

Department for Work and Pensions

DECISION MAKING AND APPEALS

Decision Makers Guide

Volume 10

Amendment 46 – October 2017

1. This letter provides details on Amendment 46; the changes have already been incorporated in to the Intranet and Internet versions of the DMG.
2. PDF amendment packages are also available. These can be printed with the amended pages being reproduced in full. Each page will contain the amendment number in the footer

PDF amendment packages can be found on the **Intranet** at:

<http://intranet/1/lg/acileeds/guidance/decision%20makers%20guide/index.asp>

or on the **Internet** at the 'Amdt Packages' tab on the following link:

<http://www.dwp.gov.uk/publications/specialist-guides/decision-makers-guide/>

Note: When printing PDF packages set the print properties to Duplex/Long Edge in order to produce double sided prints.

3. Amendment 46 affects chapters 59 & 61. The changes
 - expand the guidance at DMG 59051 and make minor and consequential amendments to various paras in Chapter 59
 - make a minor amendment to para 61523
4. The last two amendment packages amending Volume 10 were
Amendment 45 [June 2017]
Amendment 44 [October 2016]
5. **For reference purposes Decision Makers may find it useful to retain deleted pages for a short period after the introduction of this package.**
6. If using a PDF amendment package remove the sheets as stated in the left hand column of the Remove and Insert table below and insert the new sheets as stated in the right hand column (note the record of amendments at the back of the Volume).

Remove

Abbs (5 pages)

Chapter 59

59051 – 59080 (2

pages) **Chapter 61**

61520 – 61529 (1 page)

Insert

Abbs (5 pages)

Chapter 59

59051 – 59080 (2 pages)

Chapter 61

61520 – 61529 (1 page)

Abbreviations

AA	Attendance Allowance paid under s 64 of the SS (CB) Act 92
"AA"	Attendance Allowance as defined in IS (Gen) Regs, reg 2(1) or JSA, reg 1(3)
ADC	Actual Date of Confinement
ADF	Adviser Discretion Fund
ADI	Adult Dependency Increase
AFIP	Armed Forces Independence Payment
AIP	Assessed Income Period
AMG	Appropriate Minimum Guarantee
AP	Additional Pension
APP	Adoption Pay Period
Art	Article
ASE	Actively seeking employment
AT	Appeal Tribunal
AWT	All Work Test
BA	Bereavement Allowance
BACS	Bankers Automated Clearing System
BB	Bereavement Benefits
BL	Board and Lodging
BP	Basic Pension/Bereavement Premium
BPT	Bereavement Payment
BSP	Bereavement support payments
BTEC	Business and Technology Education Council
BWC	Benefit Week Commencing
BWE	Benefit Week Ending
CA	Carer's Allowance
CAA	Constant Attendance Allowance
Cat	Category
CB	Contributory Benefit
CC	Community Charge
CDI	Child Dependency Increase
CECSC	Council of European Social Charter
CHB	Child Benefit
CHB(LP)	Child Benefit for Lone Parents
CJEU	Court of Justice of the European Union
CMB	Child Maintenance Bonus
CMP	Child Maintenance Premium
CP	Carer Premium
CPen	Civil Penalty
CSM	Child Support Maintenance

CT	Council Tax
CTA	Common Travel Area
CTB	Council Tax Benefit
CTC	Child Tax Credit
CTF	Community Task Force
CTM	Contribution to Maintenance
CWP	Cold Weather Payment
CwP	Community work Placements
DCP	Disabled Child Premium
DCT	Direct Credit Transfer
DH	Department of Health
Dis G	Disablement Gratuity
Dis P	Disablement Pension
DLA	Disability Living Allowance
DM	Decision Maker
DMA	Decision Making and Appeals
DMG	Decision Makers Guide
DO	District Office
DP	Disability premium
DPTC	Disabled Persons Tax Credit
DWA	Disability Working Allowance
DWP	Department for Work and Pensions
EC	European Community
ECHR	European convention for the Protection of Human Rights and Fundamental Freedoms
ECJ	European Court of Justice
ECSMA	European Convention on Social & Medical Assistance
EctHR	European Court of Human Rights
EDP	Enhanced Disability Premium
EEA	European Economic Area
EFC	Earnings factor credits
EFTA	European Free Trade Association
ELDS	Eligible loan deduction scheme
Emp O	Employment Officer
EO	Employment Option of New Deal for young people
EO(E)	Employed Employment Option
EO(S/E)	Self-Employed Employment Option of the New Deal for young people
EPP	Enhanced Pensioner Premium
ERC	Employment Rehabilitation Centre

