

Severe Mental Impairment and Higher Rate Mobility Component

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This chapter covers the following topics in relation to the higher rate mobility component of Child Disability Payment (CDP):

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Introduction

1. This chapter uses terminology such as ‘severe mental impairment’, ‘arrested development’ or ‘severe impairment of intelligence’. We acknowledge that these terms are outdated and have been replaced by terms that are less stigmatising or medicalising. ‘Severe mental impairment’ is a term in regulations that is widely known and well defined and understood in a legal context. The Decision-Making Guidance therefore uses the same terminology in order to avoid any divergence from the law and misinterpretations.

2. This chapter applies to individuals who are applying for or are already entitled to CDP.

3. An individual can qualify for the higher rate of the mobility component if they meet all of the following:

- have a severe mental impairment
- display severe behavioural problems
- meet the eligibility criteria for the highest rate of the care component¹.

1 CDP regs, reg. 13(2)(e)

4. Case managers should read this chapter together with the CDP mobility component: higher rate chapter [LINK]. That chapter sets out the other criteria that the individual must meet to be entitled to the higher rate of the mobility component.

5. If the individual does not meet all of the criteria at paragraph 3, they may be able to qualify for the higher rate of the mobility component. An individual can qualify if they meet any of the following criteria:

- are unable to walk¹
- are virtually unable to walk¹
- the exertion required to walk would constitute a danger to the individual's life, or would be likely to lead to a serious deterioration in the individual's health¹
- have no legs or no feet²
- have a severe visual disability³
- are both blind and deaf⁴.

1 CDP regs, reg. 13(2)(a)

2 CDP regsregs, reg. 13(2)(b)

3 CDP regsregs, reg. 13(2)(c)

4 CDP regs, reg. 13(2)(d)

Severe mental impairment

6. The definition of a severe mental impairment¹ is either:

- arrested development due to failure of the brain to grow or develop in the way normally expected or
- a deficiency in the functionality of the brain due to incomplete physical development of the brain

that results in a severe impairment of intelligence and social functioning.

1 CDP regs, reg. 13(7)

Arrested development

7. Arrested development¹ is separate from incomplete physical development² of the brain. Therefore, it may apply in cases involving arrested emotional or functional development which has a physical cause.

1 CDP regs, reg. 13(7)(a)

2 CDP regs, reg. 13(7)(b)

Deficiency in the functionality of the brain due to incomplete physical development of the brain

8. Incomplete physical development of the brain involves a failure of the brain to grow properly.

9. Supporting information supplied with the application may refer to a type of brain scan that confirms incomplete physical development. However, the fact that an individual has not had a scan does not mean that this test cannot be met. An individual may be awaiting further tests. It may also be the case that further tests would unnecessarily distress the individual.

10. There are also a number of congenital conditions present at birth that impact on the proper development of the brain in the womb and following birth, that may be documented in the individual's supporting information.

11. There may be cases where there is no information from a professional to confirm an individual's incomplete physical development of the brain. Case managers should still consider the information provided by the individual, as well as any other forms supporting information. For more detail on supporting information please see the Gathering Supporting Information chapter [LINK].

12. Case managers should consult a practitioner within Social Security Scotland if supporting information is unclear or incomplete.

Severe impairment of intelligence

13. To meet the severe mental impairment test the individual must also have a severe impairment of intelligence and social functioning¹ resulting from either:

- arrested development
- a deficiency in the functionality of the brain as a result of its incomplete physical development

1 CDP regs, reg. 13(7)

14. Case managers will benefit from supporting information in deciding if an individual has a severe impairment of intelligence.

15. For children and young people, the individual's IQ is likely to be only a minor factor in assessing whether the individual has a severe impairment of intelligence. An IQ score alone is likely to give a misleading impression, because an IQ test is designed to be as independent of social context as possible. An individual with a reduced IQ will likely have had a referral to a paediatrician or other specialist. Case

managers must be careful not to refuse an application because an individual has not been referred to a specialist, as there may be reasons for this.

16. Children and young people with a severe impairment of intelligence are likely to need specialised schooling and supervision of all activities.

