

# Department for Work and Pensions

DECISION MAKING AND APPEALS (PART OF STRATEGIC COMMUNICATIONS)

## Decision Makers Guide

### Volume 13

### Amendment 38 – October 2016

1. This letter provides details on Amendment 38; the changes have already been incorporated in to the Intranet and Internet versions of the DMG.
2. PDF amendment packages are also available. These can be printed with the amended pages being reproduced in full. Each page will contain the amendment number in the footer

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

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

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

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

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

3. Amendment 38 affects chapters 77 & 78. The changes
  - Chapter 77 - correct the guidance on close relatives
  - Chapter 78 - expand legal references and incorporates DMG memo 24/15 concerning Carer benefits and memo 10/16 covering Uprating.
4. The last two amendment packages amending Volume 13 were  
Amendment 37 [October 2016]  
Amendment 36 [February 2016]
5. If using a PDF amendment package remove the sheets as stated in the left hand column of the Remove and Insert table below and insert the new sheets as stated in the right hand column (note the record of amendments at the back of the Volume).

**Statutory Instruments**

SS (LP & Misc Amdts) Regs – WP (Emp O)  
Des O 14 (2 pages)

**Chapter 77**

77004 – 77012 (1 page)

**Chapter 78**

78005 – 78024 (1 page)

78030 – 78057 (2 pages)

78073 – 78078 (1 page)

78087 – 78099 (1 page)

78610 – 78649 (2 pages)

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O 14 (2 pages)

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77004 – 77012 (1 page)

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78005 – 78024 (1 page)

78030 – 78057 (2 pages)

78073 – 78078 (1 page)

78087 – 78099 (1 page)

78610 – 78649 (2 pages)

## Statutory Instruments

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The Social Security Lone Parents and Miscellaneous Amendments Regulations 2008 SI 2008 No. 3051	SS (LP & Misc Amdts) Regs
The Social Security (Loss of Benefit) Regulations 2001 No. 4022	SS (Loss of Benefit) Regs
The Social Security (Mariners' Benefits) Regulations 1975 No. 529	SS (Mariners' Ben) Regs
The Social Security (Maternity Allowance) (Work Abroad) Regulations 1987 No. 417	SS (MA) (Work Abroad) Regs
The Social Security (Maternity Allowance) Regulations 1987 No. 416	SS (MA) Regs
The Social Security (Maternity Allowance) (Earnings) Regulations 2000 No. 688	SS (MA) (Earnings) Regs
The Social Security (Maximum Additional Pension) Regulations 2010 No. 426	SS (MAP) Regs
The Social Security (Medical Evidence) Regulations 1976 No. 615	SS (Med Ev) Regs
The Social Security (Miscellaneous Amendments) Regulations 1997 No. 454	SS (Misc Amdts) Regs
The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2001 No. 652	SS (Misc Amdt) (No. 2) Regs
The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2010 No. 641	SS (Misc Amdt) (No. 2) Regs 2010
The Social Security (Miscellaneous Amendments) (No. 3) Regulations 2011 No. 2425	SS (Misc Amdt) (No. 3) Regs 2011
The Social Security (National Insurance Number Information: Exemption) Regulations 1997 No. 2676	SS (NINO: Exemption) Regs
The Social Security (Overlapping Benefits) Regulations 1979 No. 597	SS (OB) Regs
The Social Security (Payments on account, Overpayments and Recovery) Regulations 1988 No. 664	SS (POR) Regs
The Social Security (Persons from Abroad) Miscellaneous Amendments Regulations 1996 No. 30	SS (PFA) Misc Amdt Regs 96
The Social Security Benefit (Persons Residing Together) Regulations 1977 No. 956	SS (PRT) Regs

