

Department for Work and Pensions

DECISION MAKING AND APPEALS

Decision Makers Guide

Volume 13

Amendment 40 – June 2018

1. This letter provides details on Amendment 40; 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 40 affects chapters 78 & 79. The changes:
 - incorporate DMG memo 4/18 to chapter 78 as well as updating various examples
 - incorporate DMG memo 4/18 to chapter 79 as well as updating various examples
4. If using a PDF amendment package remove the sheets as stated in the left hand column of the Remove and Insert table below and insert the new sheets as stated in the right hand column (note the record of amendments at the back of the Volume).

Remove

Chapter 78

78047 – 78072 (3 pages)
78185 – 78188 (1 page)
78345 – 78356 (1 page)
78521 – 78529 (2 pages)
78614 – 78649 (1 page)
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78920 – 78939 (1 page)
Appendix 4 (4 pages)

Chapter 79

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79421 – 79499 (2 pages)

Insert

Chapter 78

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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 1, 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 if¹

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 1, 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 if¹

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 2.¹. 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.

Example

Heather was in receipt of “AA” and had an award of SPC which included an amount for severe disability. On 10.6.17 she was admitted to a care home. It wasn't until the 22.11.17 that her “AA” ceased, due to some confusion around appointing someone to act. The additional amount for severe disability was correctly in payment while ever Heather was **in receipt of “AA”**,

“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 partner¹. But CA has to actually be in payment before it affects entitlement to this additional amount.

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

78058 DMs should normally treat an award of CA as a proper award until the CA decision is revised, superseded or otherwise changed on appeal. If the claimant says that

1. they are not being cared for by the person getting CA or
2. the award of CA is in error or
3. they know nothing about the CA award or
4. the CA claim is fraudulent

the DM should ask the CA unit to investigate whether the CA award is correctly made.

78059 Where the disabled person makes an allegation about the carer's integrity, as described in DMG 78058, the SPC DM can make a decision on the claim or application before the CA DM has decided whether the award of CA should be revised or superseded. However, the SPC decision should include a determination which

1. makes an assumption that the carer is properly in receipt of CA and
2. refuses to award the extra amount for severe disability.

Treated as being or not being in receipt of "AA", DLA and CA

78060 A person shall be treated

1. as being in receipt of "AA", or the care component of DLA at the highest or middle rate, or the daily living component of PIP at the standard or enhanced rate, or AFIP for any period¹
 - 1.1 before an award is made but in respect of which the allowance is awarded or
 - 1.2 not covered by an award but in respect of which a payment is made in lieu of an award
2. in the case of a claimant who has a partner, as being 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 rateif they would be in receipt but for being a patient for over 28 days²

3. as not being in receipt of CA for any period before the date on which the award is first paid³.

1 SPC Regs, Sch I, para 1(2)(a); 2 Sch I, para 1(2)(b); 3 Sch I, para 1(2)(c)

78061 - 78064

People residing with the claimant

78065 An additional amount for the severely disabled may not be applicable if¹ there are people aged 18 or over who

1. normally reside with the claimant and any partner or
2. the claimant and any partner normally reside with.

That is, share the accommodation (see DMG 78068). But the presence of certain people can be ignored². See DMG 78077 and 78078 for full details.

1 SPC Regs, Sch I, para 1(1); 2 Sch I, para 2

Meaning of normally resides

78066 A person normally resides where they usually live. Periods of residence or absence that are of an exceptional nature should be disregarded. A person who is temporarily absent from their normal home, continues to normally reside where they usually live and with the people they usually live with.

Example 1

Jack normally lives in his sister's house and is not entitled to an additional amount for the disabled. He goes into respite care for one week every other month. While he is in respite care Jack still normally resides in his sister's house. He does not qualify for an additional amount for the severely disabled.

Example 2

Mary normally lives alone in her own flat. She is entitled to an additional amount for the severely disabled. Her brother Steven comes to stay with her for a week at a time every three months. He does not normally live with Mary. She keeps her entitlement to the additional amount whilst Steven is staying with her.

78067 When considering where a person normally resides the DM should have regard to

1. the total amount of time spent in a place
2. how often time is spent in a place
3. how permanent the stay is thought to be
4. the person's intentions
5. individual circumstances
6. what degree the accommodation is shared
7. the services provided

8. whether the person owns or rents any other accommodation
9. whether the person has any liabilities for services/utilities/tv licence.

