

07-25: DLA: ADHD and severe mental impairment – Effect of Upper Tribunal Decision

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Introduction

1. This memo gives guidance on the decision of the UT in PM (by his appointee) v Secretary of State for Work and Pensions (DLA)¹. This decision takes effect from 11.3.25.

[1 \[2025\] UKUT 85 \(AAC\)](#)

Background

2. [DMG 61359](#) gives guidance that Attention Deficit Hyperactivity Disorder (ADHD) does not constitute arrested development or incomplete physical development of the brain. Following current expert medical input, the UT has now reached a decision that confirms ADHD can constitute arrested or incomplete development of the brain¹.

[1 \[2025\] UKUT 85 \(AAC\)](#)

The UT decision

3. The UT held that the claimant's diagnosis of ADHD satisfies the initial part of the first limb of the Severe Mental Impairment (SMI) criteria which is to be
 1. suffering from a state of arrested development **or**
 2. incomplete physical development of the brain¹ (see **Note 1**).

The UT decision² awarded the claimant the higher rate of the mobility component as it was already established that he also met the other limbs of the SMI criteria³.

Note 1: Individuals would also need to show that their ADHD results in a severe impairment of intelligence and social functioning to fully meet the conditions of the first limb of the SMI criteria.

Note 2: Full guidance on the other limbs of the SMI criteria is in [DMG 61366 - 61378](#).

1 [SS \(DLA\) Regs, reg 12\(5\)](#); 2. [\[2025\] UKUT 85](#)

[\(AAC\)](#);

3 [SS \(DLA\) Regs, reg 12\(5\)](#); [SS \(DLA\)](#)

[Regs, reg 12\(6\)](#); [SSCB Act s 73\(3\)\(a\)\(b\) & \(c\)](#)

4. The UT also held that while ADHD can meet the initial part of the first condition of the SMI criteria, the facts and evidence in each individual case must be considered to determine whether all the other limbs of the SMI test are met¹. In the case before the UT², the claimant had already been determined to satisfy the remaining SMI criteria. As well as ADHD, he had low IQ, speech and language difficulties, behavioural issues, anxiety, low self-esteem and Autism Spectrum Disorder (ASD) traits.

Note: Full guidance on the other limbs of the SMI criteria is in [DMG 61366 - 61378](#).

1. [SS \(DLA\) Regs, reg 12\(5\)](#); [SS \(DLA\) Regs, reg 12\(6\)](#); [SSCB Act s 73\(3\)\(a\)\(b\) & \(c\)](#);
2. [\[2025\] UKUT 85 \(AAC\)](#)

5. The UT also held that while claimants with ADHD may, in some cases, satisfy all parts of the SMI criteria, it is anticipated that cases in which a claimant with ADHD alone meets all of the conditions are likely to be relatively rare. This is because the SMI test requires not only a state of arrested development or incomplete physical development of the brain, but also evidence of severe impairment of intelligence and social functioning and severe behavioural problems that meet the strict criteria set out in legislation¹.

1. [SS \(DLA\) Regs, reg 12\(5\)](#); [SS \(DLA\) Regs, reg 12\(6\)](#); [SSCB Act s 73\(3\)\(a\)\(b\) & \(c\)](#)

Applying the UT decision

6. From 11.3.25, when considering an award of the higher rate mobility component under the SMI

route, the UT decision¹ clarifies that ADHD can satisfy the initial part of the first limb of the SMI criteria which is that the claimant is suffering from a state of arrested development or incomplete physical development of the brain².

1. [\[2025\] UKUT 85 \(AAC\)](#); 2. [SS \(DLA\) Regs, reg 12\(5\)](#)

Qualifying for the higher rate mobility component with ADHD via the SMI route

7. An award of the higher rate mobility component via the SMI route can only be made for a claimant with ADHD if the claimant also satisfies the second and third parts of the test, which are that

1. this state of arrested development or incomplete physical development of the brain results in severe

- impairment of intelligence and social functioning¹ **and**

2. the claimant exhibits disruptive behaviour which is extreme, regularly requires physical restraint and

- is so unpredictable that they require another person to be present and watching over them whenever

- they are awake².