## Statutory Instruments

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The Social Security (Reciprocal Agreements) Order 1995 No. 767	SS (RA) Order 95
The Social Security (Reciprocal Agreements) Order 1996 No. 1928	SS RA Order
The Social Security (Retirement Pensions etc.) (Transitional Provisions) Regulations 2005 No. 469	SS (RP etc) (Trans Provs) Regs
The Social Security (Severe Disablement Allowance) Regulations 1984 No. 1303	SS (SDA) Regs
The Social Security (Savings for Existing Beneficiaries) Regulations 1984 No. 1696	SS (SEB) Regs
The Social Security (State Pension and National Insurance Credits) Regulations 2009 No. 2206	SS (SP & NIC) Regs
The Social Security (Treatment of Postgraduate Master's Degree Loans and Special Support Loans) (Amendment) Regulations 2016 No. 743	SS (Treatment of Postgrad Master's Degree Loans and Special Support Loans) (Amdt) Regs 2016.
The Social Security (Unemployment, Sickness, and Invalidity Benefit) Regulations 1983 No. 1598	SS (U, S, & IVB) Regs
The Social Security (Widow's and Widower's Invalidity Pensions) Regulations 1978 No. 529	SS (W & W IVP) Regs
The Social Security (Widow's Benefit and Retirement Pensions) Regulations 1979 No. 642	SS (WB & RP) Regs
The Social Security (Widow's Benefit, Retirement Pensions and Other Benefits) (Transitional) Regulations 1979 No. 643	SS (WB, RP & OB) (Trans) Regs
The Social Security (Work-focused Interviews for Lone Parents) and Miscellaneous Amendments Regulations 2000 No. 1926	SS (Wfl for lone parents) Regs
The Social Security (Work-focused Interviews) Regulations 2000 No. 897	SS (Wfl) Regs 00
The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendment) Regulations 2003 No. 455	SS (WTC & CTC) (Cons Amdt) Regs
The Statutory Sick Pay Regulations 1982 No. 894	SSP (Gen) Regs

## Statutory Instruments

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Education (Student Support) Regulations (Northern Ireland) Order SR 1999/192	Support (NI) Order
The Education (Student Support) Regulations	Support Regs
The Tax Credits Act 2002 (Commencement No. 3 and Transitional Provisions and Savings) Order 2003 No. 938	TC Comm No. 3 Order
The Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008 No. 2885	TP (FtT) (SEC) Rules
The Tribunal Procedure (Upper Tribunal) Rules 2008 No. 2698	TP (UT) Rules
The Workmen's Compensation (Supplementation) Scheme 1982 No. 1489	WC(S) Scheme
Work Programme (Employment Officer) Designation Order 2014	WP (Emp O) Des O 14



## Definitions

77004 The following paragraphs explain the meaning of terms used throughout DMG Volumes 13 and 14 for SPC.

### Care home - England and Wales

77005 In England and Wales, an establishment is a care home<sup>1</sup> if it provides accommodation, together with nursing or personal care, for people who

1. are or have been ill **or**
2. have or have had a mental disorder **or**
3. are disabled or infirm **or**
4. are or have been dependent on alcohol or drugs.

*1 SPC Regs, reg 1(2); Care Standards Act 2000, s 3*

77006 An establishment is not a care home if<sup>1</sup> it is

1. a hospital **or**
2. an independent clinic.

*1 Care Standards Act 2000, s 3(3)*

### Care home - Scotland

77007 In Scotland, an establishment is a care home if it is accommodation in which a care home service is provided<sup>1</sup>. That is, a service that provides accommodation, together with nursing, personal care, or personal support for people by reason of their vulnerability or need.

*1 SPC Regs, reg 1(2); Regulation of Care (Scotland) Act 2001, s 2*

77008 An establishment is not a care home if<sup>1</sup> it is

1. a hospital **or**
2. a public, independent or grant-aided school **or**
3. an independent hospital **or**
4. a private psychiatric hospital **or**
5. an independent clinic **or**
6. an independent medical agency.

*1 Regulation of Care (Scotland) Act 2001, s 2(3) & (5)*

## Claimant

77009 Claimant means<sup>1</sup> a person who claims SPC.

*1 SPC Act 02, s 17(1)*

## Close relative

77010 A close relative is<sup>1</sup>

1. a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, stepson, stepdaughter, brother, sister, **or**
2. if any of the preceding persons is one member of a couple, the other member of that couple; **and**
3. similar relationships arising through civil partnerships<sup>2</sup>.