Example

Agnes has been awarded the care component of DLA at the middle rate and no one gets CA (or UC CE) for caring for her. She owns her own home but for the past two years has slept every night at her son's house. She keeps her clothes and some of her things at her son's house. She goes home for the day two or three days a week, to clean up and do the garden. But she always returns to her son's to sleep. Agnes is responsible for the bills for her home and she and her son still regard Agnes's house as her home. Agnes' house has never been put up for sale.

Agnes normally lives at her son's house because

1. she sleeps at her son's house every night
2. her clothes and some of her things are kept at her son's
3. she only goes back to her own house occasionally and in daylight hours
4. she spends the majority of her time at her son's house.

Agnes is not entitled to an additional amount for the severely disabled. The DM considers whether the value of Agnes' house should be taken into account.

Sharing the accommodation

78068 People should not be regarded as sharing the accommodation if¹

1. the only shared area is a
 - 1.1 bathroom **or**
 - 1.2 lavatory **or**
 - 1.3 communal area **or**
2. they are separately liable to make payments to the landlord for that accommodation.

Note: A person should still be regarded as sharing the kitchen even if they do not enter or use it where items for the persons use are stored there or their meals are prepared there.

1SPCRegs,SchI,para3(1);R(IS)12/96

78069 A communal area is¹ an area of common access (not a room) including

1. halls
2. passageways
3. stairways
4. rooms of common use in sheltered accommodation.

1SPCRegs,SchI,para3(2)

Example

Katja gets “AA” and no one gets CA (or UC CE) for caring for her. She lives in a self-contained granny flat attached to her daughter’s house. She has her own bathroom, kitchen, bedroom and living room. Access to the flat is from the hall of her daughter’s house and the front door of the property is shared. Everything else is separate.

The hall is the only shared area and is a communal area. Katja does not share the accommodation and does not normally reside with her daughter.

Note: A person should still be regarded as sharing the kitchen even if they do not enter or use it if items for the person’s use are stored there or their meals are prepared there. A kitchen is not shared if a person needs to pass through it to access to their self-contained flat.

Students

78070 In a case where a student lives at a university address during term time and lives at their parents’ home for some weekends and during the holidays, the DM should have regard to the considerations at DMG 78067 before deciding which address is where they normally reside. Whichever address is chosen will remain the student’s normal residence even when they spend time at the other address.

Example

A student still retains a bedroom, furniture and some clothing at their parents’ home, they still get some mail there, are registered with the local dentist and are actually resident for 18 full weeks and most weekends. On this evidence the DM decides that the student normally resides at their parents’ home and are only temporarily absent from it whilst at university.

Alternatively the DM may decide that because the student has a tenancy agreement for a university address, they have some furniture and clothes there, they live there for 32 weeks of the year and are liable for gas, electricity and a tv licence that they normally reside at the university address and are only temporarily absent from it whilst back living with their parents.

78071

Meaning of liable to make payments

78072 “Liable to make payments” refers to legal liability. When considering the question of liability, the DM must consider whether

1. the claimant has the contractual capacity to enter into an enforceable contract
and
2. there was an intention to create legal relations.

Definitions

78185 The following paragraphs explain the meaning of terms used throughout this guidance on housing costs.

Disabled person

78186 [\[See DMG Memo 6/17\]](#) [\[See ADM Memo 7/17\]](#) [\[See ADM Memo 8/17\]](#) For housing costs purposes, a disabled person is a person

1. aged 75 or over¹ or
2. who, if they were entitled to IS, would receive²
 - 2.1 higher pensioner premium (see DMG 23100 et seq) or
 - 2.2 disability premium (see DMG 23121 et seq) or
3. who³ has not reached the age of 20 and for whom the claimant or partner is responsible and
 - 3.1 is in receipt of DLA or
 - 3.2 would be in receipt of DLA but for being a hospital in-patient or
 - 3.3 is in receipt of PIP or
 - 3.4 would be in receipt of PIP but for being a hospital in-patient or
 - 3.5 is in receipt of AFIP or
 - 3.6 would be in receipt of AFIP but for being a hospital in-patient or
 - 3.7 is a person who is entitled to UC that
 - 3.7.a includes the LCW or LCWRA element or
 - 3.7.b would include the LCW element
 - 3.7.b.i but for the fact that the LCWRA element was included with respect to the person's partner or
 - 3.7.b.ii but for entitlement to the carer element⁴ or
 - 3.8 is certified as blind or severely sight impaired by a consultant ophthalmologist or treated as blind or severely sight impaired (see DMG 78008) or
 - 3.9 receives ESA which includes either
 - 3.9.a the support component or
 - 3.9.b the work related activity component or
 - 3.10 but for the application of time limiting, would be entitled to ESA including the WRAC

