

6-22: PIP - Amendments to Legislation due to Introduction of Adult Disability Payment (ADP) and Child Disability Payment (CDP)

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INTRODUCTION

1. The purpose of this memo is to give guidance to decision makers (DM) on The Scotland Act 2016 (Social Security) (Adult Disability Payment and Child Disability Payment) (Amendment) Regulations 2022. The amendments come into force on 21.03.22¹.

[1 Scotland Act 2016 \(SS\) \(ADP and CP\) \(Amdts\) Regs 2022; SI 2022 No 335](#)

2. This memo will additionally cover changes as part of The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022¹. The amendments come into force on 21.03.22.

[1 SS \(DAWAP\) \(Con Amdts\) Order 2022; SI: 2022 No 177](#)

BACKGROUND

3. The Scottish Government (SG) is due to introduce Adult Disability Payment (ADP) from 21 March 2022. This is to replace Personal Independence Payment (PIP) for working age adults resident in Scotland.
4. The purpose of these amendments is to ensure, they will –
 1. Prevent overlapping payments of PIP if ADP is in payment.
 2. In cases of cross-border movement from Scotland to another part of the United Kingdom (UK), where entitlement is assessed and confirmed PIP will start after the 13-week ADP run-on payment from the SG has ended.
 3. Provide linking provisions where there has been a previous award of ADP or CDP that ended no more than two years before the date of the new PIP claim.
 4. Provide linking provisions for claimants who have reached the relevant age¹ where there has been a previous award of ADP that ended no more than one year before the date of the new PIP claim.

[1 WR Act 12, s 83\(2\)](#)

PREVENT OVERLAPPING PAYMENT OF PIP

5. A claimant shall not be entitled to PIP when they are entitled to ADP¹ in order to prevent overlapping payments of the two benefits².

1 DAWAP (Scotland) Regs 2022, reg 4; 2 [WR Act 12, s 77\(4\)\(2\)](#)

CROSS BORDER MOVEMENT FROM SCOTLAND TO UK

6. Where a claimant who is in receipt of ADP moves from Scotland to another part of the UK, they retain their entitlement to ADP for a period of 13 weeks, which commences from the date of the move from Scotland¹. In that circumstance the claimant is to be treated as habitually resident in Scotland during that period of 13 weeks, and not habitually resident in the UK, the Republic of Ireland, the Isle of Man, or the Channel Islands².

1 DAWAP (Scotland) Regs 2022, reg 53(1); 2 [SS \(PIP\) Regs, reg 23ZA \(2\)](#)

PRESCRIBED DATE FOR PIP CLAIMS AFTER AN INTERVAL WHERE THERE HAS BEEN A PREVIOUS ADP AWARD

7. Where a claimant who was previously in receipt of an ADP award:

- 1.** makes a new PIP claim; **and**
- 2.** that previous award of ADP ended no more than 2 years before the date on which the new PIP claim is made; **and**
- 3.** the previous ADP award was the same component as the one the claimant is entitled to under the new PIP claim; **and**
- 4.** the DM determines that entitlement for the new claim results from:
 - 4.1** substantially the same mental or physical condition or conditions for which the previous ADP award was made; **or**
 - 4.2** a new condition which developed as a result of a condition for which the previous ADP award was made

then the prescribed date¹ for the 3-month part of the required period condition is the end of the previous ADP award, and the 9-month part is the date the new PIP claim is made. This means that the 3-month part will be considered in relation to the previous ADP award and does not need to be re-satisfied for the new PIP claim².

[1 reg 14 SS \(PIP\) Regs 2013; 2 reg 15 SS \(PIP\) Regs 2013](#)

PRESCRIBED DATE FOR PIP CLAIMS FOLLOWING AN AWARD OF CDP

8. Where a claimant who was previously in receipt of a CDP award makes a new PIP claim:

- 1.** is aged 16 or over at the date of that claim, **and**
- 2.** the previous award of CDP ended no more than 2 years before the date on which the new PIP claim is made

then the prescribed date¹ for the 3-month part of the required period condition is the end of the previous CDP award, and the 9-month part is the date the new PIP claim is made. This means that the 3-month part will be considered in relation to the previous CDP award and does not need to be re-satisfied for the new PIP claim².

PRESCRIBED DATE FOR PIP CLAIMS AFTER AN INTERVAL WHERE THE CLAIMANT HAS REACHED THE RELEVANT AGE

9. Where a claimant who was previously in receipt of an ADP award:

- 1.** makes a new PIP claim after reaching the relevant age; **and**
- 2.** that previous award of ADP ended no more than 1 year before the date on which the new PIP claim is made¹; **and**
- 3.** the previous ADP award was the same component as the one the claimant is entitled to under the new PIP claim; **and**
- 4.** the DM determines that entitlement for the new claim results from:
 - 4.1.** substantially the same mental or physical condition or conditions for which the previous ADP award was made; **or**
 - 4.2.** a new condition which developed as a result of a condition for which the previous ADP award was made

then the prescribed date for the 3-month part of the required period condition is the end of the previous ADP award, and the 9-month part is the date the new PIP claim is made. This means that the 3-month part will be considered in relation to the previous ADP award and does not need to be re-satisfied for the new PIP claim.

[1 reg 26 SS \(PIP\) Regs 2013](#)

10. When the new PIP claim is made, and the Decision Maker determines that entitlement on that claim and the previous ADP award arises from substantially the same conditions in 9d i or ii, then they can only make an award of the mobility component at¹:

- 1.** the enhanced rate if the claimant was entitled to that rate for the previous ADP award; or
- 2.** the standard rate equal to the previous ADP award, or at a lower rate if they no longer satisfy the conditions for the enhanced rate.

ANNOTATIONS

This memo 6-22 should be annotated against the following ADM paragraphs: [P1012](#); [P1033](#); [P4082](#); [P4083](#).

CONTACTS

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, 3E zone E, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in – Memo [7/19](#) Requesting case guidance from DMA Leeds for all benefits.

DMA Leeds: March 2022