ERA	Employment Retention and Advancement
ESA	Employment and Support Allowance
ESA(Cont)	Employment and Support Allowance (contributory allowance)
ESA(IR)	Employment and Support Allowance (income-related allowance)
ESA(Y)	Employment and Support Allowance for those with limited capability for work in youth
ESDA	Exceptionally Severe Disablement Allowance
ET	Employment Training
ETFO	Environment Task Force Option of New Deal for young people
EU	European Union
EWC	Expected Week of Confinement
EZ	Employment Zone
FamC	Family Credit
FAS	Financial Assistance Scheme
FND	Flexible New Deal
FP	Family Premium
FP(LP)	Family Premium (Lone Parent Rate)
FRIY	Flat Rate Introduction Year
FRM	Flat Rate Maintenance
F/T	Full-Time
FTE	Full-Time Education
FTET	Full-Time Education and Training Option
FtT	First-tier Tribunal
GA	Guardian's Allowance
GB	Great Britain
GC	Guarantee Credit
GCE	General Certificate of Education
GCSE	General Certificate of Secondary Education
GMP	Guaranteed Minimum Pension
GNVQ	General National Vocational Qualification
GP	General Practitioner
GPoW	Genuine Prospect of Work
GRB	Graduated Retirement Benefit
GRC	Gender Recognition Certificate
GRP	Gender Recognition Panel
HA	Health Authority
HB	Housing Benefit
HBS	Housing Benefit Supplement
HCP	Health care professional
HWC	Health and Work Conversation

Hep C	Hepatitis C
HIV	Human Immunodeficiency Virus
HM	Her Majesty
HMF	Her Majesty's Forces
HMRC	Her Majesty's Revenue and Customs
HO	Home Office
HPP	Higher Pensioner Premium
HRP	Home Responsibilities Protection
IA	Industrial Accident
IAP	Intensive Activity Period for those aged 25 and over and under 50
IAP for 50+	Intensive Activity Period for those aged 50 or over
IB	Incapacity Benefit
IBLT	Long-term Incapacity Benefit
IBS	Infected Blood Schemes
IBST	Short-term Incapacity Benefit
IBST(H)	Higher rate of short-term Incapacity Benefit
IBST(L)	Lower rate of short-term Incapacity Benefit
IB(Y)	Incapacity Benefit for those incapacitated in youth
IC	Intermittent Custody
IDB	Industrial Death Benefit
IFM	Immediate Family Member
IfW	Incapacity for Work
II	Industrial Injury(ies)
IIDB	Industrial Injuries Disablement Benefit
Incs	Increments (of Retirement Pension)
IND	Immigration and Nationality Department
IPC	International Pension Centre
IPPIW	Immediate Past Period of Incapacity for Work
IS	Income Support
IT	Industrial Tribunal (now Employment Tribunal)
IVA	Invalidity Allowance
IVB	Invalidity Benefit
IVP	Invalidity Pension
IVS	Invalid Vehicle Scheme
JSA	Jobseeker's Allowance
JSA 18-21 Pilot Scheme	Jobseeker's Allowance 18-21 Work Skills Pilot Scheme
JSA(Cont)	Contribution based JSA
JSAg	Jobseeker's Agreement
JSA(IB)	Income based JSA
JSD	Jobseeker's Direction

JSP	Jobseeking Period
LA	Local Authority
LCW	Limited capability for work
LCWA	Limited capability for work assessment
LCWRA	Limited capability for work related activity
LEA	Local Education Authority
LEC	Local Enterprise Council
LEL	Lower Earnings Limit
LETS	Local Exchange Trading System
LPP	Lone Parent Premium
LPRO	Lone Parent run-on
LQPM	Legally Qualified Panel Member
LRP	Liable Relative Payment
LSC	Learning and Skills Council
LT	Linking Term
LTACP	Living Together as Civil Partners
LTAMC	Living Together as Married Couple
LTAHAW	Living Together as Husband And Wife
MA	Maternity Allowance
MAP	Maternity Allowance Period
MB	Maternity Benefit
MG	Maternity Grant
MID	Mortgage Interest Direct
MIRO	Mortgage Interest run-on
MP	Member of Parliament
MPP	Maternity Pay Period
MSC	Maximum Savings Credit
MSP	Member of the Scottish Parliament
NASS	National Asylum Support Service
NCET	National Council for Education and Training
NCIP	Non-Contributory Invalidity Pension
ND	New Deal
NDLP	New Deal for Lone Parents
NDP	New Deal for Partners
NDYP	New Deal for Young People
ND18-24	New Deal for 18-24 year olds
ND25+	New Deal for claimants aged 25 years and over
NHS	National Health Service
NI	National Insurance
NINO	National Insurance Number

