

## DLA CLAIMANT OVER 65 RETURNING FROM AN EU MEMBER STATE WITHIN 12 MONTHS

| Contents       | Paragraphs |
|----------------|------------|
| Introduction   | 1          |
| Domestic Rules | 2          |
| EU Legislation | 3 - 4      |
| Renewal Claims | 5 - 6      |
| Annotations    |            |
| Contacts       |            |

### INTRODUCTION

1. This memo clarifies guidance on the meaning of a renewal claim where a person was previously in receipt of Disability Living Allowance and returns to the UK from an EU member state within 12 months.

### DOMESTIC RULES

2. Under domestic legislation Disability Living Allowance is a single benefit composed of two components<sup>1</sup>, a
  1. care component **and**
  2. mobility component.

<sup>1</sup> SS C&B (NI) Act 92, sec 71

### EU LEGISLATION

3. For the purposes of relevant EU legislation<sup>1</sup> each component is treated separately. With effect from 27.3.07 the care component is classified as a cash sickness benefit, and thus exportable under European social security coordination rules.

<sup>1</sup> Reg (EC) 883/04, Art 3(1); Case C-299/05 Commission v European Parliament and Council of the EU

4. The mobility component of Disability Living Allowance is a special non contributory cash benefit<sup>1</sup> (SNCB) and can only be paid in the country of residence<sup>2</sup>. It is not exportable.

*1 Reg (EC) 883/04, Annex X; 2 Art 70(4)*

## **RENEWAL CLAIMS**

5. Where a Disability Living Allowance claimant
  1. has an award in place prior to age 65 **and**
  2. is over 65 **and**
  3. loses either or both components as a result of an absence in an EU member state

they can make a renewal claim to Disability Living Allowance if that claim is made within 12 months of the date they lose entitlement<sup>1</sup>.

*1 SS DLA Regs (NI), Sch 1, para 3, para 5*

6. The claimant must satisfy the same conditions of entitlement - see DMG 61557.

### **Example 1**

Pensioner A is entitled to both components of Disability Living Allowance. He moves to Spain for the warmer climate. After 13 weeks the decision maker determines that he is not entitled to the mobility component but is still entitled to the care component. After a total of 6 months he returns to the UK. On his return he makes a claim for the mobility component at the same rate as previously. The decision maker is satisfied that the claimant has made a renewal claim within 12 months of his previous disallowance and makes an award of the mobility component from the date of his renewal claim.

### **Example 2**

Pensioner B is entitled to both components of Disability Living Allowance. He moves to Southern France to take advantage of the warmer climate. After 13 weeks the decision maker determines that he is not entitled to the mobility component but is still entitled to the care component. Two years later he returns to the UK and makes a claim for the mobility component. The decision maker refuses to re-award the mobility component as the claim was not made within 12 months of his previous disallowance.

## **ANNOTATIONS**

Please annotate the number of this memo (DMG Memo Vol 2/57 & 10/65) against the following DMG paragraphs:

071752 and 061557.

## **CONTACTS**

If you have any queries about this memo, please contact:

Decision Making Services  
Section 5  
Level 1  
Gasworks Business Park  
James House  
Belfast

Telephone: (02890) 819185, 819985 and 819195.

**DECISION MAKING SERVICES**

**Distribution: All Holders of  
DMG Volumes 2  
& 10**

**February 2016**