

Introduction

BLESMA is a national charity for those who lose limbs or the use of limbs or one or both eyes in service or as the result of service in Her Majesty's Forces and for ex Service men and women who lose limbs or eyes after service. Whilst the majority of its Members are ex Service men and women, there are a growing number who are still serving. The Association also accepts responsibility for the dependants of its Members and in particular their widows. The on-going conflict in Afghanistan continues to have a major impact on BLESMA's day to day work. The charity's elderly Members have carried the burden of disabling injury for close on 70 years in some cases so we know something about what lies ahead for the young men and women injured more recently. The nature of injury and survivability, which has improved so dramatically due to more effective medical treatment on the battlefield, does alert us to the reality they face of having to live with a severe level of disability and consequent challenges in the years ahead.

BLESMA Members fall into three categories:

Those who are unable to walk - those who have multiple amputations and those with spinal injuries. These individuals require expensive specialised vehicles, adapted to enable them to load their wheelchairs and, for those who drive, driver control modifications

Those who are virtually unable to walk – there is a much larger group of recipients of DLA who are virtually unable to walk. From the point of view of BLESMA Members in this group, it might be more accurate to say that they have “significant walking difficulties” rather than the original walking distance interpretation of DLA “virtually unable to walk”. Their entitlement may arise because they suffer severe discomfort due to the requirement to wear a prosthetic limb, have an increased risk of falling, an abnormality of gait, are slow, have fatigue or shortness of breath. This ‘severe discomfort’ usually arises from varying degrees of pain in the stump which can result in the amputee being unable to wear the prosthesis at all. Abnormal gaits can arise as a consequence of wearing a prosthesis, as can back pain and additional pressure on the surviving limb. As a result of the Benefit, this second, very large group of recipients are able to obtain/run a vehicle or pay for a taxi rather than struggle with public transport. However, these people are able to benefit from an appropriate, standard, largely unmodified vehicle for use as either drivers or passengers. This can be achieved at considerably less cost than for the much smaller group of recipients who are unable to walk.

The third group of recipients, those in receipt of the Lower Rate Mobility component of DLA are clearly defined as *people able to walk but in need of either guidance or supervision* in order to take advantage of the faculty of walking. BLESMA members in this category would be those who have sensory impairment either as a result of their service in the military or due to injury or illness in later life.

BLESMA has campaigned on behalf of Members throughout its existence. It has always sought to work *with* the Government of the day to ensure that it could achieve the best possible outcome for

Members. With regards to the current Welfare Reform, the Association has taken the pragmatic view of what can be achieved when taking into account the realities of the current economic climate but we are mindful that disabling affliction is current for life. Thus, the charity is pleased to have the opportunity to play its part in the consultation on Welfare Reform, both as a Member of the PIP Development Group and in other meetings with members of the DWP Stakeholder Engagement Team. This written submission serves to complement and reinforce the feedback made during those meetings. The Association has had sight of the letter sent by members of the PIP Development Group to Claire de Banke and although not a signatory supports the comments where relevant to BLESMA Members. In particular, the assertion that there are key areas of consensus amongst organisations participating in the Consultation that have been repeatedly raised in the IDG regarding proposals from the DWP which raise serious concerns as to the impact on disabled people. Where feedback is based on hard evidence of the experiences of disabled people then this surely must be taken into consideration if the consultation process is to be a genuine dialogue between Government and stakeholders and not just a timewasting and expensive empty gesture. We all need to be satisfied that this is the case.

Comments on Changes to Draft Assessment Criteria following First Consultation

In the DWP one page brief entitled “PIP: second draft of assessment criteria” which was circulated to the members of the PIP Development Group on 14 Nov 11, examples were given of the changes that were made as a direct result of the feedback that was received on the first draft. Two of these examples were of particular interest to BLESMA, namely the accurate capture of the impact of fluctuating conditions and the recognition that individuals who use aids and appliances to improve their independence may still face barriers and increased costs. Since Question 6 of the Second Consultation deals with fluctuating conditions, BLESMA’s response will be covered later in this submission.

