

Special Rules for Terminal Illness (SRTI)

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Introduction

1. This chapter explains how to make decisions regarding applications for individuals who are terminally ill. The rules set out below are known as special rules for terminal illness (SRTI) applications.
2. This chapter relates to individuals applying for Pension Age Disability Payment (PADP).
3. The SRTI rules apply to individuals who meet the legal definition of terminal illness in the Social Security (Scotland) Act 2018.
4. A person is considered to be terminally ill if "the individual has a progressive disease that can reasonably be expected to cause the individual's death"¹.

1 SS (S) Act 2018, Schedule 5, para 1(2)

5. Individuals are diagnosed by a registered medical practitioner (RMP) or a registered nurse (RN)¹. A RMP is a doctor who has current registration and a licence to practise with the General Medical Council. A RN is a nurse who has current registration and a licence to practise with the Nursing and Midwifery Council. The decision of whether the individual meets the terminal illness definition can only be determined by a RMP or a RN.

1 PADP regs, reg 18(9)(a)(b)

The RMP or RN must be involved in the diagnosis and/or care of the individual and must be acting in their professional capacity.

Where the person who is terminally ill resides in the EEA, Switzerland or Gibraltar, the RMP or RN has to be registered with a licence to practise with the professional body equivalent to the General Medical Council or the Nursing and Midwifery Council in that country.

6. If an individual has a progressive disease but is not terminally ill, the special rules for terminal illness do not apply. This means they need to apply through the usual PADP application process.
7. The RMP or RN is legally required to follow the Chief Medical Officer (CMO) guidance¹ which supports RMPs and RNs in reaching their clinical judgement of terminal illness.

*1 SS (S) Act 2018, Schedule 5, para 1(2)(3)
1 PADP regs, reg 18(7)*

8. Where the person who is terminally ill resides in the EEA, Switzerland or Gibraltar, the registered RMP or RN with a licence to practise need not have regard to such guidance if it would not be reasonable to insist that they do so in making their clinical judgement.²

2 PADP regs, reg. 18(8)

9. A Benefits Assessment for Special Rules in Scotland (BASRiS) form should be completed for a terminally ill adult applying for PADP in Scotland. Social Security Scotland will also accept an SR1 form or DS1500 form.
10. A BASRiS form can only be completed by a registered medical practitioner (RMP) or registered nurse (RN) with a licence to practise.
11. The BASRiS form replaces the SR1/DS1500 for Scotland's new forms of Disability Assistance.

Need for Discretion – harmful information

12. A medical professional may decide not to tell the individual that they are terminally ill or other information relating to their condition. They will only withhold this information if they have decided that telling the individual would be likely to cause serious harm to their physical or mental health.¹ This is referred to as harmful information. In these situations Social Security Scotland must not disclose this information to the individual. If the RMP or RN has specifically identified the information as needing to be withheld from a family member then Social Security Scotland must not disclose this to that family member.

1 SS(S)A 2018, s. 62(A)(3)

13. It will be rare that a medical professional withholds harmful information from an individual so this will likely affect only a small number of individuals who are terminally ill.

14. Case managers must not in any circumstances mention to the individual or anyone else that the individual:

- is terminally ill
- has a diagnosis of terminal illness.

15. This is because:

- the individual or appointee might not know the individual is terminally ill
- knowing about a terminal illness diagnosis could cause the individual serious harm or distress.

16. An exception to this is that case managers can refer to the diagnosis with a third party who is making the SRTI part of the application on behalf of the individual. An example where this could be necessary is if the third party is completing the application with a case manager over the phone.

17. However, if an individual refers to themselves as being terminally ill and you know that information has not been withheld you can acknowledge this.

18. Where harmful information is withheld, refer any questions about diagnosis to the RMP or RN who provided the clinical judgement.

19. During a social security appeal, the First-tier Tribunal or the Upper Tribunal may give a direction prohibiting the disclosure of a document or information to a person (“the recipient”) if:

- the document or information relates to the physical or mental health of a person,
- a RMP or RN has advised either the Tribunal, or one or more of the parties, that disclosure of the information is likely to cause serious harm to the recipient’s, or some other person’s, physical or mental health,
- the Tribunal is satisfied that disclosure of the harmful document or information would be likely to cause serious harm to the physical or mental health of the recipient or some other person,
- the Tribunal is satisfied that it is in the interests of justice and proportionate to give such a direction. ¹

1 The First-tier Tribunal for Scotland Social Security Chamber (Procedure) Regulations 2018, Schedule, para 14(2)-(6); The Upper Tribunal for Scotland (Social Security Rules of Procedure) Regulations 2018, Schedule, para 17(2)-(6)

20. See the chapters on Appeals to the First-tier tribunal and Appeals to the Upper Tribunal for more information about how the Tribunal can issue such a direction.