NMW	National Minimum Wage
NRP	Non-Resident Parent
NVQ	National Vocational Qualification
OOT	Own Occupation Test
OPB	One Parent Benefit
PA	Personal Adviser
PAYE	Pay As You Earn
PB and MDB	Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefits scheme
PCA	Personal Capability Assessment
PD	Prescribed Disease
PETA	Personal Expenses Transitional Addition
PFA	Person(s) From Abroad
PIE	Period of Interruption of Employment
PILON	Pay In Lieu Of Notice
PILOR	Pay In Lieu Of Remuneration
PIP	Personal Independence Payment
PIW	Period of Incapacity for Work
PLCW	Period of limited capability for work
PLCWA	Period of limited capability for work assessment
PO	Post Office
POAOB	Payment on Account of Benefit
POA	Power of Attorney
PP	Pensioner Premium
PR	Preserved Right
PSIC	Person Subject to Immigration Control
P/T	Part-Time
PW	Pay-Week
“PW”	Permitted work as defined in ESA Regs, reg 45(4)
PWC	Person With Care
PWHL	Permitted Work Higher Limit
PWHLs	Permitted Work Higher Limit subsequent period
PWK	Permitted Work
PWLL	Permitted Work Lower Limit
PWP	Permitted Work Period
QB	Qualifying Benefit
QBP	Qualifying Benefit or Pension
QD	Qualifying Days
QEF	Qualifying earnings factor
QI	Qualifying Income

QP	Qualifying Period
QRW	Qualifying remunerative work
QW	Qualifying Week
QWfl	Quarterly Work-focused interview
RA	Retirement Allowance
RBD	Reduced Benefit Direction
RCH	Residential Care Home
REA	Reduced Earnings Allowance
Reg(s)	Regulation(s)
Res A	Residential Allowance
RISWR	Redundant Iron and Steel Employees re-adaptation scheme
RMPS	Redundant Mineworkers Payment scheme
RP	Retirement Pension
RQC	Relevant Qualifying Condition
RVU	Relationship Validation Unit
S	Section (of an Act)
S2P	State Second Pension
SAP	Shared Additional Pension
SAYE	Save As You Earn
SB	Sickness Benefit
SC	Savings Credit
Sch	Schedule (as in an Act)
SCT	Savings Credit Threshold
SDA	Severe Disablement Allowance
SDM	Sector Decision Maker
SDP	Severe Disability Premium
S/E	Self-Employed
Sec	Section (of an Act)
SED	Scottish Education Department
SERPS	State Earnings Related Pension Scheme
Sev DP	Severely Disabled Person
SF	Social Fund
SFFP	Social Fund Funeral Payment(s)
SFO	Social Fund Officer
SHA	Special Hardship Allowance
SI	Statutory Instrument
SIR	Standard Interest Rate
SJP	Supervised Jobsearch Pilot Scheme
SMG	Standard Minimum Guarantee
SMP	Statutory Maternity Pay
SP	State Pensions

SPC	State Pension Credit
SpTA	Special Transitional Addition
SPW	Supported Permitted Work
SRPS	Shipbuilding Redundancy Payment Scheme
SS	Social Security
SS benefits	Benefits payable under SS(CB) Act 92
SSMG	Sure Start Maternity Grant
SSP	Statutory Sick Pay
STCP	Skills Training Conditionality Pilot
Supp B	Supplementary Benefit
SVQ	Scottish Vocational Qualification
TA	Transitional Addition
TAW	Temporary Allowance for Widow(ers)
TBI	Total Benefit Income
TD	Trade Dispute
TE	Transitional Element
TEC	Training and Enterprise Council
TFEU	Treaty on the Functioning of the European Union
TS	Tribunals Service
TT	Thalidomide Trust
TU	Trade Union
UB	Unemployment Benefit
UC	Universal Credit
UCP	Urgent Case Payment
UEL	Upper Earnings Limit
UK	United Kingdom
US	Unemployability Supplement
UT	Upper Tribunal
VAT	Value Added Tax
VSO	Voluntary Sector Option of New Deal for young people
WA	Widow's Allowance
WB	Widow's Benefit
WBLA	Work Based Learning for Adults
WBLfYP	Work Based Learning for Young People
WBTfA	Work Based Training for Adults
WBTfYP	Work Based Training for Young People
WC	Workmen's Compensation
WC(S)	The Workmen's Compensation (Supplementation) Scheme
WC (Supp)	Workmen's Compensation (supplementation) scheme

