

## **Pension Age Disability Payment – Definitions**

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### **Introduction**

1. This chapter covers guidance on interpreting definitions for Pension Age Disability Payment (PADP).

### **Common definitions**

#### **So severely disabled physically or mentally**

2. To qualify for PADP, an individual must be “so severely disabled physically or mentally” that they need:
  - frequent attention or continual supervision from another person throughout the day to satisfy the daytime condition<sup>1</sup>
  - and/or
  - prolonged or repeated attention or another person to be awake for a prolonged period or at frequent intervals to watch over them at night to satisfy the night-time condition.<sup>2</sup>

*1 PADP regs, reg 5(2)*

*2 PADP regs, reg 5(3)*

3. References to “severely” do not refer to the severity of the individual’s condition. They refer to the severity of the impact of the individual’s disability. This means the severity of the needs that result from having a disability.
4. Case managers should consider if:
  - the individual has a physical or mental disability
  - the impact of that disability means that the individual meets the eligibility criteria for PADP.
5. Supporting information from a professional may be:

- important and useful
- not always readily available.

A lack of diagnosis does not prevent an individual from being awarded PADP. Case managers should refer to the Supporting Information chapter for more information.

### **Reasonably require**

6. The attention or supervision that an individual needs must be reasonably required<sup>1</sup>.

*1 PADP regs, reg 5(5)(b)*

7. Entitlement to PADP is based on the attention or supervision that an individual reasonably requires. It is not based on the attention or supervision the individual actually receives.

8. Therefore, case managers should consider all the circumstances of an individual case, including:

- individual needs detailed in the application form and supporting information
- the nature of the individual's health condition or disability
- how often and for how long attention is required in connection with an individual's bodily functions<sup>1</sup>
- whether there is an aid or appliance that the individual could use to manage a bodily function independently<sup>2</sup>
- how often and for how long supervision<sup>3</sup> is required during the day<sup>4</sup> or watching over is required at night<sup>5</sup>.

*1 PADP regs, reg 5(5)*

*2 PADP regs, reg 5(8)*

*3 PADP regs, reg 5(5)*

*4 PADP regs, reg 5(2)(b)*

*5 PADP regs, reg 5(3)(b)*

9. Reasonably required does not mean medically required. <sup>1</sup> Medical attention, such as visits from a district nurse, should be considered as part of the individual's wider need for attention.

*1 PADP regs, reg 5(5)*

### **Example: an individual receives attention during the day that is reasonably required and attention at night that is not reasonably required**

Anne is 68 years old and was diagnosed with Stage 2A breast cancer. She started undergoing chemotherapy shortly after the diagnosis.

Due to her treatment, Anne is often sick soon after eating and generally feels very tired.

Anne's husband has to:

- help Anne get changed and clean up whenever she has been sick
- help Anne with eating and drinking as she is often too exhausted to do this herself
- help Anne with washing and dressing due to her exhaustion.

Anne's husband is also very concerned that something might happen to Anne at night. He gets up three times every night to check on Anne to prevent her from choking in her sleep in case she is sick. Anne's husband does this even though Anne has never been sick during the night.

Anne is entitled to the lower rate of PADP as the case manager has determined that she meets the daytime condition. This is because, using all of the information available to them, the case manager considers that she requires frequent attention with her bodily functions during the day, and this frequent attention is reasonably required. She is not entitled to the higher rate of PADP as she does not satisfy the night-time condition. This is because:

- her husband checking on her at night is not reasonably required as Anne is only sick after eating during the day, but has never been sick at night
- she does not require attention or someone to watch over her at night.

### **Aids and appliances**

10. The need for attention or supervision may be reduced or removed by the use of an aid or appliance.
11. Aids or appliances may be available to reduce the impact of an individual's disability. However, the case manager must decide whether it is both reasonable and practicable for the individual to obtain and use them.
12. In the situation where an aid or appliance does or could reduce or remove the care need a client has reported, we should avoid recommending any specific aid or appliance where we lack the legal or medical authority to advise this without the relevant or appropriate assessment

### **Example: an aid is not practicable for the individual to use**

Johnny is 73 years old and has Parkinson's disease. Johnny has tremors and his muscles have become stiff. Johnny is unable to stand up from a seated position independently.

To help Johnny get on and off the toilet independently, his occupational therapist has provided him with a raised toilet frame and seat. Johnny's partner has noticed that:

- Johnny's upper body strength has reduced
- He has difficulty pushing himself up from sitting on the frame and seat.

