

Turned down for DLA/AA?

Think you're not getting enough?

“Nora's story

I decided to appeal when they turned me down for Attendance Allowance because my sight had got really bad.

An adviser at my GP surgery helped me complete the appeal form. I can't say it was an enjoyable experience – writing down all the problems I have. We had to go into every little detail – right down to how I need somebody to cut my toenails. It made me feel old and useless. But he said we had to spell out every thing, or they wouldn't know why they were wrong.

My doctor wrote a letter to confirm what I said. And my daughter helped me keep a record of all the things I needed help with.

When the day came to go to the hearing, I was very nervous. They asked me a lot of questions – some of which seemed a bit rude, but I suppose it was ok.

After a few minutes wait, they agreed I should have been receiving it all along.

Now I use the money to pay a woman to come and help me cook and do my hair and things. It was definitely worth it. Now I don't have to ask my daughter for help, and I can just enjoy her company when she's here.

Nora, 79

Introduction

This guide is for anyone who thinks the Department for Work and Pensions (DWP) have made the wrong decision about their claim for Disability Living Allowance (DLA) or Attendance Allowance (AA), and wants it to be looked at again (or is thinking about it).

This guide will be particularly helpful for you if you don't have an adviser, or if you have an adviser but they cannot come to the hearing with you.

It will take you step-by-step through the whole process. We will show you how to minimise the stress it might cause you, and how to maximise your chances of getting a good result.

This guide looks long, but don't be put off – you will only need to read a few pages at each stage.

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“They’ve got it wrong!”

They’ve got it wrong!

If you made a claim for DLA or AA and you didn’t get the result you had hoped for, you don’t have to give up.

You have three options:

- 1** You could ask the benefits department to look at their decision again. They will call this a ‘reconsideration’. This is a good idea if you have any new evidence you can send them. But it can take 8–12 weeks – which is a long time to wait if it’s unlikely they will change their mind. If they don’t change their decision, you can still try option 2.
- 2** You could appeal their decision. This means three experts who do not work for the DWP will look at your claim to see if the right decision was made. Appeals can be a little bit stressful, and take longer, but they are much more likely to be successful. You can minimise the amount of stress by getting as much help as you can, and by reading this guide. The DWP will always look at the decision again (option 1) as the first stage of an appeal.
- 3** Or, if your condition has got worse since the date of their decision, you could make a new claim.

‘They turned me down flat’

You may feel that you should just give up. After all, the DWP has said that you’re not entitled, so maybe you’re not. But they may be wrong – they often are. If so, you may be entitled to a lot more help than you are getting – and everybody should get what the law says they are entitled to. It is up to you what you choose to do, but remember you have nothing to lose.

‘They’ve given me less than I think I should get’

You may feel that you shouldn’t rock the boat. The decision could be changed for the worse as well as for the better. For example, if you’ve been given a low rate, it is possible that they will decide that an error was made and that you are not entitled to any help at all. On the other hand, you could be entitled to a lot more help than you are getting. If you can, see an adviser (this is an expert who can give you advice about your claim – for how to find one see

‘What if I don’t have an adviser?’ on page 3). They will be able to tell you how likely this might be for you.

‘I had to claim again and they gave me less than they did before’

You may still have a good case for the amount you used to get, but you may not have. That may be because you need less help than you used to, or it may be because the law has changed. If you are in this position, it is particularly important that you get advice (and not from the DWP!). If you haven’t got an adviser, see ‘What if I don’t have an adviser?’.



Time limits

You need to act quickly as the time limits can be quite strict. You have one month from the date of the letter they sent you to appeal or ask them to look at it again.

If you need more time, phone the DWP and ask for a ‘statement of reasons’. This is an explanation of their decision. It’s unlikely to tell you much, but it does give you another 14 days before the deadline.

If you are waiting to see an adviser but can’t get an appointment before the month is up – ask for a statement of reasons (if 14 days will be enough) or for an appeal and say that you will give your reasons later.

If you are really not sure what to do – you may as well appeal. You can always withdraw it later.

'What if I don't have an adviser?'