Example: application where harmful information has been withheld

Agatha has applied for PADP. Her daughter Fiona tells Social Security Scotland that Agatha’s condition is terminal but she does not know this. Her clinician has

withheld the information from Agatha because they believe it would be harmful for her to know this.

A Social Security Scotland practitioner contacts the RMP/RN named in the application to ask them whether Agatha meets the terminal illness definition and whether a BASRiS form is appropriate.

The practitioner also establishes whether the RMP/RN has withheld information from Agatha because they have determined it would be likely to cause serious harm to her mental or physical health.

The RMP/RN sends a BASRiS form which confirms that Agatha does not know she is terminally ill because the RMP/RN has withheld this information from her. When communicating with Agatha, Social Security Scotland makes no reference to terminal illness, special rules or to the BASRiS form so as not to reveal to Agatha that her condition is terminal.

Example: Query from an individual where an award has changed but harmful information has been withheld

An individual contacts Social Security Scotland to ask why their payments have increased. They were previously receiving a PADP award at the lower rate.

A RMP/RN sends Social Security Scotland a BASRiS form confirming that the individual is terminally ill, but they are unaware of this. The RMP/RN tells Social Security Scotland that it would be harmful to the individual to know they are terminally ill.

The Case Manager completes a determination without application and determines that the individual meets the criteria to receive the PADP award under special rules. This means the award increases to the higher rate.

A new award is issued to the individual by Social Security Scotland, confirming the change of entitlement. The award notification makes no reference to special rules.

The Case Manager speaks to the individual and advises that a change in condition has led to a change in payment. The Case Manager can refer the individual to speak with the RMP or RN who provided further information about their condition. The Case Manager makes no reference to terminal illness, special rules or the BASRiS form.

Special Rules for Terminal Illness

Special Rules Requirements

21. The person who is terminally ill does not need to:

- have a consultation with Social Security Scotland¹
- have been living in the UK for a set period of time²
- have the medical condition for a specific period of time before they apply³

- have the medical condition for a minimum period of time before eligibility can begin⁴

The backwards test does not apply to individuals who are terminally ill.

1 SS (S) A 2018, Schedule 5, paragraph 10

2 PADP regs, reg. 9(6)

3 SS (S) A 2018, Schedule 5, para. 9 and PADP regs, reg. 18(2)

4 SS (S) A 2018, Schedule 5, para. 9 and PADP regs, reg. 18(2)

Rates of Payment

22. Special rules for terminal illness awards are ongoing without review. There will be no review period and an individual remains eligible unless they have informed Social Security Scotland that their circumstances have changed.

23. PADP has two rates of payment:

- the lower rate
- the higher rate

24. Individuals who are terminally ill and who qualify for PADP automatically get the higher rate of entitlement ¹.

1 PADP regs, reg. 18(1)

Notification of changes in circumstances

25. The individual must tell Social Security Scotland of any change in circumstances that can affect the level of assistance that an individual is paid. This can include changes in:

- diagnosis (including if the individual is no longer considered to be terminally ill)
- other entitlement criteria such as residence¹

1 PADP regs, reg. 9

Eligibility

26. The individual for whom an application for assistance is being made must meet the standard eligibility requirements at the time of application and throughout any period of backdating:

- meet the age criteria – the individual must have reached State Pension age
- meet certain residence and presence criteria. The past presence test in the common travel area condition does not apply to people who are terminally ill.¹

- have a right to public funds. For example someone seeking asylum to the UK who has not yet been granted asylum does not have a right to public funds.

1 PADP regs, reg. 9(6)

27. To be eligible under the special rules for terminal illness the person for whom an application for disability assistance is being made must be diagnosed as terminally ill. A terminal illness diagnosis – known as the clinical judgement – must be made by a registered medical practitioner (RMP) or registered nurse (RN).¹

1 PADP regs, reg 18(9)

28. The 26 week qualifying period does not apply to a person determined to be terminally ill under the Special Rules for Terminal Illness (SRTI).¹

1 PADP regs, reg 5(7)

29. Social Security Scotland directs individuals resident in other parts of Great Britain to the Department for Work and Pensions, and individuals resident in Northern Ireland to the Department of Communities. Where a client is moving between Scotland and the rest of the UK refer to the chapter below.

