Chapter P5: Transitional Provisions

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Chapter P5: Transitional provisions

Introduction

P5001 This chapter introduces the provisions for the transition of those claimants who are currently entitled or have been entitled to Disability Living Allowance prior to the introduction of Personal Independence Payment.

P5002 The introduction of Personal Independence Payment will begin from 20.6.16[1] for claimants who meet the requirements in ADM Chapter P1.

1 WR Order (NI) 15 (Commencement No 3) Order 16, art 3

P5003

Definitions

Assessment determination

P5004 Assessment determination[1] means the determination following the assessment of the person's ability to carry out activities.

1 PIP (TP) Regs (NI), reg 2(1)

Change of circumstances

P5005 Change of circumstances means a change of circumstances which a person might reasonably have been expected to know might affect the continuance of that person's entitlement to Disability Living Allowance, (by ending entitlement to one or both components or resulting in entitlement to one or both components at a different rate)[1].

1 PIP (TP) Regs (NI), reg 2(1)

Disability Living Allowance entitled person

P5006 A Disability Living Allowance entitled person[1] means a person aged 16 or over who is entitled to either or both components of Disability Living Allowance.

1 PIP (TP) Regs (NI), reg 2(1)

Electronic communication

P5007 Has the meaning given by the legislation relating to electronic communications[1].

1 PIP (TP) Regs (NI), reg 2(1); UC, PIP, JSA & ESA (C&P) Regs (NI), Sch 1

Notified person

P5008 A notified person[1] means a Disability Living Allowance entitled person who has been sent a notification by the Department to invite them to claim Personal Independence Payment.

1 PIP (TP) Regs (NI), reg 2(1)

P5009 – P5010

Transfer claimant

P5011 Transfer claimant means a

1. notified person who has claimed Personal Independence Payment in response to a notification sent by the Department[1] **or**

2. voluntary transfer claimant.

1 PIP (TP) Regs (NI), reg 2(1)

Voluntary transfer claimant

P5012 Voluntary transfer claimant means a Disability Living Allowance entitled person who has not received a notification but who claims Personal Independence Payment[1].

1 PIP (TP) Regs (NI), reg 2(1)

P5013 – P5014

Claims to Personal Independence Payment

P5015 Claims to Personal Independence Payment may be made in writing or by telephone[1]. The date of claim is the day on which

1. a form is delivered to or received at the appropriate office **or**

2. a telephone call takes place[2], which provides sufficient information to make a claim.

Note: At a much later date electronic claims will also be available when the date of claim will be the date the communication is received at the appropriate office.

1 UC, PIP, JSA & ESA (C&P) Regs (NI), reg 11; 2 PIP (TP) Regs (NI), reg 2(2)

Invitations to Disability Living Allowance claimants to claim Personal Independence Payment

P5016 Any time after 19.6.16 the Department may invite by written notification a Disability Living Allowance entitled person to make a claim for Personal Independence Payment[1].

1 PIP (TP) Regs (NI), reg 3(1)

P5017 The Department shall not send a notification to any person who was aged 65 or over on 20.6.16[1].

1 PIP (TP) Regs (NI), reg 3(2)

P5018 The Department will send an invitation to claim Personal Independence Payment to a Disability Living Allowance entitled person who attains the age of 16 after 19.6.16, or as soon as reasonably practicable after the person reaches age 16[1].

1 PIP (TP) Regs (NI), reg 3(3)

P5019

P5020 ADM P5018 does not apply where, on the day they reach the age of 16 the person is entitled to Disability Living Allowance, on the basis of being terminally ill[1] within the meaning of P2077.

1 PIP (TP) Regs (NI), reg 3(4)

P5021 P5018 also does not apply where the Disability Living Allowance entitled person entered hospital or a similar institution as an in-patient under the age of 18. If this is the case they should **not** be invited to claim Personal Independence Payment until they are discharged[1]. This will be the case even if the claimant reports a change of circumstance whilst in hospital[2]. If the claimant's Disability Living Allowance is due to expire whilst they are still an in-patient in the hospital or similar institution, the Disability Living Allowance award may be extended appropriately[3] if the claimant continues to satisfy the conditions of entitlement.

1 PIP (TP) Regs (NI), reg 2(1) & 3(4A); 2 reg 3(5A); 3 reg 19(1)(b)

Example 1

Katy is aged 15 and is due to turn 16 on 19.7.16. She is entitled to the highest rate of the care component and the higher rate of the mobility component of Disability Living Allowance from 21.6.14 - 20.6.17. She enters hospital on 18.7.16 and remains there as an in-patient until 23.8.18. Her Disability Living Allowance will not be stopped for any period as she was under the age of 18 on the day she entered the hospital as an in-patient. As Katy's Disability Living Allowance is due to expire on 20.6.17 it will

be extended as appropriate whilst she is in hospital. She will not be invited to claim Personal Independence Payment until she is discharged.

