

Effect of time spent in care homes, hospitals or similar institutions

Index

In this chapter, we cover certain types of alternative accommodation including care homes and hospitals. Legal detention is another type of alternative accommodation. This is covered in the Legal Detention chapter.

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Introduction

1. This chapter is relevant to individuals who are entitled to Pension Age Disability Payment (PADP). It explains how living in a care home¹ or hospital² affects the individual's entitlement to PADP.

1 PADP regs, reg. 19

2 PADP regs, reg. 20

2. An individual entering or leaving alternative accommodation, or a change in how their stay in alternative accommodation is funded, is a change of circumstances.
3. When an individual tells Social Security Scotland about a change of circumstances that would possibly affect their entitlement to PADP, a case manager must both:
 - carry out an unscheduled review of the case
 - make a determination without application.¹

1 PADP regs, reg 40(a)

4. The Unscheduled Reviews chapter has more information on:
 - changes of circumstance
 - unscheduled reviews
 - determinations without application.

Definition of care home, hospital and hospice

5. A care home is defined^{1,2} as a service which provides accommodation together with any of the following:

- nursing care
- personal care
- personal support

1 PADP regs, reg. 2

2 Public Services Reform (Scotland) Act 2010, Schedule 12, para.2

6. The service should be provided to the individual because of their vulnerability and needs. This definition of care home does not include hospitals or hospices.

7. It might not always be clear if the place where the individual is living is a care home. The key to this definition is if the accommodation is linked to the care they receive¹.

1 PADP regs, reg. 2

8. Situations such as retirement or sheltered housing are similar but are not defined as care homes. The individual may have their tenancy paid for separately to the care or services they receive. Case managers should consider this on an individual basis.

Example: accommodation which is not considered to be a care home

Georgia is 72 and has applied for PADP. She has recently moved into retirement housing. This is sometimes known as sheltered housing. Georgia's accommodation has a communal area, a 24-hour emergency alarm system and a warden.

However, Georgia does not receive support with her nursing or personal care, meals or help with daily tasks. Georgia lives independently in her retirement housing but has the comfort of knowing there is an alarm system during an emergency.

The case manager determines that Georgia's accommodation does not meet the definition of a care home. This means that Georgia's accommodation is not taken into consideration when making a determination of entitlement to PADP.

9. A hospital is an institution or establishment for the care of the sick or wounded, or of those who require medical treatment. Any reference to hospital in this chapter can also refer to similar institutions such as:

- rehabilitation centres
- addiction clinics

It can also include hospices.

10. For applications under Special Rules for Terminal Illness only, a hospice is a palliative care institution that isn't publicly funded and whose main function is to provide palliative end of life care for people suffering from a progressive disease at the final stages. A hospice is a separate organisation to a hospital. For more information on the definition of a hospice, see the section below, and for information on applying for PADP with a terminal illness, see the Special Rules for Terminal Illness chapter.

1 PADP regs, reg. 21(2)

11. If an individual is resident or a patient in a care home¹, hospital², or similar institution outside of the common travel area, it could affect their ability to satisfy the ordinary and habitual residence requirements for PADP. This will depend on their overall circumstances and how long they will remain outside of the common travel area³. An individual can be absent from the common travel area for any reason for up to 13 weeks, or up to 26 weeks where the absence is for medical treatment⁴. The common travel area comprises the UK, the whole of the island of Ireland (including the Republic of Ireland), the Channel Islands and the Isle of Man.

1 PADP regs, reg 19

2 PADP regs, reg 20

3 PADP regs, reg. 9(d)

4 PADP regs, reg 10

12. Case managers should be aware that this temporary absence from the common travel area could impact upon an individual's entitlement to PADP. They will have to consider the potential impact in all cases involving time periods spent in a care home, hospital or similar institution outside of the common travel area. For more information on this and temporary absences from the common travel area, see the Residence and Presence Chapter.