*1 SPC Regs, reg 1(2); 2 CP Act 04, s 246*

77011 “Brother” and “sister” includes half-brother and half-sister. A child who is adopted becomes a child of the adoptive parents and the brother or sister of any other child of those parents. The adopted child stops being the child of, or the brother or sister of any children of, the natural parents. Whether an adopted person is a close relative of another person depends on the legal relationship not the blood relationship<sup>1</sup>.

*1 R(SB) 22/87*

## Couple

77012 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.

*1 SPC Act 02, s 17(1)*

**Note 1:** A person under the age of 16 cannot be a member of a couple. This is because a person under 16 is a child and is not able to marry or enter into a civil partnership.



## Definitions

78005 The following paragraphs explain the meaning of terms used throughout this Chapter.

### “AA”

78006 Attendance allowance (“AA”) means<sup>1</sup> any of the following

1. “AA”<sup>2</sup> **or**
2. CAA which is paid with a disablement pension because disablement has been assessed at 100%<sup>3</sup> **or**
3. ESDA which is paid because industrial disablement has been assessed at 100%<sup>4</sup> **or**
4. any
  - 4.1 payments for attendance under the Civilians Personal Injury Scheme<sup>5</sup> **or**
  - 4.2 similar payments to 4.1 **or**
5. any payment for attendance which is part of WDisP (including severe disablement occupational allowance paid with CAA) **or**
6. any payment for attendance paid as
  - 6.1 any retired pay, pension or allowance in respect of disablement **or**
  - 6.2 any pension or allowance paid to
    - 6.2.a a widow **or**
    - 6.2.b a widower **or**
    - 6.2.c a surviving civil partner

in respect of a death due to military service or war injury under certain legislation<sup>6</sup>

**Note:** Payments in 4. are made to people who receive a disability pension because of war injuries suffered as civilians or civil defence volunteers.

*1 SPC Regs, reg 1(2); 2 SS CB Act 92, s 64; 3 s 104 & 105; 4 s 104 & 105;*

*5 Personal Injuries (Civilians) Scheme 83, Art 14-16, 43 & 44;*

*6 SPC Regs, reg 15(5)(ac); Income Tax (Earnings and Pensions) Act 2003, s 639(2)*

78007

## **Treated as blind or severely sight impaired**

78008 A person should be treated as blind or severely sight impaired<sup>1</sup> for a period of 28 weeks from the date they regained their eyesight and were no longer certified as blind or severely sight impaired.

*1 SPC Regs, Sch I, para 1(3); Sch II, para 14(6)(a)*

## **Full-time student**

78009 A F/T student is<sup>1</sup> a person who is not a qualifying young person<sup>2</sup> or a child and who is

1. aged less than 19 and is attending or undertaking a F/T course of advanced education **or**
2. aged 19 or over but under pensionable age and is attending or undertaking a F/T course of study at an educational establishment **or**
3. on a sandwich course.

*1 SPC Regs, reg 1(2); IS (Gen) Regs, reg 61(1); 2 SPC Regs, reg 4A*

78010 For further information on F/T students and qualifying young persons, see the guidance on students for IS purposes in DMG Chapter 30.

## **Voluntary organisation**

78011 A voluntary organisation is a non-profit making organisation that is not a public authority or LA<sup>1</sup>.

*1 SPC Regs, reg 1(2)*

78012 - 78024

# Additional amount for the severely disabled

## General

78030 When considering the amount of the AMG, an additional amount is applicable if the claimant is treated as being severely disabled<sup>1</sup>.

*1 SPC Act 02, s 2(3)(b), 2(7) & 17(2)(b); SPC Regs, reg 6(4) & Sch 1, para 1*

78031 An additional amount for the severely disabled is not payable<sup>1</sup> in the case of

1. prisoners **and**
2. members of religious orders who are fully maintained by their order.