Example 2

Declan is entitled to the highest rate of the care component and the higher rate of the mobility component of Disability Living Allowance. He turns 16 on 17.9.16 and is invited to claim Personal Independence Payment. On 30.9.16 Declan makes a claim to Personal Independence Payment. He is subsequently taken into hospital on 5.10.16. Although he is now a hospital in-patient, Declan's Personal Independence Payment claim continues. A decision is made on his Personal Independence Payment claim that his Disability Living Allowance will terminate on 23.11.16 and he will be entitled to the enhanced rate of the daily living component and the enhanced rate of the mobility component of Personal Independence Payment from 24.11.16 - 23.11.19. He is paid Disability Living Allowance up to 23.11.16 and payment of Personal Independence Payment from 24.11.16 will continue whilst he remains in hospital as he was under the age of 18 when he was admitted to hospital on 5.10.16 (see ADM Chapter P3 for Personal Independence Payment hospitalisation rules).

P5022 When a Disability Living Allowance claimant, who after 19.6.16 has neither

1. been sent an invitation to claim Personal Independence Payment[1] **nor**

2. made a claim for Personal Independence Payment[2]

sends in a change of circumstances notification[3], the Department will send the claimant an invitation to claim Personal Independence Payment as soon as reasonably practicable (see ADM P5035 and P5071).

Note: This does not include those persons who inform the decision maker that they are to be absent or have become absent from Northern Ireland, whether on a temporary or permanent basis[4].

1 PIP (TP) Regs (NI), reg 3(1); 2 reg 4; 3 reg 3(5); 4 reg 3(6)

P5023

Claims for Personal Independence Payment made by Disability Living Allowance claimants who have not received an invitation

P5024 A Disability Living Allowance claimant who has not been sent an invitation may only make a claim for Personal Independence Payment where they were under age 65 on 20.6.16.

Claimants under 16

P5025 No claim may be made by a claimant who has not reached age 16, regardless of whether or not they are entitled to Disability Living Allowance[1].

1 PIP (TP) Regs (NI), reg 5

Claimants making claims for Disability Living Allowance not entitled to claim Personal Independence Payment

P5026 A claimant who is not entitled to Disability Living Allowance may make a claim for Personal Independence Payment at any time except if they are a claimant

1. who claimed Disability Living Allowance before 20.6.16 **and**

2. whose claim remains under consideration on that date

until such time as the claim for Disability Living Allowance is either determined or withdrawn[1].

1 PIP (TP) Regs (NI), reg 6(1) & (2)

P5027 A claim for Disability Living Allowance under P5025 remains under consideration only if it has not

1. been decided by the decision maker[1] **or**

2. been withdrawn in accordance with regulations[2] **or**

3. otherwise ceased to be under consideration before being decided by the decision maker[3].

1 SS (NI) Order 98, art 9; 2 SS (C&P) Regs (NI), reg 5; 3 PIP (TP) Regs (NI), reg 6(3)

P5028 – P5033

Form of notification inviting a person to claim Personal Independence Payment

P5034 A notification to a Disability Living Allowance entitled person inviting the person to claim Personal Independence Payment must

1. be in writing **and**

2. explain that the person's entitlement to Disability Living Allowance will end if the person does not claim Personal Independence Payment **and**

3. state the date of the last day of the period within which a claim for Personal Independence Payment can be made, that period being 28 days starting with the day that is the date of notification **and**

4. tell the person how to claim Personal Independence Payment **and**

may contain any such other guidance or information the decision maker considers appropriate[1].

1 PIP (TP) Regs (NI), reg 7

Making a claim following notification

P5035 The claim period is the 28 day period starting with the date of the notification[1], in which a claimant has to return their intention to claim Personal Independence Payment after the initial invitation. This date must be stated in the notification letter.

1 PIP (TP) Regs (NI), reg 8(1)

P5036 The decision maker will accept that a claim is made, whether or not it is defective[1], in the case of a claim being

1. made by telephone, when the telephone call takes place[2] **or**

2. made in writing by electronic means, when it is sent to the appropriate office **or**

3. made in writing, other than by electronic means, on a form authorised by the decision maker, when it is delivered to or received at the appropriate office.

1 UC, PIP, JSA & ESA (C&P) Regs (NI), reg 11; 2 PIP (TP) Regs (NI), reg 8(3)

P5037 Where the claim is defective[1] the decision maker must extend the claim period by a period of 28 days, or such longer period as the decision maker considers reasonable, starting with the day following the last day of the claim period.

1 PIP (TP) Regs (NI), reg 8(4)(a)

P5038 Where a claim is made by a notified person the decision maker may extend the claim period, if appropriate, including in cases where the claim is defective

1. either before the period would otherwise have expired **or**

2. after it has expired[1]

by such further period as the decision maker thinks reasonable.