Effect on entitlement of an individual already in receipt of Pension Age Disability Payment spending time in care homes, hospitals or hospices

13. An individual who is already in receipt of PADP is entitled to still be paid it for the first 28 days of their stay in a care home. This is to ensure the change to payments comes into effect for longer or repeated periods in alternative accommodation.

14. There is no impact to the client for shorter periods of less than 28 days, where they do not link to other periods of alternative accommodation. The 28 day period may comprise of one or more separate periods, providing there are no more than 28 days between the periods.¹ For more information on linked periods, reference should be made to the 'Linked periods' section of this chapter.

1 PADP regs, reg 19(3) and 20(3)

15. The individual stops being paid PADP on the 29th day of their time spent in a care home¹. This is called 'non-payment of assistance'.

16. In most cases when an individual is in alternative accommodation, the costs of their care will be paid for by the local authority or other public funds. Non-payment of assistance ensures that a person does not receive support for the costs of their care twice. However, there are exceptions to these rules when an individual entirely self-funds their placement in a care home or hospital. Case managers should refer to the 'exceptions' section of this chapter to understand the exceptions.
17. The non-payment of assistance enables an individual's entitlement to PADP to continue while they are resident in a care home.
18. This is because PADP helps to meet the extra costs experienced by individuals with a disability or long-term health condition.
19. Non-payment of assistance and linked periods also apply to hospital admissions as well. On the 29th day of a period in hospital, an individual stops being paid PADP¹. For more information on calculating a length of stay in alternative accommodation, reference should be made to the 'Calculating the length of stay' section below.

20. For this to be the case, an individual also has to:
- be undergoing medical or other treatment as an in-patient at a hospital or similar institution
 - have any of the costs of the treatment, accommodation and any other related services borne out of public funds¹.

21. Borne out of public funds means the cost of treatment, accommodation and any other related service is paid if the individual is undergoing medical or other treatment as an in-patient in:
- a hospital or similar institution under¹:
 - the National Health Service Act 2006
 - the National Health Service (Wales) Act 2006
 - the National Health Service (Scotland) Act 1978
 - the Health and Personal Social Services (Northern Ireland) Order 1972 or the Health and Personal Social Services (Northern Ireland) Order 1991
 - a hospital or similar institution maintained or administered by the Defence Council.²

The Defence Council is the governing body of the British Armed Forces. The Armed Forces may at times provide medical treatment to some individuals through hospitals or similar institutions, which also uses public funds.

1 PADP regs, reg. 20(4)(a)

2 PADP regs, reg. 20(4)(b)

22. Payment continues after 28 days when the individual is in a hospice, is terminally ill and Social Security Scotland have been informed that the individual is terminally ill.

1 PADP regs, reg. 21(1)

23. The paragraph above refers only to a “hospice” as is defined earlier in this chapter. If an individual is receiving palliative care within a specialised ward or facility in a hospital or care home, the individual is considered to be in a publicly funded hospital or care home. Their award will be £0 rated on the 29th day. These rules also apply for individuals who are not terminally ill and are resident within a hospital or care home where a palliative care unit has been established.

24. The exceptions to these rules in this section are discussed in the **Exceptions section** below.

25. The individual who is receiving PADP has a legal duty to inform Social Security Scotland about entering and leaving alternative accommodation, or where there has been a change in how their stay in alternative accommodation is funded¹. The case manager will then make a determination without application.

1 SS (Scotland) Act 2018, s.56

26. They must tell Social Security Scotland about time spent in alternative accommodation as soon as is reasonably practicable.
27. For example, it would be unreasonable for the individual or their representative not to inform Social Security Scotland that they have entered alternative accommodation after a month of being resident. Reference should be made to the Change of Circumstances chapter for more information on what might be considered a good reason for not notifying Social Security Scotland as soon as is reasonably practicable.
28. An individual might not inform the case manager immediately after they have entered alternative accommodation. This might result in the case manager making a determination without application after the individual has spent 28 days in alternative accommodation. In this case, the individual would accrue an overpayment before their payment of PADP would be set to nil. This would happen in instances where the individual failed to notify the change as soon as was reasonably practical.

