

Applying for Adult Disability Payment

Index

- Introduction
- Circumstances when an application may be made
- How to make an application
- Who can make a new application
- Beginning an application
- Date the application is to be treated as made
- Acceptable and unacceptable applications
- Rejecting an application
- Change of circumstances before a decision is made
- Determination of entitlement
- Withdrawal of application

Introduction

1. This chapter describes the rules about applications for Adult Disability Payment (ADP).

Circumstances when an application may be made

2. There are several circumstances when an individual can apply for Adult Disability Payment. These include when they:
 - are making their first application
 - decide to apply again after a previously unsuccessful application and notice of determination
 - have decided to apply again after their previous entitlement to Adult Disability Payment ended and their circumstances have since changed
 - have withdrawn a previous application before a determination was made
3. A determination must be made where an individual submits a full application.
4. There are some circumstances when an application is not required. For example, when an individual is waiting for a determination on an existing application and contacts us to update it.

How to make an application

5. Applications for Adult Disability Payment can be made by:
 - completing the full 2 part application (Part 1 and Part 2) via the online portal
 - starting the application by phone (Part 1) then completing Part 2 on a paper based form

OFFICIAL SENSITIVE

- starting the application by phone (Part 1) and then completing Part 2 by phone with a client adviser or by phone or face to face with a member of Social Security Scotland's Local Delivery team

Applications will be dealt with in the same way, regardless of what channel is used to submit them.

6. Guidance on completing applications will be available:

- on the Social Security Scotland website
- on leaflets and the application form itself
- via support organisations such as Citizens Advice Scotland

An individual can contact Social Security Scotland using whatever channel they are comfortable with, to seek advice or help with their application

Who can make a new application

7. An individual, or someone acting on their behalf, who:

- is between the ages of 16 and State Pension Age (SPA) ¹
1 ADP regs, reg 22 (1) and (2)
 - has already reached State Pension Age , if certain criteria are met²
2 ADP Regs, reg 23, reg 24

8. Someone may be acting on behalf of another adult who is unable to complete the application themselves because of incapacity. This could be an appointee (someone appointed by Social Security Scotland or Department for Work and Pensions to act on behalf of the individual), or someone with Power of Attorney, Guardianship, or a Tutor or Curator Bonis in Scotland. They may be referred to as a Personal Acting Body (PAB) or Corporate Acting Body (CAB).

9. A young person may apply for Adult Disability Payment up to 13 weeks before their 16th birthday. If their application is successful, the earliest it can be paid is on their 16th birthday. ³
3 ADP Regs reg 35(2)

10. If a young person is receiving Child Disability Payment from Social Security Scotland, they may apply for Adult Disability Payment as above , ie 13 weeks before their 16th birthday, or any time between then and the day before they turn 18. Doing so will ensure their Child Disability Payment continues until a determination is made that they are entitled to Adult Disability Payment, so they will not have their payments stopped. Individuals over 18 can still apply for Adult Disability Payment but their Child Disability Payment will have stopped.

11. If an individual is receiving Armed Forces Independence Payment, Attendance Allowance, Disability Living Allowance or Personal Independence Payment, they are not entitled to receive Adult Disability Payment.¹

¹ ADP regs, reg. 4

12. Clients making a new application must also satisfy a number of residence and presence conditions to be eligible to receive Adult Disability Payment.

Beginning an application

13. An individual can begin an application either by phone or online. This is Part 1 of the application process.

14. Once they have started, the individual has 8 weeks to return the completed Part 2 of the application in order to ensure their entitlement to Adult Disability Payment begins on the date they completed Part 1. If an application is submitted after the 8 week period, the date of their entitlement may be later, depending on whether they have good reason for having submitted it late e.g. they have been in hospital.

15. An individual will be notified when their application has been received by Social Security Scotland if they have opted to receive notifications. When Part 1 of an application has been made but Part 2 has not yet been submitted online or received by post, they will receive a reminder two weeks before the end of the 8 week period.

16. To complete Part 1 of the application process, an individual must provide the minimum data required to link them to a unique record within the IT system, known as SPM (Social Programme Management). This is known as the 'required data' and must include:

- the full name of the applicant
- the date of birth of the applicant

Date the application is to be treated as made

17. If the individual meets all of the entitlement criteria on the day Part 2 of their application is received by Social Security Scotland then their application is treated as made on that date¹.

¹ ADP Regs, reg 35 (1) (a)

OFFICIAL SENSITIVE

18. Alternatively, when a client does not meet all of the eligibility criteria on the date their application is received by Social Security Scotland, but they will do within the following 13 weeks, the date the application is treated as made will be the date within that 13 week period on which all of the eligibility criteria are satisfied. These are referred to as pre-emptive applications².