1 PIP (TP) Regs (NI), reg 8(5)

P5039 The decision maker may **further** extend a claim period either

1. before the extended period would have expired **or**

2. after it has expired[1].

1 PIP (TP) Regs (NI), reg 8(6)

P5040 Where the claim period has been extended the decision maker must treat the claim as properly made if a claim is made

1. before the end of the period by which the claim period was extended **and**

2. in accordance with any instructions of the decision maker as to the way in which the claim is to be completed[1].

1 PIP (TP) Regs (NI), reg 7

P5041 – P5045

Suspension of Disability Living Allowance where no claim is made

P5046 When a notified person fails to make a claim for Personal Independence Payment before the end of the claim period, or the extended claim period, the Disability Living Allowance will be suspended[1].

1 PIP (TP) Regs (NI), reg 9(1)

P5047 The suspension will take effect either

1. on the first pay day after the last day of the claim period **or**

2. on the last day of the extended or further period[1].

Note: This is not a defective claim.

1 PIP (TP) Regs (NI), reg 9(2)

Further opportunity to claim

P5048 When a claimant's benefit has been suspended as in ADM P5046, the claimant will be given an opportunity to claim again, and the decision maker will issue a notice in writing informing the claimant

1. that their entitlement to Disability Living Allowance will be or has been suspended **and**

2. on what day that suspension takes or took effect **and**

3. that their Disability Living Allowance will be terminated unless they make a claim for Personal Independence Payment before the end of the period of 28 days beginning with the date of suspension[1].

1 PIP (TP) Regs (NI), reg 10(1)

P5049 The notification in ADM P5048 will be issued on or as soon as is practicable after the day of the suspension took effect[1].

1 PIP (TP) Regs (NI), reg 10(2)

P5050 When a claimant makes a claim for Personal Independence Payment before the end of the period specified in ADM P5048 **3.** the entitlement to Disability Living Allowance will be reinstated as if the suspension had not taken place[1].

1 PIP (TP) Regs (NI), reg 10(3)

Termination of entitlement to Disability Living Allowance following failure to claim Personal Independence Payment

P5051 When a notice is sent to a notified claimant and the claimant makes no claim for Personal Independence Payment before the end of the period specified, the entitlement to Disability Living Allowance will terminate with effect from the day on which the suspension of the entitlement took effect[1].

1 PIP (TP) Regs (NI), reg 11(1)

P5052 The decision maker must send any claimant in relation to ADM P5051 a notice in writing

1. informing the claimant that their entitlement to Disability Living Allowance has terminated **and**

2. informing of the date on which the termination took effect **and**

3. explaining that it is no longer possible for the claimant's entitlement to Disability Living Allowance to be reinstated **and**

4. explaining that the claimant is able to make a new claim for Personal Independence Payment at any time[1].

1 PIP (TP) Regs (NI), reg 11(2)

Defective claims by voluntary transfer claimants

P5053 When a voluntary transfer claimant makes a claim to Personal Independence Payment and

1. the claim was defective under specified legislation[1] **or**

2. no claim is made or completed in accordance with P5048[2]

then the Disability Living Allowance will be terminated in line with ADM P5051.

1 UC, PIP, JSA & ESA (C&P) Regs (NI), reg 11; 2 PIP (TP) Regs (NI), reg 12

Failure to provide information

P5054 **[See ADM Memo 10/26]** When a transfer claimant makes a claim to Personal Independence Payment and the decision maker

1. makes a negative determination[1] to both components (due to failing to attend a consultation or provide information) **or**

2. determines that the claimant has unreasonably failed to comply under specified legislation[2] **or**

3. determines that the claimant has failed to comply with a requirement imposed by the decision maker[3] e.g. failed to supply information about their claim, medical information or information about their specific needs) made in writing by electronic means, when it is sent to the appropriate office

then the Disability Living Allowance is terminated 14 days following the first pay day after the date the decision is made[4].

Note: A negative determination is not an assessment determination.

1 PIP Regs (NI), reg 8 & 9; 2 UC, PIP, JSA & ESA (C&P) Regs (NI), reg 34; 3 reg 36; 4 PIP (TP) Regs (NI), reg 13(1)

Negative determination is revised or successfully appealed

P5055 Where the negative determination is removed (for example where the Department or an appeal tribunal accept the claimant had good reason for failing to provide information or comply) the claimant's previous Disability Living Allowance entitlement is restored pending their Personal Independence Payment assessment[1].

1 OM v SSWP (PIP) [2017] UKUT 458 (AAC); 2 PIP (TP) Regs (NI), reg 13(1)

P5056 Where P5055 applies Disability Living Allowance monies need to be backdated to the date after the Disability Living Allowance entitlement was originally ended and will continue to be paid until either a further negative determination is made (following P5054) or the Personal Independence Payment assessment decision is made (following P5062).

