

ATTENDANCE ALLOWANCE FACTSHEET

Introduction

The information in this factsheet is intended to be a guide to the rules for Attendance Allowance and does not cover every circumstance. It is possible that some of the information is over simplified or may become inaccurate over time, for example because of changes to the law. The rates shown are applicable from April 2022 to March 2023 and Blesma has made every effort to ensure that the information is correct at the time of publication.

1) What is Attendance Allowance?

Attendance Allowance is a disability benefit for people who are state pension age or over who require assistance with personal care or help to make sure they are safe.

If you have not reached state pension age you may be able to claim Personal Independence Payment. If you are state pension age and already receiving Personal Independence Payment you cannot receive Attendance Allowance. See Blesma's Personal Independence Payment factsheet for further information.

Entitlement to Attendance Allowance will be based on the effect your long term health condition or disability has on your daily life, not the condition or disability itself. It is paid to recognise the increased costs an individual may face due to an illness or disability.

Attendance Allowance is:

- non means tested (any income or capital you have will not affect the claim)
- not taxable
- paid whether or not you are working
- paid at one of two levels; the lower or higher rate

2) Who can claim?

You can claim Attendance Allowance if:

- you are state pension age or over **and**
- you have had care or supervision needs for the last six months (known as the qualifying period) **and**
- you are present in the UK and have been so for no less than 104 out of the last 156 weeks i.e. two out of the last three years **and**
- you are habitually resident and not subject to immigration control **and**
- you satisfy one of the disability tests (see section 4)

If you are already paid one of the following you will not be able to receive Attendance Allowance:

- Personal Independence Payment
- Disability Living Allowance

- Adult Disability Payment
- Armed Forces Independence Payment

If you are already paid one of the following allowances you will not be able to receive Attendance Allowance if they are paid at an equivalent or higher amount:

- Constant Attendance Allowance with War Pension
- Constant Attendance Allowance with Industrial Injuries Disablement Benefit

3) Terminal illness

If you have a terminal illness you will qualify for the higher rate of Attendance Allowance. A medical practitioner will need to complete a form called a DS1500 that states you are not expected to live beyond six months. You will automatically be considered to have passed the disability tests and will not need to meet the qualifying period.

4) What are the disability tests?

To satisfy the disability tests you must meet at least one of the following four conditions. You must be so severely disabled physically or mentally that you require from another person:

During the day:

- Frequent attention throughout the day in connection with your bodily functions **or**
- Continual supervision throughout the day in order to avoid substantial danger to yourself or others

During the night:

- Prolonged or repeated attention in connection with your bodily functions **or**
- In order to avoid substantial danger to yourself or others another person to be awake for a prolonged period or at frequent intervals for the purpose of watching over you

To help ensure consistency with awards some of these words have a defined legal meaning. See Appendix for these definitions.

5) How much is Attendance Allowance?

Attendance Allowance can be paid at one of two rates depending on the level of care required.

Lower rate	£61.85 per week	Day or night time needs
Higher rate	£92.40 per week	Day and night time needs

6) How long is Attendance Allowance awarded for?

Attendance Allowance may be awarded to you for an indefinite period or for a fixed period of time. If it is for a fixed amount of time, then you will normally be sent a renewal claim form around four months before your existing claim ends.

7) What if I go into hospital?

If you spend more than 28 days in hospital then your Attendance Allowance will be suspended. It can restart when you return home as long as you continue to meet the claim criteria. If you have more periods in hospital these can be added together if they are separated by 28 days or less.

8) What if I go into a care home?

Attendance Allowance is not normally payable while you are resident of a care home in which any of the costs of your accommodation, board, personal care or other services are met out of public or local funds. Payment will usually stop after you have been living in the care home for 28 days.

If you are fully funding the cost of your care home you can continue to receive Attendance Allowance.

9) How do I claim?

In order to make a claim you will need to complete an Attendance Allowance claim form.

If you live in England, Scotland or Wales:

You can request the form by calling the Attendance Allowance helpline on 0800 731 0122 or by visiting www.gov.uk/attendance-allowance/how-to-claim

If you live in Northern Ireland:

You can request the form by calling the Disability and Carers Service 0800 587 0912 or by visiting <https://www.nidirect.gov.uk/publications/attendance-allowance-claim-form-and-guidance-notes>

All forms requested by telephone will be stamped with the request date. If Attendance Allowance is awarded to you, it will be paid from this date, provided you return the form within six weeks. Otherwise, your date of claim will register from the day your form is received by the Disability Benefits Centre.

