

Meaning of abandons

60079 The term abandons should be given its normal everyday meaning of gives up completely. If the DM is uncertain that the course has been abandoned, documentary evidence should be obtained from the educational establishment to the effect that the student is no longer enrolled on that course.

Example

Anjana was disallowed CA as she was a full-time student, even whilst she temporarily interrupted her course to have a baby. Therefore, she had no entitlement from 7.6.10. She makes a new claim on 7.9.10 stating that she has now abandoned her course, and she has confirmation from the University that she last attended the course on 29.3.10. Her new claim can now be allowed and be backdated three months under normal rules to 7.6.10.

Meaning of dismissed

60080 Dismissed means the total, final and permanent ending of a person's participation on a course by the educational authorities. In cases of doubt the DM should ask for documentary evidence from the educational establishment.

Meaning of university, college, school or other educational establishment

60081 The legislation does not define university, school, college or other educational establishment. If a person is receiving

1. training **or**
2. instruction **or**
3. schooling

at an organization, or at an establishment set up for any of these purposes, the DM may decide that the person is attending an educational establishment.

Increase for children (CDI)

- 60082 A claimant is entitled to a CDI only where the claim to it is made in respect of a period that commences before 6.4.03.
- 60083 Where a claimant is entitled to a CDI on 5.4.03 the CDI entitlement and payability will continue, subject to the pre-existing conditions of entitlement being satisfied (see DMG Chapter 16). For the increase to be payable
1. the child must be treated as living with the claimant for the purposes of CHB legislation¹ **or**
 2. the claimant (or the claimant's spouse or civil partner where they are living together) is contributing to the cost of providing for the child at a weekly rate²
 - 2.1 not less than the amount of the increase of CA **and**
 - 2.2 above the weekly rate of CHB payable for the child.
- 1 SS CB Act 92, Part IX; SS Ben (Dep) Regs, Sch 2, para 3(a); 2 Sch 2, paras 3(b) & 4*
- 60084 The increase is not payable where
1. the claimant is living with a spouse, civil partner or another person as man and wife or as civil partners **and**
 2. the spouse, civil partner or other person has earnings which are greater than the levels set out in DMG 60087 - 60089.

Allocation of contributions between children

- 60085 Where the claimant
1. makes a contribution towards the cost of providing for two or more children **and**
 2. is entitled to CHB for those children
- any sum paid must be allocated between the children to produce the most favourable result for the claimant, that is to secure as large a payment of CA as possible¹.
- 1 SS Ben (Dep) Regs, Sch 2, para 5*

60086

Earnings rule

- 60087 The claimant's entitlement to the increase of CA is affected where
1. the claimant is one of two persons who are
 - 1.1 spouses or civil partners living together¹ **or**

- 1.2** an unmarried couple who are LTAHAW² or a same-sex couple who are living together as if they were civil partners **and**
- 2.** the other person has earnings of £230 a week or more in the calendar week before the week in which the increase is to be paid³.

*1 SS CB Act 92, Part IX; SS Ben (Dep) Regs, Sch 2, para 2A(a)(i); 2 Sch 2, para 2A(a)(ii);
3 Sch 2, para 2A(b) & 2B*

60088 Where the earnings of the other person are £230 a week or more

- 1.** no increase of CA will be payable for the first child¹ **and**
- 2.** the increase for a further child will not be payable² for every £30 earned over £230.

Note: See Appendix 1 for the current earnings limit.

1 SS Ben (Dep) Regs, Sch 2, para 2B(a); 2 Sch 2, para 2B(b)

60089 See DMG Chapter 15 for guidance on the calculation of earnings. For CA purposes occupational and personal pensions and PPF periodic payments should be regarded as earnings¹.

1 SS CB Act 92; SS Ben (Dep) Regs, Sch 2, Part 2, para 9(1)

Earnings rule savings provision

60090 Where, at 6.4.03, entitlement to CDI exists but is not payable for any reason, e.g. CDI is not payable because of a spouse's or civil partners earnings, payment of the CDI can be reinstated

- 1.** for any period when payability of the CDI ceases to be affected, e.g. where the spouse's or civil partner's earnings reduce to the point at which they do not affect the CDI **and**
- 2.** provided payment of the CDI can be reinstated no later than 58 days after the date that the CDI was last paid.

If the gap in payability is more than 57 days entitlement to CDI terminates.

60091 - 60097

Increase for adults (ADI)

60098 An increase for CA may be paid for

1. the claimant's spouse or civil partner **or**
2. a person having the care of a child or children as in 60100 **2**.¹

Where there is entitlement to an increase for the spouse or civil partner, the claimant cannot be entitled to an increase for a person having care of the children.

Note: ADIs are abolished from 6.4.10². However, see DMG 60103 - 60104 for guidance on when claimants continue to have entitlement to ADIs.

1 SS CB Act 92; SS Ben (Dep) Regs, Sch 2, Part 2; 2 WR Act 09, s 15(1)(b)

Increase for spouse or civil partner

60099 The weekly rate of CA can be increased for any period during which¹

1. the claimant is living with the spouse or civil partner **and**
2. the spouse or civil partner is not earning more than the amount of the increase.

Note: A claimant **cannot** also get an increase under DMG 60100².

1 SS CB Act 92, Sch 2, Part 2, para 6 & 7(a); 2 Sch 2, Part 2, para 8

Increase for person having care of a child

60100 The weekly rate of CA can be increased for a person (other than a child or qualifying young person) who¹

1. lives with the claimant
2. has care of a child or qualifying young person for whom the claimant is entitled to CHB
3. is not in prison or detained in legal custody
4. is not earning (other than from caring for a child or children or qualifying young person or persons for whom the claimant is entitled to CHB) an amount greater than the amount of the increase
5. is not absent from GB, except for any period when the person is living with the claimant outside GB and for which the claimant is entitled to CA.

