

Unscheduled reviews

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Introduction

1. This chapter is relevant to individuals who have a Pension Age Disability Payment (PADP) award when new information emerges that could change their entitlement. This could affect either:

- entitlement to PADP overall,
- the rate of PADP that individual receives.

The rate of payment that individuals receive can increase or decrease. Alternatively, entitlement to PADP can stop altogether.

2. Unscheduled reviews are different from scheduled reviews.

3. Individuals are informed in their notice of determination that either

- they will have a scheduled review after a certain date
- they have been given an indefinite award and will have no scheduled reviews in the future.

4. Scheduled reviews are to ensure that individuals still meet the eligibility criteria and continue to receive the appropriate rate of PADP at the end of the review period.

5. New information becoming available may prompt an unscheduled review of the individual's case. Social Security Scotland may receive new information relating an individual's award of PADP in different ways. For example, new information could be provided by the individual receiving PADP, their caregiver or another government department. This list is not exhaustive.

6. Common examples of new information include:
- a new health condition that impacts on the individual's ability to live independently
 - a deterioration or improvement in a condition that impacts on the individual's ability to live independently
 - moving away from Scotland
 - discovery that an error was made with the previous determination
 - the individual going into a care home, hospital or similar institution, or legal detention.
7. The individual does not need to fill in a new application form in these situations. However, they must report the change to Social Security Scotland. They can do this by filling in a form online or on paper or by calling Social Security Scotland.
8. Both making a scheduled or an unscheduled review involves making a determination without application. A determination without application is the decision whether an individual is still entitled to PADP, and if so, at what rate. The case manager must tell the individual when a determination without application is made. The individual can ask for a re-determination and an appeal if they disagree with this new determination.
9. If the review results in no change to entitlement, a new determination will still have to be made. This is because any decision on entitlement must be done by a determination even if it results in no change to the rate of PADP. The notice of determination sent to the individual will explain that the outcome of the unscheduled review is no change to the entitlement. This will allow the individual to request a re-determination and appeal.
10. The individual will also receive a letter if they report a matter that does not prompt an unscheduled review. An example of such a matter is if the individual moves house, but is still residing in Scotland and is not residing in a care home. The letter the individual receives may explain that Social Security Scotland has updated its record of the individual's personal information.

Events that prompt an unscheduled review

11. The following is an overview of the changes which prompt unscheduled reviews.
12. When there is a change of circumstance that would possibly result in a change in the rate of PADP an individual is entitled to or receives. It does not matter whether the individual reports the change or Social Security Scotland become aware of it another way¹. See 'change of circumstances: change in care needs' chapter.
- 1 PADP regs, reg. 40(a)*
13. When an individual dies¹. See 'death of an individual' chapter.

14. When an individual:
- becomes resident in Scotland,
 - was resident in another part of the UK
 - was entitled to Attendance Allowance immediately before the date of the move to Scotland¹.

See 'moving from Scotland to another part of the UK or vice versa' chapter.

1 PADP regs, reg. 44

15. If the Attendance Allowance award that the individual was entitled to prior to moving to Scotland is later altered, this will prompt an unscheduled review. This is the case if the Attendance Allowance award is revised, superseded, reconsidered or appealed after the determination of entitlement to PADP after moving to Scotland¹. See 'moving from Scotland to another part of the UK or vice versa' chapter.

1 PADP regs, reg. 40(d)

16. When an individual moves from Scotland to another part of the UK¹. See 'moving from Scotland to another part of the UK or vice versa' chapter.

1 PADP regs, reg. 45

17. When the previous determination was based on an error¹. See 'when a previous determination is based on error' chapter.

1 PADP regs, reg. 41 and reg. 42

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

See chapter on giving PADP by way of decision.

1 PADP regs, reg. 43(2)(a)
2 PADP regs, reg. 43(2)(b)
3 PADP regs, reg. 43(3)(a)
4 PADP regs, reg. 43(3)(b)
5 PADP regs, reg. 43(3)(c)

19. When an individual who is receiving PADP by way of deduction notifies Social Security Scotland that they wish to -

- withdraw their agreement to be given PADP by way of deduction¹
- increase or decrease the amount of PADP being given by way of deduction²
- amend the length of period over which PADP is given to an individual by way of deduction³.

See chapter on giving PADP by way of decision.

1 PADP regs, reg. 43(4)(a)

2 PADP regs. 43(4)(b),(c)

3 PADP regs, reg. 43(4)(d)

Unscheduled review following change of circumstances

20. The chapter on entitlement under Special Rules for Terminal Illness gives guidance if the change of circumstances is that the individual becomes entitled under these rules.

21. Where there is a change of circumstances relating to a change in an individual's condition or level of needs, see the 'change of circumstances – change in care needs' chapter.