You can include extra evidence to support your claim when sending in the claim form. For example, this could be a medical report, a diary that you have recorded your day to day difficulties over a period of time, or other relevant information. You should include your name and national insurance number on anything you send in. You may find it useful to use our Attendance Allowance Hints and Tips when completing the claim form. It is advisable to copy the claim form and any extra evidence you send in so that you have your submitted information to hand should you need to challenge the decision. If you would like help to fill in the claim form, please contact your Blesma Support Officer within plenty of time, to allow you to return the form by the date you have been given.

10) How is your claim assessed?

A decision maker will consider your application form and any extra evidence you have sent in. They may request further evidence, such as a short medical report, from your doctor or another medical practitioner you have named on your claim form. If the decision maker cannot obtain sufficient information in order to be able to make a decision on your claim, they may arrange for you to be assessed by a healthcare professional who will produce a report, although this is unusual.

11) What if I am unhappy with the decision?

If your application is refused, or you are awarded the lower rate when you feel you should be entitled to the higher rate, you can challenge the decision. It is important to note that there is a risk to any current award of Attendance Allowance you have. So if you have been awarded

the lower rate and you subsequently challenge the decision you may end up losing your award completely.

12) How do I challenge the decision?

You can have three attempts to challenge the decision, but there is a strict process to follow. There is a one month time limit for you to register each stage of the process and you will need to follow each stage in order.

You should be notified in writing of any decisions made on your claim. The decision notice should set out your rights to challenge the decision. You can ask for written reasons for the decision if none were given in the decision notice. You must ask for these within one month of the date of the original decision notice.

Late challenges can be requested in certain circumstances. You will need to show it was not practical for you to apply in time and you should provide a clear and reasoned explanation for the delay. There is no guarantee that a late challenge will be accepted.

Mandatory reconsideration

This is the first stage of challenging the decision. Within one month of the date on the notification letter you need to register the mandatory reconsideration. If you wish you can send in some extra supporting evidence such as a letter from yourself why you disagree with the decision or evidence from a medical professional. A mandatory reconsideration will result in the Department for Work and Pensions reviewing your award 'in house'. For Northern Ireland, they are considered by the relevant Social Security Agency.

Appeal to First Tier Tribunal

If your mandatory reconsideration is unsuccessful then you have another opportunity to challenge the decision. This must be registered within one month of the date on the mandatory reconsideration revision letter. Her Majesty's Court and Tribunal Service is responsible for appeals in England, Scotland and Wales. In Northern Ireland it is the responsibility of The Appeals Service. Both are independent from either the Department for Work and Pensions or the Social Security Agency. You have the opportunity to have your case heard on paper or in person. There is a higher success rate if you attend in person. Appeals can take several months. However, if you are successful, the award is backdated to the date of your claim.

Appeal to the Upper Tribunal

If your appeal to the first tier tribunal is unsuccessful you have another opportunity to challenge the decision through Her Majesty's Court and Tribunal Service, within one month of the first tier tribunal notification of the decision. This appeal needs to be based on a point of law. As a result, these appeals can be complex and it would be advisable to seek specialist advice.

APPENDIX

Attendance Allowance Meaning of Terms

To help ensure consistency with awards some of the words in the disability tests have a defined legal meaning. The following is an explanation of these terms.

Bodily functions

These are personal actions such as:

- Breathing
- Hearing
- Seeing
- Eating
- Drinking
- Walking
- Sitting
- Sleeping
- Getting in / out of bed
- Getting in / out of the bath
- Washing
- Shaving
- Toileting
- Communicating
- Speech
- Help with medication or treatment

Require

It does not matter whether you actually receive the help; what counts is the help that you need. If it takes you a long time to do something, e.g. getting dressed then you may reasonably require help even though you persevere and eventually manage by yourself.

Attention

Active help from another person to do the personal actions that you cannot do for yourself. Indirect or ancillary attention count but is often forgotten. For example, you are able to wash and dress yourself, but due to the effects of heart disease, you become breathless and need a recovery period after the activity. The attention you require is defined by the amount of time taken.

Prolonged

Normally at least 20 minutes.

Repeated

More than once.

Frequent

Several times, not once or twice.

Throughout the day

'Throughout the day' covers the waking hours of your household. You must show your difficulties are encountered throughout these hours and not just in the morning when you wake and evening when you get ready for bed. If you just need help with washing and dressing in the morning and evening but can manage for the rest of the day you will not meet the criteria. Consider whether you have difficulty managing at other times during the day that you may not have thought of before. For example, when requiring the toilet during the day do you have difficulty getting out of the chair to get there?

Continual supervision

Supervision means you need someone around to prevent accidents to yourself or other people. The words used are 'continual supervision'. This means frequent and regular, but not non-stop; you do not have to show you need supervision every single minute of the day or night.

Substantial danger

You may be in a position where your illness or disability places you or another person at significant risk. This will usually be if you have mental health difficulties. The supervision required does not have to prevent the danger completely, but must effect a real reduction in the risk to you or another person.