Claimant expresses intention not to claim Personal Independence Payment

P5057 A Disability Living Allowance claimant who has not made a claim for Personal Independence Payment may inform the decision maker either

1. by telephone **or**

2. electronically (when available) **or**

3. in writing

that they do not intend to claim Personal Independence Payment[1].

1 PIP (TP) Regs (NI), reg 14(1)

P5058 If the decision maker is satisfied

1. the claimant has a genuine intention not to claim Personal Independence Payment and has notified the decision maker either in writing or by telephone[1] **or**

2. that a person acting on behalf of the decision maker has told the claimant claiming Personal Independence Payment, as soon as is reasonably possible, that the claimant's entitlement to Disability Living Allowance will terminate[2]

the claimant's entitlement to Disability Living Allowance will terminate on the last date of the period of 14 days starting with the first pay day[3], following the day on which the decision maker was informed that the claimant did not intend to claim.

1 PIP (TP) Regs (NI), reg 14(1); 2 reg 14(3); 3 reg 14(2)

Withdrawal of claims

P5059 When a claim for Personal Independence Payment is withdrawn by a transfer claimant before the claim is decided, the claimant's entitlement to Disability Living Allowance will terminate on the last day of the period of 14 days starting with the first pay day after the date the decision maker decides the claimant has withdrawn the claim[1].

1 PIP (TP) Regs (NI), reg 15

Death before or after making a claim for Personal Independence Payment

P5060 When a notified claimant dies before making a claim for Personal Independence Payment, the rules for Disability Living Allowance will apply, as if the invitation to claim Personal Independence Payment has never been made[1].

DN: If the Disability Living Allowance has already been terminated then this will still be a Disability Living Allowance claim, and the award will not be reinstated.

1 PIP (TP) Regs (NI), reg 16(1)

P5061 When a transfer claimant dies[1]

1. before any assessment determination is made **or**

2. where an assessment determination is made before the day on which the claimant becomes entitled to Personal Independence Payment

the claim will be treated as if it had never been made and if that claimant is a notified person, as if no notification has been issued.

1 PIP (TP) Regs (NI), reg 16(2)

Determination of claim for Personal Independence Payment made

P5062 When an assessment determination is made by the decision maker on a claim by a transfer claimant

1. the decision maker will, as soon as is practicable, send the claimant written notification of the outcome decision **and**

2. Disability Living Allowance will be terminated, on the last day of the period of 28 days starting with the first pay day after the making of the determination[1].

1 PIP (TP) Regs (NI), reg 17(1)

P5063 When the outcome decision is an award of either or both Personal Independence Payment components, the claimant's entitlement to Personal Independence Payment will begin

1. from the day immediately following the day the claimant's entitlement to Disability Living Allowance terminates[1] **or**

2. immediately following the last day of a period of 28 days as calculated in ADM P5035 starting with the first pay day after making the determination.

1 PIP (TP) Regs (NI), reg 17(2)

P5064 The notifications issued must contain the information[1] if

1. Personal Independence Payment is awarded, the day on which

1.1 the claimant's entitlement to Disability Living Allowance will terminate **and**

1.2 the claimant's entitlement to Personal Independence Payment will start

2. Disability Living Allowance is not awarded and a claim for Personal Independence Payment was made after the refusal[2]

2.1 where Personal Independence Payment is awarded, Disability Living Allowance will terminate on the day before the day the claimant becomes entitled to Personal Independence Payment **or**

2.2 where Personal Independence Payment is not awarded, Disability Living Allowance will terminate on the first pay day following the period of 28 days after the Personal Independence Payment assessment decision is made[3].

1 PIP (TP) Regs (NI), reg 17(5); 2 reg 17(6); 3 reg 17(7)

Determination of claim for Personal Independence Payment in terminal illness cases

P5065 Where

1. a transfer claimant is terminally ill[1] **and**

2. makes a claim for Personal Independence Payment expressly on the ground of terminal illness[2] **and**

3. the outcome of an assessment determination in respect of that claim is an award of Personal Independence Payment[3] **and**

4. the total weekly rate of Personal Independence Payment is greater than the claimant's existing award of Disability Living Allowance[4]

the existing award of Disability Living Allowance will terminate on the last day of the payment period during which the Personal Independence Payment decision is made, or the first Tuesday following the making of that decision, whichever is earlier[5]. The claimant's entitlement to Personal Independence Payment will then commence on the day after the Disability Living Allowance has terminated.

Note 1: See ADM P2077 for the meaning of terminally ill.

Note 2: In all other cases, the guidance at ADM P5062 - 5063 still applies[6].