The case manager decides that although it is a reasonable aid to use, it is not practicable for Johnny to use it.

**Example: an aid is reasonable and practicable for the individual to use**

Geraldine is 70 years old and has had a stroke. She has a weakness in her left arm and leg. This means she has had difficulty dressing without the use of aids. Geraldine notes that she uses aids to assist her with dressing.

Geraldine uses:

- a sock and stocking aid to put on socks
- a button hook to fasten buttons with one hand
- a dressing and reaching stick to adjust and help remove clothing.

Geraldine can now get dressed and undressed independently through the use of aids. The case manager decides that:

- it is reasonable and practicable for Geraldine to use the appliances
- Geraldine does not need help with dressing and undressing.

The case manager continues to review the rest of Geraldine's application to determine if she meets the eligibility criteria for PADP for her other needs that she may require help and support with.

13. Case managers should consider:

- the consequences of using any suggested aid or appliance
- if it is safe for the individual to use a particular aid or appliance
- asking for advice from a practitioner if it is not clear that an item is reasonable or practicable.

### **Daytime and night-time routine**

14. Whether an individual requires attention or supervision by day<sup>1</sup> or by night<sup>2</sup> should be considered in relation to the ordinary domestic routine of the household where they live.

*1 PADP regs, reg 5(8)*

*2 PADP regs, reg 2*

15. There may be considerable variation between households. Case managers should take a broad view of when the household as a whole closes down for the night.

16. For example, where appropriate, case managers should give consideration to when an individual's caregiver goes to bed when determining whether the individual's needs fall within the daytime or night-time condition.

17. The individual's application form may have described their daytime and night-time routines. Case managers should consider contacting the applicant in line with their communication preferences if there is any doubt about the household routine.

**Example: the daytime condition is satisfied**

Jenny is 90 years old and lives with Type 2 Diabetes and Alzheimer's disease. Jenny requires frequent attention throughout the day. She needs support with eating and drinking, as the impact of Alzheimer's disease causes Jenny to forget what she has eaten and when, which can have a significant impact on her blood sugars.

Jenny's son supports her with managing personal hygiene. Jenny can feel tired and has blurred vision, meaning she needs assistance with washing and toileting as she can often become disorientated. Jenny's son regularly monitors her blood sugars and will administer insulin when required.

Jenny's son assists her with dressing as she can become confused with the order that clothes should be put on and selecting appropriate clothing. The case manager determines that the use of aids would not be appropriate given the combined impact both of Jenny's health conditions have.

Jenny's diabetes leads to incidents of incontinence at night. Jenny's son has established the following bedtime routine to help manage this:

- 8pm: Jenny goes to bed
- 10pm: Jenny's son takes her to use the toilet
- 11pm: Jenny's son goes to bed

As Jenny's son assists her to use the toilet before he goes to bed, this attention is not considered to be night-time needs due to the domestic routine of the household. Therefore, Jenny does not satisfy the night-time condition as the case manager considers the attention with toileting needs to fall into the daytime condition.

Therefore, the case manager determines that Jenny satisfies the daytime condition as she requires frequent attention in relation to her bodily functions and is entitled to the lower rate of PADP.

**Example: the night-time condition is satisfied**

Alex is 67 years old and has Schizophrenia. Alex finds it difficult to get to sleep. This is because he has hallucinations and muddled thoughts which causes him distress.

Once Alex is in bed, he is often distressed and anxious. Alex's wife checks on him regularly to soothe him and provide reassurance. Hearing his wife helps Alex to feel settled. It normally takes Alex around three hours to fall into a deep and prolonged

sleep. In order to manage Alex's needs, his wife has pushed back her regular bedtime.

Before Alex started to need support to fall asleep, his wife normally went to bed around 10pm. However, the household now follows this bedtime routine:

- 9pm: Alex goes to bed
- midnight: Alex's wife goes to bed, as Alex will have fallen asleep by then.

The attention provided from 10pm is relevant to the night-time, rather than the daytime condition.

### **Attention with bodily functions**

18. Attention with bodily functions means providing personal care, prompting or motivating either in relation to:

- bodily functions
- assistance with communication needs<sup>1</sup>.

*1 PADP regs, reg 5(5)*

19. Bodily function means the normal action of any organ of the body or of a number of organs acting together<sup>1</sup>. This includes the brain.

*1 PADP regs, reg 5(8)*

20. Common examples of bodily functions that case managers may wish to consider include:

- breathing
- washing, bathing and personal hygiene
- dressing and undressing
- drinking
- eating
- emptying of the bowel or bladder
- hearing
- seeing
- speaking
- sitting
- moving around indoors
- sleeping.

