

## **Moving from Scotland to another part of the United Kingdom and vice versa**

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- When the individual notifies Social Security Scotland in advance of the move
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- When an individual notifies Social Security Scotland more than 13 weeks after the move

### **Introduction**

1. This chapter is about when an individual in receipt of:
  - Disability Living Allowance for Children (DLA) moves to Scotland,
  - Child Disability Payment (CDP) moves to another part of the UK.
2. The UK means Great Britain and Northern Ireland.
3. The chapter explains when Social Security Scotland is required to make a determination without application in these circumstances.

### **When an individual in receipt of DLA moves to Scotland**

4. DLA individuals must notify DWP when they move to Scotland from England and Wales, or the Department for Communities (DfC) if the individual is moving from Northern Ireland to Scotland. DWP or DfC will send this information to Social Security Scotland when they are notified by the individual. This prompts Social Security Scotland to make a determination without application for CDP.
5. The data DWP or DfC sends to Social Security Scotland includes the supporting information used to determine the individual’s DLA award. Case managers should use this information when making a determination without application. However they must take account that:
  - there are key differences between the eligibility criteria for DLA and the CDP
  - an individual could be moving into ‘alternative accommodation’.

6. The CDP rules refer to accommodation in a care home or residential school as ‘alternative accommodation’. Case managers can find more information in the chapter on the effect of time spent in care homes and residential educational establishments [Link].
7. For example, if an individual is in receipt of the middle rate care component of DLA at the time of the move the case manager should accept that the individual satisfies the eligibility criteria of the middle rate care component of CDP. However they must then consider if:
  - the individual is staying in alternative accommodation in Scotland,
  - any of the differences between the DLA eligibility criteria and CDP eligibility criteria are relevant to the individual.

These differences are discussed below.

### **Entitlement to CDP beginning while in ‘alternative accommodation’**

8. The CDP rules refer to accommodation in a care home or residential school as ‘alternative accommodation’. If an individual is moving into ‘alternative accommodation’ on moving to Scotland then they will be resident in ‘alternative accommodation’ on the day that entitlement to CDP begins. This means that the value of the care component of CDP that individual receives will be £0<sup>1</sup>. This will be the case starting from the day that entitlement begins and for as long as the individual continues to reside in ‘alternative accommodation’. Case managers can find more information in the chapter on the effect of time spent in care homes and residential educational establishments [Link].

*1 CDP regs, reg. 20(2)*

### **Differences between CDP and DLA eligibility criteria**

#### *Visual impairment and the higher rate of the mobility component*

9. An individual may be entitled to the higher rate of the mobility component of CDP because they have a ‘severe visual impairment’. However, they may not have been receiving the higher rate mobility component of DLA. This is because the definition of severe visual impairment is different under the Disability Assistance for Children and Young People (Scotland) Regulations 2021. It is wider than how that term is defined under the Social Security (Disability Living Allowance) Regulations 1991. The chapter on ‘CDP Mobility Component-Higher Rate’ provides guidance on entitlement to the higher rate of the mobility component for individuals with a ‘severe visual impairment’.

#### *Special rules for terminal illness*

10. Another difference is the definition of “terminal illness” under special rules for terminal illness. For an individual to be entitled to DLA under special rules for terminal illness, the individual must have a progressive disease where death as a consequence of that disease can reasonably be expected *within 6 months*.

Whereas for an individual to be entitled to CDP under special rules for terminal illness, the individual must have a progressive disease that can reasonably be expected to cause the individual's death: there is no requirement that death must be expected to occur within 6 months. Under the special rules on entitlement to CDP for terminal illness, an appropriate healthcare professional both:

- certifies that the individual has a terminal illness
- notifies Social Security Scotland of the diagnosis

The chapter on Special Rules for Terminal Illness give more information.

**Individual turns 16 after their DLA award was made but before CDP award is made**

11. The eligibility criteria for entitlement to both the:

- care component
- lower rate of the mobility component

of CDP and DLA differ slightly depending on if the individual is younger than 16 or not.

12. Normally an individual must be under 16 years old on the date that entitlement to CDP begins<sup>1</sup>. However, this is not the case if an individual has:

- moved to Scotland, and
- was in receipt of DLA immediately before moving to Scotland.

*1 CDP regs, reg 4(2)*

13. Case managers need to be aware of this difference in eligibility criteria if the individual has reach 16 years of age both:

- after the DLA award was determined
- before the CDP award is determined.

14. Under the CDP and DLA rules, individuals under 16 years old only satisfy the criteria for entitlement to the care component or the lower rate mobility component when they have either:

- needs substantially in excess of what someone of their age normally has<sup>1</sup>
- needs which younger children without a disability may have, but which a child the same age as the individual without a disability would not have<sup>2</sup>.

*1 CDP regs, reg. 11(2)(a) (for entitlement to the care component) and reg. 12(3)(a) (for entitlement to the lower rate mobility component).*

*2 CDP regs, reg. 11(2)(b) (for entitlement to the care component) and reg. 12(3)(b) for entitlement to the lower rate mobility component).*

15. As this rule only applies to individuals under the age of 16, there is a possibility that an individual may have not been entitled to the care component or the lower rate mobility component of DLA because of this rule. However, the individual may subsequently reach 16 years of age before a determination of entitlement to CDP is made. In this case, they may be able to meet the criteria for entitlement to both the:

- care component
  - lower rate mobility component
- of CDP because the rule will no longer apply.

16. Case managers can access the DLA award letter to see if the level of needs compared to others the same age or younger was why the individual was not entitled to either or both:

- the care component at any rate
- the mobility component at the lower rate.