30. SRTI applications for PADP can be made by either:

- the individual
- any third party including a friend, family member or representative from an organisation as long as they have the individual's consent to complete the application on their behalf.
- the individual's Power of Attorney, Guardian or Social Security Scotland appointee who formally acts on their behalf

Example: application from a family member

Caroline, aged 72 is terminally ill. Her doctor has completed a BASRiS form and explained her terminal diagnosis to her. Caroline's brother, with her consent, completes an application on her behalf. All communication is with Caroline as the application is in her name.

Supporting information for SRTI

31. The supporting information to confirm a terminal illness diagnosis is either a BASRiS form, an SR1 form or a DS1500 form. The BASRiS form can only be completed by a registered medical practitioner (RMP) or registered nurse (RN) with a licence to practise.
32. Social Security Scotland will accept the SR1 form or DS1500 form used by the Department for Work and Pensions (DWP) to confirm a terminal illness

diagnosis. All references to the BASRiS form or the clinical judgement in this guidance also refer to the SR1 form and DS1500 form.

33. The supporting information confirming a terminal illness diagnosis may alternatively be provided over the phone (the clinical judgement or 'verbal' BASRiS) or in a clinician's letter. The registered medical practitioner (RMP) or registered nurse (RN) should subsequently submit a BASRiS form to Social Security Scotland within 28 days.
34. A Social Security Scotland practitioner may be required to contact the RMP or RN to request or clarify the clinical judgement verbally. On receipt of this verbal confirmation a case manager can progress to payment.
35. Where a verbal BASRiS has been received, the case manager does not need to wait for the electronic (pdf), webform (digital portal) or paper BASRiS form to arrive in order to process the payment.
36. Only a registered medical practitioner (RMP) with a licence to practise or registered nurse (RN) with a licence to practise can complete a BASRiS form. The RMP or RN must meet both these criteria¹:

- be involved with the diagnosis or care of the person who is terminally ill
- be acting in their professional capacity.

1 PADP regs, reg. 18(9)(a)(i) and (ii)

37. If an individual does not live in Scotland but meets the eligibility criteria¹ then an appropriate registered healthcare professional with a licence to practise in the country they reside in can provide a clinical judgement of terminal illness and complete a BASRiS form.

1 PADP regs, reg 14 and reg. 18(9)(b)

38. The healthcare professional must be equivalently qualified to a RMP or a RN in an EEA state, Gibraltar or Switzerland.
39. This healthcare professional must have a licence to practise and be registered with a professional body equivalent to the General Medical Council or Nursing and Midwifery Council in their country. They must be involved in the care or diagnosis of the patient and must be working in their professional capacity¹.

1 PADP regs, reg 18(9)(b)

40. Normally a healthcare professional in an EEA state, Gibraltar or Switzerland would take account of the CMO guidance. However if the particular circumstances mean it would not be reasonable in the circumstances to insist that they use the CMO guidance then Social Security Scotland can still accept their clinical judgement¹.

1 PADP regs, reg. 18(8)

Applications from a third party

41. Applications under SRTI rules can be submitted by a third party. There are no restrictions on who can submit a third party SRTI application.
42. A third party is not a legal representative or an appointee, but a person the individual has nominated to support them when submitting an application under SRTI rules. The third party does not become a Third Party Representative unless the individual gives their authorisation.
43. Third party individuals may include:
 - friends
 - relatives
 - a representative from an organisation, for example:
 - advice or welfare rights organisations
 - professionals such as social workers
 - nurses or doctors.
44. The third party must tell the individual they are applying for assistance for them and must gain the individual's consent to do so. The third party will have to confirm as part of the application that they have gained the individual's consent.
45. The individual does not have to sign the application form for assistance under SRTI.
46. The individual who is terminally ill is still treated as the individual who applies for the assistance, even if a third party makes the application for them.
47. After a third party has made an initial application on behalf of the individual, any further communication must be with the person who is terminally ill. Care must be taken not to disclose 'harmful information' that may have been withheld by the individual's medical professional (see 'Need for Discretion – harmful information' section above).
48. A third party making an application will not have any direct involvement with Social Security Scotland after submitting the application, unless the individual authorises them to formally become their "Third Party Representative".
49. A Third Party Representative could continue to support the individual in their interactions with Social Security Scotland.
50. Third Party Representatives are available to all individuals but are likely to be of particular benefit to SRTI individuals.

