

## Payment of Adult Disability Payment

### Index

- Introduction
- Components of Adult Disability Payment
- When a payment can be made
- Rates and form of payment
- Who a payment can be made to
- Over-payments and under-payments
- Change in amount of payment due to changes in law
- When payment should be stopped

### Introduction

1. This chapter relates to the payments for an individual who is entitled to Adult Disability Payment. It sets out the rules for payment of Adult Disability Payment.

### Components of Adult Disability Payment

2. Adult Disability Payment has two components:
  - the daily living component
  - the mobility component

Each component is payable at different rates. The rate and components an individual is entitled to are based on what entitlement criteria they meet as set out in the regulations for Adult Disability Payment. The components and rates are:

- the daily living component at the standard and enhanced rate<sup>1</sup>
- the mobility component at the standard and enhanced rate<sup>2</sup>

*1 ADP regs, reg 5 (3)*  
*2 ADP Regs, reg 6 (3)*

3. For more information on the daily living component, see the Daily Living Component Introduction. For more information on the mobility component, please see the Mobility Component Introduction.

### Short Term Assistance (STA)

4. An individual can apply for short-term assistance when:
  - a new determination of entitlement results in an existing award being stopped or reduced; and
  - they ask for a re-determination or appeal<sup>1</sup>.

*1 SS Act 2018 Schedule 10 Part 1 para 1*

5. The amount of short term assistance payable is the difference between the total amount paid under the

- earlier determination
- new determination<sup>1</sup>.

*1 SS Act 2018 Schedule 10 part 2 para 2 (3)*

6. The payment method of STA should be the same as it was for the earlier determination of ADP.<sup>1</sup>

*1 SS Act 2018 Schedule 10 Part 2 para 2 (4)*

## **When a payment can be made**

8. Adult Disability Payment should be paid every four weeks, in arrears, for the period ending on the day before payment reaches the bank account for awards made under normal rules <sup>1</sup>In awards made under the Special Rules for Terminal Illness, payment is made weekly in advance <sup>2</sup>

*1 ADP regs, 36(b)(i)*

*2 ADP regs, 36(b)(ii)*

The first payment should be adjusted to include any arrears due before settling into a 4 week payment cycle. Arrears will be calculated from the date of application, providing that:

- the individual has submitted Part 2 of their application within the 8 week timeframe specified in the Regulations (unless a good reason for lateness is applicable<sup>1</sup>)
- the Backwards Test was satisfied at the time of application (unless the special rules for terminal illness apply)
- there are no periods spent in legal detention, hospital or similar institutions for 28 days or more to take into account (subject to exceptions relating to the age of the person and where the stay over 28 days takes place)

*1 ADP regs 35(5) and (6)*

*2 ADP regs 36(b)(ii)*

## **Rates and form of payment**

10. Adult Disability Payment is usually paid via bank transfer to a nominated bank account.

11. An individual may not have access to a bank account. If this is the case, Social Security Scotland will contact them to establish a suitable payment method.

12. The rate at which the daily living component of Adult Disability Payment is paid is either (2023-24 rates):

- the standard rate, which is **£68.10** per week, equals **£272.40** every 4 weeks (the daily equivalent is **£9.73**)
- the enhanced rate, which is **£101.75** per week, equals **£407** every 4 weeks (the daily equivalent is **£14.54**)

*1 ADP regs, reg.33(1)*

13. The rate at which the mobility component of Adult Disability Payment is paid is either: (2023-24 rates)

- the standard rate, which is **£26.90** per week, equals **£107.60** every 4 weeks (the daily equivalent is **£3.84**)
- the enhanced rate, which is **£71.00** per week, equals **£284** every 4 weeks (the daily equivalent is **£10.14**)

*1 ADP regs, reg.33(2)*

14. The amount of benefits increases in April every year to reflect inflation. This is known as the Annual Uprating. Clients are informed of what their new rate of benefit will be by an Uprating Notice letter which is sent around February each year from 2023 onwards. Processes have been put in place for the small number of new awards made between 21 March and 10 April 2022 and clerical letters will be issued.

15. For individuals entitled to ADP from 21 March to 10 April 2022, they will manually need to be advised of the up-rating which takes place on the 11 April 2022.

### **Overlapping benefits**

15. Where an individual is entitled to both:

- the daily living component of Adult Disability Payment, and
- Constant Attendance Allowance

at the same time, the amount of Adult Disability Payment should be reduced by the amount of Constant Attendance Allowance paid. Where the amount of Constant Attendance Allowance is equal to or more than Adult Disability Payment, the amount of Adult Disability Payment will be calculated at £0<sup>1</sup>.

*1 ADP regs, reg.34(4) and (5)*

16. Constant Attendance Allowance supports individuals who become ill or disabled because of an accident or disease in the course of employment. Constant Attendance Allowance can be paid to individuals who are 16 years old or above.