This list is not exhaustive.

21. Case managers should apply their own judgment based on the application form and any supporting information available to consider:

- whether the individual has a disability

- what impact the individual's disability has on their bodily functions
- whether it is reasonable or practicable for the individual to use aids or appliances
- whether the person reasonably requires attention from another person in connection with those bodily functions
- how often the attention is required and how long it takes.

22. There is no requirement for the individual's needs to be present for more than 50% of the time, or "most" of the time. Case managers should take a broad view and make an exercise of judgement by taking account of all of the information available to them. For more information on the criteria for PADP, reference should be made to the PADP Rates and Criteria chapter.

23. Attention should:

- involve service of a close, personal nature carried out in the presence of the individual
- be needed for something that the individual would normally do themselves
- not be something which can be done by anyone in the household.

**Example: an individual requires attention from another person to bathe and dress**

Louise is 70 years old and has chronic obstructive pulmonary disease (COPD). She can become breathless very easily from minimal activity. She needs attention from another person in relation to her bodily functions.

Louise needs help to bathe and dress herself. This is because doing so can leave her breathless. When Louise becomes breathless, it can take between 5 to 10 minutes to recover. Louise would be unable to bathe or dress herself without this attention because she would have to take multiple breaks to recover from her breathlessness.

24. Attention does not need to involve physical contact. It can involve the spoken word. Where attention is provided by speaking to the individual, it should take place in the physical presence of the individual<sup>1</sup>. This could include encouraging, persuading or reassuring the individual.

*1 PADP regs, reg 5(4)*

25. Activities that normally do not involve attention with a bodily function are:

- cooking
- shopping
- domestic tasks, such as housework.

26. There may be some situations where help with a domestic task is closely associated with a bodily function. It may be considered as attention when it forms part of an episode of attention in connection with that function.

**Example: a domestic task is associated with a bodily function**

Ryan is 70 years old and experiences urinary incontinence at night due to his Type 1 Diabetes. This means that Ryan experiences bed wetting. He previously managed this independently, but has recently struggled to manage his condition.

His partner has to, at least once a night:

- help him change
- remove his soiled bed clothes
- put them in the washing machine
- put new bedding on his bed.

This attention is closely associated with Ryan's bodily function of maintaining continence. The case manager can consider this attention in determining whether Ryan meets the criteria for PADP.

27. The following paragraphs guide case managers on the impact some conditions might have on an individual's ability to manage their bodily functions.

**Breathing**

An individual may need help with:

- positioning themselves whilst seated or in bed
- connecting oxygen supplies or fitting masks
- physical therapy

because they:

- are at risk of being unable to sit up in bed
- have reduced ability to use their hands to carry out tasks
- need physical therapy to maintain their airways.

**Example: an individual requires attention to their bodily function of breathing**

Jocelyn is 72 years old and has a diagnosis of heart failure which causes her to be short of breath, even at rest. Her partner has to ensure that she is propped up in bed, as she cannot breathe reasonably well when lying flat. If Jocelyn slides down the bed, she can become more breathless. Her partner also has to ensure Jocelyn has her oxygen therapy available during the night when she feels more breathless.

**Washing, bathing and personal hygiene**



An individual may need help with:

- washing
- cleaning teeth
- caring for their hair, nails and skin

because they either

- are physically not able to carry out these activities
- have a tendency to not look after their personal hygiene due to a mental health condition.

### **Dressing and undressing**

An individual may need help with:

- selecting suitable clothing
- being motivated to dress, undress and change clothing
- fastening clothes and shoes
- putting on clothes in the correct order

because they:

- are physically not able to carry out these activities
- have poor motivation due to a mental health condition
- are forgetful.

Attention with dressing and undressing may be needed at the start and end of the day.

If an individual has a condition that causes them to have episodes of incontinence, they may need to change clothing more frequently, including during the night.

Some individuals may have a neurological or cognitive disability that means they need prompting to either:

- dress appropriately
- put clothing on in the correct order.

### **Eating, drinking and taking nutrition**

An individual may need help with:

- cutting up food
- seeing food on a plate
- chewing and swallowing
- using cutlery and crockery
- motivation to eat
- using a tube to take nutrition

because they:

- are physically not able to carry out these activities
- have a visual disability
- are forgetful
- have poor motivation due to a mental health condition
- need help with managing a feeding tube.

Some disabilities can make cutting up food or feeding difficult. Case managers should take the use of special cutlery or other aids into account when determining the amount of help that is reasonably required.

