contact a family
for families with disabled children

Disability Living Allowance – claiming the higher rate mobility component for children with learning disabilities and autism spectrum disorders

Information for families

Incorporating **The Lady Hoare Trust**

UK

Introduction

Disability Living Allowance (DLA) is the main benefit for disabled people and is there to help meet any extra costs of being disabled. Any ill or disabled child may qualify.

The benefit is paid in two main parts called 'components':

- the 'care component' – designed to help with the extra costs of having care needs, and
- the 'mobility component' – designed to help with the extra costs of getting around.

There are two rates of the mobility component. The higher rate, which can be paid from the age of three years and the lower rate, which can be paid from the age of five years.

This guide looks in detail at how children with learning disabilities and autism spectrum disorders may qualify for DLA mobility component at the highest rate. Lots of helpful hints and tips can also be found in our publication, *A guide to claiming Disability Living Allowance for children*. Contact our helpline for a copy.

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DLA higher rate mobility component

If your child has a learning disability or is on the autistic disorder spectrum but does not qualify for the higher rate mobility component, they may qualify for the lower rate of the mobility component instead. For more information about the lower rate, see our publication, *A guide to claiming Disability Living Allowance for children*, which also gives information about the care component of DLA, how to claim, and how DLA can help you qualify for other benefits, such as Carer's Allowance.

Claiming and getting a decision

If you think your child may qualify for the high rate mobility component, get expert advice from your local citizens advice bureau (CAB), disability advice centre or welfare rights unit. They may be able to help you complete the claim form or with preparing to challenge a decision made by the Department for Work and Pensions (DWP).

The issues discussed here may not always be considered by the DWP in making a DLA decision and, as a result, children with autism spectrum disorders or learning disabilities may be awarded the lower rate of mobility component at first. It may be necessary to seek a reconsideration or appeal a decision for the higher rate mobility component to be awarded.

There are very short time limits for challenging decisions, so you should not delay in seeking advice and taking action.

Warning

If you have an existing award of DLA and you ask for it to be looked at again, there is a risk your award could go down rather than up. Because of this, it is always best to get help from a citizens advice bureau (CAB) or local welfare rights service.

If you need any further help or are having problems finding local sources of specialist help, please contact our freephone helpline.

Freephone helpline: **0808 808 3555**
Web: **www.cafamily.org.uk**

Terminology: When assessing the rate of DLA, some of the words in the rules, such as 'severe mental impairment' have a specific meaning and we explain these throughout the guide. See below.

'Severe mental impairment' and behavioural problems

Some children qualify for the higher rate of the mobility component of DLA because they have a 'severe mental impairment' and exhibit behavioural problems.

To be entitled to the highest rate mobility component on this basis your child must:

- be entitled to receive the higher rate care component of DLA, and
- suffer from 'an incomplete physical development of the brain or a state of arrested development which results in severe impairment of intelligence and social functioning', and,
- 'exhibit disruptive behaviour' which 'is extreme' (disruptive behaviour can include aggression and hyperactivity), and
- 'regularly require another person to intervene and physically restrain him/her to prevent him/her causing physical injury to themselves or another, or damage to property', and
- be so unpredictable that he/she requires another person to be present and watching over them whenever they are awake. (Because of this you may struggle to qualify if your child can be left alone in a room with the door shut – seek further advice from our Helpline if this applies to you).

Before considering an award, the DWP would normally arrange for a specialist's opinion.

DLA case law has accepted that because autism is a disorder of brain development, children with a diagnosis of autism or autism spectrum disorder will satisfy the condition of 'arrested or incomplete physical development of the brain'.

'Severe impairment of intelligence'

'Severe impairment of intelligence' is generally taken to be an IQ of 55 or less. However, this is not the only measure of impaired intelligence. Some children, such as those with disorders in the autism spectrum, may do well in intelligence tests but cannot apply that intelligence in a useful way in the real world.

So, if a child's IQ is above 55, or has not had an IQ test, the decision-maker at the Department of Work and Pensions must consider other evidence, including that of impairment of social functioning where that has an effect on useful intelligence.

'Physical restraint'

'Physical restraint' need not necessarily involve any force. If all that is needed to prevent your child causing injury or damage is some physical contact, such as a hand on the arm, that may be enough to fulfil the test.

'Virtually unable to walk'

Some children who cannot qualify for the high rate mobility component on the grounds of severe mental impairment and behavioural problems, may instead qualify on the basis that they are 'virtually unable to walk'. This may apply to some children who have a condition in the autism spectrum, or are deaf/blind, or have a learning disability such as Down syndrome.

The 'virtually unable to walk' test is tied to the physical limitations to a child's ability to put one foot in front of the other and continue to make progress on foot.