Example: third party application from a family member

Annie, aged 71 is terminally ill. Her doctor has completed a BASRiS form and explained her terminal diagnosis to her. Annie's sister completes an application on her behalf, having first gained Annie's consent. All communication from Social Security Scotland is with Annie as the application is in her name.

Example: third party application from a third sector organisation

Bruce is terminally ill. A Macmillan nurse involved in his care asks him if he would like her to submit an application on his behalf for PADP. Bruce agrees and the nurse submits the application and BASRiS form. In completing the application the nurse confirms that she has Bruce's consent. All future communication is between Social Security Scotland and Bruce.

Incomplete applications

51. Where a one-part PADP SRTI application form is received without a clinical judgement, Social Security Scotland will need to make contact with the named RMP/RN to acquire the clinical judgement as confirmation that it is a special rules application. Together, the SRTI application form and clinical judgement constitute an application. Equally part 1 only of the 'normal rules' PADP application form and a clinical judgement constitute an application.
52. Where a 'lone' BASRiS (or clinical judgement) is received without a PADP SRTI application form, Social Security Scotland will need to make contact with the individual or the person acting on their behalf so an SRTI application can be made if desired. A Part 1 only of a normal rules application would be sufficient and would be less burdensome for the client. An SRTI application can be either:
- Normal rules Part 1 application plus BASRiS (or equivalent supporting information) – no Part 2 would be required
 - Normal rules Part 1 and Part 2 application plus BASRiS (or equivalent supporting information)
 - SRTI application form plus BASRiS (or equivalent supporting information)

Where harmful information is being withheld, Social Security Scotland will contact the representative named on the BASRiS, if such details have been provided, so they can complete an SRTI application on behalf of the individual.

However, not all clients have or need a legal representative. Where there are no contact details for a legal representative, this does not mean a BASRiS is incomplete. Even where there are no details of a legal representative, the lone BASRiS can still be processed.

There is operational guidance available which explains how to process applications in instances where a harmful indicator is showing and a client, their guardian or legal representative is unaware of the terminal illness diagnosis. This same guidance is appropriate for both a lone BASRiS with no details of a legal representative and for an SR1 (DWP) form which does not

capture such details. The guidance explains how to decide which letter should be sent.

When communicating with the client, their guardian or legal representative, care should be taken to ensure harmful information is not disclosed.

Example: normal rules Part 1 only plus BASRiS (or equivalent)

Gordon submits a normal rules Part 1 application on 30 October. He didn't send in a Part 2 but instead, on 8 December, submitted both an SRTI application and a BASRiS form. The date of clinical judgement on the BASRiS is 1 December – a later date than the Part 1 application. The Case Manager contacts Gordon who believes he was terminally ill at the time of his Part 1 application. Gordon was unable to complete a Part 2 due to very poor health and later realised he could have applied in October using the SRTI application form instead of the normal rules form. The BASRiS clinical judgement date is investigated by a Practitioner: Gordon's GP provides a verbal BASRiS which confirms Gordon was terminally ill when he submitted his Part 1 application on 30 October. Together, a Part 1 and BASRiS (or equivalent) constitute an application. Gordon needn't have submitted the SRTI application in addition to the BASRiS. The verbal BASRiS provides the required supporting information and terminal illness confirmation so a Part 2 is not required. Using the Part 1 and the verbal BASRiS, the application is processed under the special rules.

Example: an SRTI application for PADP without an accompanying clinical judgement

An individual submits an SRTI application for PADP because they have a progressive disease. There is no accompanying clinical judgement.

A Social Security Scotland practitioner contacts the healthcare professional identified on the individual's application form to enquire if they meet the terminal illness definition. The practitioner must ensure they are contacting a RMP or a RN.

If the RMP or RN determines that the individual meets the terminal illness definition they can confirm this on the phone. The RMP or RN should then complete the BASRiS form and send this to Social Security Scotland within 28 days to be able to claim a fee. Following verbal confirmation, the case manager can process the special rules application for PADP without waiting for the BASRiS to be submitted.