1 SPC Regs, Sch II, para 1(2)(a)(i); 2 Sch II, para 1(2)(a)(ii); 3 Sch II, para 1(2)(a)(iii):

4 Sch II, para 1(2)(a)(iii)(ff)

78187 A disabled person will not cease to be treated as a disabled person if they are¹

1. disqualified from receiving benefit or
2. treated as capable of work because they
 - 2.1 are incapable of work due to their own misconduct or
 - 2.2 fail without good cause to
 - 2.2.a attend for or
 - 2.2.b submit tomedical or other treatment that may be required or
 - 2.3 fail without good cause to observe the rules of behaviour.

1 SPC Regs, Sch II, para 1(3); SS CB Act 92, s 171E

Dwelling occupied as the home

78188 Dwelling occupied as the home means¹

1. the dwelling and any
 - 1.1 garage and
 - 1.2 garden and
 - 1.3 outbuildingsnormally occupied by the claimant as the home **and**
2. any buildings or land not occupied as the home which it is impracticable or unreasonable to sell separately **and**
3. in Scotland, any croft land on which the dwelling is situated.

Note: This means only the dwelling currently occupied as the home. It does not include any dwelling that is no longer occupied as the home².

1 SPC Regs, reg 1(2); 2 R(IS) 5/96

Example

Shimon and Rachel live on a plot of land on which there is a caravan, some outbuildings and an old cottage in need of repair. The LA allow them to use the caravan as a temporary residence while the cottage is being repaired. They sleep in the caravan but have things stored in the outbuildings and cottage. The caravan has a fixed mains water supply and is linked directly to the electricity mains. There are no mains supplies to the cottage. The land cannot be divided into two, with the caravan and site being owned or used separately from the cottage and site.

The DM decides that the dwelling includes the caravan, outbuildings and land. The cottage is occupied to a limited extent as part of that dwelling. Shimon can therefore have an additional amount for housing costs assessed on the basis that the whole of the landholding, cottage, caravan and outbuildings are to be treated as the dwelling normally occupied by him.

Maximum amount of loans

78345 [\[See Memo DMG 43/09\]](#) [\[See Memo DMG 08/16\]](#) With the exception of those cases where DMG 78356 applies, the maximum amount of loans that housing costs can be calculated on is £100,000¹. However, in the circumstances described in memo 43/09, the maximum amount is £200,000

Note: Under a temporary package of measures to support home owners who made new claims from 5.1.09 the £100,000 maximum was increased to £200,000.

1 SPC Regs, Sch II, para 8(1) & (2)

Liable for two homes

78346 A person may be treated as occupying two dwellings as their home (see DMG 78231 to 78233). In such a case the maximum amount applies separately to each dwelling¹.

1 SPC Regs, Sch II, para 8(3)

Composite hereditaments

78347 Where the claimant's home is a composite hereditament (see DMG 78310), the amount of the loan on which housing costs are calculated will be the lower of¹

1. the amount obtained by using the formula $P \times Q$ where
 - P is the fraction used to calculate the eligible portion of the housing costs as in DMG 78312 **and**
 - Q is the amount of the whole loan which is outstanding **or**
2. £100,000 (if appropriate £200,000).

1 SPC Regs, Sch II, para 6 & 8(4)

Shared responsibility for housing costs

78348 Where more than one person has responsibility for a loan, the DM should

1. work out the eligible part of the loan (see DMG 78313) **and**
2. apply the fraction of the housing costs for which the claimant is responsible to the eligible part of the loan

to give the amount that can be allowed¹.

1 SPC Regs, Sch II, para 6(5) & 8(4)

Example

Rhys shares his home with his two sisters. They are jointly liable for a loan of £180,000 used to buy the home and two home improvement loans of £45,000 and £15,000. Rhys' sisters have each taken responsibility for $\frac{1}{4}$ of the loan used to buy

the home and Rhys is responsible for the other ½. Each of the three have taken responsibility for 1/3 of the two home improvement loans.

