

## 02-25: Legacy Benefits and State Pension Credit - The Social Security (Scotland) Act 2018 (Disability Assistance) (Consequential Amendments) Order 2024

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## Introduction

1. The purpose of this memo is to give guidance to decision makers (DM) on The Social Security (Scotland) Act 2018 (Disability Assistance) (Consequential Amendments) Order 2024. The amendments came into force on 21.10.24.<sup>1</sup>

1 [SS \(Scot\) Act 2018 \(Dis Ass\) \(CA\) Order 2024](#)

## Background

2. This order<sup>1</sup> makes changes to social security legislation to reflect the introduction by the Scottish Government (SG) of the Pension Age Disability Payment (PADP). This is to replace Attendance Allowance (AA) for pension age adults resident in Scotland.

1 [SS \(Scot\) Act 2018 \(Dis Ass\) \(CA\) Order 2024](#)

# Income Support and Jobseeker's Allowance

## Definitions

3. [DMG 23071](#) defines Attendance allowance for JSA(IB) and IS purposes<sup>1</sup>. From 21.10.2024 PADP<sup>2</sup> is to be included in these definitions.

1 [JSA Regs, reg 1\(3\)](#); [IS \(Gen\) Regs, reg 2\(1\)](#); 2 [SS \(Scot\) Act 2018 \(Dis Ass\) \(CA\) Order 2024](#)

## Regular Carers

4. Entitlement for individuals regularly and substantially engaged in caring for another person<sup>1</sup> will now extend to those caring for someone who is in receipt of PADP<sup>2</sup> ([DMG 20116](#)).

1 [IS \(Gen\) Regs, Sch IB, para 4\(a\)](#); [SS CB Act 92, s 70\(2\)](#) 2 [SS \(Scot\) Act 2018 \(Dis Ass\) \(CA\) Order 2024](#)

## Remunerative work exclusion

5. From 21.10.2024, individuals regularly and substantially engaged in caring<sup>1</sup> for someone receiving PADP<sup>2</sup> will be treated as not being in remunerative work<sup>2</sup> ([DMG 20502](#) and [20252](#)).

1 [IS \(Gen\) Regs, reg 6\(4\)\(c\)](#) & [Sch IB, para 4](#); 2 [SS \(Scot\) Act 2018 \(Dis Ass\) \(CA\) Order 2024](#); 3 [JSA Regs, reg 51\(3\)\(c\)](#)

## Premiums and deductions

6. From 21.10.24 PADP will be included as a qualifying benefit when considering entitlement to the HPP<sup>1</sup>, DP<sup>2</sup> and SDP<sup>3</sup>

1 [IS \(Gen\) Regs, Sch II, para 12\(1\)\(a\)\(i\)](#); [JSA Regs, Sch I paras 20F & 20H](#); [JSA Regs, reg 1\(3\)](#); 2 [IS\(Gen\) Regs, Sch II Paras 11 & 12\(d\)\(ii\)](#); [JSA Regs, Sch I paras 20G & 20H](#) 3 [IS\(Gen\) Regs, Sch II para 13 \(2\)\(b\)\(i\)](#); [JSA Regs, Sch I para 20I](#)

7. From 21.10.24 PADP is added to the list of benefits when considering whether a non-dependant deduction from the claimant's housing costs is applicable<sup>1</sup>. ([DMG 23770](#))

1 [JSA Regs Sch II para 17\(6\)\(b\)\(i\)](#); [IS\(Gen\) Regs, Sch II para 18\(6\)\(b\)\(i\)](#)

## Claims for linked benefits

8. For the purposes of the date of claim rules, PADP is a 'qualifying benefit' ([DMG 02264](#)) ([DMG 02263](#)) if an award of PADP makes a relevant benefit either payable or payable at an increased rate<sup>1</sup>. This means the rules that, in certain circumstances, allow a claim for a relevant benefit to be backdated to the date from which another benefit has been awarded or made payable ([DMG 02267-8](#), [02269-70](#), [02273](#) and [02277](#))<sup>2</sup> will apply where the other benefit is PADP. Also, the condition in [DMG 02270.4](#) is satisfied where a further claim for a relevant benefit is made within 3 months of the date on which it is decided that PADP is payable again as a result of the claimant leaving a

care home or hospital<sup>3</sup>.

1 [SS \(C&P\) Regs, reg 6\(22\)](#); 2 [regs 6\(16\)-\(21\), \(30\) & \(33\)](#); 3 [reg 6\(20\)\(c\)\(v\)](#)

## Revision and Supersession

### Definitions of 'Scottish disability benefit'

9. The definition of 'Scottish disability benefit' for revision and supersession purposes<sup>1</sup> has been amended so that it now includes PADP. The consequences of this change are explained below.

1 [SS CS \(D&A\) Regs, reg 1\(3\)](#)

### Supersession of a SPC award because of entitlement to PADP

10. Where

1. an award of SPC is superseded on the ground that there has been a relevant change of circumstances since the award took effect **and**

2. the change of circumstances is that the claimant or partner has become entitled to

2. 1. the ADP daily living component of adult disability payment at the standard or enhanced rate **or**

2. 2. the PADP pension age disability payment

the superseding decision takes effect from the beginning of the benefit week in which the first day of the new ADP or PADP entitlement falls or, if that is not practicable, on the first day of the following benefit week<sup>1</sup>.