If the RMP or RN determines that the individual does not meet the terminal illness definition, the individual will be told that they have not met the criteria for an award under SRTI. They will be asked if they wish to be considered for a PADP award under normal rules. If so, further information will be requested from the individual.

Date of Award

53. An individual who is eligible and terminally ill becomes entitled to assistance from whichever of these dates is earliest¹:

- the date Social Security Scotland receives their application (which included information about the individual's terminal illness)
- the date a RMP or RN makes a clinical judgement that the individual meets the terminal illness definition
- the date Social Security Scotland becomes aware that a current client is terminally ill either by them notifying through a change of circumstances or otherwise. The clinical judgement date is captured on the BASRiS form. The clinical judgement date may be earlier than the date the BASRiS form is signed. If the clinical judgement is taken verbally and a BASRiS form is later sent to Social Security Scotland then the relevant date is that of the verbal clinical judgement.

1 PADP regs, reg. 18(3)

54. Where the date of the clinical judgement is earlier than the date the application is received, but also within 26 weeks of the date of application, or the date the Scottish Ministers become aware that a PADP recipient is terminally ill,² the award will commence from the date of the clinical judgement,³ providing the client is of State Pension age on this date and providing they meet the residence and presence rules on this date. The eligibility rules apply throughout any period of backdating. The past presence test in the common travel area condition does not apply to people who are terminally ill.

2 PADP regs, reg. 18(3)(b)

3 PADP regs, reg. 18(4)

55. The age rule for disability assistance applies throughout any period of backdating. Therefore, backdated payments for PADP cannot include periods of time when the individual was younger than State Pension age. Where an individual reaches State Pension age and applies for PADP but has a clinical judgement date which precedes the date they reached State Pension age, payments can be backdated (up to a maximum of 26 weeks) to no earlier than State Pension age.

56. The date of award can be no earlier than 21 October 2024 which is the date the PADP Regulations commenced. (Please note, PADP underwent a phased launch and was made available in an increasing number of local authority areas until national launch on 22 April 2025.) If the person applies when PADP goes live in their local authority area, and the BASRiS is dated earlier than the date their application is received (and also earlier than the date PADP launched in their local authority area), we can still backdate to the date of the clinical judgement as long as this date is not before 21 October 2024, provided it is within 26 weeks of the date the application was received

and provided the person had reached State Pension age on the date of clinical judgement.

Example: clinical judgement is dated after State Pension age and earlier than date application is received

Dylan reached State Pension age on 7 May 2025. A BASRiS form arrives for him on 9 September 2025. It was dated 30 August 2025 which is the date of the clinical judgement. A PADP application form then arrives on 15 September 2025. The date the award starts is 30 August 2025, because the clinical judgement date precedes the date the application is received and Dylan had already reached State Pension age when he was given a clinical judgement of terminal illness .¹

1 PADP regs, reg. 18 (3)

Example: clinical judgement is dated prior to State Pension age and earlier than date application is received.

A BASRiS form arrives for Claudia with a clinical judgement date of 14 June 2025. A PADP application form then arrives on 20 June 2025. Claudia reached State Pension age on 18 June 2025. The date the award starts is 18 June 2025 because this is the date Claudia reached State Pension age. Claudia's PADP award cannot start on her clinical judgement date because she had not yet reached State Pension age on that date.

Example: clinical judgement is dated earlier than Pension Age Disability Payment going live in the individual's Local Authority pilot area

Charlotte is 79, lives in the Dundee City Council area and applied for Pension Age Disability Payment through the special rules route the day the pilot went live in her area on 24 March 2025. Social Security Scotland receive a BASRiS dated 20 January 2025 which is earlier than the application date. On 20 January 2025, the first PADP pilot was live in a different local authority to Charlotte's.

The date Charlotte's award starts is 20 January 2025 since this clinical judgement date precedes the application date of 24 March 2025, even though Charlotte resides in a different local authority. Providing the individual has reached State Pension age on the date of the clinical judgement, the award can be backdated to this date when this is not more than 26 weeks before the date of the application and is also on or after the date the PADP Regulations commenced on 21 October 2024.¹

1 PADP regs, reg. 18 (4)(a)(b)

57. Many BASRiS forms will be submitted directly to Social Security Scotland by the RMP or RN. However, there may be situations when an individual or their third party has been given the BASRiS form by their clinician and then either fails to submit the BASRiS or delays in submitting it to Social Security Scotland. Or an individual may have received a diagnosis of terminal illness from their RMP/RN but not a BASRiS form.