Individuals tell us about a change

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

1 Social Security (Scotland) Act S.56

23. The notice explains that an individual must tell us if:

- the individual's condition gets better or worse
- the level of help and care they need changes
- they go into or leave residential care
- they move away from Scotland
- they enter or leave legal detention
- they are admitted to a hospital or similar institution

24. An individual must tell us about these changes either:

- within a month or
- as soon as can be reasonably expected.

This is explained in more detail in the chapters on change of circumstances which are mentioned in the previous section.

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

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

- how they can tell us about these changes.
26. If the individual does not tell us about a change of circumstances they could:
- be liable to repay an overpayment
 - be committing a criminal offence.

Third parties telling us about a change

27. A third party organisation may inform Social Security Scotland of a change in an individual's situation. Examples include:

- the Scottish Prison Service informing us that someone has entered or left legal detention
- a publicly funded residential care facility informing us that someone is now residing in their accommodation
- a local authority giving us information that has an impact on the level of assistance an individual is entitled to
- a court or tribunal informing us of a decision in a case which alters a determination of entitlement
- Other people or organisations involved in the person's life who may be aware of a change of circumstances.

This list is not exhaustive.

Changes that require an unscheduled review

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

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

- the rate of PADP
- the length of the review period

will require a review.

30. In these situations, a case must be reviewed and a new determination made, even when the outcome is that there is no change in the level of award. This is because any decision on entitlement must be done by a determination even if it results in no change to the rate of PADP.

31. When considering the review period as part of a review, individuals may be eligible for an indefinite award. Reference should be made to the 'choosing an appropriate review period' chapter.

32. If an individual is unsuccessful in applying for PADP but then has a change in their circumstances, they must apply again. This change must be something that has taken effect after the initial determination was made. However, case managers must be alert to any information that suggests an error¹ was made when determining entitlement.

33. If a case manager is made aware of a change of circumstances during a re-determination, they will need to take this into account. For more information see the chapter on re-determination.

Example: change that requires an unscheduled review

Carla is entitled to the lower rate of PADP due to care needs related to her depression. She contacts Social Security Scotland on 20 July to inform them that her condition improved from 5 July and she no longer has care needs.

The case manager carries out an unscheduled review and makes a determination without application. They determine Carla is no longer entitled to PADP from 5 July.

The case manager sends out a notice of determination to Carla explaining the outcome of the unscheduled review and advising that her final payment, due at the end of July, will be for the period up to 5 July.

Changes which do not require an unscheduled review

34. Some changes might have an impact on the individual's life but do not constitute a change that could possibly affect entitlement. These changes do not require an unscheduled review. For example, a change in an individual's contact details.

35. It is unnecessary to review a client's award if:

- they report that their needs due to their condition or disability either remained the same or got worse
and
- due to the structure of the benefit, their entitlement won't change as they are already receiving the highest rate of PADP possible for their needs.

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

Example: change which does not require an unscheduled review

Colin is entitled to the higher rate of PADP. He completes a Change of Circumstances form and sends it to Social Security Scotland to update his address after he moves from Edinburgh to Glasgow to be closer to his grandchildren.

The case manager reviews the Change of Circumstances form. They determine that no unscheduled review is required, as the change of contact details would not affect Colin's entitlement to PADP.

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

A change that occurs before the initial determination is made

37. An individual may have a change of circumstances:

- after submitting an application to Social Security Scotland
- before a determination has been made.

38. Case managers should make a first determination, using the information that was submitted or gathered as part of the application. The date of entitlement should be set as normal.

39. Case managers should then make a determination without application on the change of circumstances. The date of entitlement depends on the nature of the change. The second determination is effective once the individual meets the backwards test for the new information provided, where required.

40. The 'change of circumstances before an initial determination has been made' section of the 'Applying for PADP' chapter sets out examples of this scenario.

A change that occurs during an ongoing award review

41. An individual may have a change of circumstances during an ongoing award review. This ongoing review can be either a scheduled or an unscheduled review.

42. Case managers should complete the ongoing review by making a determination without application, using the information that was submitted or gathered as part of that review. The date of entitlement depends on the nature of the change.

43. The case manager should then make a second determination without application on the newly reported change of circumstances. The date of entitlement depends on the nature of the change. The second determination is effective once the individual meets the backwards test for the new information provided, where required.

What information is used to make the decision

44. During an unscheduled review, the case manager should follow the considerations set out in the 'Relevant considerations when making a determination as part of a review' chapter.

In most scenarios, the case manager must not request new confirmation from a professional (i.e. supporting information from a professional to broadly confirm the individual's conditions, disability or needs). For more detail, see the 'Relevant considerations when making a determination as part of a review' chapter.

When a change of entitlement takes effect

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

[END OF CHAPTER]