However, in relation to the comments about use of aids and appliances *“We recognise that individuals who use aids and appliances to improve their independence may still face barriers and increased costs. In light of this, descriptors which refer to aids and appliances normally attract a point score. The assessment also now considers cheap, widely available aids and appliances which can ‘reasonably be expected’ to be used, in a similar way to Disability Living Allowance, to ensure that individuals who choose to use are not unfairly penalised.”* BLESMA wishes to restate and re-emphasise the comments made in our Response to the DLA Reform Consultation (question 16), namely that In BLESMA’s experience although the State has a statutory duty to provide aids and adaptations and within a reasonable time scale, the reality is that the majority are funded at personal cost to the individual or family. This is because there is a lack of funding and an inordinate delay in the aids and adaptations being provided. Some individuals are eligible for charitable grants. This does not remove the statutory duty on the health or other authorities to provide these items. In the current financial climate it can be, and more often is, difficult for individuals to obtain aids or adaptations at anything other than their own personal expense; the State often cannot afford to

provide the aids or adaptations or at best there is an unacceptably long delay before they can be provided.

Consultation Questions

In the Consultation document, contributors are invited to comment on specific questions. Due to the nature of the client group that BLESMA supports, responses will be limited in the main to questions in the Consultation will be limited in the main to the Mobility Activities. However where appropriate, reference is made to the Daily Living Activities.

Question 1: What are your views on the latest draft Daily Living Activities

NO COMMENT

Question 2: What are your views on the weightings and entitlement thresholds for the Daily Living Activities?

The Daily Living Activities particularly pertinent to BLESMA Members are:

Activity 1 (Preparing food and drink): greater weighting should be given to the requirement to use and aid or appliance, which should include the necessity to have an adapted kitchen. The assumption that this activity can be carried out at waist height does not fully consider environmental barriers or safety issues or take into account accessing food stored in cupboards, fridge or freezer.

Activity 3 (Managing therapy or monitoring a health condition): the criteria do not cover essential interventions such as the requirement for a professional toe nail cutting service for diabetics and the additional associated costs.

Activity 5 (Managing toilet needs or incontinence): although it is implied that this activity is not limited to toileting needs within the home, a clear statement to this effect and a descriptor to reflect the requirement for additional support to carry out this function outside the home would remove ambiguity and lead to a fairer assessment of ability achieve this function.

Question 3: What are your views on the latest draft Mobility activities?

The initial proposals of the criteria made specific reference to assessing ability to move around outdoors. There was no reference to moving around inside the home. The Explanatory Note to support the second draft of the assessment regulations (page 27) details a number of the comments made in Responses to the first Consultation, including why the ability to move around indoors and/or navigate stairs or steps was not included and questioned why the descriptors did not reflect the need for physical support from another person when walking or the likelihood of falling, stumbling and/or poor balance.

On page 37 of the same document it details the changes to the descriptors which have been made following the first Consultation. Whilst it is good to see that the accompanying notes now clarify

that an individual's ability to move around generally is considered, not just the ability to move around outdoors it should be specifically mentioned in the assessment criteria to ensure that the claimant and anyone assisting the claimant to complete the paperwork understands that ability to move around in the home is relevant and should therefore be detailed on the application form.

When considering ability to move around the home, ability to carry out household chores such as cleaning, doing the laundry and gardening safely, timely, repeatedly and in a timely manner should be taken into account.

Further to this, and in general throughout the whole document, *implication* that something will be taken into consideration is insufficient and could lead to claimants omitting to include information that should properly be considered, with the consequence that the threshold for qualification are not achieved when they in fact should be. The whole detail must be included in the criteria and not in explanatory notes.

Question 4: What are your views on the weightings and entitlement thresholds for the Mobility activities

The approach to aids and appliances as detailed on page 32 of the Explanatory Notes is noted and the comment at paragraph 4.27 regarding the unintentional encouragement of people to not take steps to reduce barriers to participation is absolutely key, as is the comment in paragraph 4.28 which states that the approach will ensure that individuals who choose to use aids and appliances to improve their independence will not be unfairly penalised compared to others. Assessments must not be based upon the assumption that an impairment or health condition can be overcome through the use of aids and adaptations. These items promote independence and are not a life style choice; they do not negate or remove the underlying issues and should not be regarded as doing so. There will be times when the adaptation or aid cannot overcome the impairment or health condition eg when stump problems prevent an amputee wearing a prosthetic limb or occasions when they break down or malfunction. The imposition of financial penalties on people who endeavour to manage the impact of their impairment would be unfair.

The level of physical disability required for the Enhanced Rate of Mobility Component in PIP is that one needs to use a wheelchair even for relatively short distances of up to 50m. This compares to the general requirement for Higher Rate Mobility Component of DLA that one is unable or virtually unable to walk. The Case Studies used to illustrate the second draft of the PIP assessment criteria suggest that the PIP criteria would be applied in a simplistic manner e.g. an example is given of a person with one prosthesis and one weak leg who would not receive the Enhanced Rate of Mobility Component in PIP as they could walk up to 50m using sticks, requiring a wheelchair only for longer journeys outdoors. Another example suggests that a person who could walk about 20-30 steps before pain stopped them going any further would qualify for the Standard rather than Enhanced Rate of PIP. This approach does not adequately take into account the barriers encountered by these individuals and requires further consideration.