This rule is explained more fully in the chapters on:

- ‘CDP care component – rates and criteria’ [LINK]
- ‘CDP mobility component – lower rate’.

### **When case managers are required to make a determination without application**

17. Social Security Scotland are required to make a determination without application when:

- an individual is under 18 years of age,
- moves to become resident in Scotland,
- was resident in the another part of the UK before the move, and
- was entitled to DLA immediately before ‘the date of the move’<sup>1</sup>.

*1 CDP regs, reg. 35(1)*

18. Entitlement to CDP begins (following the determination without application) on the day after the day on which DLA ceases to be paid to the individual<sup>1</sup>.

*1 CDP regs, reg. 35(2)*

19. Case managers will know that an individual in receipt of DLA has moved to Scotland because the DWP or DfC will send this data to Social Security Scotland. The data will include the end date for DLA. The Operational Guidance will contain further information on accessing this data for the purpose of making a determination without application.

### **If entitlement to CDP is based on a DLA award that later changes**

20. This chapter has explained:

- that case managers must make a determination without application when an individual under 18 who has been receiving DLA moves to Scotland
- that this determination will take account of the individual’s DLA award and other things.

21. Social Security Scotland must make a further determination without application if:

- the case manager has made a determination that the individual is entitled to CDP as a result of a move to Scotland from another part of the UK
- the DLA award that case manager took account of changes
- this change occurs after the initial determination without application is made.

Although this change in DLA award must occur after the move and after Social Security Scotland make the initial determination without application, the change in the DLA award will relate to a period before the move when the individual was entitled to DLA.

22. The change in DLA award must be as a result of either:

- the DWP or DfC deciding to revise or supersede the DLA award
- the individual successfully appealing the DLA award to a Tribunal
- the DWP or DfC deciding to reconsider the DLA award<sup>1</sup>.

*1 CDP regs, reg. 31(d)*

23. Entitlement following the further determination without application begins on the same date as when entitlement began under the first determination without application<sup>1</sup>.

*1 CDP regs, reg. 28(1)(a) (when an increase in level of entitlement takes effect) or reg. 29(1)(a) (when a decrease in the level of cessation of entitlement takes effect).*

### **When an individual in receipt of CDP moves to another part of the UK**

24. Individuals who move away from Scotland to another part of the UK continue to be paid CDP for a period of time after the move. This period is called the run-on period.

25. The individual must have been ordinarily resident in Scotland immediately before the move and, as a result of the move, be ordinarily resident in another part of the UK and be no longer ordinarily resident in Scotland.

26. If an individual moves away from Scotland to another part of the UK and into 'alternative accommodation', then the value of the care component of CDP that is paid during the run-on period will be £0. This will be the case for as long as the individual resides in 'alternative accommodation'. Case managers can find more information in the chapter on the effect of time spent in care homes and residential educational establishments [Link].

### **When the individual notifies Social Security Scotland in advance of the move**

27. The run-on period begins on the day that the individual stops being ordinarily resident in Scotland if the individual tells Social Security Scotland about the move in advance of it happening<sup>1</sup>.

*1 CDP regs, reg. 36(4)(a)*

28. The run-on period lasts for 13 weeks. This means the individual will continue to receive CDP for 13 weeks after the day that the individual becomes ordinarily resident in another part of the UK.

29. The case manager must make a determination without application at the end of this 13 week run-on period in order to terminate the individual's entitlement to assistance<sup>1</sup>.

*1 CDP regs, reg. 36(2)*

**When an individual notifies Social Security Scotland less than 13 weeks after the move**

30. If the individual tells Social Security Scotland about the move less than 13 weeks after it has happened, the run-on period continues for 13 weeks after the date that the individual tells Social Security Scotland that they have moved (the date of notification)<sup>1</sup>. This means the individual will continue to receive CDP for 13 weeks after the date of notification.

*1 CDP regs, reg. 36(4)(b)*

31. The case manager must make a determination without application at the end of the run-on period in order to terminate the individual's entitlement to assistance<sup>1</sup>.

*1 CDP regs, reg. 36(2)*

**An individual cancels the move after they have told Social Security Scotland that they are moving**

32. An individual might cancel their plan to move from Scotland to another part of the UK. If this happens, Social Security Scotland should treat the individual as if they had never told Social Security Scotland that they were moving. This means there is no requirement make a determination without application.

33. Individuals should only be treated as if they had never told Social Security Scotland about the move if

- they are going to continue to be ordinarily resident in Scotland
- they told Social Security Scotland about the cancelled move less than 13 weeks after they told Social Security Scotland about the move<sup>1</sup>.

*1 CDP Regs 36(3)*

**When an individual notifies Social Security Scotland more than 13 weeks after the move**

34. If either -

- an individual fails to notify Social Security Scotland that they have moved away from Scotland within 13 weeks of the move,
  - notifies Social Security Scotland 13 weeks or more after the move
- entitlement to CDP stops 13 weeks after the date when the individual stopped being ordinarily resident in Scotland<sup>1</sup>. Any payment to the individual for a period after this date is treated as an overpayment<sup>2</sup>. This means that the case manager should apply the rules in the 'When a change in entitlement should begin if the individual was overpaid' section of the chapter 'When a previous determination

is based on an error” [LINK]. The Payment Errors chapter contains guidance on what to do if an individual has been overpaid [Link].

*1 CDP regs, reg. 36(4)(c)*

*2 CDP Regs, reg36(5)*

35. These rules require the case manager to make an unscheduled review. The change in entitlement following the unscheduled review begins on the date when the earlier determination of entitlement took effect. The unscheduled review should determine that the individual's entitlement to assistance stopped on the date which comes 13 weeks after the date when the individual stopped being resident in Scotland.