Most people will be able to go to a local independent advice centre or CAB that helps with benefits problems (look in your Yellow Pages or phone Community Legal Advice to ask if there is one near you – see 'Useful contacts'). Frequently there are services that you can access through your council, your GP, social worker or hospital, or community centre. There's no harm in asking – so call your council, and GP, and your social worker, hospital or community centre if you have one, and ask if there is a service for you.

You may be able to get help from an adviser over the phone. Community Legal Advice is a free and confidential advice service paid for by legal aid. If you live on a low income or benefits they can give you free advice over the telephone, help you prepare your case, and draft statements and letters with you.

There are also lots of charities who run advice services for particular groups – for example, Age Concern has local advice services for older people, RNID has a service for people who are deaf or hard of hearing, and Mind has an advice service for people with mental health problems. These organisations are often particularly good because they will already understand your condition and will have experience of helping people in a very similar situation. See 'Useful contacts' for details of organisations that may be able to help you.

If you still can't find an adviser, don't worry – this guide will help.

Take all the help you can get!

If an adviser offers you any help with your appeal, take them up on it! Benefits advisers are specialists at helping people get what they are entitled to. They might offer to help you complete the appeal form, get evidence to support your case, or write a 'submission' for you (this is a letter to the panel that explains why you are entitled). Some may even be able to come to the hearing with you to argue your case in person.

If you can't get an adviser you may have to do some or all of these things yourself. But don't panic – we'll show you how.

They've
got it
wrong!

How DLA and AA work

Whether or not you are entitled to DLA or AA is decided on how your illness affects you and what help you need – not on your diagnosis.

What rate you get is based on specific things which can sometimes seem very unfair. For example, you may find lots of things hard but not actually need any help, or only need help with things that aren't counted.

When you are thinking about your case and whether or not you want to appeal, you have to look at what the criteria actually are – not what you think would be fair.

DLA

Whether you are entitled to DLA is based on whether you need help from another person to do every-day things like washing and dressing, cooking a proper meal, enjoying pastimes, staying safe, or if you need help at night.

It doesn't matter whether or not you get any help – lots of people manage on their own – what matters is if you should really have help. If doing daily activities like getting up or washing causes you pain, takes you a long time, puts you or somebody else in danger, or if you simply don't do it, then that counts as needing help.

These benefits are awarded at different rates. What rate you get depends on what you need help with and how often.

- To get the higher rate for care, you must need frequent help at night *and* during the day.
- To get the middle rate for care, you must need frequent help during the day, or for more than about 20 minutes at night, or someone with you most of the time to help you stay safe.
- To get the lower rate for care you must need help for about one hour (in one go or spread throughout the day), or need help to cook a proper meal.

DLA also has a 'mobility payment' that deals with ability to walk and go places. You are likely to be entitled to the high rate of this mobility payment if you cannot walk or are virtually unable to. For example, if you struggle with even very short journeys such as walking around a supermarket. The lower rate of the mobility payment is for people who cannot go to places they don't know without help from somebody else.

Attendance Allowance

Whether you are entitled to Attendance Allowance is based on whether you need help from another person to do every-day things like washing and dressing, enjoying pastimes, staying safe, or if you need help at night.

It doesn't matter whether or not you get any help – lots of people manage on their own – what matters is if you should really have help. If doing daily activities like getting up or washing causes you pain, takes you a long time, puts you or somebody else in danger, or if you simply don't do it, then that counts as needing help.

These benefits are awarded at different rates. What rate you get depends on what you need help with and how often.

- To get the higher rate of AA, you must need repeated help at night *and* during the day.
- To get the lower rate for AA you must need frequent help during the day, or for more than about 20 minutes at night, or someone with you most of the time to help you stay safe.

If you are going to appeal without help from an adviser you will need more information than we can supply here. See 'Useful contacts' (page 20) to find more detailed information. Some of the most useful information will be aimed at people with your disability or illness. Information about how to fill in a claim form will also be useful, as it will explain what is counted and the sorts of things you should focus on.