The eligible part of each loan for Rhys is

1.	Loan to buy the home	$£180,000 \times \frac{1}{2} =$	£90,000
2.	Home improvement loan	$£45,000 \times \frac{1}{3} =$	£15,000
3.	Home improvement loan	$£15,000 \times \frac{1}{3} =$	£5,000
	Total		£110,000

The total amount of the loans for which Rhys is responsible is restricted to £100,000 (old case) by apportionment as follows

Loan 1	$\frac{£100,000 \times £90,000}{£110,000}$	=	£81,818.18
Loan 2	$\frac{£100,000 \times £15,000}{£110,000}$	=	£13,636.36
Loan 3	$\frac{£100,000 \times £5,000}{£110,000}$	=	£4,545.46

78349 - 78354

Part of loan used for eligible purposes

78355 A loan may have been used for both eligible and ineligible purposes. In such a case, the amount of the loan on which housing costs should be calculated is the lower of¹

1. the outstanding amount of the eligible part of the loan or
2. £100,000 or £200,000, whichever is appropriate.

1 SPC Regs, Sch II, para 8(5)

Loans to adapt a dwelling for the needs of a disabled person

78356 Loans may be used in full, or in part, to adapt a home for the special needs of a disabled person. The outstanding amount of such loans is exempt from the maximum amount limit¹.

1 SPC Regs, Sch II, para 8(6)

Example

Russell has two loans

Loan 1 - £160,000 for acquiring an interest in the home. The limit is applied to this loan and only £100,000 is allowed.

Non-dependant deduction not appropriate

78521 [\[See DMG Memo 6/17\]](#) [\[See ADM Memo 8/17\]](#) Deductions should not be made if

1. the claimant or any partner
 - 1.1 is certified as blind or severely sight impaired by a consultant ophthalmologist or treated as blind or severely sight impaired¹ (see DMG 78008) or
 - 1.2 is receiving in respect of themselves²
 - 1.2.a "AA" or
 - 1.2.b the care component of DLA or
 - 1.2.c the daily living component of PIP or
 - 1.2.d AFIP or
 - 1.3 has a deduction in the calculation of a rent rebate or allowance in respect of the non-dependant³ or
2. non-dependants are
 - 2.1 living with the claimant but the dwelling normally occupied as the home is elsewhere⁴ or
 - 2.2 in receipt of a training allowance in connection with a youth training scheme⁵ or
 - 2.3 F/T students⁶
 - 2.3.a in a period of study or
 - 2.3.b not in remunerative work during the recognized summer vacation appropriate to their course or
 - 2.4 aged under 25 and in receipt of IS or JSA(IB)⁷ or
 - 2.5 in receipt of an award of ESA(IR) which does not include a component⁸ or
 - 2.6 not living with the claimant because⁹ they
 - 2.6.a have been patients for more than 52 weeks (see DMG 78700 et seq) or
 - 2.6.b are prisoners (see DMG 78651) or
 - 2.7 F/T student and
 - 2.7.a claimant or partner has reached the age of 65¹⁰ or
 - 2.8 in receipt of SPC¹¹ or
 - 2.9 entitled to UC and
 - 2.9.a is aged less than 25 and
 - 2.9.b does not have any earned income

Note 1: When calculating the 52 weeks period in 2.5.a, any periods separated by intervals of not more than 28 days, should be treated as a single period.

Note 2: Where a person under 1.2 has been an inpatient for a sufficient period of time they will no longer be receiving AA or DLA and as such the non-dependant will no longer be exempt from attracting a non-dependant deduction.

*1 SPC Regs, Sch II, para 14(6)(a); 2 Sch II, para 14(6)(b); 3 Sch II para 14(7)(dd);
4 Sch II, para 14(7)(a); 5 Sch II, para 14(7)(b); E & T Act 73, s 2;
Enterprise and New Towns (Scotland) Act 1990, s 2; 6 SPC Regs, Sch II, para 14(7)(c);
7 Sch II, para 14(7)(d); 8 Sch II, para 14(7)(g); 9 Sch II, para 14(7)(e);
10 Sch II, para 14(7)(cc); 11 Sch II, para 14(7)(f);*

Deduction appropriate – UC non-dependants

78522 Where a non-dependant is entitled to UC and is

1. aged 25 or over or
2. aged less than 25 and has earned income

a deduction at the rate described in Appendix 4 will be appropriate.