29. Reference should be made to the change of circumstances chapter for more information on when an individual should notify Social Security Scotland of a change.

30. There are different rules about applying for PADP when living in alternative accommodation. Please see **Applications made while residing in alternative accommodation** for a full explanation of this rule.

Calculating the length of stay

31. The days on which the individual arrives at and then goes home from alternative accommodation do not count¹ in calculating the length of stay.

1 PADP regs, reg. 23(2)

Example: Calculating the length of stay in a care home

Callum arrives at a care home on 3 August and leaves on the 1 September. The days he arrived and left do not count, so Callum's length of stay in the care home is 28 days. Callum's payment of PADP is not affected because this does not exceed 28 days.

32. If an individual enters a care home or hospital from another care home, hospital or from legal detention, the day they enter that second care home or hospital is counted as part of the length of stay¹.

1 PADP regs, reg. 23(5)

Example: Calculating the length of stay when transferring from a hospital to a care home

Diane has an ongoing award of PADP and is admitted to a hospital on 27 May. On 2 June, she transfers from a hospital to a care home. She leaves the care home on 2 July. The day she transferred to the care home from the hospital count when calculating the relevant period but the days she went into hospital and left the care home do not count. The period of time she spends in alternative accommodation is therefore 35 days. As this exceeds 28 days, Diane cannot receive her award of PADP for the final 6 days of her stay in a care home.

Temporary periods of leave during a stay in a care home or hospital

33. Individuals are entitled to receive payment of PADP during any period that they temporarily go on leave from a care home¹. This time is called the period of leave. However, the individual must inform Social Security Scotland of the leave.

1 PADP regs, reg. 23(4)

34. A period of leave also applies to temporary leave from a hospital. Individuals are entitled to payment of PADP again in these circumstances. However, the

individual must inform Social Security Scotland of the leave if it will likely impact their award.

35. The period of leave includes the days when the person left and returned to a hospital or care home.¹

1 PADP regs, reg. 23(3)

36. The case manager has to make a determination without application for any moves in and out of a care home or hospital that affects the amount paid to the individual.

Example: Calculating leave periods

Jean has been residing in a care home for 4 months and is entitled to PADP. She received PADP for the first 28 days of her stay in the care home. Jean leaves the care home to return home on the 18 of July. She returns to the care home on 1 August. This means Jean is entitled to receive payment of PADP from 18 July until 1 August. She therefore receives payment for 15 days.

Linked Periods

37. When calculating the length of stay in alternative accommodation, individual periods shorter than 28 days can be added together to form one 28 day period. However only periods with fewer than 28 days between them can be linked together in this way¹.

1 PADP regs, reg. 19(3) and 20(3)

38. When an individual takes a temporary period of leave shorter than 28 days, their entitlement to be paid PADP will stop when they return to a care home or hospital. This is because a temporary period of leave of 28 days or fewer does not break any linked periods.

39. However, if the individual takes a period of leave or is discharged for 29 days or more before returning to a care home or hospital, the two periods are not linked and they will be paid PADP for the first 28 days of their stay.¹

1 PADP regs, reg. 19(3) and 20(3)

Example: linked periods that have an effect on payment

William ordinarily lives at home but has periodic stays in respite care, which meets the definition of a care home. He started receiving PADP six months ago.

William entered respite care on 1 April and left 19 April. The day he entered the care home and the day he leaves are not taken into account, so this period of residence is 17 days.

William is at home from 19 April and enters the care home again on 5 May. The day he left and the day he returned to the care home are not taken into account so the period he was living at home is 17 days.

From 5 May, William resides in the care home until returning home on 18 May. Neither 5 May or 18 May are included in the calculation, so the period William was residing in the care home for is 12 days.

As there are fewer than 28 days between the two periods during which William is in respite care, they are linked to form one 29 day period.

William will therefore receive PADP for the first 28 days of his stay but will not be paid for day 29.