1 WR (NI) Order 15, art 87(1)(a) & 87(4); PIP (TP) Regs (NI), reg 17(3)(a); 2 WR (NI) Order 15, art 87(1)(b); 3 PIP (TP) Regs (NI), reg 17(3)(b); 4 reg 17(3)(c); 5 reg 17(1)(b)(i); 6 reg 17(1)(b)(ii)

Example 1

Mary is in receipt of the lowest rate of both the care (£21.80) and mobility (£21.80) components of Disability Living Allowance. She is invited to claim Personal Independence Payment and on 5.7.16 makes a claim for Personal Independence Payment on the ground of terminal illness. Medical evidence indicates that Mary is suffering from cancer and meets the terminal illness criteria. The evidence also indicates that Mary satisfies the criteria for the enhanced rate of the mobility component. On 11.7.16 the decision maker makes a determination that Mary is entitled to the enhanced rate of both the daily living (£82.30) and mobility (£57.45) components of Personal Independence Payment. Mary's award of Disability Living

Allowance is paid in 4 weekly arrears on a Wednesday and her last payment covered the period 8.6.16 - 5.7.16. The date of the Personal Independence Payment determination is 11.7.16. The payment period during which this decision was made is 6.7.16 - 2.8.16. Therefore, the last day of the payment period during which the Personal Independence Payment decision is made is 2.8.16 and the following Tuesday is 12.7.16. As 12.7.16 is the earliest date, Mary's Disability Living Allowance will terminate on 12.7.16 and the payment of Personal Independence Payment will commence on 13.7.16. Mary will be paid Disability Living Allowance arrears to cover the period 6.7.16 - 12.7.16.

Example 2

Lucinda is in receipt of the highest rate of both the care (£82.30) and mobility (£57.45) component of Disability Living Allowance. She is invited to claim Personal Independence Payment and on 27.6.16 makes a claim for Personal Independence Payment on the grounds of terminal illness. Medical evidence indicates that Lucinda has an inoperable brain tumour and meets the terminal illness criteria. The evidence also indicates that Lucinda satisfies the criteria for enhanced rate of the mobility component. On 30.6.16 the decision maker makes a determination that Lucinda is entitled to the enhanced rate of both the daily living (£82.30) and mobility (£57.45) components. However, as the weekly amount of Personal Independence Payment is not greater than the existing award of Disability Living Allowance, Lucinda's Disability Living Allowance will terminate on the last day of the period of 28 days starting with the first pay day after making the Personal Independence Payment determination. The first pay day after the determination is 6.7.16 therefore the Disability Living Allowance will terminate on 2.8.16 and the payment of Personal Independence Payment will commence on 3.8.16.

Extension of fixed term period awards of Disability Living Allowance

For under 16s

P5066 Where there is an award of Disability Living Allowance for a Disability Living Allowance entitled person

1. and the award is of

1.1 both components and in respect of either or both components is for a fixed term period **or**

1.2 one component only and for a fixed term period **and**

2. the person reaches age 16 on or after 20.6.16 **and**

3. the fixed term period expires in the period starting with the day before the person reaches 16, and ending with the date before the person reaches age 16 years and 6 months

the decision maker will extend the fixed term period[1].

1 PIP (TP) Regs (NI), reg 18(1)

P5067 Any such extended fixed term period will expire, and entitlement to Disability Living Allowance will terminate, on the day before the claimant reaches 17[1], unless

1. entitlement to Disability Living Allowance ceases before that date **or**

2. a negative determination is made, then an earlier date will apply **or**

3. there is a failure to supply information and a negative determination is made.

1 PIP (TP) Regs (NI), reg 18(2)

For working age claimants

P5068 When

1. an award of Disability Living Allowance to a claimant is for a fixed term period in regards to one or both components **and**

2. they are over the age of 16 **and**

3. the decision maker considers the fixed term period may expire before an assessment determination can be made

the decision maker can extend the period by such further period as the decision maker considers appropriate[1].

1 PIP (TP) Regs (NI), reg 19(1)

P5069 The decision maker can extend[1] a fixed term period

1. regardless of whether the person has yet made a claim for Personal Independence Payment **and**

2. where the fixed term period has already been extended **and**

3. on more than one occasion.

1 PIP (TP) Regs (NI), reg 19(2)

P5070 An extended fixed term period will expire

1. on the last day of the period by which the decision maker extended or last extended it[1] **or**

2. where the person's entitlement to Disability Living Allowance terminates on an earlier day, on that day.

1 PIP (TP) Regs (NI), reg 19(3)

Notifications of change of circumstances

P5071 Where the decision maker receives a

1. change of circumstances notification[1] (see ADM P5005)

1.1 from a notified person, before they make a claim for Personal Independence Payment **or**

1.2 from a transfer claimant **or**

1.3 from a person who is not a notified person and has not made a claim for Personal Independence Payment

2. notification as in ADM P5016 this

2.1 is not treated as a supersession to Disability Living Allowance **and**

2.2 is treated as a change of circumstances which a person can be expected to reasonably know is a change to any claim for Personal Independence Payment, and taken into account for the purposes of the Personal Independence Payment assessment

the change of circumstances will be taken into account when deciding the claim to Personal Independence Payment.