*1 SPC Regs, reg 6(2), (3) & (4)*

78032 If the claimant is a member of a polygamous marriage, see DMG 78610 for guidance on the rules that apply.

78033 The additional amount for the severely disabled is payable at a lower or higher rate<sup>1</sup>. See Appendix 2 to DMG Chapter 77 for details of those rates.

*1 SPC Regs, reg 6(5)*

## Lower rate

### Claimants who have no partner

78034 Claimants with no partner are treated as being severely disabled and are entitled to the lower rate of additional amount for the severely disabled if<sup>1</sup>

1. they are in receipt of
  - 1.1 "AA" **or**
  - 1.2 the care component of DLA at the highest or middle rate **or**
  - 1.3 the daily living component of PIP **or**
  - 1.4 AFIP **and**
2. there are no persons aged 18 or over
  - 2.1 normally residing with the claimant **or**
  - 2.2 who the claimant normally resides with (see DMG 78065 et seq) **and**
3. no one is entitled to and in receipt of CA, or UC that includes the CE, in respect of caring for them.

*1 SPC Regs, reg 6(5)(a); Sch 1, para 1(1)(a)*

## Transitional protection

78035 Carers who were aged 65 and over before 28.10.02 can continue to be entitled to CA even though they are no longer providing care<sup>1</sup>, for example after the disabled person has died.

*1 The Regulatory Reform (Carer's Allowance) Order 2002, S.I. 2002/1457*

78036 A claimant will not be disqualified under 78034 **3.**, from the extra amount for the severely disabled where the person in receipt of CA is not providing care but retains payment of the CA as a result of transitional protection.

78037 - 78044

## Claimants who have a partner

78045 Claimants who have a partner are treated as being severely disabled and are entitled to the lower rate of additional amount for the severely disabled if<sup>1</sup>

1. both partners are in receipt of
  - 1.1 "AA" **or**
  - 1.2 the care component of DLA at the highest or middle rate **or**
  - 1.3 the daily living component of PIP at the standard or enhanced rate **or**
  - 1.4 AFIP **and**
2. there are no persons aged 18 or over
  - 2.1 normally residing with the partners **or**
  - 2.2 who the partners normally reside with (see DMG 78065 et seq) **and**
3. someone is entitled to and in receipt of CA, or UC that includes the CE, in respect of caring for only one of the partners.

*1 SPC Regs, reg 6(5)(a); Sch I, para 1(1)(b)*

78046 Claimants who have a partner may not satisfy the conditions in DMG 78045. In such a case the lower rate can still be awarded if<sup>1</sup>

1. one of the partners is in receipt of
  - 1.1 "AA" **or**
  - 1.2 the care component of DLA at the highest or middle rate **or**
  - 1.3 the daily living component of PIP at the standard or enhanced rate **or**
  - 1.4 AFIP **and**
2. the other partner is certified as blind or severely sight impaired by a consultant ophthalmologist or treated as blind or severely sight impaired **and**
3. there are no persons aged 18 or over
  - 3.1 normally residing with the partners **or**
  - 3.2 who the partners normally reside with (see DMG 78065 et seq) **and**

4. no-one is entitled to and in receipt of CA, or UC that includes the CE, in respect of caring for the partner who is receiving "AA" or DLA as in 1.

*1 SPC Regs, Sch I, para 1(1)(c)*

78047 The lower rate of additional amount for the severely disabled can also be awarded to claimants who have a partner if<sup>1</sup>

1. one of the partners is in receipt of
  - 1.1 "AA" **or**
  - 1.2 the care component of DLA at the highest or middle rate **or**
  - 1.3 the daily living component of PIP at the standard or enhanced rate **or**
  - 1.4 AFIP **and**
2. the other partner would be in receipt of
  - 2.1 "AA" **or**
  - 2.2 the care component of DLA at the highest or middle rate **or**
  - 2.3 the daily living component of PIP at the standard or enhanced rate  
but for being a patient for over 28 days **and**
3. there are no persons aged 18 or over
  - 3.1 normally residing with the partners **or**
  - 3.2 who the partners normally reside with (see DMG 78065 et seq) **and**
4. no-one is entitled to and in receipt of CA, or UC that includes the CE, in respect of caring for the partner who is receiving "AA" or DLA as in 1..