Use of aids can only be considered if they reduce or remove the need for attention. An individual using aids may still need attention. The case manager must also decide whether it is both reasonable and practicable for the individual to obtain and use aids.

**Example: aids which remove an individual's need for attention with the bodily functions of eating**

Charlotte is 70 years old and has rheumatoid arthritis. The joints in her hands and wrists make it difficult for her to use cutlery. This is because she isn't able to grip them comfortably. Charlotte invests in some specially adapted cutlery. This cutlery is more comfortable for Charlotte to use. This means she is able to eat without needing attention from another person.

**Continence and use of toilet**

An individual may need help with:

- getting to and from the toilet
- managing clothing while using the toilet
- getting on and off the toilet
- managing cleanliness
- changing incontinence pads
- managing stoma and colostomy bags

because they:

- are physically not able to carry out these activities
- they do not get enough warning of the need to use the toilet
- are forgetful or not aware of how to manage toilet needs.

Case managers should consider a need for attention with:

- changing or washing clothes
- cleaning or emptying commodes.

This attention should be given as part of a single period of attention in connection with the bodily function.

Case managers should take into account the use of aids or appliances, like a frame or a hoist when assessing the amount of help that is reasonably required.

Use of aids can only be considered if they reduce or remove the need for attention. An individual using aids may still need attention. The case manager must also decide whether it is both reasonable and practicable for the individual to obtain and use aids.

## **Hearing**

An individual may need help with:

- learning sign language or lip reading
- understanding speech and recognising sounds
- having words repeated, re-phased or explained
- making themselves understood

This is because the individual cannot communicate effectively in real world environments without such assistance.

An individual who is able to communicate directly with another person through a combination of sign language, hearing and lip reading does not necessarily amount to needing attention in every instance. This is because the individual may or may not be able to communicate independently.

### **Example: an individual is entitled to the lower rate of PADP because they require attention to communicate effectively**

Claire is 75 years old and is moderately to severely deaf due to hearing loss in childhood. She uses hearing aids. The hearing aids only make sounds louder and clearer, they do not restore Claire's hearing back to normal. Claire has developed age related problems with her vision which means she now has to wear glasses and finds lip reading more difficult.

Claire now lives with her son who spends a lot of time repeating words and explaining things to her. In quiet environments where she is one on one with another person, Claire can communicate face to face without assistance.

Claire's application notes that her hearing loss may be a contributing factor to issues with her cognitive abilities, as Claire has reduced memory retention and concentration. The case manager requests a case discussion with a practitioner to discuss links between hearing loss and cognitive abilities. The practitioner shares that some research suggests that there may be a link between hearing loss and cognitive abilities and alertness. On the balance of probabilities, the case manager takes this into consideration when making a determination.

However, Claire requires support to communicate in busy environments, such as the supermarket. Claire's son now cares for her. Claire's hearing loss has caused her to reduce social engagements, which has had a significant impact on her mental health, as well as difficulty remembering new and important information.

The case manager determines that Claire is entitled to the lower rate of PADP. This is because Claire needs attention with her communication needs and has satisfied the daytime condition. This attention takes place during multiple episodes across the day, when she communicates with others and when she is trying to concentrate on everyday tasks.

If a person or carer has to either:

- speak loudly
- speak slowly
- listen more carefully

in order to communicate with an individual, this can sometimes be seen as providing attention. Whether these efforts amount to attention is dependent upon the nature and complexity of the information being communicated, as well as the person's ability to use sign language or to lip read independently.

**Example: an individual is not entitled to PADP because they do not require attention to communicate effectively**

Charles is 67 years old and has full hearing in his right ear. However, following an injury to his ear drum, he has mild to moderate hearing loss in his left ear. Charles is able to hear conversations at home and when carrying out everyday activities. He will turn his head to help if someone is talking quietly.

Charles doesn't find this impacts him at all most of the time, however at times he will use public transport when coming home from the shops with his partner which can be very noisy. Charles finds it hard to hear his partner talking to him when sat on his left, so he will always sit with his partner on his right so that he can hear them over the noise.

The case manager determines that Charles does not meet the criteria for PADP as his hearing loss does not mean he requires extra attention to communicate independently, and he does not have any night-time needs. Charles does not have needs at this time that meet the threshold for any award, however his needs in relation to his ear drum injury may change in future.

**Seeing**

An individual who is visually impaired may need:

- help with reading letters
- help with choosing appropriate clothing

- guidance, by touch or by verbal prompting to avoid harm when walking in unfamiliar surroundings
- places, objects and situations verbally described to them
- verbal instructions given to them
- encouragement, prompting or reassurance from another individual whilst they are physically present with them.