78523

Calculation of a non-dependant's gross weekly income

78524 [\[See memo DMG 20/17\]](#) When calculating the gross weekly income of a non-dependant (see DMG 78515 and Appendix 4 to this Chapter), disregard¹ any

1. "AA"
2. DLA
3. payments made under, or derived from
 - 3.1 the Macfarlane Trust
 - 3.2 the Macfarlane (Special Payments) Trust
 - 3.3 the Macfarlane (Special Payments) (No. 2) Trust
 - 3.4 the Fund
 - 3.5 the Eileen Trust
 - 3.6 the Independent Living Fund (2006) (but see note)
 - 3.7 the Skipton fund
 - 3.8 the Caxton Foundation
 - 3.9 MFET Limited
4. payment in kind.
5. PIP
6. AFIP

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

ISPCRegs,SchII,para14(8)

78525 - 78529

Higher rate

78614 Claimants who are members of a polygamous marriage are entitled to the higher rate of additional amount for the severely disabled if¹

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 2.¹. 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 78105¹. 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 partner¹ **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 spouse¹.

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

Savings credit

78623 **[See Memo DMG 4/16] [See Memo DMG 24/17]** In polygamous marriage cases, an SPC claimant can get a SC if¹

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 6.12.18² at least one member of the polygamous marriage must be at least pensionable age³ (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 couple¹. 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

Savings credit for people in hospital

General

78840 **[See Memo DMG 4/16]** When considering the effect of hospital admission on a claimant's SC, DMs should note that

1. unless 2. applies, SC remains payable whilst a person is in hospital, irrespective of the length of time spent in hospital¹ **and**
2. a re-assessment following the end of an AIP may remove SC if the claimant's circumstances have changed (see DMG Chapter 83 for guidance on AIPs) **and**
3. the amount of SC payable is not normally affected by hospital admission unless
 - 3.1 additional amounts are applicable for
 - 3.1.a the severely disabled (see DMG 78030 et seq) **or**
 - 3.1.b carers (see DMG 78100 et seq) **or**
 - 3.2 the patient stops being a member of the same household as any partner (see DMG 77100 et seq).

1 SPC Act 02, s 3(5)

In hospital four weeks or more

78841 When a person has been in hospital for four weeks, the DM should consider the effect of the hospital admission on any additional amounts that may be applicable.

Additional amount for the severely disabled

78842 When a person in receipt of AA or DLA has been in hospital for four weeks, payments of AA and DLA are withdrawn. As a result¹, a claimant who

1. has no partner will no longer qualify for the additional amount for the severely disabled and this will also be withdrawn
2. has a partner, may
 - 2.1 be entitled to a reduced rate of additional amount for the severely disabled (see DMG 78045 - 78047) **or**
 - 2.2 no longer qualify for the additional amount for the severely disabled, in which case it will be withdrawn

3. is a member of a polygamous marriage, may
 - 3.1 be entitled to a reduced rate of additional amount for the severely disabled (see DMG 78611 - 78613) or
 - 3.2 no longer qualify for the additional amount for the severely disabled, in which case it will be withdrawn.

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

78843 The additional amount for the severely disabled should be withdrawn, or reduced, from the date that AA or DLA stops. The DM should then recalculate the claimant's SC entitlement and normal change of circumstances rules should be applied (see DMG Chapter 4). See Appendix 7 to this Chapter for some examples involving people in hospital.

Example

Ulrika is aged 66 and lives alone. She is entitled to RP of £77.45 a week and an occupational pension of £40. Ulrika qualifies for an additional amount of £42.95 because she is severely disabled and the SMG for her is £102.10. Under the normal calculation of SPC, Ulrika is entitled to:

AMG [£102.10 + £42.95]		£145.05
DLA [disregarded]		
RP £77.45		
Occupational pension	<u>£40</u>	<u>£117.45</u>
GC		£27.60
SC [£40x60% restricted to MSC]	<u>£14.79</u>	
Total SPC payable		£42.39

After four weeks in hospital, payment of DLA is withdrawn and the additional amount for the severely disabled is also withdrawn. Ulrika is then entitled to SC only, calculated as follows:

AMG [£102.10]		£102.10
RP £77.45		
Occupational pension	<u>£40</u>	<u>£117.45</u>
GC		Nil
SC [£14.79] – £6.14 [£15.35 x 40%]		<u>£8.65</u>
Total SPC payable		<u>£8.65</u>

78844 - 78854

Others

Absence from Great Britain

Introduction

78920 It is a condition of entitlement to SPC that a person is in GB¹. But entitlement can sometimes continue during an absence from GB². Guidance on entitlement to SPC when a person is absent from GB is given in DMG Chapter 07.