The Process

Step 1

- You receive the decision about your claim. You have been told that you are not entitled to anything or you think you have been given the wrong rate.
- You have one month to ask for an appeal or for the DWP to look at it again. (If one month has already passed, see 'What if I've missed the deadline?' page 7.)
- Get advice if possible – see 'What if I haven't got an adviser?'
- You can skip step 2 and 3 and go straight to appeal.

Step 2

- Ask for the DWP to look again at their decision – see page 6 for details of how. (You can skip steps 2 and 3 go straight on to Step 4 if you prefer).
- The DWP will look at your claim form again to see if they can change the decision.

Step 3

- The DWP will tell you their decision. If their decision has been changed and you are happy with it, you can stop here. Otherwise you have 1 month to ask for an appeal.

Step 4

- Ask for an appeal (see page 6 for details of how).
- The DWP will look at your claim form again to see if they can change their decision. If they can, they will write to you with a new decision. If not, your appeal will be sent to the Tribunal Service.

Step 5

- The Tribunal Service will send you a form and a huge bundle of papers. (This can be very intimidating, but don't panic). You must fill in the form and send it back within 14 days. See page 8 for our advice.

Step 6

- You need to prepare for your appeal and get evidence. See pages 10–15 for details.

Step 7

- You will be told the date of the hearing. Ideally, you should send in your evidence a week or two in advance.

Step 8

- Your appeal will be heard by an independent panel. They will make a new decision. See pages 16–17 for details of what will happen and advice about what to do on the day.
- If you were successful, you will usually receive your money in 4–6 weeks.

'They say I don't need much help at all! How did they work that out?'

It can sometimes be very hard to understand how the DWP made their decision. The letter they send rarely explains very well, but it will say what they based their decision on.

They will usually look at a report from your GP or a doctor they sent to see you, as well as your claim form. It may be that you haven't put enough detail on your claim form. Or it could be that they don't accept what you have said, because of what is in the other reports.

How to ask the DWP to look at their decision again

You can ask over the phone or in writing. You must do it within one month of the date on the letter.

If you are going to do it over the phone, make a list of everything you want to say and tick them off as you say them.

You should give them as much detail as you can about why their decision was wrong. The sorts of things you should include are the same as if you are asking for an appeal – see the list below.

If you have any more evidence that you think will help (for example, a letter from your doctor, or social worker) send that too.

What next? You should hear back in 8–12 weeks. If they have changed their minds, congratulations! Your benefit will be backdated to the date they received your original claim form.

If they didn't change their decision or did, but didn't give you the amount you think you are entitled to, remember that you can still appeal. You need to tell them within one month.

Children

If you want to change a decision about your child's claim, you need to explain what needs your child has compared to the needs of other children the same age.

We recommend that you get as much help preparing for the appeal as possible. It can be very upsetting to have to explain all the difficulties your child has in detail. There are also extra problems about evidence. See 'Useful contacts'.

How to ask for an appeal

You need to tell them in writing that you wish to appeal within one month. The best way is by using the special form that comes in their leaflet 'If you think our decision is wrong' (see 'Useful contacts').

Give your name, address, and National Insurance number and include the date of the decision you are appealing (see the letter they sent you). Send it to the address at the top of that letter. If you can, keep a photocopy.

On the form or letter you need to explain *why* their decision is wrong. Give them as much detail as you can.

You should include:

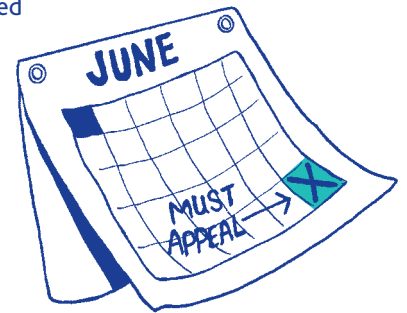
- **What the symptoms or details of your condition are *and* describe the problems they cause.** Remember, they probably don't know anything about your disability, and how it affects you or what help you should have. Don't just say that you have problems with your sight, or mental health – explain how it affects you day-to-day.

For example, a serious visual impairment might mean that you need help to get around inside or outside to avoid walking in to things. Or, your mental health condition might mean that you need a lot of reminding and encouragement to cook for yourself, or help to cook safely.