This is because the individual is unable to effectively see the world around them, this may be due to one or a combination of the following:

- reduced clarity of vision (blurred vision)
- reduced field of vision
- sensitivity to light
- reduced depth perception.

This list is not exhaustive.

Where attention is provided by speaking to the individual, it should take place in the physical presence of the individual.

An individual who is visually impaired may also require help with other bodily functions, such as:

- washing and bathing as they may require help getting in and out of a bath/shower, or help differentiating types of toiletries
- eating and drinking as they may require help cutting up food and identifying where food is on a plate to avoid spills
- dressing as they may require extra support to ensure that they are dressed appropriately or require help, for example, with using fastenings or zips
- maintaining personal hygiene
- moving around indoors to help avoid bumping into objects or managing stairs
- communication and social skills as they may require help in the form of additional physical contact and/or verbal instructions to describe and reassure the individual of their social surrounds, for example, an individual with a visual impairment may be unable to visually recognise a familiar person or may be unable to pick up on non-verbal cues such as smiling when engaging socially with others.

This list is not exhaustive.

**Example: an individual is entitled to the higher rate of PADP because they require frequent attention throughout the day and repeated attention during the night in connection with their bodily functions**

Annie is 68 years old and has sight loss and chronic musculoskeletal problems, largely on her left side, following a road traffic accident. Annie's ability to carry out everyday activities is greatly affected due to their long-term health conditions.

Annie's husband has detailed that he needs to help Annie with all areas of her daily needs due to her restricted movement on her left hand side. Her husband will assist with washing and bathing as she requires support while sitting in the bath. He also assists Annie with toileting and dressing, as her restricted movement and sight loss prevents her from managing these tasks independently. Annie's husband will also cut all of her food, as she is unable to do this on her own.

At night, Annie's sleeping can be a major challenge due to the pain and movement issues she experiences. Her husband gets up regularly during the night to comfort Annie due to the pain she experiences, as well as turning her regularly to prevent bed sores.

Annie's vision problems complicate her condition. She has been provided with specialist support from a physiotherapist who has provided input to help Annie manage her physical condition. Her husband helps Annie with carrying out exercises provided by the physiotherapist each day, however Annie struggles to follow the instructions due to her sight loss.

The case manager requests a case discussion with a practitioner to discuss the combined impact of Annie's conditions. The practitioner reviews all of the information with the case manager and explains the impact that Annie's physical condition has on her needs, and details the added challenge of her sight loss which adds further difficulty to her day to day life.

The case manager reviews all of the information available to them and awards Annie the higher rate of PADP, having taken into consideration Annie's care needs during the daytime and night-time.

**Example: an individual is entitled to the lower rate of PADP as they require frequent attention throughout the day in connection with their bodily functions**

Aisha is 85 years old and has type two diabetes. Aisha has struggled to manage her diabetes independently, which has led to the development of advanced diabetic retinopathy. This is a complication of diabetes which can result in loss of vision. Aisha has satisfied the backwards test, and is awaiting treatment for her condition.

Aisha's daughter is now her carer. Her daughter regularly checks Aisha's blood sugar levels and administers insulin when required. Due to her loss of vision, Aisha requires her daughter to assist with bathing and washing as well as getting dressed. Aisha also requires support to move around her house, including getting to the toilet and getting in and out of bed. Aisha requires support with eating and drinking, as her vision prevents her from eating independently, and due to struggling to manage her diabetes, Aisha's daughter prepares her meals to ensure appropriate nutrition.

The case manager determines that Aisha meets the criteria for the lower rate of PADP as she requires frequent attention throughout the day in connection with her bodily functions. She is not entitled to the higher rate as she does not require any support at night. As it is noted in her application that Aisha is on a waiting list for treatment, the case manager sets a two year review period to ensure Aisha

continues to receive the appropriate rate of PADP following any treatment and recovery time.

### **Getting in and out of bed**

Individuals may need help getting in and out of bed because of their disability or health condition. Some individuals use aids or equipment to overcome these difficulties.

These should be taken into account when determining the amount of attention that is reasonably required. An individual may still need attention even when using aids. The case manager must also decide whether it is both reasonable and practicable for the individual to obtain and use aids.