Question 6: What are your views on how we are dealing with fluctuating conditions?

It could be argued that the current DLA application form is based on the medical model of disability, rather than the social model which is the more widely accepted model (and the one acknowledged by the government). However, the self-assessment process does provide an opportunity for disabled people to describe the wider social and cultural impact of their impairments and health conditions in their own words, including how any fluctuation in conditions impacts upon mobility and care needs. Support must be designed and provided to ensure that needs are met during the times when needs are greatest and not predicated on the occasions when needs may be less. For example, there will be occasions when an amputee who otherwise may not have significant care or mobility needs may be unable to walk or drive their adapted car because they are unable to wear their prosthesis due to stump problems or a fault with the limb. Assessments designed to accurately and adequately identify a balance of medical information and social and cultural support requirements would help to ensure that the most appropriate level of support is provided for each individual, despite the acceptance that needs may lessen on occasion.

BLESMA's views on the approach to fluctuating conditions is that the threshold has been set too high at 50%, as discussed with Michael Hewson in the PIP IDG meeting on 25 April. An amputee who does not have significant mobility needs for 50% of the time, may none the less have their mobility severely impaired to a higher degree for a lesser percentage of the time. The assessment criteria must therefore include a descriptor for this eventuality, and which carries sufficient weight to ensure that the individual is not unfairly disadvantaged.

If the current descriptors are not amended to take include a descriptor for this eventuality with an appropriate level of weighting then amputees who currently and quite rightly qualify for DLA Mobility at the Higher Rate will not qualify for the Enhanced Rate of PIP Mobility Component and will therefore be ineligible for passporting to the Motability Scheme. The consequences for such individuals would be catastrophic and cannot be over-stated. It is not just the financial implications but the impact on the amputee's ability to participate in society. It is therefore imperative that the current descriptors are amended.

Question 7: What are your views on the definitions of "safely", "timely", "repeatedly" and "in a timely manner"?

In BLESMA's opinion there is absolutely no doubt that these definitions should be included within the regulations and in the activity descriptors. The consequences of omitting to take these definitions into consideration when considering whether or not a claimant can complete the activity described are of great significance since it could result in claimants who quite properly satisfy the criteria not reaching the threshold necessary to claim the allowance. Therefore, to reduce the possibility of this happening they should be referred to in the detail of activity descriptors which will ensure that the attention of claimants and assessors is drawn to them at the appropriate points during the claims process.

Question 8: What are your views on the definitions in the regulations?

BLESMA's views are expressed in the answers to the other questions. However, for clarity the most important comments are repeated below:

Implication that something will be taken into consideration is insufficient and could lead to claimants omitting to include information that should properly be considered, with the consequence that the threshold for qualification are not achieved when the in fact should be. The whole detail must be included in the activity descriptors criteria and not just in the regulations or explanatory notes.

The definitions "safely", "timely", "repeatedly" and "in a timely manner" should be included within the regulations and in the activity descriptors. The consequences of omitting to take these definitions into consideration when considering whether or not a claimant can complete the activity described are of great significance since it could result in claimants who quite properly satisfy the criteria not reaching the threshold necessary to claim the allowance. Therefore, to reduce the possibility of this happening they should be referred to in the detail of activity descriptors which will ensure that the attention of claimants and assessors is drawn to them at the appropriate points during the claims process.

Question 9: Do you have any other comments on the draft regulations?

DWP's stated ethos is that "we are proposing that the assessment considers ability to carry out daily living and mobility activities as a proxy for an individuals' ability to participate in society and their potential for extra disability costs.

BLESMA is concerned that the descriptors as currently written could dis-incentivise disabled individuals in regards to them striving to improve their mobility and independence. If feedback from this second Consultation and the input of the PIP Implementation Development Group is ignored, disabled people who have significant levels of impairment and who have additional costs as a result of these disabilities, and who quite properly should qualify for the PIP and who are striving to be as mobile and independent as they can be, will miss out. This is clearly wrong. These disadvantaged individuals will find it difficult to access other forms of support to compensate for the loss of income. This will put additional pressure on NHS and social care budgets and will leave some individuals destitute and cause them to lose their independence and experience further marginalisation, social exclusion and inequality as a result.