

Disability Law Service

Offering free, confidential legal advice and representation for disabled people

A Guide to Disability Living Allowance

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A Guide to Disability Living Allowance

Introduction

This factsheet is designed to allow you to make informed decisions when you apply for Disability Living Allowance.

The guide begins by showing you the basic tests for Disability Living Allowance (DLA). The guide then gives you some hints about what you can do to prepare yourself for making a strong application. Finally the guide goes through some ideas that might assist you as you start to complete the DLA application form and has a few examples.

The Disability Living Allowance Tests

DLA consists of two components called the **care component** and the **mobility component** which are explained below.

DLA has three sets of tests in order for someone to be eligible. Firstly there are age tests, secondly there are residence tests and finally there are the care and mobility needs requirements.

Age and Residence Test

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DLA is a non-means tested benefit for adults up to the age of 65 and children. This means that the DWP only look the problems you have and do not look at how much money you have. To qualify for DLA you must be:

- Ordinarily resident in the UK;
- Not subject to immigration control; **and**
- Have been present in the UK for not less than 26 weeks in the preceding 52 weeks.

For babies under six months old there is a 13 week 'presence test' that applies until the baby's first birthday. The 'presence in the UK' tests do not apply to terminally ill people.

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The care needs assessment has two overall requirements for DLA which look at how long you have had the care or mobility needs:

- Firstly, that you have experienced the disability in question for three months preceding the date of the award;
- Secondly, that you are likely to continue to experience the disability throughout the period of six months from the date of the award

A person who is terminally ill does not have to satisfy the 'prior three months' requirement and qualifies automatically for the highest rate of the care component.

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Terminal illness is defined to mean expectation of death within the next six months.

The Mobility Component

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There are two rates of this component.

- The **high rate** is for people, who are unable to, or virtually unable to, walk without severe discomfort.
- The **low rate** is for people who can walk, but need guidance or supervision to do so.

You can only get help with mobility if you are aged at least three for the higher rate and at least five for the lower rate.

The Low Rate

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This is for people who may be physically able to walk but need help or guidance from another person when walking in unfamiliar places.

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The test is 'could you manage to use routes with which you are not familiar without the help of another person?' For

example: you may not be able to follow directions or may wander off and be in danger if you were on your own.

The High Rate

Unable to walk

This means what it says, but you will also be treated as unable to walk if you have certain conditions including:

- being both deaf and blind;
- having no legs or feet;
- having a heart condition, lung or chest complaints or blood disorder such as haemophilia, where walking could be a risk to life or worsen your condition.

To qualify under the third condition, how far you can walk does not matter, but if you have been told you should not walk because the stress caused by walking could lead to a serious risk to your health and safety you should be regarded as ‘unable to walk’.

Virtually unable to walk

This is the more common way of qualifying. It is assessed by looking at how far you can walk outdoors and how quickly you can walk including rests and stops, taking no account at all of

walking ability from the moment you start to feel pain or severe discomfort, (e.g. breathlessness, fatigue, dizziness).

There is no fixed qualifying distance in the regulations, but you are less likely to qualify if you can walk more than 50 yards without severe discomfort. There are exceptions to this if you are only able to walk very slowly or need to stop and rest for long periods or have poor balance and are likely to have falls.

When looking at your mobility needs think about:

- How far you can walk before you are in severe discomfort?
- How far you can walk before you have to rest?
- Why do you stop?
- How long do you rest for?
- How do you feel when walking, e.g. do you feel breathless or unsteady on your feet?
- The speed in which you walk and the manner in which you walk.
- Any special aids you use such as a walking stick.
- How important are these aids?

- The effect walking has on your health, e.g. can you only walk this once a week?

The Care Component

There are three rates of this component known as the low, middle and high rate care awards. They can be awarded for a limited period or indefinitely.

1. To get **the low rate** you have to need care and attention in connection with your bodily functions for 'a significant portion of the day' (usually at least an hour); or
You are unable prepare and cook a main meal for yourself. This is known as the 'Cooking Test'.
2. To get **the middle rate** you need to satisfy either the day condition or the night condition below:
 - a. **Day condition**
 - i. You require frequent attention throughout the day; or
 - ii. Continual supervision throughout the day to avoid substantial danger to yourself or others.

or
 - b. **Night condition**
 - i. You require prolonged or repeated attention during the night; or
 - ii. Someone needs to be awake for a prolonged period or at frequent intervals to watch over you.

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What tasks can I claim for help with?

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For the Care Component, you can only claim assistance with tasks that your bodily functions cannot perform or that it may be dangerous for you to perform them. A bodily function could be your sight, hearing, thinking etc. The help which you require must be carried out in your presence. It can either be attention (someone physically helping you) or supervision (someone watching to make sure you are ok). It only matters that you require help even if you do not actually receive help.

The following are some examples:

- Getting in or out of bed or a chair;
- Getting up and down stairs or moving around within the home;
- Washing and bathing, including help with drying, getting in and out of the bath, washing hair and dressing and undressing, including managing zips, buttons, shoelaces;
- Getting to and using the toilet;
- Taking medication or having medical treatment e.g. physiotherapy;
- Seeing and hearing e.g. needing someone to read mail, medicine bottles or needing someone to sign for you.
- Motivating you to carry out the above

Care that is not in connection with bodily functions and can be done in your absence does not count: This includes things such as:

- Cleaning
- Dusting
- Vacuuming
- Washing up and drying crockery
- Shopping
- Gardening
- Laundry.

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Example 1

Rebecca has severe arthritis in her lower back and knees. She needs help getting out of bed, washing and dressing in the morning, and help with undressing at bedtime. She doesn't need help during the rest of the day.

Because she does not need help 'throughout the day', she is unlikely to get the middle rate. She is likely to get the lowest rate because she needs care for a 'significant portion of the day'.

Example 2

Albert is partially paralysed due to a stroke. He needs help washing, dressing, feeding himself, and getting around in the home. He normally sleeps well during the night.

~~He is likely to get the middle rate because he needs a lot of care throughout the day. He won't get the highest rate because he doesn't need help at night.~~

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Example 3

Davinder has Alzheimers disease. She needs somebody to supervise her all the time because she wanders off and can't remember anything. She is liable to walk into traffic and has no sense of danger. She frequently gets up and tries to go out at night and needs somebody to be awake for long periods to supervise her.

She is likely to get the highest rate because she needs supervision both day and night.

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