*1 SPC Regs, reg 6(5)(a); Sch I, para 1(1)(b) & (2)(b)*

## Higher rate

78048 DMs should note that the higher rate of additional amount for the severely disabled does not apply to claimants who have no partner.

78049 Claimants who have a partner are treated as being severely disabled and are entitled to the higher rate if<sup>1</sup>

1. both partners are in receipt of
  - 1.1 "AA" **or**
  - 1.2 the care component of DLA at the highest or middle rate **or**
  - 1.3 the daily living component of PIP at the standard or enhanced rate **or**
  - 1.4 AFIP **and**
2. there are no persons aged 18 or over
  - 2.1 normally residing with the partners **or**
  - 2.2 who the partners normally reside with (see DMG 78065 et seq) **and**

3. no one is entitled to and in receipt of CA, or UC that includes the CE, in respect of caring for either partner.

*1 SPC Regs, reg 6(5)(b); Sch I, para 1(1)(b)*

78050 DMs should note that DMG 78049 1. is **not** satisfied if either partner is treated as being in receipt of “AA” or DLA or PIP or AFIP as in DMG 78060 2.<sup>1</sup>. In such a case the lower rate of additional amount should be considered.

*1 SPC Regs, reg 6(5)(b)*

78051 - 78054

## **In receipt of “AA”, DLA and CA**

78055 Before awarding an additional amount for the severely disabled, the DM needs to know if

1. the claimant or partner is in receipt of “AA”, DLA, PIP or AFIP **and**
2. anyone is in receipt of CA, or UC that includes the CE, in respect of caring for the claimant or partner.

**Note:** Special rules apply to the treatment of “AA”, DLA, PIP, AFIP and CA when a person is admitted to hospital. See DMG 78060 et seq for guidance.

### **“AA”, DLA and PIP**

78056 DMs should note that a person is in receipt of “AA” or DLA or PIP or AFIP only if it is paid because of that person’s own incapacity or disability.

#### **Example 1**

Alistair is aged 65 and lives alone. He claims SPC and states that he is in receipt of “AA” due to his poor physical condition. No one gets CA in respect of looking after him. Alistair is in receipt of “AA” and the DM considers an additional amount for the severely disabled.

#### **Example 2**

Ruby lives with her grandson Ben who is aged 14. Ben is disabled and is awarded the care component of DLA at the highest rate. But the DLA is paid to Ruby. Ruby is not in receipt of DLA. The DLA is paid because of Ben’s disability and is only paid to Ruby because of Ben’s age. An additional amount for the severely disabled is not applicable.

### **CA**

78057 An additional amount for the severely disabled may not be applicable if someone is receiving CA in respect of caring for the claimant or partner<sup>1</sup>. But CA has to actually be in payment before it affects entitlement to this additional amount.

*1 SPC Regs, Sch I, para 1(1)*

78073 If the conditions in DMG 78072 are met, the DM must then establish that<sup>1</sup>

1. there is an obligation to make payments derived from a recognised source of law (for example contract law) **and**
2. the obligation to make the payments is for the occupation of the premises and not, for example, for food or clothing **and**
3. the power to bring the licence or lease to an end is referable to a breach of the condition to make the payment under the contractual licence or lease and not to some other matter.

*1 R(IS) 11/98*

78074 Whether a person has separate liability to a landlord should be determined by reference to the arrangements within the group. But DMs should note that the liability has to be to the same landlord. Reference to some other liability of the person to a third party is not relevant.

#### **Example**

Tom gets "AA" and no one gets CA (or UC CE) for caring for him. He lives in a privately rented house, which he shares with three other people. They all have their own bedroom but share the kitchen and bathroom. Each are liable to pay the landlord rent for their room.