## **Example: an individual who is entitled to Constant Attendance Allowance and Adult Disability Payment**

Ali is entitled to the enhanced rate of the daily living component (**£407** every 4 weeks) and the standard rate of the mobility component of Adult Disability Payment. He also receives the intermediate rate of Constant Attendance Allowance ( **£498.60** every 4 weeks) following a severe injury sustained while at work.

Because the amount of Constant Attendance Allowance is greater than the amount Ali is entitled to as Adult Disability Payment, he is paid the Constant Attendance Allowance in full and the Adult Disability Payment is reduced to **£0** (also known as 'extinguished').

If the amount of Constant Attendance Allowance was the same as for Adult Disability Payment, the effect on Adult Disability Payment would be the same – reduced to **£0** while receiving full payment of Constant Attendance Allowance.

If however, Ali was entitled to a lower rate of Constant Attendance Allowance, eg. the part-time rate (**£166.20** every 4 weeks), he would be paid this in full and a balance of **£240.80** paid as Adult Disability Payment every 4 weeks.

## **Other benefits**

### **Armed Forces Independence Payment**

17. Armed Forces Independence Payment is a benefit paid to ex service personnel who have sustained injuries in the course of service within the British Armed Forces that have resulted in severe disability. The amount of benefit paid is the same as the amount of enhanced daily living and mobility components of Adult Disability Payment.

Armed Forces Independence Payment is administered and paid by the Veterans Agency. Like Adult Disability Payment, it is tax free and non means tested, and attracts the same passporting arrangements with the Department for Work and Pensions as Adult Disability Payment. However, there are some differences:

- Once awarded, Armed Forces Independence Payment is paid for life and is not subject to review at any point. It only ends when the recipient dies
- Armed Forces Independence Payment can be paid anywhere in the world and does not depend on being resident or physically present in Great Britain
- Payment of Armed Forces Independence Payment is not affected by admission to hospital, residential care or legal detention

A client entitled to Armed Forces Independence Payment cannot be entitled to Adult Disability Payment at the same time. In practice, it is unlikely that Social Security Scotland will receive high numbers of applications for Adult Disability Payment where the client is already receiving Armed Forces Independence Payment because the

veterans' welfare advisers who support clients are aware of this. If a client does begin an application, there will be a question in Part 1 of the application form asking if they are receiving or have applied for Armed Forces Independence Payment. If so they will be asked to call Social Security Scotland to discuss further.

### **Other payment methods**

18. It is possible for some or all of an individual's Adult Disability Payment to be paid by an alternative payment method if the recipient agrees<sup>1</sup>. This may be the case where the individual both:

- receives the enhanced rate of the mobility component
- chooses to hire or hire-purchase vehicles directly from accredited providers of vehicles to disabled people (known as the Accessible Vehicles and Equipment Scheme, also commonly known as 'Motability')

Social Security Scotland will arrange to pay part or all of the mobility component to the provider until the lease has ended.

*1 ADP regs, reg.55 (1)*

### **Who a payment can be made to**

19. Where an award relates to an individual who is entitled to Adult Disability Payment, payment should be made to either:

- the individual
- an appointee<sup>1</sup>
- someone with legal powers to manage the individual's affairs, such as a Power of Attorney or a Guardian
- someone that the individual has requested receive payment on their behalf.

### **SS Act 2018**

#### **sections 85A and 85B**

20. Adult Disability Payment can be paid to someone else at any point<sup>1</sup> if the individual requests it. This may follow a change of circumstances or the availability of new information.

*1 ADP regs,33(1)*

21. Whether an appointee should receive Adult Disability Payment on behalf of an individual is a formal process. A decision relating to whether an appointment should be made or not can be made at the beginning of an application or when a review of the decision is requested.

Anyone holding legal powers such as:

- Power of Attorney
- Guardianship

will have undergone a legal process involving a solicitor and the powers must be Court approved. Formal papers will be lodged with the Office of the Public Guardian. Because a legal process has taken place, anyone holding these powers will supersede an appointee:

- who is approved by either the Department for Work and Pensions or Social Security Scotland
- where the process is less formal and does not involve a solicitor, Court or the Office of the Public Guardian

### **Example: Payment made to appointee**

Jessica is entitled to the enhanced rate of both components of Adult Disability Payment. When applying for the benefit, her partner completes the application form stating Jessica is unable to do so for herself because she has experienced a brain injury which has affected her cognitive ability and memory, and she is now incapable of managing her affairs. Her partner wishes to become appointee and deal with all financial and benefit matters. They provide supporting information from Jessica's consultant confirming their difficulties. Social Security Scotland takes the necessary action to confirm Jessica's partner as appointee and makes payment to them on her behalf.

### **Example : Payment made to Power of Attorney**

Derek has been receiving Adult Disability Payment for 2 years into his own bank account and has been managing his own affairs. Derek's son contacts Social Security Scotland to advise they now hold a signed and registered Power of Attorney for Derek who has developed dementia. They now have the legal right to manage his affairs and payment of Adult Disability Payment will now be made to them on his behalf.

