

Unscheduled reviews and determination without application

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Introduction

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

This could affect either:

- entitlement to CDP overall,
- the rate of the care or the mobility component or both the individual receives.

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

2. Unscheduled reviews are different from scheduled reviews. Individuals are informed in their notice of determination that they will have a scheduled review after a certain date. This is to ensure that 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 care and/or mobility needs
- a deterioration or improvement in a condition that impacts on the individual's care needs and /or mobility needs
- moving away from Scotland
- discovery that an error was made with the previous determination
- the individual going into a care home, residential educational establishment 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 about whether an individual is still eligible for CDP, and if so, at what rate. The case manager must inform 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 CDP 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 way¹. [Link to chapter on change of circumstances: change in mobility or care needs]

1 CDP regs, reg. 31(a)

12. When the Scottish Ministers become aware that a determination of an individual's award was made in ignorance of a material fact¹. [Link to chapter on when a previous determination is based on an error]

1. CDP Regs 31(a).

13. When an individual dies¹ [LINK TO DEATH OF AN INDIVIDUAL CHAPTER]

1 CDP regs, reg. 31(b)

14. When an individual:
- is under 18 years old,
 - becomes resident in Scotland,
 - was resident in another part of the UK and was entitled to Disability Living Allowance (DLA) immediately before the date of the move to Scotland¹. [Link to chapter on Moving from Scotland to another part of the UK or another part of the UK to Scotland or vice versa]

1 CDP regs, reg. 35

15. If the DLA 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 DLA award is revised, superseded, appealed, or reconsidered¹ after the determination of entitlement to CDP after moving to Scotland [Link to section on ‘when an individual in receipt of DLA moves to Scotland and their DLA award then changes’ of the chapter on Moving from: Scotland to another part of the UK or another part of the UK to Scotland]

1 CDP regs, reg. 31(c)

16. When an individual moves from Scotland to another part of the UK¹. [Link to section on ‘when an individual in receipt of CDP moves to another part of the UK’ section of the chapter on Moving from Scotland to another part of the UK or another part of the UK to Scotland and vice versa]

1 CDP regs, reg. 36

17. When the previous determination was based on an error¹. [Link to chapter WHEN A PREVIOUS DETERMINATION IS BASED ON AN ERROR].

1 CDP regs, reg. 32 (Determination following official error – underpayments) and reg. 33 (Determination following error – overpayment)

18. When Social Security Scotland–
- begin giving CDP to an individual by way of deduction¹
 - decide that it is no longer appropriate to give CDP to an individual by way of deduction²
 - decide to vary the amount being given to an individual by way of deduction³
 - decide to vary the period over which CDP is given to an individual by way of deduction⁴
 - cease making deductions⁵.
- [LINK to chapter on giving CDP by way of deduction]

1 CDP regs, reg. 34(2)(a)
2 CDP regs, reg. 34(2)(b)
3 CDP regs, reg. 34(3)(a)
4 CDP regs, reg. 34(3)(b)
5 CDP regs, reg. 34(3)(c)

19. When an individual who is receiving CDP by way of deduction notifies Social Security Scotland that they wish to -
- withdraw their agreement to be given CDP by way of deduction¹
 - increase or decrease the amount of CDP being given by way of deduction²
 - amend the length of period over which CDP is given to an individual by way of deduction³.

[Link to chapter on giving CDP by way of deduction]

1 CDP regs, reg. 34(4)(a)
2 CDP regs, reg. 34(4)(b),(c)
3 CDP regs, reg. 34(4)(c)

Unscheduled review following change of circumstances – link to chapters

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

21. Where there is a change of circumstances relating to a change in an individual's mobility or care needs. [Link to chapter on change of circumstances: change in mobility or care needs.]

Individuals tell us about a change

22. Individuals are told in their notice of determination of an award that they must tell us about changes in their circumstances¹ that may affect their award.

1 Social Security (Scotland) Act S.56

23. 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.

24. Individual's 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.

25. The notice of determination of an award tells individual's both:

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

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

- be liable to repay an overpayment [Link to chapter on payment errors]
- be committing a criminal offence. [Link to guidance on Fraud]

Third parties telling us about a change

27. 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 publically-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 an 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

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

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

- the rate of award
- the length of the review period
will require a review.

30. 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.

31. If an individual is unsuccessful in applying for CDP 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 error¹ was made when determining entitlement. [Link to chapter on when a previous determination is based on an error.]

1 CDP regs, reg. 32 (Determination following official error – underpayments)

32. 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 [LINK].

Example: change that requires an unscheduled review

Mia is entitled to the lowest rate care component and the lower rate mobility component of CDP. Mia's parent contacts Social Security Scotland on the 9th of

February to inform them that they will be moving permanently away from Scotland in 4 weeks' time.

The case manager carries out an unscheduled review and makes a determination without application. As Mia is moving away from Scotland, her entitlement to CDP will stop on the 10th of March.

The case manager sends out a notice of determination to Mia's parent explaining the outcome of the unscheduled review.

Changes which do not require an unscheduled review

33. 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

Calum is entitled to the middle rate care component and the lower rate mobility component of CDP. His parent completes a Change of Circumstances form and sends it to Social Security Scotland to update their phone number and address after the family moves from Stirling to Aberdeen.

The case manager reviews the Change of Circumstances form and determines that no unscheduled review is required, as the change of contact details would not affect Calum's entitlement to CDP.

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

Unnecessary to review

There are circumstances in which a change to the child's needs is reported but it is not necessary to review the child's award.

It is unnecessary to review a client's case if they are both:

- reporting that the child's needs due to their condition or disability either remained the same or got worse
- already on the highest level of award.

Case managers should follow the Operational Guidance on "Unnecessary to Review" if the change of circumstances meets both of the above criteria.

A change that occurs before the initial determination is made

34. 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

35. 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 [LINK].

When a change of entitlement takes effect

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