The DM decides that Tom does not normally reside with the other residents of the house. They are all separately liable to make payments to the landlord for their accommodation. Tom is awarded an additional amount for the disabled.

#### **Contractual capacity**

78075 In England and Wales, only a minor, or a person of unsound mind, may not have the capacity to incur legal liability. DMs should accept that a claimant has sufficient capacity unless there is very strong evidence to the contrary.

#### **Carer stays overnight**

78076 A carer may stay overnight with the person they are looking after. In such a case the DM should consider whether the carer normally resides with that person and should find out

1. whether the carer has a separate address **and**
2. if the carer has a separate address, whether they use it and if so, how often **and**
3. what address the carer uses as a postal address **and**
4. what address the carer is registered at for CT purposes.

## People whose presence is ignored

78077 The DM can ignore the presence of<sup>1</sup>

1. any person aged under 18<sup>2</sup> **or**
2. a person who is in receipt of<sup>3</sup>
  - 2.1 "AA" **or**
  - 2.2 the care component of DLA at the highest or middle rate **or**
  - 2.3 the daily living component of PIP at the standard or enhanced rate **or**
  - 2.4 AFIP **or**
3. a person who is
  - 3.1 certified as blind or severely sight impaired by a consultant ophthalmologist<sup>4</sup> **or**
  - 3.2 treated as blind or severely sight impaired<sup>5</sup> (see DMG 78008) **or**
4. a person who<sup>6</sup>
  - 4.1 lives with the claimant in order to care for the claimant or partner **and**
  - 4.2 is engaged by a charitable or voluntary organisation (see DMG 78011) which makes a charge to the claimant or partner for that person's services **or**
5. the partner of a person to whom 4. applies<sup>7</sup> **or**
6. a person who is a qualifying young person<sup>8</sup> or a child for CHB purposes<sup>9</sup>.

*1 SPC Regs, Sch I, para 2(1); 2 Sch I, para 1(1)(a)(ii), (b)(ii) & (c)(iii); 3 Sch I, para 2(2)(a);*

*4 Sch I, para 2(2)(b); 5 Sch I, para 2(2)(c); 6 Sch I, para 2(2)(d); 7 Sch I, para 2(2)(e);*

*8 reg 4A; 9 Sch I, para 2(2)(f), s 40 2012 Act*

78078 The DM can also ignore the presence of a person who

1. joins the claimant's household for the first time<sup>1</sup>
  - 1.1 to care for the claimant or partner **and**
  - 1.2 if, immediately before joining, the claimant or partner satisfied the conditions for an additional amount for the severely disabled **or**
2. is not a close relative (see DMG 77010) of the claimant or partner and who<sup>2</sup>
  - 2.1 is liable to make payments on a commercial basis to the claimant or partner for their occupation of the dwelling **or**
  - 2.2 the claimant or partner is liable to make payments to on a commercial basis for their occupation of that person's dwelling **or**
  - 2.3 is a member of the household of a person in 2.1 or 2.2 **or**



They are assessed as a couple and the higher rate EASD continues in payment however after 4 weeks Malcolm's DLA payments cease and the EASD is withdrawn

**Note:** The lower rate EASD is not appropriate as there is no facility to treat DLA as in payment for these periods of respite care.

## **Permanent residence in a care home**

78087 Claimants who are permanently in a care home are normally resident in that care home. Other residents of the home do not normally reside with the claimant, as they are separately liable to make payments to a landlord.

### **Claimants who have no partner (including self funders)**

78088 An additional amount for the severely disabled is applicable to a person who is permanently in a care home if all the conditions are satisfied<sup>1</sup>.

**Note:** This will normally be self funding claimants, but DMs should be aware that it will also include residents where the payment of "AA" or DLA/PIP continues for the first four weeks after admission.

