

# Unscheduled reviews and determination without application

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## Introduction

1. This chapter is relevant to individuals who have an Adult Disability Payment (ADP) award when new information emerges that could change their entitlement.

This could affect either:

- entitlement to ADP overall
- the rate of the daily living or the mobility component or both that the individual receives

The rates of payment that individuals receive can increase or decrease. Entitlement to either or both the daily living and mobility components can stop.

2. Unscheduled reviews are different from scheduled reviews. Individuals are informed in their notice of determination they will have a scheduled review after a certain date. This is to ensure they still meet the eligibility criteria and continue to receive the appropriate components and rate.

3. New information becoming available may prompt an unscheduled review of the individual's case.

4. Common examples include:

- a new health condition that impacts on the individual's ability to carry out the daily living and/or mobility activities
- a deterioration or improvement in a condition that impacts on the individual's ability to carry out the daily living and/or mobility activities
- moving away from Scotland
- discovery that an error was made with the previous determination
- the individual going into a care home, residential educational establishment, a hospital or similar institution, or legal detention.

5. The individual does not need to fill in a new application form in these situations. However, they must report the change to Social Security Scotland. They can do this by filling in a form.

6. An unscheduled review can occur both when:
- a change has happened, after the original entitlement decision has started
  - later determinations have happened

These later determinations could be as a result of a review or a previous change of circumstances.

7. Making an unscheduled review involves making a determination without application. A determination without application is the decision whether an individual is still entitled to ADP, and if so, at what rate. The case manager must tell the individual when a determination without application is made. The individual can ask for a re-determination and an appeal, if they disagree with this new determination.

8. If the unscheduled review results in no change to entitlement, a new determination will still be sent to the individual. This is because any decision on entitlement must be done by a determination, even if it results in no change to the components or rates. The notice of determination will explain that the outcome of the unscheduled review is no change to the entitlement. This will allow the individual to request a re-determination and appeal.

9. The individual will also receive a letter if they report a matter that does not prompt an unscheduled review. An example of such a matter is if the individual moves house, but is still residing in Scotland and is not residing in a care home or a residential educational establishment. The letter the individual receives may explain that Social Security Scotland has updated its record of the individual's personal information.

### **Events that prompt an unscheduled review**

10. The following is an overview of the changes which prompt unscheduled reviews.

11. When there is a change of circumstance that would possibly result in a change in the components and/or rates of ADP an individual is entitled to or receives. It does not matter whether the individual reports the change or Social Security Scotland become aware of it another way<sup>1</sup>.

12. Chapter on change of circumstances: change condition or level of needs

*1 ADP regs, reg. 48(a)*

13. When an individual dies<sup>1</sup>

14. Death of an individual chapter

*1 ADP regs, reg. 48(b)*

15. When an individual:
- is at least 16 years old,
  - becomes resident in Scotland,
  - was resident in another part of the UK and was entitled to Personal Independence Payment (PIP) immediately before the date of the move to Scotland<sup>1</sup>.

*1 ADP regs, reg. 52*

16. If the PIP award that the individual was entitled to prior to moving to Scotland is later altered, this will prompt an unscheduled review. This is the case if the PIP award is revised, superseded, appealed, or reconsidered<sup>1</sup> after the determination of entitlement to ADP after moving to Scotland.

*1 ADP regs, reg. 48(d)*

17. When an individual moves from Scotland to another part of the UK<sup>1</sup>.

*1 ADP regs, reg. 53*

18. When the previous determination was based on an error<sup>1</sup>.

19. When a previous determination is based on an error

*1 ADP regs, reg. 49 (Determination following official error – underpayments) and reg. 50 (Determination following error – overpayment)*

20. When Social Security Scotland:

- begin giving ADP to an individual by way of deduction<sup>1</sup>
- decide that it is no longer appropriate to give ADP to an individual by way of deduction<sup>2</sup>
- decide to vary the amount being given to an individual by way of deduction<sup>3</sup>
- decide to vary the period over which ADP is given to an individual by way of deduction<sup>4</sup>
- cease making deductions<sup>5</sup>.

*1 ADP regs, reg. 51(2)(a)*

*2 ADP regs, reg. 51(2)(b)*

*3 ADP regs, reg. 51(3)(a)*

*4 ADP regs, reg. 51(3)(b)*

*5 ADP regs, reg. 51(3)(c)*

21. When an individual who is receiving ADP, by way of deduction notifies Social Security Scotland that they wish to -

- withdraw their agreement to be given ADP by way of deduction<sup>1</sup>
- increase or decrease the amount of ADP being given by way of deduction<sup>2</sup>
- amend the length of period over which ADP is given to an individual by way of deduction<sup>3</sup>.