#### **Example: an individual requires attention when getting in and out of bed**

Sandra is 73 years old and has Parkinson's disease. Sandra lives in her own home and has been provided with a hoist to lift her between her bed and wheelchair. Sandra's carer needs to help her, as she cannot use the hoist independently. Sandra's carer operates the hoist to help her into bed, and to help her get out of bed in the morning.

The case manager determines that Sandra needs attention when getting both in and out of bed.

### **Turning over in bed**

There are many conditions which make it difficult for the individual to turn over in bed. This may lead to significant discomfort or skin damage.

#### **Example: an individual requires attention regarding turning over in bed**

Gabriel is 85 years old and has paralysis. Gabriel is unable to move all of his body parts and has a loss of skin sensation when lying in bed.

If he is not regularly turned at night, there is a significant risk of both:

- his skin breaking down
- pressure sores forming.

Gabriel has a special mattress that reduces this risk. However, he still needs to be turned a few times at night. The case manager determines that Gabriel needs attention in connection with his bodily functions at night.

### **Sleeping**

An individual who experiences discomfort or distress may have difficulty sleeping without attention from another person.

Individuals with certain mental health conditions can experience disturbed sleep

and/or distressing dreams. They may have to be comforted, reassured and settled back to sleep.

The individual may also have a physical condition that means they require attention from another person to become comfortable in bed. This is because of the way their condition affects them. They may also require help to turn over or to sit up in bed.

### **Moving around indoors**

An individual may need help with:

- getting in and out of a chair
- moving from one room to another
- getting up and down stairs

because they have:

- reduced power of movement in their arms or legs
- poor balance
- poor co-ordination.

It may be unreasonable to expect the individual to remain in one room for an entire day. Case managers should consider:

- the frequency of assistance needed
- any aids or appliance that are appropriate to the individual's needs.

### **Taking medication**

An individual may need assistance from another person to take medication. This may be because they have:

- reduced ability to use their hands to carry out tasks
- memory difficulties
- periods of confusion.

This list is not exhaustive.

Individuals may use aids or appliances to help with taking medication, such as a pill box to regulate taking medication, or a pill crusher/splitter to make their medication more manageable or to measure doses. The case manager must also decide whether it is both reasonable and practicable for the individual to obtain and use aids or appliances.

### **Frequent throughout the day**



28. 'Frequent' means several times and should be given its ordinary meaning. There is no strict numerical test, but it is unlikely that once or twice would amount to 'frequent'. The case manager should consider all the facts of an individual's application. The attention must be required throughout the day<sup>1</sup>.

*1 PADP regs, reg 5(2)(a)*

29. 'Throughout' means the period from the beginning of the day to the end of the day.<sup>1</sup>

*1 PADP regs, reg 2 and 5(8)*

30. Attention given first thing in the morning, again at lunch time and again in the evening, is not normally regarded as frequently throughout the day.

**Example: an individual does not require frequent attention throughout the day**

Fiona is 68 years old and has reduced grip and a decrease in her ability to use her hands to carry out tasks due to rheumatoid arthritis. She needs attention to use cutlery at each mealtime, including breakfast, lunch and dinner. She does not require any other attention throughout the day. The case manager determines that Fiona does not need frequent attention throughout the day.

**Continual supervision**

31. Supervision means the continual presence of another person for the purpose of reducing the real risk of harm to the individual and to others<sup>1</sup>.

*1 PADP regs, reg 5(5)*

32. Supervision is a more passive concept than attention. All of the following criteria must be met in order to meet the eligibility criteria:

- the individual's disability can cause a substantial danger to the individual or to someone else
- the danger must not be too remote a possibility
- there is a need for supervision to ensure that the individual avoids the substantial danger
- the supervision needed must be continual.

33. The supervision an individual requires must be 'continual'. This means the supervision needs to be required repeatedly, but is not necessarily constant and uninterrupted.

34. The supervision must involve the presence of another person, but this presence can be precautionary or anticipatory.

35. The level of supervision may be what is reasonable in the circumstances and can be more passive depending on the nature of the danger.

36. 'Continual supervision' only applies to the daytime condition<sup>1</sup>.

37. Case managers should consider:

- whether the individual's health condition is predictable
- if there are any practical steps an individual can take to guard against danger
- the individual's age and nature of their health condition
- the individual's ability to understand the risk of danger.

**Example: an individual requires supervision to avoid substantial danger**

Catherine is 68 years old and has developed epilepsy. Attempts to control Catherine's epilepsy with medication have so far not been successful. Catherine has seizures around once or twice a day.