*1 SPC Regs, reg 5(1)(b) & Sch I, para 1(1)(a)*

### **Example**

Shafaq has no partner and lives at home with his sisters. He is in receipt of the care component of DLA at the middle rate and no one receives CA (or UC CE) for caring for him. The conditions for the award of an additional amount for the disabled are not satisfied. Shafaq goes into a care home on a permanent basis. The DM decides that Shafaq is entitled to an additional amount for the disabled at the lower rate from the date that he moves into the care home. This is because

1. he is in receipt of the care component of DLA at the middle rate **and**
2. the other residents of the home do not normally reside with him **and**
3. no one is in receipt of CA, or UC that includes the CE, for caring for him.

Entitlement to the additional amount continues as long as all of the above are satisfied.

### **Claimants who have a partner**

78089 A member of a couple who is permanently in a care home is no longer a member of the same household as their partner. In such a case each person may claim SPC as a claimant who has no partner.

78090 - 78099



## Additional amount for the severely disabled

78610 The additional amount for the severely disabled is payable at a lower or higher rate<sup>1</sup>. See Appendix 2 to Chapter 77 for details of those rates.

*1 SPC Regs, reg 6(5)*

### Lower rate

78611 Claimants who are members of a polygamous marriage are entitled to the lower rate of additional amount for the severely disabled if<sup>1</sup>

1. both partners and each additional spouse (whether of the claimant's or of a spouse of the claimant's) are in receipt of
  - 1.1 "AA" **or**
  - 1.2 the care component of DLA at the highest or middle rate **or**
  - 1.3 the daily living component of PIP at the standard or enhanced rate **or**
  - 1.4 AFIP **and**
2. there are no other persons aged 18 or over
  - 2.1 normally residing with the partners and any additional spouse **or**
  - 2.2 who the partners and any additional spouse normally reside with (see DMG 78065 et seq) **and**
3. someone is entitled to and in receipt of CA or UC that includes the CE, in respect of caring for only one of the members of the polygamous marriage.

*1 SPC Regs, reg 6(5)(a); Sch I, para 1(1)(b); Sch III, para 1(9) & (11)*

78612 Claimants may not satisfy the conditions in DMG 78611. In such a case the lower rate can still be awarded if<sup>1</sup>

1. at least one member of the polygamous marriage is in receipt of
  - 1.1 "AA" **or**
  - 1.2 the care component of DLA at the highest or middle rate **or**
  - 1.2 the daily living component of PIP at the standard or enhanced rate **or**
  - 1.3 AFIP **and**
2. at least one member of the polygamous marriage is blind or treated as blind and **not** in receipt of
  - 2.1 "AA" **or**
  - 2.2 the care component of DLA at the highest or middle rate **or**
  - 2.3 the daily living component of PIP at the standard or enhanced rate **and**
3. all members of the marriage (that is both partners and each additional spouse) fall within either 1. or 2. **and**

4. there are no other persons aged 18 or over
  - 4.1 normally residing with the partners and any additional spouse **or**
  - 4.2 who the partners and any additional spouse normally reside with (see DMG 78065 et seq) **and**
5. either
  - 5.1 no-one is entitled to and in receipt of CA or UC that includes the CE, in respect of caring for any person who is receiving "AA" or DLA or PIP or AFIP as in 1. **or**
  - 5.2 someone is entitled to and in receipt of CA or UC that includes the CE, in respect of caring for one or more, but not all, the persons receiving "AA" or DLA or PIP or AFIP as in 1..

*1 SPC Regs, reg 6(5)(a); Sch I, para 1(1)(c); Sch III, para 1(10)*

78613 The lower rate of additional amount for the severely disabled can also be awarded to claimants who are members of a polygamous marriage if<sup>1</sup>

1. one of the members of the marriage is in receipt of
  - 1.1 "AA" **or**
  - 1.2 the care component of DLA at the highest or middle rate **or**
  - 1.3 the daily living component of PIP at the standard or enhanced rate **or**
  - 1.4 AFIP **and**
2. the other members would be in receipt of
  - 2.1 "AA" **or**
  - 2.2 the care component of DLA at the highest or middle rate **or**
  - 2.3 the daily living component of PIP at the standard or enhanced rate **or**
  - 2.4 AFIP

but for being a patient for over 28 days **and**
3. there are no other persons aged 18 or over
  - 3.1 normally residing with the partners and additional spouse **or**
  - 3.2 who the partners and additional spouse normally reside with (see DMG 78065 et seq) **and**
4. no-one is entitled to and in receipt of CA or UC that includes the CE, in respect of caring for the person who is receiving "AA" or DLA or PIP or AFIP as in 1..