Note 1: This will not apply where the change of circumstance is that the notified person or the transfer claimant is going abroad, temporarily or permanently.

Note 2: Any Disability Living Allowance claimant under the age of 16 will have their change of circumstances request treated as a supersession for Disability Living Allowance.

1 PIP (TP) Regs (NI), reg 20

Example

Lewis is a Disability Living Allowance entitled claimant and makes a claim to Personal Independence Payment. He attends an assessment on 19.9.16 and is notified on 1.12.16 he is entitled to Personal Independence Payment. On 5.12.16 a letter is received from the claimant's general practitioner stating he visited the claimant on 22.11.16 and the claimant's condition had deteriorated. As the change has occurred prior to the decision being made, the decision is revised taking this change into account as appropriate.

P5072 – P5080

Extinguishment of right to claim Disability Living Allowance

P5081 Where a person is entitled to claim Personal Independence Payment (whether or not they have actually claimed Personal Independence Payment) they are not able to claim Disability Living Allowance[1].

1 PIP (TP) Regs (NI), reg 22(1)

P5082 The exception to this is

1. if a claimant has an award of Disability Living Allowance under which one or both components have a fixed term award **and**

2. **i**f they are notified by the decision maker that they need to claim Disability Living Allowance again to stop the award of Disability Living Allowance coming to an end

then they are able to claim Disability Living Allowance again[1]. This will only apply where the Department has sent that Disability Living Allowance person the notice to renew.

1 PIP (TP) Regs (NI), reg 22(2)

Qualifying period for transfer claimants

P5083 There is no qualifying period for transfer claimants[1].

1 PIP (TP) Regs (NI), reg 23(1)

Linking periods for qualifying period

Claimants under age 65 on 20.6.16

P5084 Any person claiming Personal Independence Payment who

1. was aged under 65[1] on 20.6.16 **and**

2. was not entitled to Disability Living Allowance on the day the claim was made **but**

2.1 was entitled on a day falling 24 months before that date **or**

2.2 was entitled at any time during those 24 months prior to the date of claim

can be considered a transfer claimant. The qualifying period rule at P5083 applies.

1 PIP (TP) Regs (NI), reg 23(2)

Claimants over age 65 on the day of claim

P5085 A person claiming Personal Independence Payment who

1. was aged 65 or over[1] on the day the claim was made, but under age 65 on 20.6.16 **and**

2. was not entitled to Disability Living Allowance on the date of claim **but**

2.1 was entitled on the day falling 12 months prior to that day **or**

2.2 was entitled at any time during those 12 months

can be considered a transfer claimant. The qualifying period rule at P5083 applies.

1 PIP (TP) Regs (NI), reg 23(3)

P5086 Any person who is entitled under ADM P5064 then the prescribed date, in the context of a claimant being migrated, is the date of claim[1].

1 PIP (TP) Regs (NI), reg 24

P5087 – P5092

People in care homes or hospital at time of transfer to Personal Independence Payment

P5093 If the claimant has already been resident in a hospital or similar institution for **28 or more days** immediately prior to the date of transfer (i.e. the date on which Disability Living Allowance entitlement ends), there will be no payment of Personal Independence Payment (although entitlement continues).

P5094 If the claimant has already been resident in a care home for **28 or more days** immediately prior to the date of transfer (i.e. the date on which Disability Living Allowance entitlement ends), there be no payment of the daily living component (although entitlement continues). The mobility component remains in payment.

P5095 If the claimant has already been resident in a hospital or similar institution for **less than 28 days** immediately prior to the date of transfer (i.e. the date on which Disability Living Allowance entitlement ends), they will be treated as if they are a new Personal Independence Payment claimant and Personal Independence Payment will remain payable for the first 28 days of residence from the date of entitlement, before ceasing[1].

1 PIP (TP) Regs (NI), reg 25(3)

P5096 If the claimant has already been resident in a care home for **less than 28 days** immediately prior to the date of transfer (i.e. the date on which Disability Living Allowance entitlement ends), they will be treated as if they are a new Personal Independence Payment claimant and Personal Independence Payment daily living component will remain payable for the first 28 days of residence from the date of entitlement, before ceasing. The mobility component remains in payment[1].

1 PIP (TP) Regs (NI), reg 25(3)

P5097 If the claimant in 5093 and 5094 (who is not being paid Personal Independence Payment due to being in residence from date of transfer) subsequently leaves a hospital, similar institution or care home, and later re-enters within a 28 day period, they will then be treated as if they are a new Personal Independence Payment claimant and receive 28 days of Personal Independence Payment payment for the next 28 days in residence[1]. The normal linking rules will apply to those 28 days of Personal Independence Payment payment and for any subsequent periods in residence (see P4021).