Catherine's partner makes an application for PADP on Catherine's behalf. One of Catherine's recent seizures occurred while bathing. Catherine's partner had to intervene to stop her inhaling water or hurting herself in the bath. Her partner now stays in the bathroom while Catherine is having a bath. The application form sets out further details of the supervision that Catherine's partner provides during the day.

The application form notes that Catherine's partner is required to care for Catherine during the night if she has a seizure while sleeping. This is because Catherine could injure herself during a seizure. She has struck her head on furniture previously during a seizure.

Catherine's partner also has to monitor the length of the seizure accurately. If it goes on too long, they need to phone an ambulance. For up to an hour after a seizure, Catherine can be disoriented, distressed and confused. Her partner helps to settle her and ensure she remains in her bed.

Although the case manager has useful information about Catherine's needs at night in terms of attention required, the case manager has to look exclusively at Catherine's daytime needs to establish whether she meets the test for requiring 'continual supervision throughout the day to avoid substantial danger to herself or others'.

The case manager determines that Catherine needs continual supervision while bathing, which happens during the household's daytime. This supervision avoids substantial danger to Catherine should she bathe alone. The case manager reviews all of the information provided and awards the higher rate of PADP. This is because Catherine requires continual supervision throughout the day and prolonged or repeated attention from another person at night in connection to her bodily function of sleeping.

**Watching over**

38. 'Watching over' should be given its ordinary dictionary meaning, which is to pay attention to someone to make sure that nothing bad happens to them<sup>1</sup>.

<sup>1</sup> [Collins English Dictionary \(collinsdictionary.com\)](https://www.collinsdictionary.com)

**Example: an individual requires someone to watch over them to avoid substantial danger**

Callum is 83 years old and has dementia. He wakes up feeling disorientated and confused between 2am and 5am at least five nights every week. Callum will go downstairs and into the kitchen, where his son has observed him trying to cook and leave the house through the backdoor. Callum's son has now moved in with Callum and sleeps downstairs.

Callum's son:

- wakes up if Callum comes downstairs
- is ready to intervene
- prevents Callum from using kitchen appliances or attempting to leave the house
- encourages Callum to go back to bed

Callum's son does not need to be looking at Callum all the time. It is enough that his son is awake for the purposes of watching over Callum for the necessary period or periods.

**Frequent intervals at night**

39. The frequent intervals<sup>1</sup> do not need to be spread throughout the night, but can be concentrated in one part of the night.

<sup>1</sup> PADP regs, reg 5(3)(b)

40. Frequent should be given its ordinary meaning. There is no strict numerical test. However, it is unlikely that once or twice would amount to 'frequent'. The case manager should consider all the facts of an individual's application.

**Prolonged or repeated**

41. Prolonged<sup>1</sup> is not defined in legislation, but is generally understood to be for a period in excess of 20 minutes. Anything less than 20 minutes is unlikely to be prolonged. However, case managers should consider the facts of each individual's application and look for factors that may result in attention of less than 20 minutes being prolonged.

<sup>1</sup> PADP regs, reg 5(3)(a)

42. Repeated means more than once – it is not a single or occasional occurrence.

**Substantial danger**

43. What amounts to substantial danger<sup>1</sup> is a question of fact in each case. 'Substantial' should be given its ordinary, everyday meaning. Substantial danger could result from a fall, exposure or neglect. Case managers should consider the circumstances of each individual in deciding whether the danger is substantial.

*1 PADP regs, regs 5(2)(b), 5(3)(b) and 7(2)(b)(ii)*

44. Individuals with certain mental conditions, or conditions that affect memory or thinking, may create danger for others without being aware of the consequences of their actions. For example, they may:

- lash out at others, potentially causing injury
- turn on a gas appliance without lighting it

This list is not exhaustive.

45. Individuals may be a substantial risk to themselves if there is a risk of suicide. Continual supervision may be required to reduce the risk of self-harm, although this may not eliminate all the substantial danger.

46. People without certain disabilities can generally recognise everyday dangers. Individuals with mental health conditions, or conditions that impact memory, may:

- be unaware of these dangers
- put themselves at risk of serious injury.

For example, an older person with dementia may have substantially less awareness of the dangers of unattended cooking appliances than other older people.

**Example: an individual is at substantial danger from falling and seizures**

Emira is 78 years old and has epilepsy. She loses consciousness during frequent seizure and can fall if her carer is not there to prevent it. If she falls and loses consciousness, she is unlikely to be able to do anything to prevent injury or harm to herself. This is more likely to be a 'substantial danger' compared to falling more generally, as Emira will not be unable to take preventive steps or communicate that she requires assistance when she is unconscious.