1 SPC Act 02, s 1(2)(a) & (5)(a); SPC Regs, reg 2 & 4; 2 SPC Act, s 1(5)(b); SPC Regs, reg 3

Person receiving treatment outside Great Britain

78921 [\[See Memo DMG 18/16\]](#) The claimant, or partner, may go abroad to have pre-arranged National Health Service treatment. If the claimant was entitled to SPC immediately before they or their partner left GB, then

1. the person abroad is treated as still being in
 - 1.1 GB while they are having the treatment **and**
 - 1.2 the same household as their partner at home for the period of the treatment **and**
2. SPC can continue in payment¹.

1 SPC Regs, regs 4 & 5(1A)

Claimant absent from Great Britain

78922 [\[See Memo DMG 18/16\]](#) If the claimant is abroad for any reason other than to receive pre-arranged National Health Service treatment

1. their entitlement to SPC can continue for up to 13 weeks if
 - 1.1 the absence is temporary **and**
 - 1.2 there was entitlement immediately before leaving GB **and**
 - 1.3 the absence is unlikely to exceed 52 weeks **and**
 - 1.4 the other conditions of entitlement remain satisfied
2. during the period in 1., the
 - 2.1 claimant is treated as being in the same household as any partner at home¹ **and**
 - 2.2 couple's income and capital should continue to be treated in the normal way.

1 SPC Regs, regs 3 & 5

- 78923 When the period of entitlement in DMG 78922 **1.** runs out, couples stop being members of the same household¹ (see DMG 77117). In such a case the DM should
1. revise the claimant's award to end entitlement **and**
 2. consider whether a claim should be invited from the claimant's partner **and**
 3. if the partner claims SPC, consider the partner's claim under the normal rules for a claimant who has no partner.

1 SPC Regs, reg 5(1)

Partner absent from Great Britain

- 78924 [\[See Memo DMG 18/16\]](#) Where a claimant's partner is abroad for a reason other than to receive pre-arranged NHS treatment¹, the claimant's entitlement to SPC can continue for up to 13 weeks

1 SPC Regs, reg 3(1)

- 78925 During the period above
1. treat the absent partner as being in the same household as the claimant for the relevant 13 week period **and**
 2. continue treating the couple's income and capital in the normal way for that period.

- 78926 At the end of the period in DMG 78924 the
1. absent partner stops being treated as a member of the claimant's household¹ (see DMG 77117) **and**
 2. DM should revise the claimant's award to remove the partner and the partner's income from the calculation.

1 SPC Regs, reg 5(1)

78927 - 78939

Appendix 4

Housing costs - amount of non-dependant deductions

[\[See DMG Memo 5/17\]](#)

This appendix provides details of the rates of the non-dependant deductions¹ (see DMG 78500 et seq

1 SPC Regs, Sch II, para 14(1) & (2)

Rates from 8.4.13

Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £87.75
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of
 - 2.1 Less than £126.00 £13.60
 - 2.2 £126.00 to £185.99 £31.25
 - 2.3 £186.00 to £241.99 £42.90
 - 2.4 £242.00 to £321.99 £70.20
 - 2.5 £322.00 to £400.99 £79.95
 - 2.6 £401.00 or more £87.75
3. any other non-dependant aged 18 or over for whom deductions are relevant - £13.60.

Rates from 7.4.14

Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £91.15
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of
 - 2.1 Less than £128.00 £14.15
 - 2.2 £128.00 to £187.99 £32.45
 - 2.3 £188.00 to £244.99 £44.55
 - 2.4 £245.00 to £325.99 £72.95
 - 2.5 £326.00 to £405.99 £83.05
 - 2.6 £406.00 or more £91.15

3. any other non-dependant aged 18 or over for whom deductions are relevant - £14.15.

Rates from 6.4.15

Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £93.80
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of
 - 2.1 Less than £129.00 £14.55
 - 2.2 £129.00 to £188.99 £33.40
 - 2.3 £189.00 to £245.99 £45.85
 - 2.4 £246.00 to £327.99 £75.05
 - 2.5 £328.00 to £407.99 £85.45
 - 2.6 £408.00 or more £93.80
3. any other non-dependant aged 18 or over for whom deductions are relevant - £14.55.

Rates from 11.4.16

Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £94.50
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of
 - 2.1 Less than £133.00 £14.65
 - 2.2 £133.00 to £194.99 £33.65
 - 2.3 £195.00 to £252.99 £46.20
 - 2.4 £253.00 to £337.99 £75.60
 - 2.5 £338.00 to £419.99 £86.10
 - 2.6 £420.00 or more £94.50
3. any other non-dependant aged 18 or over for whom deductions are relevant - £14.65.

