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‘what
can I
claim if I
have a
disabled
child?’



SURREY
COUNTY COUNCIL

Introduction:

If you are the parent or carer of a disabled child and want to make sure that you don't lose out on extra money, then there are important 'benefit birthdays' you need to be aware of:

3 months - this is the earliest age at which you can get the care component of Disability Living Allowance.

2 years - you may qualify for help under the Blue Badge Scheme if your child needs to be driven around with bulky medical equipment or be kept near your car in order to receive urgent treatment.

3 years - this is the earliest age at which you can get the higher rate mobility component of Disability Living Allowance.

5 years - this is the earliest age at which you can get the lower rate mobility component of Disability Living Allowance.

16 years - this is the earliest age at which your your child can claim Income Support or Employment and Support Allowance in their own right. You will have to give up your Child Benefit as well as any Child Tax Credits you get for that child.

This guide provides more detailed information on key areas of the benefit system affecting parents with a disabled child:

- Disability Living Allowance
- Carer's Allowance
- Council Tax relief
- Benefits at 16
- How to claim and where to get help if things go wrong

This is not a full statement of law and there is a range of other benefits available. All benefit rates apply to the period April 2009 to 2010 but may be subject to further changes. You should always seek further independent advice, particularly if you are unhappy with any decision about your benefit claims. The last page of this guide tells where you can get further advice and support.

DISABILITY LIVING ALLOWANCE (DLA)

Official estimates suggest nearly 50% of those who are eligible for DLA don't claim it and many get wrongly refused or put on the wrong rate. If you care for a disabled child and don't receive DLA you need to get advice and help about claiming immediately. If you do get DLA you might also want to check if you're on the correct amount.

Why should I claim?

Disability Living Allowance (DLA) is a weekly cash payment administered by the Pension, Disability and Carer's Service - part of the Department For Work and Pensions. Your child should qualify for some DLA if they need a lot of personal care or supervision or they have walking difficulties because of their disability.

DLA is an important benefit for many reasons:

- ❑ It is not taxed, means tested or based on National Insurance contributions. Any income you have as a parent is ignored.
- ❑ It can be paid on top of any other money you get and qualify you for additions to means tested benefits such as Income Support, Employment and Support Allowance, Child Tax Credit and housing or council tax benefit.
- ❑ It applies to children with a wide range of conditions including physical and sensory disabilities, learning disabilities and mental health problems. Examples can include developmental delay, communication difficulties, ADHD and autistic spectrum disorder.
- ❑ It can be paid for either fixed term periods or indefinitely.
- ❑ It can be a 'passport' to other help such as extra benefits or services e.g the higher rate mobility component will entitle automatically get you a Blue Badge and the middle or higher rate of DLA care may qualify you for Carer's Allowance

What is DLA?

DLA has two parts known as 'components' – one for personal care and one for mobility. You can get one or both components. Your child's care or mobility needs do not have to exist *all* day or *every* day but on a regular and continuing basis.

You can qualify even if your child's condition has not been diagnosed and nor does your child need to be on the Disability Register or have a statement of special educational needs.

If your child is under 16 you will have to show that their care or mobility needs are a lot more than a child of a similar age who does not have a disability.

You will also have to show that your child's needs have existed for at least 3 months before your claim and are likely to last for at least the next six months.

The care component

This can be paid at one of three rates depending on the severity of your child's disability. It can be claimed from birth and is payable from 3 months.

The **lowest** rate (£18.65pw) is payable if your child needs extra care for a “significant portion” of the day. This could cover help for just part of the day and be for as little as an hour. For example your child may be getting speech therapy and you need to provide extra help at home with reading etc.

[If your child is 16 and not already getting DLA, they may qualify for the lowest rate if they would be unable to cook a main meal for themselves without help.]

The **middle** rate (£47.10pw) is payable if they need extra care or supervision throughout the day OR the night. This includes help with things such as washing, dressing, communicating or dealing with behaviour problems caused by a child’s disability.

The **highest** rate (£70.35pw) is payable if they need extra care or supervision throughout the day AND the night. The help needed during the night can be for as little as one 20-minute period or for two or more times (however short).

The mobility component

This can be paid at one of two rates. Your child doesn’t have to be unable to walk to qualify. It’s about the problems they face in getting from A to B that matter.

The **lower** rate (£18.65pw) is payable if they can walk but need guidance or supervision when travelling to somewhere unfamiliar. For example they might get lost or be at risk from traffic.

The **higher** rate (£49.10pw) is payable for more serious walking problems and mainly covers people with physical disabilities. Children with a learning disability that has a physical cause (e.g Down’s Syndrome, ADHD or autism) may still qualify particularly where their walking is very erratic or slow or involves them regularly refusing to walk.