17. The case manager should consider:

- any supporting information, based on the application form
- advice from a case discussion or practitioner if necessary

to understand whether the individual has a severe impairment of intelligence. The case manager should consider whether the individual:

- has an understanding of the impact of their behaviour
- can understand the risk of danger or hazards
- has met key milestones in their development
- is educated in a specialist school
- has no awareness of where they are or of what time it is
- experiences short and long-term memory difficulties.

This list is not exhaustive.

18. Case managers should not consider any factor in isolation. It is also important to consider the child or young person's age. This is particularly true for very young children. They may show any one of the above behaviours because of their age rather than because of a disability.

Severe impairment of social functioning

19. Social functioning refers to what a person can do with their intelligence. For example, some children and young people can:

- relate to other people
- perform basic social skills

once they are shown how to do them. However, individuals who have a severe impairment of social functioning, as a result of arrested development, or deficiency in the functionality of the brain due to incomplete physical development of the brain may not be able to do these things because of their disability. They may alternatively

only be able to acquire a few basic social skills after being shown how to perform them.

20. Case managers should take into account the individual's ability to exercise judgement in relation to everyday life. This includes their sense of danger.

21. An individual may have a severe impairment of social functioning if they either:

- are unable or have limited ability to speak, such as only being able to communicate by gesturing, using simple signs or making sounds
- are unable to read or write, or have very limited ability to read or write
- have either limited or no understanding of the impact of their behaviour on others
- have either limited or no ability to understand danger or hazards, such as eating dangerous objects or touching hot objects
- have not been toilet trained by an age when most children will have been
- cannot engage in play or co-operation with others
- behave violently and injure themselves or others.

This list is not exhaustive.

22. Case managers should not consider any factor in isolation. It is also important to consider the child or young person's age. This is particularly the case for very young children. The children may show any one of the above behaviours because of their age rather than because of a disability.

23. If the case manager is unable to reach a determination based on the available supporting information, they should seek input of a practitioner employed by Social Security Scotland.

Example: an individual has arrested development of the brain and severe impairment of intelligence

Dylan is nine years old and has:

- global developmental delay
- poor communication skills
- behavioural difficulties that include eating non-food objects.

- not been toilet trained
- a tendency to show extreme disruptive behaviour.

His social worker and teacher have supplied supporting information indicating that Dylan:

- communicating his needs is restricted to basic gesturing
- cannot co-operate in play
- has no insight into the effect of his challenging behaviour on others.

The case manager accepts that Dylan:

- requires attention throughout the day and at night
- has an arrested development of the brain, or a deficiency in the functionality of the brain as a result of its incomplete physical development of the brain
- has a severe impairment of intelligence and social functioning.

The case manager awards Dylan the highest rate of the care component and the higher mobility component of CDP.

Example: an individual has arrested development of the brain and severe impairment of social functioning

Joe is 7 years old. He has severe autism and a learning disability. Joe's ability to communicate is limited to making sounds. He also does not seem to understand speech at times and simple requests made of him.

He expresses his emotions through behaviour. He:

- lashes out when he is upset
- is destructive
- can hurt others and himself
- is unpredictable in his mood swings which can be triggered by minor issues
- does not have an understanding of the impact of his behaviour.

His parents:

- need to supervise Joe constantly and watch over him during the day and at night.
- have had to remove all furniture from his bedroom apart from a mattress

This is to ensure his safety and prevent him from destroying objects or being a danger to himself and others. As he gets older, it is getting more difficult to manage his behaviour because his strength increases.

The case manager has decided that Joe meets the criteria for the higher rate care component. They also decide that Joe has:

- a condition which has resulted in arrested development of the brain
- unpredictable behaviour
- and a severe impairment of intelligence and social functioning.

The case manager awards Joe the highest rate of the care component and the higher rate mobility component of CDP.

Severe behavioural difficulties

24. The individual must also display severe behavioural difficulties in addition to having a severe mental impairment¹. This means that the individual displays disruptive behaviour which is all of the following:

- extreme²
- regularly requires someone else to intervene to prevent the individual from causing physical injury to themselves or others³
- so unpredictable that another person must be present and watching over them whenever they are awake⁴.