Rates from 10.4.17

Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £95.45
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of
 - 2.1 Less than £136.00 £14.80
 - 2.2 £136.00 to £199.99 £34.00
 - 2.3 £200.00 to £258.99 £46.65
 - 2.4 £259.00 to £345.99 £76.35
 - 2.5 £346.00 to £429.99 £86.95
 - 2.6 £430.00 or more £95.45
3. any other non-dependant aged 18 or over for whom deductions are relevant - £14.80.

Rates from 6.4.18

Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £98.30
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of
 - 2.1 Less than £139.00 £15.25
 - 2.2 £139.00 to £203.99 £35.00
 - 2.3 £204.00 to £264.99 £48.05
 - 2.4 £265.00 to £353.99 £78.65
 - 2.5 £354.00 to £438.99 £89.55
 - 2.6 £439.00 or more £98.30
3. any other non-dependant aged 18 or over for whom deductions are relevant - £15.25.

Chapter 79 - Payment questions

General rules

Introduction

79000 There are some payment questions that apply only to SPC. This chapter deals with those questions.

79001 Guidance on the other general rules that also apply can be found in other DMG Chapters. For example those governing the

1. time and manner of payment (see DMG Chapter 08)
2. questions of revision (see DMG Chapter 03) or supersession (see DMG Chapter 04)
3. usual effects of a change of circumstance (see DMG Chapter 04)
4. rights of appeal (see DMG Chapter 06 and Volume 1 Annexes D and E).

79002 - 79008

Third party deductions

Third party deductions - general

Payment to discharge claimant's liabilities

79200 The DM has discretion to make deductions from specified benefits under the third party deduction scheme and pay these directly to third parties¹.
1 SS (C&P) Regs, reg 35(1)

79201 Deductions and payments to third parties can be made from specified benefit under the third party deduction scheme if the claimant or partner is liable to pay¹

1. housing costs (see DMG 79300 et seq)
2. miscellaneous accommodation costs (see DMG 79400 et seq)
3. hostel payments (see DMG 79500 et seq)
4. rent arrears and service charges for fuel and water (see DMG 79550 et seq)
5. fuel costs (see DMG 79600 et seq)
6. water charges (see DMG 79660 et seq)
7. child support maintenance (Under CTM scheme only. See DMG 79900 et seq)
8. eligible loans (see DMG 79940 et seq)
9. integration loans (see DMG 79985 et seq).

Note: SPC is a specified benefit for these purposes².

1 SS (C&P) Regs, Sch 9, para 2(1); 2 Sch 9, para 1

79202 When a decision is made to

1. start or
2. stop or
3. change

a third party deduction, this will be by way of a supersession of an earlier decision (see DMG Chapter 04).

Meaning of specified benefit

79203 Specified benefit for the purposes of making deductions in respect of the costs listed at DMG 79201 means¹

SPC or, where in respect of any period it is paid together with any RP, SP, IB or SDA

1. in a combined payment

2. in part to the claimant and in part to another person in accordance with specified legislation or
3. by means of two or more instruments of payment,

SPC and RP, SP, IB or SDA if the SPC alone is insufficient for the purposes of deductions.

1 SS (C&P) Regs, Sch 9, para 1(1) & (2)

79204 Deductions can also be made and paid direct for arrears of CT¹ and CC² payable by a claimant or partner (see DMG 79750 and 79770) or for a claimant only, for fines or compensation orders³ (see DMG 79800). Such deductions are not from specified benefits, but from particular benefits mentioned in regulations. These include SPC.

1 Council Tax (Deductions from Income Support) Regulations 1993, regs 2 & 3; 2 Community Charge (Deductions from IS) (Scotland) Regs 1989, regs 2 & 3; 3 Fines (Deductions from IS) Regs 1992, reg 2(1)

Note: Deductions cannot be made for a partner's fine.

Liability for debt

79205 Deductions and payments to third parties can only be made if the claimant or partner is liable to pay the debt¹. For example a claimant or partner will normally be liable for a debt if named on the bill.

1 SS (C&P) Regs, Sch 9, para 2(1)

79206 A debt may be disputed by the claimant or partner. This is a factor for the DM to consider when deciding whether they are liable to pay the debt. Although the Department cannot get involved in the dispute, enquiries should be made of the third party.