1 [SS CS \(D&A\) Regs, Sch IIIB, paras 2\(b\)\(v\) & \(vi\)](#)

### Revising decisions on linked relevant benefits

11. Where

1. the DM awards entitlement to a relevant benefit ([DMG 02263](#)) **and**

2. the claimant or a member of his family is awarded PADP for a period that includes the date from which the relevant benefit has been awarded

the award of the relevant benefit can be revised<sup>1</sup>

1 [SS CS \(D&A\) Regs, reg 3\(7\)](#)

### Superseding decisions on linked relevant benefits

12. Where

1. the claimant has been awarded a relevant benefit ([DMG 02263](#)) **and**

2. the claimant or a member of their family for benefit purposes is awarded PADP **and**

3. the first day of the award of PADP falls after the first day of the award of the relevant benefit

the award of the relevant benefit can be superseded<sup>1</sup>, with effect from the first day of the PADP award<sup>2</sup>.

1 [SS CS \(D&A\) Regs, reg 6\(2\)\(e\)](#); 2 [reg 7\(7\)\(a\)](#)

## State Pension Credit

### Definitions

13. [DMG 78006](#) et seq explains the meaning of terms used throughout the chapter. For the purposes of SPC, from 21.10.24 PADP has been added to the list of terms that are representative of the meaning of “AA”<sup>1</sup>

1 [SPC Regs, reg 1\(2\)](#)

## Additional amounts for the Severely disabled

### Special Groups

14. [DMG 78034](#) et seq provides guidance on the qualifying conditions for, and rates of, the extra amount for severe disability for single claimants and claimants with partners<sup>1</sup>. (For polygamous marriages<sup>2</sup>, see [DMG 78611 – 78614](#).) From 21.10.24 PADP is added to the list of qualifying benefits when considering entitlement.

1 [SPC Regs, Sch I, para 1\(1\)](#) 2 [SPC Regs, Sch III, para 1\(9\)](#)

### People whose presence is ignored

15. [DMG 78077](#) explains that DMs can ignore the presence of persons in receipt of certain benefits when determining a claimant’s entitlement to the extra amount for severe disability<sup>1</sup>. From 21.10.24 PADP is added to the list of benefits.

1 [SPC Regs, Sch I, para 2\(2\)\(a\)](#)

### Deductions for non-dependants

16. Where a claimant or partner is in receipt of certain benefits, no non-dependant deduction is applied<sup>1</sup>. From 21.10.24, PADP is added to the list of those benefits. PADP is included in the list of benefits to be disregarded when calculating the gross weekly income of a non-dependant<sup>2</sup>. ([DMG 78524](#)).

1 [SPC Regs, Sch II, para 14\(6\)\(b\)\(ia\)](#); 2 [Sch II, para 14\(8\)\(a\)](#)

## Amounts disregarded from earnings

17. Where a claimant or partner is in receipt of certain benefits, £20 a week is disregarded from the earnings of the claimant or partner<sup>1</sup>. From 21.10.24, PADP is added to the list of benefits which qualify for the £20 disregard.

1 [SPC Regs, Sch VI, para 4\(1\)\(a\)\(iiia\)](#)

## Social Fund Funeral Payments

### Deductions to an award

18. SFMFE [DMG 39408](#) and [Appendix 1 to DMG Chapter 39](#) gives guidance on arrears of benefit payable to the deceased not being counted as assets of the deceased when considering deductions from the amount of award of funeral payment. From 21.10.24 arrears of PADP payable to the deceased as at the date of death are added to the list of benefits excluded from the assets of the deceased<sup>1</sup>.

1 [SFMFE \(Gen\) Regs, reg 10\(1A\)\(gg\)](#)

## Employment and Support Allowance

### Caring for another person

19. Claimants' partners are treated as not being in remunerative work where they are regularly and substantially engaged in caring for another person<sup>1</sup> that is in receipt of a relevant benefit. From 21.10.24 PADP<sup>2</sup> has been added to the list of relevant benefits. ([DMG 41514](#))

1 [ESA Regs, reg 43\(2\)\(c\)](#); 2 [IS \(Gen\) Regs, Sch IB, para 4](#); 2 [SS \(Scot\) Act 2018 \(Dis Ass\) \(CA\) Order 2024](#)

## Carer's Allowance

### Meaning of 'Severely disabled person'

20. For the purposes of entitlement to CA, DMG 60033 et seq defines a severely disabled person<sup>1</sup> as someone eligible for certain specified benefits. Effective from 21.10.24, PADP will be included in this list of qualifying benefits.

1 [SS CB Act 92, s 70\(2\)](#); [SS\(ICA\) Regs, reg 6](#)

## Annotations

The number of this memo should be annotated against the following DMG paragraphs;

[20502](#), [20252](#), [23071](#), [23106](#), [02263](#), [02264](#), [02267](#), [02268](#), [02269](#), [02270](#), [02273](#), [02277](#), [39408](#), [Appendix 1](#)

[of DMG Chapter 39, 41514, 60033, 75549, 75555, 78006, 78034-60, 78611-14, 78077, 78524.](#)

## **Contacts**

If you have any queries about this memo, contact Decision Making and Appeals (DMA) Leeds, 3<sup>rd</sup> floor South, zone E, Quarry House, Leeds. Existing arrangements for such referrals should be followed, [Requesting case guidance from DMA Leeds for all benefits](#)

DMA Leeds: February 2025

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