*1 SPC Regs, reg 6(5)(a); Sch I, para 1(1)(b) & (2)(b); Sch III, para 1(9)*

## Higher rate

78614 Claimants who are members of a polygamous marriage are entitled to the higher rate of additional amount for the severely disabled if<sup>1</sup>

1. both partners and each additional spouse (whether of the claimant's or of a spouse of the claimant's) are in receipt of
  - 1.1 "AA" **or**
  - 1.2 the care component of DLA at the highest or middle rate **or**
  - 1.3 the daily living component of PIP at the standard or enhanced rate **or**
  - 1.4 AFIP **and**
2. there are no other persons aged 18 or over
  - 2.1 normally residing with the partners and any additional spouse **or**
  - 2.2 who the partners and any additional spouse normally reside with (see DMG 78065 et seq) **and**
3. no one is entitled to and in receipt of CA or UC that includes the CE, in respect of caring for any member of the polygamous marriage.

*1 SPC Regs, reg 6(5)(b); Sch I, para 1(1)(b); Sch III, para 1(9)*

78615 DMs should note that DMG 78614 1. is **not** satisfied if either partner or any additional spouse is treated as being in receipt of "AA" or DLA or PIP or AFIP as in DMG 78059 2.<sup>1</sup>. In such a case the lower rate of additional amount should be considered.

*1 SPC Regs, reg 6(5)(b)*

78616 - 78619

## Additional amount for carers

78620 The additional amount for carers is paid at one rate. In polygamous marriage cases, that amount is applicable for each partner or additional spouse who satisfies the qualifying conditions in DMG 78105<sup>1</sup>. See Appendix 2 to DMG Chapter 77 for details of the rate.

*1 SPC Regs, reg 6(8); Sch III, para 1(8)*

## Additional amount for former claimants of IS/JSA(IB)

78621 A transitional amount may need to be considered if a claimant who is a member of a polygamous marriage transfers from IS or JSA(IB) to SPC. In such a case the DM should

1. follow the guidance in DMG 78120 et seq **and**
2. note that when calculating the relevant amount (see DMG 78128), an additional spouse is the equivalent of a partner<sup>1</sup> **not** a dependant.

*1 SPC Regs, Sch III, para 1(8)*

## Additional amount for housing costs

78622 When considering the amount of the AMG, an additional amount for housing costs may be applicable. In polygamous marriage cases, DMs should note that any references to a partner in the guidance at DMG 78170 et seq, also includes a reference to any additional spouse<sup>1</sup>.

*1 SPC Regs, Sch III, para 1(8)*

## Savings credit

78623 [\[See Memo DMG 4/16\]](#) In polygamous marriage cases, an SPC claimant can get a SC if<sup>1</sup>

1. at least one member of the polygamous marriage is at least age 65 **and**
2. the claimant has
  - 2.1 QI that is more than the SCT **and**
  - 2.2 an income which, after the calculation at DMG 77170 et seq, allows amount A to be greater than amount B.

**Note:** From 6.12.18<sup>2</sup> at least one member of the polygamous marriage must be at least pensionable age<sup>3</sup> (see DMG Chapter 75).

*1 SPC Act 02, s 3(2) & 12(3); SPC Regs, Sch III, para 1(2); 2 Pensions Act 07, s 13(3); 3 SPC Act 02, s 3(1)*

78624 DMs should note that in polygamous marriage cases the SCT and the MSC are set at the same rates as for a couple<sup>1</sup>. See Appendix 2 to Chapter 77 for details of the rates.

*1 SPC Act 02, s 3; SPC Regs, reg 7; Sch III, para 1(6) & (7)*

78625 - 78649