This rate also applies to children who are “severely mentally impaired” with very challenging behaviour such as those with severe learning disabilities or autism. They must also qualify for the highest rate care component of DLA

The higher rate mobility component may help you pay for a car by instalments under the **Motability** scheme. You will also be exempt from car tax and qualify for a Blue Badge. For more information go to www.motability.co.uk or telephone 0845 456 4566.

Even if you don’t get the higher rate you ought to qualify for a Blue Badge if your child has a permanent and substantial disability that makes it very difficult for them to walk. Children under 2 years can qualify if they need to have bulky medical equipment with them or be near or in a car to receive urgent medical treatment. For more information contact our Blue Badge Team on 03456 009 009.

How long is DLA paid for?

DLA can be paid for fixed or ‘indefinite’ periods depending on the severity of your child’s condition. Some children get put on short-term awards inspite of the fact that their condition is permanent and enduring. Remember that you can appeal against the length of your child’s DLA award as well as the rate and component of DLA and you should get advice about this.

What if my child goes into hospital or residential care?

The DLA care and mobility components can’t be paid if your child remains in hospital after 84 days, or 28 days if they are aged 16 or over. You will need to tell the DWP about this to avoid being overpaid.

The DLA care component (but not your mobility component) cannot be paid once your child has been in residential care for 28 days whatever their age. This includes residential education and respite care and you need to get advice about how this affects your benefit. The care component can be paid for any days spent at home such as weekends or holidays.

How do I claim DLA and how difficult is it?

You can ring the Benefits Enquiry line on **0800 88 22 00** or download a form from www.dwp.direct.gov.uk. It is quite long but don't be put off, take your time and try to include as much evidence as possible from your own experience and from any professionals involved with your child. This could include a community care assessment, statement of special educational needs or letter from a community paediatrician. Keep copies of your application.

If you have difficulty in getting specialist evidence don't delay your claim. The DWP has a responsibility to contact professionals on your behalf if you ask it to.

What if DLA is refused or I'm unhappy about the rate awarded?

You can ask for your DLA award to be looked at again at any time. Normally you must do this within one month of getting a decision but you may be able to challenge an award later if there's been a change in your circumstances or you think the DWP got the law wrong. You need to get expert advice about this.

You should first of all ask for a full written explanation of your award as well as copies of all the evidence used to support the award. The DWP may have written off for additional evidence from your child's medical specialist, GP or school without telling you and will not show you that evidence unless you ask for it.

Remember that if you ask for an increase in your DLA award, the DWP can look at reducing it as well. Don't be put off but do get expert advice.

What other help can I get if my child gets DLA?

Carer's Allowance: You must be providing at least 35 hours of care a week and your child must be getting the middle or highest rate DLA care components. It's taxable but not means tested although you can't earn more than £95 a week. Even if your child is in residential care and only comes home at weekends or during school holidays it's still possible to satisfy the 35-hour rule. [For more details, ask for our "What Can I Claim if I am a Carer" guide]

Extra means-tested benefits: if your child gets DLA then any Child Tax Credits, Income Support, housing or council tax benefit you receive will be increased.

Council tax relief: discounts and the disability reduction scheme: if you are a single parent or carer of a child aged 18 or over who gets the highest rate DLA care component you could qualify for a 25% discount. Other groups can qualify too so get more advice.

Your council tax will be reduced by a band if you've had a separate kitchen or bathroom built for your child or they need an extra room to use because of their disability or use a wheelchair indoors.

Both these types of help are NOT means tested and there is no limit to backdating. For more information, contact your local borough or district council.

BENEFITS AT 16

When your son or daughter reaches 16 and they intend to continue in education you need to decide whether to continue to get benefits for them as your dependants or help them to claim benefits in their own right.

The main benefit you would have to give up is Child Benefit but you would also lose any Child Tax Credits you get paid for your disabled child. DLA is not affected.

The two key benefits that your child may be able to claim from the age of 16 are **Income Support** and **Employment and Support Allowance**.

How will I know if we're better off or not?

There are three general rules but you should always get further advice:

- If you only get Child Benefit, your son or daughter will be better off claiming for themselves.
- If you get Child Benefit and maximum Child Tax Credits you will be better off staying on these benefits;
- If you get Child Benefit and some Child Tax Credits you will need a more detailed benefits assessment before making a decision.

INCOME SUPPORT

Your son or daughter may be entitled to Income Support at 16 if they are continuing in full time non-advanced education including residential school or college and they get DLA. In addition they must not have more than £16000 savings. Any income or savings you have as a parent is ignored. A young person on DLA will get at least £78.45pw.

How do I claim?

If your child is aged 16 or 17 you make your claim by booking an appointment with a special under-18's adviser at your local Job Centre.