*1 ADP regs, reg. 51(4)(a)*

*2 ADP regs, reg. 51(4)(b),(c)*

*3 ADP regs, reg. 51(4)(d)*

**Unscheduled review following change of circumstances – link to chapters**

22. The chapter on entitlement under special rules for terminal illness gives guidance if the change of circumstances is that the individual becomes entitled under these rules.

23. Where there is a change of circumstances relating to a change in an individual's condition or level of needs.

### **Individuals tell us about a change**

24. Individuals are told in their notice of determination of an award that they must tell us about changes in their circumstances<sup>1</sup> that may affect their award.

*1 Social Security (Scotland) Act S.56*

25. The notice explains that an individual must tell us if:

- the individual's condition gets better or worse
- the level of help and care they need changes
- the support they need with their mobility changes
- they go into or leave residential care or residential education
- they move away from Scotland
- they enter or leave legal detention.
- they are admitted into a hospital or similar institution
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26. An individual must tell us about these changes either:

- within a month or
- as soon as can be reasonably expected.

This is explained in more detail in the chapters on change of circumstances which are mentioned in the previous section.

27. The notice of determination of an award tells an individual both:

- that they are legally required to tell us about these types of changes
- how they can tell us about these changes.

28. If the individual does not tell us about a change of circumstances, they could:

- be liable to repay an overpayment
- be committing a criminal offence.

### **Third parties telling us about a change**

29. A third-party organisation may inform Social Security Scotland of a change in an individual's situation. Examples include:

- the Scottish Prison Service informing us that someone has entered or left legal detention
- a publicly funded residential care facility informing us that someone is now residing in their accommodation
- a local authority giving us of information that has an impact on the level of assistance an individual is entitled to
- a court or tribunal informing us of a decision in a case which alters a determination of entitlement
- other organisations involved in the person's life who may be aware of a change of circumstances.

### **Changes that require an unscheduled review**

30. Not all reported changes require a determination without application.

31. A change that could possibly have an impact on either:

- the rate of a component
- the length of the review period

will require a review.

32. In these situations, a case must be reviewed, and a new determination made, even when the outcome is that there is no change in the level of award. This is because any decision on entitlement must be done by a determination, even if it results in no change to the components or rates.

33. If an individual is unsuccessful in applying for ADP but then has a change in their circumstances, they must apply again. This change must be something that has taken effect after the initial determination was made. However, case managers must be alert to any information that suggests an official error<sup>1</sup> was made when determining entitlement.

34. Chapter on when a previous determination is based on an error.

*1 ADP regs, reg. 49*

35. If a case manager is made aware of a change of circumstances during a re-determination, they will need to take this into account. For more information, see the chapter on re-determination.

### **Example: change that requires an unscheduled review**

Carla is entitled to the standard rate of daily living component of ADP, due to suffering from depression. She contacts Social Security Scotland on 20 July to inform them that her condition improved from 5 July.

The case manager carries out an unscheduled review and makes a determination without application. They determine Carla is no longer entitled to ADP from 5 July.

The case manager sends out a notice of determination to Carla explaining the outcome of the unscheduled review and advising that her final payment, due at the end of July, will be for the period up to 5 July.

### **Changes which do not require an unscheduled review**

36. Some changes might have an impact on the individual's life but do not constitute a change that could possibly affect entitlement. These changes do not require an unscheduled review. For example, a change in an individual's contact details.

#### **Example: change which does not require an unscheduled review**

Colin is entitled to the standard rate mobility component of ADP. He completes a Change of Circumstances form and sends it to Social Security Scotland to update his address after he moves from Edinburgh to Glasgow to attend college.

The case manager reviews the Change of Circumstances form. They determine that no unscheduled review is required, as the change of contact details would not affect Colin's entitlement to ADP.

The case manager sends a letter to Colin to explain that Social Security Scotland has updated its record of his address. No further action is required from Colin and his entitlement hasn't changed.

### **A change that occurs before the initial determination is made**

37. An individual may have a change of circumstances:
- after submitting an application to Social Security Scotland
  - before a determination has been made.

Case managers should take this change of circumstances into account when making the determination.

### **What information is used to make the decision**

38. During an unscheduled review, the case manager can collect more supporting information following the same process as for the initial application. This process is explained in the chapter on supporting information.

### **When a change of entitlement takes effect**

39. Different rules apply depending on the event that prompts the unscheduled review. The 'Events that prompt an unscheduled review' section of this chapter contains links to the chapters where these rules are explained.