

DMG Memo Vols 1/125, 2/95, 4/154, 8/103, 9/52, 10/80 & 11/31

CHANGES TO DEFINITION OF TERMINALLY ILL

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INTRODUCTION

1. This memo gives guidance on the Social Security (Terminal Illness) Act (Northern Ireland) 2022¹. This legislation comes into force on 4.4.22².

1 SS (TI) Act (NI) 2022; 2 SS (TI) (2022 Act) (Comm) Order (NI) 2022

CHANGES

2. The Act¹ changes the definition of when a person is terminally ill for the purposes of Attendance Allowance, Disability Living Allowance and Employment & Support Allowance. It also makes amendments to legislation in relation to the Disability Living Allowance prospective test.

Note: Terminal illness is known as end of life in operational instructions and communications.

1 SS (TI) Act (NI) 2022

DEFINITION OF TERMINALLY ILL FOR ATTENDANCE ALLOWANCE CLAIMANTS

3. From 4.4.22 terminally ill means that
 1. the claimant is suffering from a progressive disease **and**
 2. death in consequence of that disease can reasonably be expected within 12 months¹.

1 SS C&B (NI) Act 92, sec 66(2)(a)

DEFINITION OF TERMINALLY ILL FOR DISABILITY LIVING ALLOWANCE CLAIMANTS

4. From 4.4.22 terminally ill means that
 1. the claimant is suffering from a progressive disease **and**
 2. death in consequence of that disease can reasonably be expected within 12 months¹.

1 SS C&B Act (NI) 92, sec 72(5) & 73(12)

PROSPECTIVE TEST FOR DISABILITY LIVING ALLOWANCE CLAIMANTS

5. From 4.4.22 a Disability Living Allowance claimant must be likely to continue to satisfy the conditions of entitlement for either
 1. 6 months from the date on which the award would begin **or**
 2. a period starting with the date the award would begin and ending with the person's death if that is expected within 12 months.

1 SS C&B (NI) Act 92, sec 72(2)(b)(ii) & 73(9)(b)(ii)

DEFINITION OF TERMINALLY ILL FOR EMPLOYMENT AND SUPPORT ALLOWANCE CLAIMANTS

6. From 4.4.22 terminally ill means that
 1. the claimant is suffering from a progressive disease **and**
 2. death in consequence of that disease can reasonably be expected within 12 months¹.

1 ESA Regs (NI) 08, reg 2(1)

OUTSTANDING CLAIMS MADE PRIOR TO 4.4.22

7. Where a claim for Attendance Allowance, Disability Living Allowance or Employment and Support Allowance is
 1. made prior to 4.4.22 **and**
 2. falls to be decided on or after 4.4.22 **and**
 3. evidence shows that the claimant is suffering from a progressive disease **and**
 4. death in consequence of that disease can reasonably be expected within 12 months but not within 6 months

an award of benefit under the terminally ill provisions can be made from 4.4.22. The period from the date of claim until 3.4.22 should be determined under the normal conditions of entitlement.

Decision Making Services can provide advice on specific cases if required. Details of the case can be emailed to dms@communities-ni.gov.uk.

ANNOTATIONS

Please note the number of this memo DMG Memo Vols 1/125, 2/95, 4/154, 8/103, 9/52, 10/80 & 11/31 at paragraphs:

06051, 071715, 071795, Chapter 7 Part 2 Appendix 1, 23102, 23123, 41105, 42035, 44005, 53305 (**Note 3**), 61491, 61492, and 67791

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Volumes 1, 2, 4, 8, 9,
10 & 11**

April 2022