If they are 18 or over the DWP's preferred method of claiming is over the telephone by ringing the Jobcentre Call Line on 0800 055 6688. A member of staff will complete an application over the telephone and post it to you to check, sign and return. Remember that 0800 calls made from a mobile can be expensive and you should always ask to be rung back.

However, the law allows you to claim in the way you most feel comfortable with. You can claim by ringing your local Jobcentre for a form or downloading a claim form from www.direct.gov.uk. You do not need a sick note to support your claim for Income Support.

Backdating

The earliest age from which your child can get Income Support is 16. If your child is older and could have claimed earlier, they may be able to get it backdated in special circumstances. If you could have claimed more than 3 months earlier due to wrong advice by the DWP you may be entitled to compensation. Get advice about this.

EMPLOYMENT AND SUPPORT ALLOWANCE (ESA)

This is a new type of incapacity benefit. It can be paid on a means tested and/or contributory basis. If the disabled young person claims before their 20th birthday (or 25 in certain circumstances) they can qualify on a non-contributory basis.

Your son or daughter must be aged at least 16 and sick and incapable of work and have been so for at least 196 days before the claim. They may be able to claim it even if they are still in education, including residential school or college.

How do I claim?

All claims are expected to be made over the telephone by ringing the Jobcentre Plus Call Line on **0800 055 6688** in the same way as for Income Support. You can also download a claim form from www.direct.gov.uk.

The initial claim must be supported by a current sick note and a backdated sick note to cover the 196-day qualifying period – this can include the period before their 16th birthday. If you missed out on claiming ESA at 16 you can ask for your claim to be backdated up to a maximum of three months. Your backdated sick note will also need to cover that period.

Your initial claim will be subject to a 13-week 'assessment phase'. During that time your incapacity for work will usually be determined by completion of a self-assessment questionnaire and a medical. At the end of that phase you will be placed in either a 'work-related' group if you have some capacity for work or a support group if you are unlikely to be able to work in the foreseeable future.

If you are in education you will not be expected to give up and look for work. You may not need to complete the questionnaire or attend a medical if you are severely disabled.

Will my child get means tested or contributory ESA?

You only need to complete one combined claim form. The information you give about your circumstances will decide which type of ESA you get. Both types of ESA are paid at the same basic rates but to qualify for means tested ESA your child must not have more than £16,000 savings, little or no income and be getting a certain rate of DLA. The examples below give you some idea about how much they will get.

How much will I get paid?

This will depend on whether you get non-contributory or means tested ESA and whether you get placed in the work or support group. You will also get a lower amount during the 13-week assessment phase.

Daniel is 16 and attends college. He gets lower rate DLA care and has no savings or income. He gets £50.95pw for the first 13 weeks and then would get £89.80pw if placed in the work group or £95.15pw if in the support group. He therefore gets non-contributory ESA.

Kylie is also 16 and has no savings or income. She gets the highest rate DLA care. She gets £64.35pw for the first 13 weeks and then £103.20pw if placed in the work group or £108.55pw if in the support group. Her rate of DLA qualifies her for an extra addition and so she gets means tested ESA.

Income Support or Employment and Support Allowance?

Although you can't get both benefits at the same time your child may qualify for both. Because the benefit rates are different you will need to get specialist benefit advice.

Passported Benefits?

Both Income Support and means-tested ESA can act as a 'passport' to other benefits and service. This includes health benefits such as travelling expenses to hospital, free dental and optical equipment etc. If your son or daughter is 19 and at they may be exempt from course fees – this does not apply if they get contributory ESA.

Work and Benefits

If your son or daughter wants to work rather than staying on at school or college, there are two options they may want to look at.

Anyone can earn up to £20pw without it affecting their benefits but they will not be able to work many hours to stay within this limit.

If they are in specialist supported employment and get ESA, they can earn up to £92pw without losing that benefit (this rate will go up in October). This is known as 'permitted work'.

If they want to do 'ordinary' work for 16 hours a week or more, they should be able to get a top-up to their pay known as Working Tax Credit. Extra amounts are paid if you are disabled.

WHERE CAN I GET MORE INFORMATION ADVICE AND SUPPORT?

If your child gets a care package from Surrey County Council your area Benefits and Charging team can provide advice on benefit entitlements. Their contact details will be on your assessment notification letter. If you can't find their details then you can call Surrey County Council on 03456 009 009.

Your care manager or social worker – if you have one – should also be able to advise you.

Alternatively there are a number of voluntary organisations that also provide free, confidential and independent including:

- **Citizen's Advice Bureau**

See your local telephone directory for contact details.

- **Carer's Support Group**

Our Carer's Information Pack can provide details of carer's groups across the County – call our Contact Centre on 03456 009 009.