

DLA Reform and Personal Independence Payment: Completing the Detailed Design ARCHIVED

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<http://www.dwp.gov.uk/consultations/2012/pip-detailed-design.shtml>

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Consultation closed June 30th 2012

Email consultation response as attachment to: pip.feedback@dwp.gsi.gov.uk

I have opted to respond only to **Q3** and **Q11**. **Q3** concerns the ending of entitlement to Disability Living Allowance when a young person is 16 and the requirement to make a fresh claim for Personal Independence Payment. **Q11** concerns claimants with specially adapted cars leased under the Motability scheme. DWP intends to stop paying for the Motability vehicle if the claimant remains in hospital for more than 28 days. Consultation response as pdf [here](#)

Q3 Do you think we should do something different from our proposed approach to ensure transition at age 16 works effectively?

By way of answer to **Q3** I have chosen to paste in the case study on page 8 of the consultation document, together with my comments. I would also like to add that it seems vastly unfair to set up 16 year olds in the North of England ("the area covered by Bootle Benefit Centre") as guinea pigs for the new Personal Independence Payment system from April 2013. Following the consultation on draft regulations we will not have sight of the revised regulations until Autumn 2012 at the earliest.

The Consultation Case Study

"John was diagnosed with Duchenne muscular dystrophy at the age of 8 and has been using a powered wheelchair since the age of 12."

Comment

PIP is not awarded on the basis of a particular health condition but on the impact of the condition which I presume is why we are also told that John uses a powered wheelchair ie a "motorised device" all the time. This is an unambiguous predictor for success with John's PIP claim because John cannot move up to 50 metres without using a motorised device. Young people who are blind or deaf for example will not automatically qualify for any level of Personal Independence Payment. In addition, low level DLA is not replicated within PIP, since the new award will only have "Standard" and "Enhanced" rates.

"He is now 15, attends mainstream school and is looking forward to going to Sixth Form College when he is 16. He was in receipt of the middle rate care component and highest rate mobility component of DLA."

Comment

In other words, John meets the criteria for PIP and the criteria for DLA. Therefore his claim for PIP - which is represented as a transition but is in fact a completely separate claim with different eligibility

criteria - will not give rise to any problems. This illustrative case study does not resolve any awkward questions.

"When John was aged 15 years and 7 months his mother received a letter from DWP advising her that John's DLA was going to end when he reached 16 and that he would be able to make a claim to Personal Independence Payment in his own right. John's mother was also asked to return to DWP a "intent to claim" form for PIP and confirmation that John would or would not need an appointee when he reached 16. As John's mother had returned the "intent to claim" form in good time DWP were able to issue an invitation to claim Personal Independence Payment to John on his 16th birthday and ensure that his DLA continued in payment until John's claim had been processed."

Comment

After John has met two different sets of eligibility criteria everything continues to happen smoothly. John's mother understands the letter from DWP and easily manages to return the necessary form without delay. John's mother apparently tells DWP that her son will not need an appointee, and this decision turns out not to have any adverse consequences for John, though this tells us nothing about the position for 16 year olds who may be in need of an appointee. It is not clear whether John was consulted over this decision and what the position would be if John and his mother disagreed.

"John claimed immediately and provided details of all the people who helped him, including his school, to DWP."

Comment

John's claim progresses with eerie smoothness. Although he has only just turned 16, John is able to fill out the form without any difficulty. Fortunately he understands that it is necessary to obtain supporting statements from other people to back his claim and we are given to understand that there are people at John's school who are well-acquainted with his high-visibility incontrovertible mobility issues, though it is not clear whether these people will be called on to give evidence to DWP directly.

Once the claim for Personal Independence Payment was received by DWP it was passed to an independent assessor who decided he would like some more information. John was asked to go to a face-to-face consultation with the assessor to discuss his circumstances in more detail...

Comment

The decision over whether to call John for a face to face assessment is disingenuously presented as though it could have gone either way but this is somewhat misleading since face to face assessments will in fact be the norm, including in cases where young people have autism. I support the view of the the Work and Pensions Committee (February 2012) which stated that "evidence from medical professionals expert in a particular condition and with a detailed and longstanding knowledge of the claimant should be given due weight in the assessment process. The Committee recommends that, once the initial assessments for PIP have been completed in the first geographical area, the Government should look again at the value of face-to-face assessments for PIP claims where claimants' conditions are severe and unlikely to change." <http://www.parliament.uk/business/committees/committees-a-z/commons-select/work-and-pensions-committee/inquiries/parliament-2010/dla/>

...and decided to take his mother with him as well.

Comment

Fortunately there is no problem with John's mother being able to attend and so for the purposes of this case study the reader is not alarmed by the prospect of a young person just-turned 16 going to this assessment by himself.

John was able to tell the assessor how his condition affected him on a day to day basis.

Comment

Mercifully -but unsurprisingly - John is articulate and confident. In addition, John meets the obvious eligibility criteria for enhanced mobility PIP because of his dependence on the powered wheelchair.

"Following the consultation John received a letter from DWP saying that he was entitled to the enhanced rate for both the daily living component and the mobility component."

Comment

There was no suspense over the mobility because of the powered wheelchair. But John has also been "upgraded" from middle rate DLA to enhanced PIP. We are told there will be winners and losers, so it is perhaps not surprising that the random case study provides an encouraging example of a winner.

"John was delighted as this meant that he could start taking driving lessons at age 16 and could consider getting a car under the Motability scheme when he had passed his test."

Comment

Let us hope that John doesn't have to spend more than 4 weeks in hospital or he will lose his car. (See Q11 below)

"Having a car would mean he could travel independently to his Sixth Form College."

Comment

Unless he needs to go into hospital for 4 weeks at which point he will lose his entitlement to PIP and thereby lose his car. (See Q11 below)

Ending Extension Mobility To Hospital In-patients With Motability Vehicle

Q11 Do you have any views on our proposal to take forward into Personal Independence Payment the approach taken by DLA and AA in relation to residency in care homes and in-patient care in hospitals?

The consultation document states:

4.16 The extension which applies to DLA Motability leaseholders will not be carried over into Personal Independence Payment. This is because we intend to withdraw this extension in DLA and it is reasonable that the same approach is taken in Personal Independence Payment.

4.17 Generally, when a person is an in-patient of a hospital or similar institution, payment of their DLA care and mobility components stop after 28 days. However, if the in-patient is leasing a vehicle through the Motability Scheme, existing provisions allow for the continued payment of the higher rate mobility component for the duration of the Motability lease contract.

4.18 The Government announced in the 2010 Spending Review that it intends to address this anomaly by removing this provision in DLA regulations in 2012. It has now been decided that this change should roll out from 2013 alongside the implementation of Personal Independence Payment. This will ensure that all hospital in-patients are treated in the same way, whether they are a Motability customer or not. We have worked closely with Motability on this matter."

Comment

This proposal is incompatible with the fixed term contract hire agreement. The contract is predicated on the claimant's having a guaranteed source of income, namely the mobility award. If the benefit claim payment is simply "stopped" after 28 days (rather than for example "suspended") then Motability doesn't have a guaranteed source of income to pay for the car, so the hire agreement would presumably be terminated. The claimant would lose the adapted vehicle and would have to reapply for PIP on leaving hospital and then go through the application process with Motability to obtain - where possible - a replacement customised vehicle. This could lead to patients discharging themselves from hospital where it is not safe to do so, under threat of losing their adapted vehicles. DWP says it has worked closely with Motability on this matter, but we are left to speculate what this might achieve for claimants, should the proposed benefit cuts be implemented.