ADP Regs, reg 35 (2) (4)

Example: Backwards Test met

Alfie applies for Adult Disability Payment for the first time. He begins a Part 1 application via the online portal on 15 June and goes on to complete/submit Part 2 of the application within the 8 week period allowed. The date of application is therefore 15 June. To meet the Backwards Test, his needs would need to have existed on or before 16 March, ie 13 weeks before applying. He tells us his needs began on 25 February. This means the needs have existed for more than 13 weeks and he meets the Backwards Test. If the application is successful, Alfie will be entitled to benefit from and including 15 June.

Example: Backwards Test not yet met

Bonnie has a stroke on 28 April. She applies for Adult Disability Payment on 21 May. As her needs only began on 28 April, the Backwards Test will not be satisfied until 27 July so no payment can be made before then.

The application is successful and the decision maker determines Bonnie is entitled to the standard rate of the daily living component and the enhanced rate of the mobility component. As the Backwards Test is met on 27 July the case manager will treat the application as made on that date and payment will start from then¹.

1 ADP Regs, reg 35 (2) (b)

Date of entitlement

19. Entitlement to Adult Disability Payment begins on whichever date is later, either the date Part 1 is received by Social Security Scotland, or the date the individual meets all of the eligibility criteria. This is provided the individual returns a completed Part 2 of the application within 8 weeks of Part 1 being completed¹.

1 ADP Regs, reg 35 (4) (a) and (b)

20. If part 2 of the application is returned after 8 weeks entitlement will begin on the date the application is treated as made, as described above.²

2 ADP Regs, reg 35 (5)

21. If the individual has a good reason for why it's returned after 8 weeks eligibility Social Security Scotland can decide to determine entitlement as if it had been returned within that period.³

22. If Social Security Scotland does not accept the reasons for the late completion, the individual has the right to request a re-determination in relation to the start date of assistance.

23. Circumstances considered good reason for the late completion of an application may include:

- where the individual could not complete the application due to a disability or health condition resulting in them being hospitalised
- a personal event such as a bereavement or some other major event or trauma
- where the individual or a third party representative has contacted Social Security Scotland to request more time. This could be to liaise with welfare rights support or accessibility support such as a translation service or interpreter.

This list is not exhaustive. The decision maker should consider the circumstances of each case on its own merits in determining what is 'good reason'.

Example: Good reason accepted

Cole begins an online application on 6 May. They submit Part 1 and Part 2 is triggered for completion. Part 2 states it should be completed and submitted via the online portal by 30 June.

Part 2 is not submitted until 9 July. When asked for reasons for lateness, Cole advises that they were admitted to hospital for emergency surgery on 21 June and were in hospital for 10 days. They had partially completed the form before this, and only felt up to completing the remainder a few days after coming home.

The decision maker considers Cole's explanation for submitting the form late, and accepts good reason. This means it is treated as being on time and the date of application can be accepted as 6 May, the date it was first registered in the online portal.

Example: Good reason not provided

Daria phones Social Security Scotland to start an application on 24 June. Part 1 is completed over the phone and a Part 2 is sent out by post, advising her it should be completed and returned by 18 August.

The form is not received until 7 September. When asked for reasons for lateness, Daria advises they completed the form and forgot to post it on time and only remembered when they came across it on 1 September.

OFFICIAL SENSITIVE

The decision maker decides this is not a good reason for lateness. This means the date of application will be taken as 7 September, the day it was received by Social Security Scotland.

The decision maker may accept the reason for lateness if the individual forgot to post the completed form due to:

- a family bereavement
- making frequent trips to and from hospital because someone close was unwell
- a cognitive difficulty resulting in poor memory and recall, which meant they failed to post the letter

This list is not exhaustive.

The decision maker may well accept the reasons. They should accept the reason given at face value, unless it is very late and the reason appears highly improbable, in which case they should make further enquiries.

24. Other scenarios which the decision maker may consider to be good reason are:

- technical issues resulting in the online portal preventing the individual from applying for assistance
- when no application form is received by the individual after they requested it
- when the actions of staff or the systems and processes prevent an individual from applying within the 8 week period

In these scenarios both:

- good reason for lateness should be accepted, as long as the individual has completed it as soon as reasonably practical once the issue was resolved
- the entitlement should begin on the date that the application was registered

1 ADP Regs, reg 35 (6)

Acceptable and unacceptable applications

25. The Social Security (Scotland) Act 2018 sets out that an application must be submitted both:

1. in the form described by Social Security Scotland
2. with the supporting information that is required ¹