1 [SS \(DLA\) Regs, reg 12\(5\)](#); 2 [SS \(DLA\) Regs, reg 12\(6\)](#)

8. A claimant who has ADHD but does not display severe impairment of intelligence and social functioning and severe behavioural problems is unable to satisfy all the parts of the SMI test and therefore is not entitled to an award of the higher rate mobility component via the SMI route.
9. A claimant must also satisfy the conditions for the highest rate of the DLA care component to be awarded the higher rate mobility component via the SMI route¹.

1 [SS CB Act s 73\(3\)\(a\)\(b\) & \(c\)](#)

Length of award

10. [DMG 61618](#) gives guidance on the length of an award. A claimant may be awarded either the mobility or the care component for a fixed period or for an indefinite period, but if the award of DLA consists of both components, they may not be awarded for different fixed periods¹.

1 [SS CB Act s 71\(3\)](#)

11. If awarding the higher rate mobility component under the SMI route for claimants with ADHD, a shorter award may be appropriate in some cases to allow for a planned review of the claimant's condition. This is particularly pertinent where the claimant has ongoing medical involvement,

there is uncertainty about the long-term impact of the condition on behaviour or functioning or there is evidence that the claimant's needs may change over time.

Note: Where a shorter award is being considered, Customer Case Management (CCM) award duration guidance for ADHD will be a useful reference considering all the individual facts of the case.

Examples

12. Seb is 8 years old and has ADHD. He has some behavioural issues and can find it hard to concentrate at school. His difficulties with concentration mean that he is sometimes disruptive in lessons. His teacher reports that with the right support, such as talking therapies and breaking tasks down into more manageable chunks, Seb's behaviour at school is improving. He has a close group of friends. At home, Seb's parents report that he often displays hyperactive behaviour and needs prompting to complete everyday tasks such as brushing his teeth or dressing himself. He has difficulty sleeping and suffers from enuresis, often needing his parents to resettlement him and change his bedding during the night. Seb enjoys playing outside with his siblings and his parents allow him to do this without the need to constantly watch over him. They rarely need to physically restrain him. There is no evidence that Seb requires physical restraint at school. It has already been established that Seb satisfies the conditions for the highest rate of the care component. As Seb has ADHD, a DM determines that he satisfies the initial part of the first condition of the SMI criteria: to be suffering from a state of arrested development or incomplete physical development of the brain. The DM also decides that there is no evidence that this state of arrested development or incomplete physical development of the brain is resulting in severe impairment of Seb's intelligence and social functioning. They also determine that while Seb does have some behavioural difficulties, he is not exhibiting disruptive behaviour which is extreme, regularly requires physical restraint and is so unpredictable that he requires another person to be present and watching over him whenever he is awake. Seb therefore only satisfies the initial part of the first condition of the SMI criteria. As the other limbs are not met, he does not satisfy the SMI test overall, and therefore Seb is not entitled to the higher rate mobility component via the SMI route.
13. Daisy is 5 years old and has recently been diagnosed with ADHD. She also has learning difficulties, a speech and language delay and displays pica tendencies. If left unattended, she will often try to consume substances such as her own hair and skin, rainwater from puddles and soil. She can become easily dysregulated and screams and bites herself or others. She regularly requires physical restraint to prevent causing harm to herself and those around her. It has already been established that Daisy satisfies the conditions for the highest rate of the care component. As Daisy has ADHD, a DM determines that she satisfies the initial part of the first condition of the SMI criteria: to be suffering from a state of arrested development or incomplete physical development of the brain. They also determine that her other difficulties demonstrate that the second part of the test is met: that this state of arrested development or incomplete physical

development of the brain results in severe impairment of intelligence and social functioning. Finally, the DM determines that Daisy is exhibiting disruptive behaviour which is extreme, regularly requires physical restraint and is so unpredictable that she requires another person to be present and watching over her whenever she is awake. She therefore satisfies all limbs of the SMI criteria and can be awarded the higher rate mobility component. The DM also considers that a shorter award is appropriate to review Daisy's circumstances given that ongoing medical involvement may lead to improvements in her condition.

Annotations

Please annotate the number of this memo against the following DMG paragraphs: [61255](#), [61350](#), [61351](#), [61352](#), [61355](#), [61359](#), [61360](#), [61376](#), [61377](#), [61618](#)

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 [4/19](#) Requesting case guidance from DMA Leeds for all benefits.

DMA (Leeds): June 2025

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