1 CDP regs, reg. 13(2)(e)

2 CDP regs, reg. 13(8)(a)

3 CDP regs, reg. 13(8)(b)

4 CDP regs, reg. 13(8)(c)

Disruptive behaviour which is extreme

25. Extreme in these circumstances means behaviour that regularly needs substantial intervention to respond to or manage challenging behaviour.

26. The disruptive behaviour does not need to be constant, continuous or present all of the time. However, it must be regular. There is no hard and fast rule on what 'regular' means in this context. Case managers must consider each case individually.

27. The individual's behaviour may be extreme if they can:

- be disruptive
- not consider their safety with dangerous things
- be aggressive
- injure themselves or others
- be hyperactive
- display persistent body movements
- disrupt the household during the night.

This list is not intended to be exhaustive.

28. Involuntary behaviour such as falls caused by a seizure may also be considered disruptive behaviour.

Intervention

29. An individual who exhibits severe behavioural difficulties may require intervention if they show:

- aggression
- destructive behaviour
- hyperactivity
- behaviour that is likely to result in injury.

30. The individual's unpredictable and destructive behaviour must require the presence of another person to intervene.

31. In this context, intervention means providing either care and support, or treatment of the individual¹.

1 CDP regs, reg. 13(9)

32. Case managers should consider how often intervention is needed to reach a determination of whether intervention is required in the normal course of the individual's day.

33. 'Requires' in this context means 'reasonably requires'. This means that it depends on the individual circumstances of each case. The requirement to intervene must be to prevent or reduce the likelihood of physical injury from occurring.

34. Case managers should consider whether the individual has a positive behaviour support plan. See below for more information, This describes how the individual's behaviour is challenging and the types of intervention or strategies that are used to help the individual.

35. A positive behaviour support plan is one type of supporting information that may be relevant. However, the eligibility criteria for CDP does not require the individual to have such a plan. Alternative types of supporting information may be available from social work teams, schools or paediatricians.

36. Use of physical intervention and medication to calm an individual who experiences challenging behaviour are generally not a good long-term solution.

37. There is no requirement that the individual must be physically restrained. Case managers should consider more generally what strategies are required to prevent or manage episodes of challenging behaviour.

Positive behaviour support plan

38. A positive behaviour support plan is created by the child's Child and Adolescent Mental Health Services team. Its function is to help understand and support children, young people and adults who have a learning disability and display behaviour that others find challenging.

39. Children, young people and their families should be involved as much as possible in developing and reviewing the plan.

40. The plan will usually include the following elements:

- proactive strategies designed to improve quality of life and remove conditions that promote challenging behaviour
- identification of environmental adaptations and strategies to support the development of new skills
- preventative and calming strategies in response to early signs of distress
- reactive strategies to manage behaviours that are not preventable.

Example: an individual does not meet the severe mental impairment test

Jane, who is 5, is capable of playing alone in her room with the door closed, despite displaying some behavioural difficulties.

The case manager determines that Jane does not meet the ‘severe mental impairment’ test as her carer is not required to be present and watching over Jane whenever she is awake.

Example: an individual meets the severe mental impairment test

John is 9 years old, has autism and is not able to speak. He lives at home with his family and attends a school for children with extra support needs five days per week. The case manager has already determined that he is entitled to the higher rate care component of CDP. John is never left alone at home as he often has random violent outbursts. He can become violent towards his family, hurt himself and destroy household objects. In general, John has no understanding of the impact of his behaviour.

His parents take actions that are set out in John’s positive behaviour support plan to prevent harm to anyone or damage to their home. His parents take turns sleeping in John’s room to ensure his immediate safety if he awakens at night.

His school has provided a report about his behaviour. While at school, he has unpredictable violent episodes, can attack anyone nearby, throws chairs and injures himself.

Two members of staff are present at all times to supervise him and take action if necessary. This is due to John’s unpredictable and destructive behaviour. He requires the constant presence of another person to watch over him and take action. This action is set out in John’s positive behaviour plan. This meets the severe mental impairment test and the case manager makes an award of the higher rate of the mobility component.