1 SS(Scotland) Act 2018 s.38 (1)

26. Once an application is submitted, an individual may be asked to provide further supporting information to enable a determination of entitlement to be made. Social Security Scotland can specify a time period in which the information must

OFFICIAL SENSITIVE

be provided. If sufficient information is not provided in the timeframe, the case manager can make a determination that the client does not meet the criteria. ²

2 SS (Scotland) Act 2018 s.54 (1) and s.54 (2)

27. In addition to the correct Adult Disability Payment application, Social Security Scotland will accept a number of other applications as long as they provide the minimum information required by SPM, as described above. This includes, but is not limited to, an application for another type of Scottish disability assistance, an application for Personal Independence. As the criteria differ between different forms of assistance such applications may not provide the details necessary for a determination to be made. Case Managers will likely have to obtain extensive supporting information in order to reach a decision.

Rejecting an application

28. An application may be rejected before a determination is made if the individual has either:

- not made an application in the form that is set out by Social Security Scotland, or
- not provided the appropriate supporting information

29. Rejecting an application is not the same as a determination that an individual is not entitled to assistance. An application is rejected before the eligibility criteria have been considered.

1 SS Act 2018 s.38(1)

30. If an application is rejected, the case manager must:

- inform the individual of the decision to reject their application. This is different from a determination.
- explain why that decision was made

state the individual's right to appeal the rejection decision to the First-Tier Tribunal ¹

1 SS Act 2018 s.61(1)(a)

Change of circumstances before a determination is made

31. An individual may provide information about a change of circumstances after having submitted their application but before a determination has been made

OFFICIAL SENSITIVE

A case manager should take any new information they receive into account when making the determination. If the client's daily living and/or mobility needs have changed since their application was submitted this could result in a determination that the individual is entitled to certain rates of the Adult Disability Payment components for the period before the change and different rates after. The award based on the new information provided should come into effect once the backwards test has been met for the new information. The determination of entitlement sent to the individual should clearly explain this.

32. This could result in two different rates of award.

Example: A change of circumstance is reported in advance of a determination

Federico has arthritis and a heart condition. They apply for Adult Disability Payment on 6 April stating their needs have existed for 2 years prior to applying. This means they satisfy the Backwards Test at the time of application. Information within the application suggests they are likely to be entitled to the standard rate of the daily living component and the enhanced rate of the mobility component from the date of application.

Before the case manager has made their determination, Federico's spouse contacts Social Security Scotland on 27 May to say that Federico had a stroke on 21 May and now has increased needs. Supporting information leads the case manager to decide Federico will now be entitled to the enhanced rate of the daily living component as well as the enhanced rate of the mobility component.

As Federico's increased needs began on 21 May, the date they had the stroke, they do not yet satisfy the Backwards Test for the enhanced rate of daily living. This will be satisfied on 19 August so this is the earliest date this rate can be paid.

The case manager therefore makes a determination that Federico is entitled to the standard rate of the daily living component and the enhanced rate of the mobility component from 6 April to 18 August, and the enhanced rate of both daily living and mobility components from 19 August.

Federico will be notified of the outcome in the Determination of Entitlement notification.

Example: A change of circumstance is reported in advance of a determination

Gurjit applies for Adult Disability Payment on 4 June due to having depression and anxiety. She advises her needs have existed for around 6 months prior to applying. The Backwards Test is therefore satisfied. Information suggests she is likely to be entitled to the standard rate of the daily living component and not entitled to either rate of the mobility component.

Before the case manager makes their determination, Gurjit writes to Social Security Scotland to say she was involved in a road accident on 23 July. She received severe injuries to her right leg requiring emergency surgery and intensive follow up physiotherapy. Supporting information from an orthopaedic surgeon confirms her injuries. The estimated recovery time is at least a year. The case manager decides an award of the enhanced rate of both the daily living and mobility components is now appropriate.

As Gurjit's increased daily living needs and new mobility needs began on 23 July, the Backwards Test will be satisfied on 21 October so the higher rate of benefit can be paid from that date. As the needs are expected to last for at least 39 weeks following the start date of payment, the Forwards Test is also satisfied.

The case manager makes a determination that Gurjit is entitled to the standard rate of the daily living component from 4 June to 20 October, and the enhanced rate of both the daily living and mobility components from 21 October. A review is scheduled 1 year from the date the determination was made, to check whether her needs have changed.

Determination of entitlement

33. An individual will receive a determination of entitlement on their application, in writing.

Withdrawal of application

34. Individuals have the right to withdraw their applications at any time before a determination is made on the application. Case managers are not to make a determination on applications which have been withdrawn¹.

1 SS Act 2018, s.39

End of chapter