WCA	Work capability assessment
WDisP	War Disablement Pension
WFHRA	Work focused health related assessment
Wfl	Work-focused Interview
WFP	Winter Fuel Payment
WFTC	Working Families Tax Credit
WMA	Widowed Mother's Allowance
WMA(C)	WMA payable where late husband entitled to Cat C retirement pension
WP	Widow's Pension
Wp	Work programme
WPA	Widowed Parent's Allowance
WP(C)	Widow's Pension payable where late husband entitled to Cat C retirement Pension
WPT	Widow's Payment
WRAC	Work-related activity component
WRAG	Work-related activity group
WTB	Work and training beneficiary(ies)
WTC	Working Tax Credit
WtWB	Welfare to Work Beneficiary
WWP	War Widow's Pension/War Widower's Pension
YT	Youth Training

3.2. the deceased spouse or civil partner

immediately before the spouse or civil partner died⁵.

Note 1: 1. applies even if a woman is pregnant with a child by someone other than her deceased spouse. It can also apply where a woman is pregnant through IVF before the death of the spouse or civil partner. However, it does **not** apply where IVF was carried out posthumously. Also, it does **not** apply where a couple were having a child using a surrogate.

Note 2: For the purposes of 2., a person is entitled to CHB in respect of any week in which they are responsible for one or more children or qualifying young persons⁶. A week is a period of 7 days beginning with a Monday⁷.

Note 3: 3. applies whether or not a person is no longer entitled to CHB for a child or qualifying young person⁸.

Note 4: See DMG 59052 for guidance on the meaning of child and DMG 59053 for guidance on the meaning of qualifying young person.

*1 BSP Regs, reg 4(2); 2 SS CB Act 92, s 141; 3 BSP Regs, reg 4(3); 4 SS CB Act 92, s 141;
5 BSP Regs, reg 4(4); 6 SS CB Act 92, s 141; 7 s 147(1); 8 BSP Regs, reg 4(5)*

Example 1

Florence's spouse Fred dies and she claims BSP. Florence is entitled to CHB for her son Tom who was living with Fred and her immediately before Fred dies. The DM decides that Florence is entitled to the higher rate of BSP.

Example 2

Mark's spouse Sandra dies and he claims BSP. They did not have any children. The DM decides that Mark is not entitled to the higher rate of BSP. Instead Mark will be entitled to the standard rate (see DMG 59056).

Example 3

Rose's spouse Christian dies and she claims BSP. Although Rose's daughter Daisy lived with her when Christian died, she was not entitled to CHB when she claimed BSP. The DM decides Rose is entitled to BSP at the standard rate. Two months later Rose notifies the DM that she has been awarded CHB. The DM revises the original decision and decides that Rose is entitled to the higher rate of BSP from her date of entitlement to BSP.

Example 4

Lisa's spouse Paul and only child John die in an accident on 10.11.17 and she claims BSP. Lisa is entitled to CHB for week commencing 6.11.17. The DM decides that Lisa is entitled to the higher rate of BSP because she was entitled to CHB when Paul died.

Meaning of child

59052 A child is a person who has not reached age 16¹.

1 BSP Regs, reg 4(6); SS CB Act 92, s 142(1)

Meaning of qualifying young person

59053 A qualifying young person¹ is a person, other than a child, who

1. has not reached a prescribed age² which is

1.1 age 17³ or

1.2 age 18⁴ or

1.3 age 20⁵ and

2. satisfies other conditions⁶.

Note: See DMG Chapter 20 for full guidance on the meaning of qualifying young person.

1 BSP Regs, reg 4(5); 2 SS CB Act 92, 142(2)(a); 3 CHB (Gen) Regs, reg 4(1); 4 reg 5(1); 5 reg 3(1), 6(1), 7(1) & 8(1); 6 SS CB Act 92, s 142(2)(b)

59054 – 59055

Entitlement to the standard rate of bereavement support payment

59056 A person who is not entitled to the higher rate of BSP in accordance with DMG 59051 is entitled to the standard rate¹.

Note: This includes where a couple were having a child using a surrogate.

1 BSP Regs, reg 5

59057 – 59070

Period of bereavement support payment

Start of the period

59071 The start of the period for which BSP is payable depends on when the claim is made. The period starts

1. on the date the spouse or civil partner died where the BSP claim is made 3 months or less after the date of death¹ or

2. at the beginning of the period of 3 months before the date of the BSP claim where the BSP claim is made

2.1 more than 3 months after the date the spouse or civil partner died² and

2.2 no more than 3 months after the end of the period in DMG 59072³.

Note: See DMG Chapter 08 for full guidance on time and manner of payments for BSP.