58. If the clinical judgement date is more than 26 weeks earlier than either the date the application is received, or the date that Social Security Scotland become aware that a PADP applicant is terminally ill,¹ then a practitioner must contact the individual's RMP or RN.

1 PADP regs, reg. 18 (5)(a)(b)

59. The RMP or RN who provided a clinical judgement and/or completed the BASRiS form must confirm the individual's terminal illness diagnosis is still accurate. This confirmation can be verbal.

60. If the terminal illness diagnosis is confirmed by the RMP/RN, the date the award will commence is backdated to a maximum of 26 weeks before the date of application¹ (or 26 weeks before the date the Scottish Ministers become aware that a PADP recipient is terminally ill.²) as long as PADP Regulations have commenced and as long as the individual had already reached State Pension age for any period of backdating .

1 PADP regs, reg. 18(4)(a)

2 PADP regs, reg. 18(5)(c)

Example: backdated payments required to meet correct start date

Eve is 71, and her RMP completes a BASRiS form dated 7 May for her and gives it to Eve's daughter. Eve's daughter is too distressed at the time to apply for assistance on her mother's behalf.

On 20 December Eve's daughter decides to apply on Eve's behalf (with her consent) and also submits the BASRiS form dated 7 May. A practitioner in Social Security Scotland contacts Eve's RMP/RN to confirm the terminal diagnosis is still accurate since the BASRiS is dated more than 26 weeks earlier than the application.

The RMP/RN confirms the terminal diagnosis is still accurate. The award can be calculated from 26 weeks prior to 20 December because PADP Regulations had commenced and Eve had already reached State Pension age prior to the backdating period. An appropriate back payment is made.

Example: backdated payments required where uprating has also occurred

Social Security Scotland receives an application on 23 September accompanied by a BASRiS form that is dated 30 weeks earlier.

After confirming the individual's terminal illness diagnosis is still accurate with the RMP/RN, Social Security Scotland will make payments from 26 weeks before the date the application was received, providing the individual had already reached State Pension age prior to the backdating period. Payments can be backdated to no earlier than State Pension age.

The higher rate for PADP was uprated on the first Monday after 6 April. Payments for the weeks prior to the uprating date will be calculated using the rate

prior to the uprating. Payment for the weeks after the uprating date will be calculated at the uprated rate.

61. If an SR1 form or DS1500 form is received as an alternative to the BASRiS or clinical judgement, the date of diagnosis on the form is regarded as the date of the clinical judgement and therefore confirmation of the date that the person meets the Scottish terminal illness definition.
62. Entitlement to disability assistance cannot precede the date the relevant legislation came into effect. Social Security Scotland can accept an SR1/ BASRiS with a clinical judgement date that precedes the date PADP went live. However, the award cannot commence until the date the PADP regulations are live somewhere in Scotland.

Application not made under SRTI –individuals who may be terminally ill

63. Social Security Scotland has a duty to identify potential SRTI individuals at any stage of the application process. SRTI individuals can be identified in the triage of applications. An individual who is terminally ill may submit a non-SRTI application in error instead of applying under the special rules using the one-part SRTI application form.
64. Social Security Scotland may receive a non-SRTI application through the normal rules with details which prompt exploration of whether the individual is terminally ill and should instead have applied under the special rules using the one-part SRTI application form.
65. For example words in the non-SRTI application may indicate that the individual might be terminally ill such as *palliative care*. It is the case manager's responsibility to investigate to ensure special rules are applied if applicable.
66. Information may be included in the initial non-SRTI application or may be provided following receipt of said application.
67. If the case manager identifies that a non-SRTI individual may be eligible under SRTI rules they must alert the Social Security Scotland practitioner. If the practitioner agrees, the practitioner must contact the RMP/RN and ask whether the individual meets the terminal illness definition.
68. If a clinical judgement is provided by the RMP/RN, this is confirmation of the individual's terminal illness. The clinical judgement may be provided verbally over the phone. No additional supporting information is required and a Part 2 application is not required. The application can be processed under the special rules and the case manager can proceed immediately to payment.
69. To confirm to the Social Security Scotland practitioner that the individual is terminally ill the RMP/RN can either:

