
STATUTORY INSTRUMENTS

1991 No. 2891

The Social Security (Introduction of Disability Living Allowance) Regulations 1991

PART V

CLAIMS, PAYMENTS AND ADJUDICATION

Persons claiming mobility allowance

24.—(1) In this regulation, the expression “medical question” has the meaning it bore in regulation 53 of the Social Security (Adjudication) Regulations 1986 ^{M1} on 3rd February 1992.

(2) Any claim for mobility allowance made after 15th March 1992, or any application made after 9th February 1992 for a review of a decision relating to the medical question or otherwise to mobility allowance, shall be subject to adjudication in accordance with the provisions of the 1975 Act relating to disability living allowance, and the modification, additions and exclusions set out in Section B of Part IV of the Social Security (Adjudication) Regulations 1986 shall be disregarded.

(3) Subject to the following provisions of this regulation, where a claim for, or an application for a review of a decision relating to, mobility allowance, other than a claim or application mentioned in paragraph (2), has not been determined as at 6th April 1992, then that claim or application shall as from that date be subject to adjudication in accordance with provisions in the 1975 Act relating to disability living allowance.

(4) Where a medical question arose on a claim or question to which paragraph (3) refers, then, in determining that claim or question the adjudication officer—

- (a) shall have regard to any report received from the medical practitioner to whom the medical question has been referred;
- (b) if a report of a medical practitioner to whom the medical question has been referred has not been received by the adjudication officer may—
 - (i) subject to sub-paragraph (ii) below, await the report and have regard to it before determining the claim or application, or
 - (ii) where the report has not been received by the adjudication officer within 6 weeks of the question being referred to the medical practitioner, determine the claim without waiting for the report;
- (c) where the medical question has been determined by the medical board before 6th April 1992, shall have regard to any report made by the board on that question;
- (d) where the medical question has been referred to a medical board otherwise than on an appeal by the person claiming the allowance, but the board has not determined that question by 6th April 1992, shall consider the question as though—
 - (i) the reference had not been made, and

- (ii) the provisions in section 115C of the 1975 Act (references of claims to medical practitioners ^{F1}...) relating to disability living allowance applied also to the medical question;
 - (e) where the medical question was referred to the medical board following an appeal by the person claiming the allowance but the board has not determined that question by 6th April 1992, shall consider the question as though—
 - (i) it was an application for a review under section 100A(1) of the 1975 Act (reviews of decisions by adjudication officers) of the decision appealed against, and
 - (ii) the provisions in section 115C of the 1975 Act relating to disability living allowance applied also to the medical question;
 - (f) where the medical question has been referred to a medical appeal tribunal, shall be bound by any decision given by the Tribunal on the matters to which it relates.
- (5) No reference on a medical question to a medical board shall be made by an adjudication officer after 9th February 1992.
- (6) Any medical question which would but for paragraph (5) have been referred to a medical board shall be subject to adjudication in accordance with the provisions of the 1975 Act relating to disability living allowance, and for this purpose the medical question shall be determined as though it was a second tier adjudication.
- (7) Any appeal on a medical question from a decision of a medical board which is made on or after 10th February 1992 shall be subject to adjudication in accordance with the provisions of the 1975 Act relating to disability living allowance and the provisions of Section B of Part IV of the Social Security (Adjudication) Regulations 1986 ^{M2} shall be disregarded.
- (8) Section 100D(1) of the 1975 Act shall apply to the appeal mentioned in paragraph (7) as if the decision appealed against was the decision of an adjudication officer given on review under section 100A(1) of the 1975 Act and the appeal shall be to a disability appeal tribunal.
- (9) Any medical question referred to a medical appeal tribunal which has not been determined by 6th April 1992 shall—
- (a) where the person to whom the question relates so consents, continue to be heard by the medical appeal tribunal, or
 - (b) where he does not consent, be subject to adjudication in accordance with the provisions of the 1975 Act relating to disability living allowance, and for this purpose, the medical question shall be determined by a disability appeal tribunal and not by a medical appeal tribunal.
- (10) Where a disability appeal tribunal is determining, pursuant to paragraph (9), a medical question which was considered by a medical appeal tribunal but adjourned with a request for further information or a report, then the disability appeal tribunal shall await the submission of that information or report but not for more than 3 months from the date the information or report was requested, and shall if it is available take it into account in determining the question before them.
- (11) Any decision of an adjudication officer, a medical board or a medical appeal tribunal on a medical question may be reviewed at any time by an adjudication officer if—
- (a) he is satisfied, in the case of a decision of a medical appeal tribunal by fresh evidence, that the decision was given in ignorance of, or was based upon a mistake as to, a material fact; or
 - (b) there has been a relevant change of circumstances since the decision was given.
- (12) Subsections (3), (4) and (6) to (9) of section 104A of the 1975 Act shall apply to reviews under paragraph (11) as they apply to reviews under that section.

(13) Section 112 of the 1975 Act (appeal on a question of law to the Commissioner) shall have effect in relation to a decision of a medical appeal tribunal on a medical question subject to the modifications that in subsection (6) for the words “a medical appeal tribunal” there were substituted the words “an adjudication officer” and as though subsection (7) were omitted^{M3}.

(14) Where the Commissioner returns a question to an adjudication officer pursuant to paragraph (11), section 100D(1) of the 1975 Act (appeals following reviews) shall apply to the decision of the adjudication officer on that question as if it were a decision given by him on a review under section 100A(1) of that Act (review of a decision on any ground).

F1 Words in reg. 24(4)(d)(ii) omitted (7.2.2013) by virtue of [The Public Bodies \(Abolition of the Disability Living Allowance Advisory Board\) Order 2013 \(S.I. 2013/252\)](#), art. 1(2), **Sch. Pt. 2**

Marginal Citations

M1 [S.I. 1986/2218](#); regulation 53 was amended by regulation 2(2) and (3) of [S.I. 1988/1725](#) and regulation 3 of [S.I. 1989/1689](#).

M2 [S.I. 1986/2218](#).

M3 Subsections (6) and (7) were added by the [Social Security Act 1989 \(c.24\)](#), **Schedule 3**, paragraph 9(2).

Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Introduction of Disability Living Allowance) Regulations 1991, Section 24.