79207 Give the claimant the opportunity to provide evidence to support any claim that the debt is not liable to be paid.

79208 Deductions should only be made where there is evidence that the claimant or partner is liable to pay the debt. Outstanding court proceedings brought by the claimant or partner is evidence that liability is in doubt.

79209 - 79219

Amount of benefit to be left for claimant

Specified benefit

79220 The claimant should be left with at least 10p **specified benefit** after third party deductions have been made¹. No deduction should be made if the claimant would be left with less than 10p. But see DMG 79343 for when the deduction may be adjusted instead of not being made.

1 SS (C&P) Regs, Sch 9, para 2(2)

79421 The claimant should be left with a minimum of 10p after the deduction has been made¹.

1 SS (C&P) Regs, para 4(4)

Personal expenses

79422 The amount in respect of personal expenses, referred to in DMG 79420¹ is, for a

1. single person £25.00
2. couple where both members are in such accommodation, £25.00 each
3. polygamous marriage where more than one member is in such accommodation, £25.00 for each member who is in such accommodation.

1 SS (C&P) Regs, Sch 9, para 4(2A); SS Benefits Up-rating Regs 2011

Example 1

Dorothy lives in a care home. She has an award of GC amounting to £145.40 and has no income. She must have the amount for personal expenses (£25.00). The amount to be paid direct is £138.00 (£163.000 - £25.00).

Example 2

Ernest lives in a care home and is entitled to SMG of £145.40. His net income is £6.00 per week. The amount to be paid direct is

standard minimum guarantee	£163.00
less income	£6.00
guarantee credit	£157.00
less payment to Ernest (personal expenses less income)	£19.00
amount to be paid direct	£139.00

Ernest keeps a total of £25.00 for his personal expenses made up of his income of £6.00 and SPC of £19.00.

Example 3

Mildred has a SMG of £163.00 and income of £28.00. Her GC is £135.00 (£163.00 - £28.00). Mildred is paid 10p. The amount paid direct is £135.00. Mildred pays the third party the difference between her income and personal expenses, plus 10p (£28.00 - £25.00 + 10p = £3.10).

79423 - 79429

Amount deducted - part-weeks

79430 Third party deductions for part-weeks (see DMG 79100 - 79106) can be made for miscellaneous accommodation costs¹. The amount deducted and paid direct for a part-week depends upon

1. whether the accommodation in which the claimant lives is described at DMG 79420 1. or 2. **and**
2. whether the claimant has any income.

1 SS (C&P) Regs, Sch 9, para 4(3)

79431 In order to calculate the amount to pay direct to the third party for a part-week, the DM should calculate the amount of SPC due for the part-week and deduct¹

1. if the claimant has no income, an amount which equals the appropriate proportion of the personal expenses **or**
2. if the claimant has income, an amount equal to the difference between the appropriate proportion of the claimant's income and an appropriate proportion of the amount allowed for personal expenses.

This will result in the claimant retaining a proportion of the weekly personal expenses amount.

1 SS (C&P) Regs, Sch 9, para 4(3A)

Example 1

Dilys lives in a care home. Her SMG is £163.00 and she has an income of £11.50 per week. She is due a part-week payment for six days.

The DM first calculates the part-week payment (see DMG 79105 et seq) as follows

GC £163.00 (all income is ignored in the part-week), divided by 7 and multiplied by 6
= £140.00 due for the part-week.

The amount of the third party deduction is then calculated as follows

£140.00 (the SPC due for the part-week) - £11.56 (the difference between 6/7ths of £11.50 and 6/7ths of £25.00) = £128.44 This is the amount paid to the third party.

Personal expenses of £11.56 is paid to the claimant.

Example 2

Morris lives in a care home which is provided, owned and managed by the LA. His SMG is £163.00 and he has a weekly income of £15.00. A part-week payment of four days is due when he transfers from IS to SPC. (In these circumstances all income is taken into account in the part-week, see DMG 79105).

The DM first calculates the amount of SPC due for the part week

£148.00 (£163.00 SMG - £15.00 weekly income) divided by 7 and multiplied by 4 (the number of days in the part-week) = £84.58 SPC due for the part-week.

The DM then calculates the amount to pay to the third party as follows

£84.58 (the amount of SPC due for the part-week) - £14.28 (4/7ths of £25.00) = £70.30

£70.30 is the amount paid to the third party. Morris retains personal expenses of £14.28.

79432 - 79499