- return a BASRiS form or equivalent to Social Security Scotland
- confirm the individual is terminally ill via a letter or over the phone with the practitioner and return a BASRiS form within 28 days

Terminal illness diagnosis during non-SRTI application

70. An individual applying under the normal rules may submit Part 1 of a non-SRTI PADP application, then receive a terminal illness diagnosis resulting in Social Security Scotland being provided with a clinical judgement and subsequent BASRiS form.
71. The case manager should prioritise and make a first determination under the special rules using the date of clinical judgement. This will ensure the individual begins receiving higher rate disability assistance as soon as possible. For the SRTI award period, there is no requirement for the individual to submit a normal rules Part 2 application form. No supporting information in addition to the clinical judgement is required for this period. The SRTI award period is the period from the date of the clinical judgement.
72. A second determination, under non-SRTI rules, may be appropriate for the period between receipt of the non-SRTI Part 1 and the subsequent clinical judgement date. The individual may have been entitled to disability assistance under the normal rules for a period before becoming terminally ill.
73. For the second determination, the case manager will need to make use of a Part 2 application (if submitted) and/or any supporting information. Where the client is now terminally ill, the seeking of Part 2 and/or any supporting information should be 'light-touch', proportionate and carried out sensitively. If a determination can be made without the individual themselves being asked to complete a Part 2, this should happen.
74. If the second determination finds that the client was entitled to PADP between the initial date of application and the date of clinical judgement (of terminal illness), they will receive the value of that benefit in retrospect.
75. If there is a suggestion of the individual being terminally ill at the time of the initial application and **prior** to the date of clinical judgement, this must be investigated by a practitioner by making contact with the relevant RMP/RN. Contact should be directed to the RMP/RN and not the individual as there is a possibility that harmful information has been withheld from them.
76. If the case manager determines that the individual was terminally ill at the time of the initial application, payments can be backdated to that date. Awards can be backdated a maximum of 26 weeks and to no earlier than 21 October 2024.

Example: normal rules Part 1 and Part 2 application followed by terminal illness diagnosis before a determination has been made

Julie has arthritis and submits a Part 1 and Part 2 normal rules application on 19 February. A BASRiS form is later received which advises that Julie has been diagnosed with stage 4 lung cancer and is now eligible under SRTI. The BASRiS gives a clinical judgement date of 1 March. Two determinations will require to be made. A first determination is prioritised using the 1 March date of clinical judgement to ensure that Julie begins to receive the higher rate of Pension Age Disability Payment as soon as possible. A second determination is then made for the normal rules period between the date of the initial application on 19 February and the clinical judgement date of 1 March. The Case Manager uses the information provided on Part 2 of the application and other available supporting information to make their normal rules determination.

Example: normal rules application with Part 1 only followed by terminal illness diagnosis before a determination has been made.

Donna has anxiety and submits Part 1 of a normal rules application on 1 May. A BASRiS form is later received which advises that Donna has been diagnosed with stage 4 breast cancer and is now eligible under SRTI. The BASRiS gives a clinical judgement date of 27 May. A Practitioner investigates the clinical judgement date with Diane's GP as she may have been terminally ill when she submitted her Part 1 application. Diane's GP confirms the 27 May clinical judgement date. Two determinations will require to be made. A first determination is prioritised under SRTI using the 27 May date of clinical judgement to ensure that Donna begins to receive the higher rate of Pension Age Disability Payment as soon as possible. For the SRTI award period there is no requirement to submit a normal rules Part 2 application form. No supporting information in addition to the clinical judgement is required for this period. A second determination is then required to be made for the normal rules period between the dates of the initial application on 1 May and the clinical judgement date of 27 May. As Donna is now terminally ill, the seeking of supporting information for the normal rules period needs to be carried out sensitively. Local Delivery are contacted and visit Donna to assist with completing Part 2 of the application. It is determined that Donna is entitled to normal rules PADP between the date of the Part 1 application and the date of clinical judgement of terminal illness, and Donna receives the value of that benefit in retrospect.

Change of Circumstances

77. The individual must notify Social Security Scotland of any change in circumstances that could possibly result in a change in the level of the individual's entitlement or appropriate value of payment. This includes but is not limited to:

- if the individual is living in alternative accommodation
- a change of health condition or care needs
- a change in diagnosis meaning the individual is no longer considered to be terminally ill

78. If an individual is terminally ill, changes to the appropriate value of payment where the individual is in alternative accommodation follow the standard Pension Age Disability Payment rules for alternative accommodation.