Physical limitations can include behavioural problems if they are a reaction to, or as a result of, the child's physical disablement, for example, genetic damage as in the case of Down Syndrome or brain damage.

The test looks at interruptions in the ability to make progress on foot. These interruptions must be accepted as physical in origin, and as part of an accepted physical disablement rather than under the child's direct and conscious control.

DLA case law has accepted that autism spectrum disorders are physical disorders of brain development.

You need to be able to show that:

- any behavioural problems, which may sometimes include a failure to exercise their powers of walking, stem from a physical disability, and,
- their walking difficulties, including interruptions in their ability to make progress on foot, happen often enough so that their walking ability is so limited that they are virtually unable to walk.

For example, children with autism spectrum disorders often have 'refusal episodes', where they refuse to either leave the house or go where parents want them to or will, whilst out, refuse to go any further. These refusals are not down to naughtiness or wilfulness, and cannot be overcome by any threat of punishment or promise of reward. They occur because of the extreme rigidity of thinking associated with autism and the inability to deal with unexpected events. These refusal episodes can be seen as a 'temporary paralysis of will' which will count towards a 'virtual inability to walk'.

If it can be shown that these episodes are unpredictable and fairly frequent, then an award of the higher rate mobility component may be made on an initial claim, or following a reconsideration of a decision or appeal.

Freephone helpline: **0808 808 3555**
Web: **www.cafamily.org.uk**

Describing your child's walking difficulties

To help you describe your child's walking difficulties, you could carry out a ten minute outdoor walking test in a safe place with help from another person. For each test, you should:

- describe the place where you carried out the test
- mark a starting point and note the time
- let the child go; do not actively intervene to help them walk apart from a hand on the shoulder or words to help them start in the right direction
- write down a description of exactly what happens. Did they move at all? If yes, how do they walk or run. What size steps? How do they lift their legs? What is the speed of walking? Do they change speed or direction? How is their balance? Do they react to distractions?
- note each stop or interruption to their walking. Note the time, mark the place and measure the distance from the start point to the last stopping point
- describe exactly what happens. Why do you think they have stopped? Note the time they start to move again. What made them move on? Or why do you think they moved?
- at the end of the ten minutes, mark the place they have reached. How far in a straight line is it from where they started?

If the child's walking ability is also limited by severe discomfort, finish the test at that point having marked the time and distance. Describe the severe discomfort. This could be pain, breathing problems, distress and panic. Make a note of any outward and visible signs of their discomfort.

Providing evidence

It will be helpful to provide evidence from a medical practitioner or other sources to show:

- that the learning disabilities have a physical cause (for example, brain damage)
- that all the behavioural problems which interrupt outdoor walking stem directly from a physical cause
- that the child is not able to exercise a deliberate and self-conscious choice in deciding whether or not to walk
- a clear picture of the child's normal walking difficulties and the frequency of interruptions in their ability to make independent progress on foot.

You need to present an objective picture of how the child normally makes or does not make progress on foot outdoors without active help from another person.

Reward yourself when the form is finished. Completing the DLA form can be both time consuming, and stressful. But if you get the DLA it will be worth it in the end.

Written by Derek Sinclair and Seán Meaney

This information has been taken from a variety of sources including the Disability Rights Handbook and the National Association of Citizens Advice Bureaux Information System. It should not be taken as a complete statement of the law on this subject and Contact a Family cannot take responsibility for any actions taken solely on the basis of this information. You should obtain up-to-date and specific advice.

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www.facebook.com/contactafamily

Twitter
twitter.com/contactafamily

Podcasts

You can download podcasts from our website at: www.cafamily.org.uk/news/podcasts.html

iTunes users can listen to our podcasts at: http://bit.ly/96EVT

Videos

You can watch videos on our YouTube channel at: www.youtube.com/cafamily

Freephone helpline: **0808 808 3555**
Web: **www.cafamily.org.uk**

Getting in contact with us

Free helpline for parents and families
0808 808 3555
Open Mon–Fri, 9.30am–5pm
Access to over 170 languages

www.cafamily.org.uk
www.makingcontact.org

Contact a Family Head Office:
209–211 City Road, London EC1V 1JN
Tel **020 7608 8700**
Fax **020 7608 8701**
Email **info@cafamily.org.uk**
Web **www.cafamily.org.uk**

Other information booklets available

This guide is one of a series produced for parents and groups concerned with the care of disabled children. Other guides include:

- Concerned about your child? (UK)
- A guide to claiming Disability Living Allowance for children (UK)
- The tax credits guide (UK)
- Disabled children's services in England, Scotland and Wales
- Getting direct payments for your disabled child (England & Wales)
- Understanding your child's behaviour (UK)

A full list of Contact a Family publications is available from our helpline or can be downloaded from our website www.cafamily.org.uk

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