1 BSP Regs, reg 2(2)(a); 2 reg 2(2)(b)(i); 3 reg 2(2)(b)(ii)

Example 1

Carol's spouse Terry dies on 1.8.17. Carol claims BSP on 18.10.17. Carol's BSP period starts on 1.8.17.

Example 2

Adam's civil partner Ivan dies on 14.5.17. Adam claims BSP on 6.9.17. Adam's BSP period starts on 6.6.17.

Example 3

Bridget's spouse Cecilia dies on 21.4.17. Bridget claims BSP on 1.12.18. Bridget's BSP period starts on 1.9.18.

End of the period

59072 The end of the period for which BSP is payable is 18 months beginning with the day after the date on which the spouse or civil partner died¹.

Note: The period will be reduced if the claimant reaches pensionable age before it ends (see DMG 59016).

1 BSP Regs, reg 2(3)

Example 1

See Example 1 at DMG 59071. Carol's BSP period ends on 1.2.19.

Example 2

See Example 2 at DMG 59071. Adam's BSP period ends on 14.11.18.

Example 3

See Example 3 at DMG 59071. Bridget's BSP period ends on 21.10.18.

59073 – 59080

Disability Living Allowance - under 16s

Claim received for a child under 16

61520 Children under 16 qualify for DLA in their own right. If DLA is claimed for someone under 16 the Secretary of State appoints another person to receive and deal with the allowance on their behalf¹.

1 SS (C&P) Regs, reg 43

DLA care component

61521 Children under 16 qualify for the DLA care component if

1. they satisfy the adult conditions¹ (see DMG 61051) **and**
2. they require
 - 2.1 substantially more care from another person than children of their age would normally require² **or**
 - 2.2 care that children younger than them in normal physical and mental health may need but a child their age in normal physical and mental health would not require³.

Note 1: The main meal test (see DMG 61081) does not apply to a child under 16 years of age⁴.

Note 2: See DMG 61468 for guidance on the QP and prospective test on or around age 16.

1 SS CB Act 92, s 72(1); 2 s 72(1A)(b)(i); 3 s 72(1A)(b)(ii), [2015] AACR 29; 4 s 72(1A)(a)

Renal dialysis

61522 Where a child under 16 satisfies the conditions of entitlement for the middle rate DLA care component because they are undergoing renal dialysis (see DMG 61220 et seq), the conditions in DMG 61521 do not have to be satisfied¹.

1 R(A) 1/93

DLA mobility component

61523 A child under 16 satisfies the guidance or supervision condition for the lower rate mobility component if they satisfy the adult conditions¹ (see DMG 61256) and they

1. require substantially more guidance or supervision from another person than children of their age in normal physical and mental health would require² **or**
2. need guidance or supervision that children of their age in normal physical and mental health would not require³.

Note 1: Children under three years of age (five years of age before 9.4.01) can never be entitled to the higher rate of the DLA mobility component⁴.

Note 2: Children under 5 can never be entitled to the lower rate of the DLA mobility component⁵.

Note 3: See DMG 61468 for guidance on the qualifying period and prospective test on or around age 16.

1 SS CB Act 92, s 73(1); 2 s 73(4A)(a); 3 s 73(4A)(b); 4 s 73(1A); 5 s 73(1A)(b)

Points for consideration

- 61524 The care and mobility needs of healthy children are substantial, and must be taken into account when considering the care and mobility needs of a disabled child. Further guidance is available in the Children Medical Guidance.
- 61525 To qualify for DLA the attention, guidance, and supervision required by a disabled child must be substantially in excess of that usually required by a child of the same age or the child must need extra such care requirements that would be common to younger children, but are different from children of their age or would normally have grown out of. The DM should consider the need for attention, guidance and supervision in relation to what is required by the child and not to what is, or is not, actually given. Any attention or guidance that is required, may be constituted by virtue of the time over which it is required, or by virtue of the quality or degree of attention or guidance and supervision that is required.
- 61526 Guidance and supervision needed by children are influenced by the fact that, as they develop physically and mentally, their needs may decrease or increase. Physical development may increase the disabled child's needs. For example children with learning difficulties may require more rather than less supervision as they get older and become more mobile (particularly if they develop dangerous habits which they may have difficulty in controlling).
- 61527 Physical development may also reduce a disabled child's needs. For example physical development of the upper limbs in children with defective lower limbs may enable them to move independently with mechanical aids.
- 61528 Increasing maturity should lead children with diabetes to assume responsibility for the care of their condition and so require less supervision. Education may also have an effect, notably with children who are blind or deaf.

Assessment of care needs

- 61529 The attention given, particularly to infants and very young children who are disabled, may differ from that given to healthy children of the same age. This does not necessarily mean that the amount of attention given is substantially in excess. The