79. 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 ill¹.

1 PADP regs, reg. 21(1)

80. A hospice is a palliative care institution that isn't publicly funded and whose main function is to provide palliative care for people suffering from a progressive disease in the final stages¹

1 PADP regs, reg. 21(2)

81. A hospice is a separate organisation to a hospital.

82. If, however, 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.

Changes when an individual already entitled to PADP becomes terminally ill

83. If an individual already in receipt of PADP becomes terminally ill, a case manager should make a determination without application setting out the individual's new level of entitlement.

84. This could happen in two ways:

- the individual informs Social Security Scotland that they have become terminally ill.
- a clinical judgement is received by Social Security Scotland for an individual currently in receipt of PADP.

85. On receipt of a clinical judgement, the individual's award becomes subject to the special rules for terminal illness. Social Security Scotland will make a determination without application so that the individual receives the higher rate of award. There is no review date.

86. The new level of entitlement begins no earlier than 21 October 2024 which is the date the PADP Regulations commenced and from the earlier of:

- the date that the RMP/RN made the clinical judgement that the individual met the terminal illness definition, providing they had reached State Pension age. The clinical judgement may be provided on the phone, via a letter or on the BASRiS form.
- the date Social Security Scotland were notified by the individual about their terminal illness¹.

1 PADP regs, reg. 18(3)(b) or (c)

Changes in award due to new information received

87. Social Security Scotland can make a determination without application if it becomes aware of a change of circumstances which would possibly result in an alteration to the rate of PADP payable, or cause entitlement to PADP to end.

88. This can affect one or more of the following:

- whether payment of assistance can continue
- the rate at which the individual receives assistance.

Case managers might need to ask for further information to make the decision.

89. Examples of relevant changes in circumstances include:

- a change in prognosis
- admission to publicly funded residential care, hospital or to legal detention
- change to immigration status
- official error
- moving from Scotland to another part of the UK.

For example, a terminally ill individual admitted to a publicly funded care home or hospital (not a hospice) would:

- if entitled, still be paid PADP for the first 28 days only.
- stop being paid PADP on the 29th day of their stay in a publicly funded care home or hospital (not including a hospice).

90. A terminally ill individual admitted to a hospice, as defined above, will continue to receive PADP payments after 28 days.

91. A terminally ill individual paying for their own care will continue to receive PADP payments after 28 days.

92. Where an individual reports that they are no longer terminally ill due to a change in prognosis, a case manager makes a determination without application, setting out the individual's new rate of entitlement by applying the normal rules.

Re-determinations and Appeals

93. Re-determinations involve Social Security Scotland reconsidering an existing determination of entitlement to assistance.

94. An individual can request a re-determination of any determination of entitlement¹.

¹ SS(S)A 2018, s. 41(1)

95. Individuals can request a re-determination by either calling Social Security Scotland, or completing the re-determination form that accompanies every determination of entitlement.

96. The individual has 42 calendar days from the date on which they were informed of a determination. The date the individual is informed is the date of issue of the determination plus 48 hours¹.

1 PADP Regs, reg. 47(1) and Social Security Scotland Act s. 62(1)(2)

Re-determination of a successful application

97. An individual or their representative may ask for a re-determination of the start date of payment for a successful SRTI application.

Example: re-determination of award date

An individual's application was received on 10 March. Following this a BASRiS form for the individual is received which has a date of clinical judgement of 1 March.

The award was incorrectly processed to have a start date of 10 March.

The individual requests a re-determination because the start date of their award of PADP should match the date on the BASRiS form.

The Client Experience Officer carries out a re-determination and decides that the new award start date is 1 March. The individual should be paid any arrears of PADP between 1 and 10 March.

Re-determination of an unsuccessful application

98. An individual or their representative can ask for a re-determination of an unsuccessful SRTI application. An individual's SRTI application can be unsuccessful because of one, several or all the following reasons:

- confirmation of terminal illness not received
- they do not meet residence criteria
- they do not have recourse to public funds
- case manager has wrongly concluded that the diagnosis was not given by a RMP or a RN who is involved in the diagnosis or care of the individual.

99. If the individual does not meet the conditions for assistance, they would need to:

- ask for a re-determination and
- give supporting information which confirms that they do meet the conditions for the assistance, for example a BASRiS form.

[End of chapter]