1 PIP (TP) Regs (NI), reg 25(3)

Example 1

Rose was in hospital from 20.10.16 and was entitled to Disability Living Allowance. An assessment determination had been made and the Disability Living Allowance was to terminate on 26.10.16. On 27.10.16 Rose is entitled to Personal Independence Payment, and this was put into payment. This means that Rose is entitled to a further 28 days payment. On 24.11.16 Rose had spent 28 days in hospital, so her payment of both components of Personal Independence Payment ceased from 24.11.16, although she still had entitlement.

Example 2

Trevor was in receipt of Disability Living Allowance and assessed for Personal Independence Payment. His Disability Living Allowance terminated on 22.11.16, and Personal Independence Payment was put into payment from 23.11.16. Trevor was assessed as being entitled to the standard rate of the daily living component and the enhanced rate of the mobility component. Trevor entered a care home, which was not a similar institution, on 11.11.16. From 23.11.16 Trevor is entitled to a further 28 days payment of Personal Independence Payment whilst in the care home, on transitional arrangements. On 20.12.16 Trevor had received 28 days payment of Personal Independence Payment so from 21.12.16 his daily living component ceased to be paid, his mobility component continued to be paid as he is in a care home.

Example 3

Amy was entitled to Disability Living Allowance and was re-assessed for Personal Independence Payment on 13.2.17. Her Disability Living Allowance was due to terminate on 12.3.17, and Personal Independence Payment entitlement commences. However, on 6.2.17 she had already been in hospital for 28 days, so Personal Independence Payment was not payable.

Example 4

Niall was in hospital from 3.4.17 and was entitled to Disability Living Allowance. An assessment determination had been made and the Disability Living Allowance was to terminate on 22.5.17. On 23.5.17 Niall was entitled to Personal Independence Payment, however as he had already been in hospital for 28 days it was not payable. Niall subsequently left the hospital on home leave on 13.6.17 and returned to hospital on 16.6.17 until 28.7.17. On his return to hospital Niall was entitled to payment of Personal Independence Payment for 28 days from 16.6.17.

P5098 – P5105

Temporary absence from Northern Ireland when transfer claimants become entitled to Personal Independence Payment

P5106 Where a transfer claimant is awarded Personal Independence Payment and, at the date their Disability Living Allowance terminated, they are temporarily absent from Northern Ireland but treated as present under the Disability Living Allowance regulations[1] either

1. for up to 13 weeks **or**

2. for up to 26 weeks because the absence is solely for medical treatment

then the period running from the date the temporary absence started down to the date Disability Living Allowance terminated counts towards the 13 weeks of temporary absence, or (where the absence is solely for medical treatment) the 26 weeks allowable in Personal Independence Payment (see Chapter C2 International Issues - Personal Independence Payment for details of the temporary absence rules).

1 PIP (TP) Regs (NI), reg 26

Example

Bill was receiving Disability Living Allowance. On 10.1.17 he was invited to claim Personal Independence Payment. He claimed accordingly, an assessment determination was made on 23.1.17. On 3.2.17 Bill reported that he would be visiting relatives in Germany from 1.2.17. Disability Living Allowance was terminated on 21.2.17 and entitlement to Personal Independence Payment started on 22.2.17. On 28.2.17, a decision maker considered the Personal Independence Payment rules on temporary absence from Northern Ireland and, in accordance with ADM C2057, decided that Bill had completed 4 weeks of the 13 weeks allowable. Bill informed the decision maker that he had now returned to Northern Ireland, so the benefit remained in payment.

Persons age 65 or over to be entitled to Personal Independence Payment in certain circumstances

P5107 Claimants may have entitlement to Personal Independence Payment[1] if they

1. have not reached age 65 on 20.6.16 **and**

2. are entitled to Disability Living Allowance **and**

3. make a claim to Personal Independence Payment

3.1 in response to a notification from the decision maker **or**

3.2 voluntarily.

If the claimant satisfies the conditions for entitlement to Personal Independence Payment, then they will receive Personal Independence Payment, even if the date of determination is after their 65th birthday.

1 PIP (TP) Regs (NI), reg 27(1) & (2)

P5108 A claimant who

1. has not reached age 65 on 20.6.16 **and**

2. makes a claim to Personal Independence Payment **and**

3. has now reached age 65 or over **and**

4. is not entitled to Disability Living Allowance[1] on the day of the claim

but was entitled to Disability Living Allowance at any time in the 12 months immediately before the date of claim, may be entitled to Personal Independence Payment, if they satisfy the qualifying conditions.

1 PIP (TP) Regs (NI), reg 27(1) & (3)

Note: A claimant who is awarded Personal Independence Payment on the terms of P5107 or P5108 is then subject to the same rules in relation to restrictions with the mobility component upon supersession as those set out at P4085-61.

1 PIP (TP) Regs (NI), reg 27A(2)

Persons unable to act

Claims

P5109 Where a person has been appointed by the Department to act on behalf of a Disability Living Allowance claimant, they will be regarded as acting on their behalf for the purposes of making a claim to Personal Independence Payment[1].