Note 1: See DMG Chapter 11 for the meanings of care of and living with, and DMG Chapter 15 for guidance on earnings.

Note 2: See DMG Chapter 16 for guidance on the meaning of qualifying young person and DMG Chapter 07, Part 2 for guidance on absence from GB.

Note 3: A claimant **cannot** also get an increase under DMG 60099².

1 SS CB Act 92, Sch 2, Part 2, para 6 & 7(b); 2 Sch 2, Part 2, para 8

Occupational and personal pensions and PPF periodic payments

60101 See DMG Chapter 15 for guidance on the calculation of earnings. For CA purposes occupational and personal pensions and PPF periodic payments should be regarded as earnings¹. However, payment of occupational or personal pension or PPF periodic payments will not affect entitlement to an increase of CA for an adult dependant where the claimant

1. was entitled to receive an increase of CA for that dependant immediately before 6.4.87 **and**
2. would continue to be entitled to the increase but for the payment of occupational or personal pension or PPF periodic payments.

This transitional protection continues to apply until entitlement to the increase stops for some other reason.

1 SS CB Act 92; SS Ben (Dep) Regs, Sch 2, Part 2, para 9(1); Sch 2, Part 2, para 9(2)

Meaning of PPF periodic payments

60102 PPF periodic payments are¹

1. any periodic compensation payments made in relation to a person, payable under the pension compensation provisions set out in specified legislation²
2. any periodic payments made in relation to a person, payable under specific legislation³.

1 SS CB Act 92, s 122(1); 2 Pensions Act 04, s 162(2); Pensions (Northern Ireland Order) 05, art 146(2); 3 Pensions Act 04, s 166; Pensions (Northern Ireland) Order 05, art 150

Continuing entitlement to adult dependency increase from 6.4.10

60103 ADIs are abolished from 6.4.10¹. However claimants² will continue to have entitlement to an ADI³ until the earlier date⁴ in DMG 60104 where

1. they have applied for an ADI before 6.4.10 from a date no later than 5.4.10 **and**
2. immediately before 6.4.10 they are
 - 2.1 entitled to an ADI **or**
 - 2.2 would be entitled to an ADI if the earnings rule⁵ did not apply.

Note 1: 2.1 will apply where the amount of ADI payable is extinguished under the overlapping benefit provisions⁶ (see DMG Chapter 17).

Note 2: 2.2 only applies if entitlement has been established by actual payment of ADI prior to the earnings extinguishing payability.

1 WR Act 09, s 15(1)(b); 2 s 15(3); 3 s 15(2)(b); 4 s 15(3); 5 SS CB Act 92, s 92; 6 SS (OB) Regs, reg 10

Example

Brian claims CA and has entitlement from 8.3.10. He claims an ADI for his wife Paula. However, Paula works and has earnings of £100 a week. Therefore the DM disallows the increase. Paula stops work on 30.7.10. Brian is not entitled to an ADI when Paula stops work.

60104 For the purposes of DMG 60103 the date is the earlier of

1. 6.4.10 **and**
2. the date on which entitlement to an ADI ends¹ (see DMG Chapter 16).

1 WR Act 09, s 15(3)

60105 - 60108

Overlapping benefits

60109 The guidance in DMG Chapter 17 on overlapping benefits applies to CA.

60110 - 60120

Imprisonment or detention in legal custody

General

60121 The guidance in DMG Chapter 12 on imprisonment and detention in legal custody applies to CA. The provisions that apply for IB with regard to.

1. exceptions from disqualification for imprisonment **and**
2. suspension of payment of benefit during imprisonment **and**
3. interim payments **and**
4. payment of benefit and suspension of payments pending a decision on
 - 4.1 appeals and references **and**
 - 4.2 arrears **and**
 - 4.3 repayments

apply equally to CA¹.

Note: See DMG Chapter 56 for guidance on IB disqualification, DMG Chapter 08 for guidance on payment of benefit and DMG Chapter 04 for guidance on suspension.

1 SS (ICA) Regs, reg 14 & Sch 1

No disqualification imposed

60122 Where a disqualification of CA is not appropriate, the DM should consider the breaks in caring for the severely disabled person provisions before deciding if CA is payable for the period in question (see DMG 60045 - 60050).

Disqualification imposed

60123 When

1. the claimant is sentenced to more than four weeks imprisonment or detention in legal custody **and**
2. a disqualification is imposed

the claimant loses entitlement to CA because there has been a break in care for more than four weeks. This applies where it is known that the imprisonment will last for four weeks or more at the outset, so benefit ceases immediately.

60124 - 60999

Appendix 1

Earnings limit for gainful employment

5.7.76	-	11.11.82	£6
12.11.82	-	8.4.90	£12
9.4.90	-	7.4.91	£20
8.4.91	-	5.4.92	£30
6.4.92	-	11.4.93	£40
12.4.93	-	8.4.01	£50
9.4.01	-	7.4.02	£72
8.4.02	-	6.4.03	£75
7.4.03	-	11.4.04	£77
12.4.04	-	10.4.05	£79
11.4.05	-	9.4.06	£82
10.4.06	-	8.4.07	£84
9.4.07	-	30.9.07	£87
1.10.07	-	11.4.10	£95
12.4.10	-	19.5.14	£100
20.5.14	-	5.4.15	£102
6.4.15	-	9.4.17	£110
10.4.17	-	8.4.18	£116
9.4.18			£120

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