Example: linked periods that have no effect on payment

Anita has been entitled to PADP for 3 years. They regularly spend short periods of time in hospital and live in their own home with their husband the rest of the time. Over the period of 3 months, Anita's routine is:

- residing in hospital: 1 October to 7 October. This period of residence is 5 days.
- living at home: 7 October to 2 November. This period living at home is 27 days.
- residing in hospital: 2 November to 10 November. This period of residence is 7 days.

There are only 27 days between the 5 day period and the 7 day period residing in hospital. These two periods are linked to form one 12 day period. Anita is entitled to PADP for this 12-day period.

Anita then stays at home from 10 November to 11 December. As this is more than 28 days the clock is re-set. Therefore, the 12 days of residence in hospital are not taken into consideration in calculating any future length of stay at the hospital. If there are any future stays, Anita would be entitled to receive PADP for 28 days all over again.

Exceptions

Self-funding placements in a hospital

40. Individuals are entitled to be paid PADP for the full period they are living in hospital if the full cost of the qualifying services are privately funded¹.

1 PADP regs, reg. 20(1)(b) and (4)

Self-funding placements in a care home

41. Individuals are entitled to be paid PADP for the full period they are living in a care home if the full cost of the qualifying services are paid for either:

- entirely by the individual
- partly by the individual and partly by another person such as their child, guardian or a charity. This does not include a local authority in the UK.
- entirely by another person or paid for by a charity, which doesn't include a local authority anywhere in the UK¹.

1 PADP regs, reg. 19(4)

Example: Publicly funded personal care while resident in a care home

Free Personal Care is one example of publicly funded care in Scotland. This is available to all adults in Scotland, with eligibility being assessed by the local authority. Therefore, if someone is in receipt of Free Personal Care while residing in a care home, the care home rules in this chapter will apply to their payment of PADP.

If an individual receives Free Personal Care while residing in their own home, or retirement/sheltered housing, their payment of PADP will not be impacted.

If an individual is resident in a care home and receives Free Nursing Care only, this will not impact on their payment of PADP. However, it is unlikely that an individual residing in a care home will receive Free Nursing Care without also receiving Free Personal Care, as eligibility is also assessed by the local authority. More information on Free Personal Care and Nursing Care can be found here: [Free personal and nursing care: questions and answers - gov.scot \(www.gov.scot\)](http://www.gov.scot/free-personal-and-nursing-care-questions-and-answers)

Applications made while residing in a care home or hospital

42. If an individual is living in a care home on the day the application for PADP is treated as being made, their entitlement to PADP can begin but the amount is reduced to nil until the day after they leave alternative accommodation. The exceptions above apply.

43. If an individual is in hospital on the day entitlement to PADP begins, their eligibility can begin, but the eligibility to receive payment of PADP won't begin until the day after they are discharged from hospital. The exceptions above apply¹.

1 PADP regs, reg. 24(1) and (2)

44. If the individual returns to a care home or hospital after 28 days from their previous period ending, their entitlement to payment of PADP is affected in the same way as described above.

Care homes, hospitals, or similar institutions and Short-term Assistance

45. Short-term Assistance is a payment available to individuals challenging a determination which has reduced or ended an ongoing award of assistance. This includes re-determinations and appeals.
46. The value of Short-term Assistance is the difference between the value of assistance before the determination and the current rate. Payment of Short-term Assistance lasts for the duration of the re-determination or appeal.
47. An individual whose PADP has been reduced to nil because they are in a care home, a hospital or similar institution is not entitled to Short-term Assistance¹.

1 PADP regs, Schedule 1, Part 1, Paragraph 1(6)

48. For more information on Short-term Assistance, please refer to the PADP Short-term Assistance chapter.

Impact on transferring individuals from Attendance Allowance when entitlement to PADP begins while they are in a care home or hospital

49. Where an individual's existing award of Attendance Allowance has transferred to Social Security Scotland, case managers should refer to the Case Transfer chapter for guidance relating to individuals residing in alternative accommodation.

[END OF CHAPTER]