**Example: an individual requires another person to be awake at frequent intervals to avoid substantial danger to themselves**

Mary is 85 years old and has obstructive sleep apnoea. Over the past 8 months, Mary has also started to become forgetful and regularly distressed. Mary's obstructive sleep apnoea alongside her other symptoms have been confirmed by her medical professional through supporting information.

Mary uses a continuous positive airway machine (CPAP) overnight to improve her breathing. Mary lives with her daughter who has been trained to use the CPAP machine.

Since Mary started to become forgetful, she has been unable to use the CPAP machine independently. Mary's daughter assists her to put on the CPAP mask before bed and ensures that this is correctly and securely in place. She regularly wakes up during the night feeling distressed and will remove the CPAP mask. This has led to regular instances of Mary getting out of bed while feeling disorientated and upset, and has led to her injuring herself regularly.

Throughout the night, Mary's daughter checks in on her to monitor if she has removed the mask in her sleep and will wake her up to replace the mask securely. Mary tends to become disorientated when this occurs, and requires to be settled back into bed. Mary regularly calls out for support when she wakes up feeling distressed due to the CPAP mask, causing her daughter to wake up and tend to her.

Although Mary's application states that she has started to become forgetful and disorientated, she does not currently require help during the day. The case manager has determined that Mary is at risk of substantial danger, as she may become entangled in the tubes of the CPAP machine when she removes the mask while sleeping, and is at risk due to her injuries when getting up during the night.

Therefore, as Mary reasonably requires her daughter to be awake at frequent intervals to watch over her to avoid substantial danger, the case manager has determined that Mary satisfies the night-time condition and is entitled to the lower rate of PADP.

The case manager considers that Mary's needs may change in the future due to her becoming regularly forgetful and distressed. Therefore, a three year review period has been set for Mary's award. This will allow for a review to take place to consider whether Mary's needs have changed.

## **Falls**

47. An individual may be at risk of substantial danger because of a physical condition. For example, certain disabilities may put a person at risk of falling. These falls should be distinguished from accidental falls which could happen to anyone.
48. Further guidance is available in the Medical Guidance and advice can be sought from a practitioner through a case discussion.
49. Where an individual is at risk of falling as a result of a condition or illness, the case manager should consider if the falling is:

### **Predictable**

If the falling is predictable, case managers should consider whether the individual can reasonably be expected to avoid the risk unless supervised.

## **Unpredictable**

If the falling is unpredictable, case managers should consider:

- whether the falling may result in substantial danger to the individual
- whether the risk of substantial danger is too remote.

### **Example: the risk of substantial danger is too remote**

Leo is 69 years old and has seizures. During seizures, Leo would briefly lose consciousness. If he was standing, this means he would fall with a danger of injuring himself.

Leo was prescribed lamotrigine to help manage his seizures. It has been very successful. Leo has not had a seizure now for 12 months. As long as Leo continues to take his medication, his seizures are manageable. This means that the risk of substantial danger is remote.

### **Example: there is a risk of substantial danger**

Kristof is 75 years old and has had a stroke. Kristof needs long-term support due to weakness on one side of his body. He is no longer able to walk on his own and requires the use of aids to stand and walk very short distances. He is not able to climb stairs using the aids and needs help to stand and sit down.

Kristof needs to be supervised because there is a risk that he could fall and injure himself, even with the use of aids. Kristof has not fallen yet, but without supervision and attention from another person, it is likely that he would. It is also likely that he would injure himself when this happens.

50. It is important to appreciate that the key issue is the likelihood of serious injury, and not the frequency of falls. Serious injury can arise due to a fall itself or as a consequence of an inability to get up after a fall.

51. Some conditions can increase the risks of injuries and potential issues arising due to being unable to get up after a fall. The individual does not need to have experienced a serious injury in order to be at risk of substantial danger from falls.

## **Overlap between attention and supervision**

52. Attention and supervision are two different concepts.

53. Attention involves personal service that is 'active', whereas supervision is 'passive'. There may be a need for supervision but it may not lead to the carer having to intervene.

54. If a carer does intervene, the assistance provided becomes attention. It is important for case managers to appreciate that attention and supervision can therefore overlap.

**Example: Attention and supervision overlap**

Albert is 70 years old and is blind. He needs to be supervised because he is at risk of falling or injuring himself. His son often warns Albert about obstacles, such as pieces of furniture or helps to steady him in new environments.

The following can be classed as Albert's son providing attention:

- actively warning him
- supporting him in new environments
- helping him get up after falling.

**END OF CHAPTER**