1 PIP (TP) Regs (NI), reg 28

Transfer claimant

P5110 Where a person who was entitled to Disability Living Allowance and is either a person who

1. has claimed Personal Independence Payment after invitation **or**

2. claims Personal Independence Payment voluntarily

and is subsequently awarded Personal Independence Payment , a person who was previously appointed to act for the claimant for Disability Living Allowance, that person is treated as being appointed for the purposes of Personal Independence Payment[1].

1 PIP (TP) Regs (NI), reg 29

P5111 – P5115

Persons becoming entitled to Disability Living Allowance while claiming Personal Independence Payment

P5116 For claimants

1. whose Disability Living Allowance claim was refused **and**

2. who claimed Personal Independence Payment after the Disability Living Allowance claim was refused **and**

3. who on appeal becomes entitled to Disability Living Allowance

they will be treated as either a transfer claimant or a Disability Living Allowance entitled person[1].

1 PIP (TP) Regs (NI), reg 30(3)

Personal Independence Payment assessment determined

P5117 If a Disability Living Allowance claim is disallowed and the claimant claims Personal Independence Payment, but then is successful on appeal, the appeal tribunal will be asked to limit the Disability Living Allowance award up until the day before Personal Independence Payment becomes payable from.

Personal Independence Payment assessment not determined

P5118 If the Disability Living Allowance claimant's appeal is successful[1] and

1. they have already made a claim for Personal Independence Payment **and**

2. the Personal Independence Payment claim has not yet been determined

then the Disability Living Allowance will be put into payment. Once the Personal Independence Payment claim is determined the Disability Living Allowance will run on for 28 days before terminating, and the Personal Independence Payment decision implemented (which could be an award or a disallowance) from the day following the date of termination[2].

Note: Where a negative determination is made on a claim for Personal Independence Payment (because the claimant has not complied with information requirements or attended a consultation) and the claimant's outstanding Disability Living Allowance appeal is successful, any Disability Living Allowance award is not affected by the Personal Independence Payment claim.

1 PIP (TP) Regs (NI), reg 13(2); 2 reg 17(4)(b)

Example 1

Carol makes a claim for Disability Living Allowance and this is refused, so Carol appeals. Meanwhile she makes a claim for Personal Independence Payment. Carol receives a decision on her Personal Independence Payment before her Disability Living Allowance appeal is heard, and she is awarded Personal Independence Payment, which is put into payment. The appeals officer advises the Appeals Service that any award of Disability Living Allowance made at the appeal must be limited to the day before Personal Independence Payment is awarded.

Example 2

Charles makes a claim for Disability Living Allowance, but this is refused. He subsequently appeals this decision, but also makes a claim for Personal

Independence Payment. Before the Disability Living Allowance appeal is heard the Personal Independence Payment claim is determined and decided that Charles has no entitlement to Personal Independence Payment, however, Disability Living Allowance is awarded at appeal. Charles is then treated as transfer claimant and notification is sent to him about when his Disability Living Allowance will cease. The award of Disability Living Allowance will be terminated after a period of 28 days from the date of the Personal Independence Payment determination.

Example 3

Wendy makes a claim for Disability Living Allowance which is refused. She appeals the Disability Living Allowance decision but makes a claim for Personal Independence Payment at the same time. Before the Personal Independence Payment claim is determined the appeal is heard and Disability Living Allowance awarded. At this point Wendy is treated as a transfer claimant and Disability Living Allowance entitled person. The Personal Independence Payment claim is then determined and she is awarded benefit. Wendy is then notified that her Disability Living Allowance will terminate in accordance with transfer claimant provisions, that is after 28 days or any longer period the decision maker decides. Personal Independence Payment is then put into payment on the first pay day after Disability Living Allowance terminates.

Example 4

Tony makes a claim for Disability Living Allowance which is refused. He appeals this decision but also makes a claim for Personal Independence Payment. Before the Personal Independence Payment claim is determined the Disability Living Allowance appeal is heard, and Disability Living Allowance is not awarded. The Personal Independence Payment claim is then determined and an award of the standard rate of the daily living component is made and put into payment on the first pay day following the determination.

P5119 If the claimant had someone appointed to deal with their affairs before the Disability Living Allowance terminated, they will continue to act for that claimant once the Disability Living Allowance is reinstated, or Personal Independence Payment becomes payable.

P5210 – P5215

Disabled people: badges for motor vehicles

P5126 Where a person satisfies certain legislation to be entitled to a badge for motor vehicles, but then that person ceases to be regarded as being disabled because they do not receive an award of Personal Independence Payment, then the person shall be entitled to use that badge until the end of the period for which it was issued[1].

1 Disabled Persons (Badges for Motor Vehicles) Regs (NI) 1993, reg 2 & 4; PIP (TP) Regs (NI), reg 31