### **Daily rate payments**

22. There are circumstances in which Adult Disability Payment can be paid at a daily rate. This may be applicable to individuals living for a prolonged period in a care home or a residential educational establishment.

23. If the individual has a period of absence from the institution, they may be paid at a daily rate. The daily rate is one-seventh of the weekly rate. This applies as long as the individual has already had the benefit of 28 days grace at an earlier point in their

stay, and expect to return to stay in the establishment within 28 days of the period of leave.<sup>1</sup>

*1 ADP Regs, reg 34(3)*

24. This generally applies to individuals who live in a residential care or hospital setting for most of the week, and go home at the weekend to spend time with family. For example going home on a Friday and returning on Monday. The daily rate should be calculated from the day the individual goes on leave and ends the day after the individual returns to living in a care home<sup>1</sup>. In the above example the individual would be paid 4/7ths of the weekly amount of Adult Disability Payment, for Friday, Saturday, Sunday and Monday. For more detail on this please refer to the 'Effect of time spent in care homes and residential educational establishments' chapter.

*1 ADP regs, reg 34(3)*

### **Example : an individual is paid the daily living component while on leave from residential care**

Ellie receives the standard rate of both the daily living and mobility components. She goes into long term residential care on 14 April. After 28 days, ie after 12 May, payment of her standard rate daily living stops and standard rate mobility continues. From the end of June Ellie is able to go home and spend time with her family from Friday to Monday every weekend. She leaves the care home on Friday 25 June and returns to the care home on Monday 28 June. As she expects to be readmitted within 28 days, she can be paid the daily living component at a daily rate for the days she spends at home. Payment of **£38.91** can be made which is 4/7ths of the weekly rate of **£68.10** (daily rate **£9.73**) (2023-24 rates)

Individuals' families may advise of days spent at home each time this happens.

- on a weekly basis so payment of benefit can be calculated
- on a monthly or quarterly basis depending on how often the individual comes home.

Each time a new calculation will be required.

### **Terminal Illness**

25. An individual who is terminally ill becomes entitled and can be paid from whichever of these dates is earliest<sup>1</sup>:

- the date Social Security Scotland receives their application
- the date a Benefits Assistance under Special Rules in Scotland (BASRiS) form is signed (up to a maximum of 26 weeks prior to application being received).

26. This date can be no earlier than 21 March 2022.

## Over-payments and under-payments

27. There may be occasion where individuals:

- receive a payment, or
- a higher payment than they are entitled to

of Adult Disability Payment or Short-Term Assistance.<sup>1</sup>

*1 ADP regs, reg 50(1)(b)(i) and (ii)*

28. This may mean the individual may be required to repay some or all of what they received in error <sup>2</sup>

*2 ADP Regs, reg 46*

29. Individuals may be due more money than they have received if :

- they have not received all of a component of Adult Disability Payment to which they are entitled<sup>1</sup>
- they have received a lower rate than they are entitled to of Adult Disability Payment or Short-Term Assistance<sup>2</sup>

*1 ADP regs, reg 49(1)(b)(i)*

*2 ADP regs, reg 49(1)(b)(ii)*

30. For more information on how payment errors are to be handled please go to the 'Payment error' chapter.

## Change in amount of payment due to changes in law

31. Rates of Adult Disability Payment will increase in April every year in line with the Consumer Price Index (CPI). This is known as 'Up-rating' and individuals will be notified of the increase in advance of it taking effect via an Up-rating Notice letter sent around February each year from 2023 onwards. Processes have been put in place for the small number of new awards made between the 21 March and 10 April 2022 and clerical letters will be issued.

## When payment can be stopped

32. Payments of Adult Disability Payment should stop after an individual's entitlement to the benefit ends.



33. Individuals have a right to request payments to stop. In these cases, managers should cancel an award. Individuals can request that payments stop either:

- with immediate effect
- on a specific date<sup>1</sup>.

*1 Social Security (Scotland Act) 2018 , s 26(2)*

34. Where an individual has requested that payments stop, the case manager or client adviser should ensure that the individual or their representative is clear about the impact that the decision to stop payment of Adult Disability Payment could potentially have. It could mean other benefits in payment because of entitlement to Adult Disability Payment may be affected. For more information, see *Passporting Benefits, Operational Guidance and An Individual's Right to Stop Receiving Assistance* chapter.

35. When a case manager is notified that an individual entitled to Adult Disability Payment has died, they must make a determination without application<sup>1</sup>. Please refer to the *Death of A Client* chapter for more information.

*1 ADP regs. Reg 48(b)*

36. An overpayment can occur when Social Security Scotland is not informed immediately of the death of an individual who is entitled to Adult Disability Payment. If this happens, an individual's estate is liable to Social Security Scotland for any sums paid after death. The value of the overpayment is the amount of assistance paid since the day following the date of death. Social Security Scotland will contact the individual's next of kin, or the person who registered the death, to make further enquiries if this happens.

**[END OF CHAPTER]**