Don't be tempted to make light of your difficulties, even if you find some of the issues embarrassing, it is important that they understand how your condition *really* affects you.

If your condition varies, explain what it is like on a bad day.
- **If you can't go to places you don't know on your own, explain why.** This might be because you need help finding your way, or it might be because something might happen (you might have a seizure or a panic attack), or because you might put yourself or others in danger. Spell out exactly why somebody else is needed, and what they could do for you. If you never try to go to places you don't know on your own, explain why you don't.

They've got it wrong!



They've
got it
wrong!

- **If anyone provides care for you, say what they do.** This might mean physically helping you to get up, and to wash, and getting you food, or 'nagging' you to get up, and to wash or eat something. If you need anyone's help to take your medication (this might be by finding it and making sure it is the right one, reminding you to take it, or making sure you don't take too much) tell them, and say how frequently you are supposed to take it.
- **If you have ever hurt yourself as a result of your condition** – perhaps because you fell or had an accident, or hurt yourself on purpose, you need to put this down too. It is important that they know because some of the help you need may be in order to prevent the same thing happening again. If it has happened more than once, tell them how many times similar things have happened, and how having somebody with you could have stopped it happening or helped you afterwards.
- **If you have ever put someone else in danger as a result of your condition** (even if you didn't actually hurt them) you need to say so. For example, if you have hurt other people during a blackout (or might have), or if you heard voices telling you to hurt someone.

'What if I've missed the deadline?'

It is important not to delay – if you can get your appeal form to them within the month you should. If you don't have time to say everything you want to say before the deadline, you can tell them that you will send more information later.

If you've missed the deadline, you can still ask to appeal. If the delay was unavoidable or a result of your disability (for example, if you were unable to deal with it until now because you need help to deal with your post) it will help if you explain that. You can also appeal after the deadline if you have a good chance of winning, but they do sometimes say no. Your appeal will only definitely not be accepted if 13 months have passed since you were sent the decision.



What next?

When they receive your appeal form, the DWP will look again at their decision to see if it should be changed. If they do change it, they will write to tell you what they now think you are entitled to. If you don't think they are right this time either, you can ask for an appeal (again). This time you are appealing this latest decision, so you have another month to tell them you think they are wrong and why, and it all starts again.

If they don't change their decision, they will send your appeal to the independent Tribunal Service. You probably won't hear anything for several weeks. Then you will get sent a very big pack of papers.

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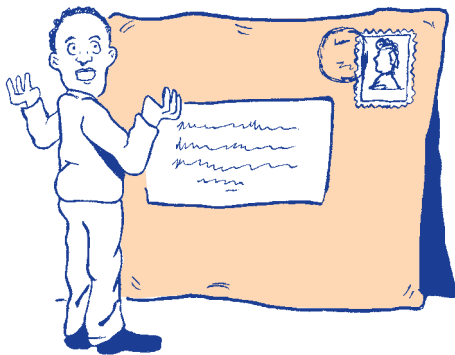
I've received

a huge pack of papers!

What do I do?”

I've received
a huge pack
of papers!
What do I do?

Don't be alarmed by the number of papers. It is just copies of everything that they based their decision on. For now, put the papers to one side – we'll come back to them on page 10. First, you must deal with the form.



The form

It is very important that you send this form back within 14 days. If you can't send it within that time, send it as soon as you can, and explain that the delay was caused by your disability. It is very easy to complete. It asks you:

- if you want an oral or a paper hearing.
- if you have a representative.
- if you are willing to be given a date for your hearing at short notice.
- if you have any further evidence, and if so when you will send it in.
- if you will need any sort of communication support at the hearing.

We explain what you need to know in order to make these decisions below.

This form also tells you which tribunal centre is dealing with your appeal. Keep it safe.

Don't be alarmed if the tribunal centre is far away. It may be that your hearing will be held somewhere nearer you, and that the tribunal centre is just organising it. If you are worried, phone and ask.

'Oral hearing' or 'paper hearing'?

The form asks if you want an 'oral' or a 'paper' hearing. An 'oral' hearing is a face-to-face meeting. You go at a particular time on a particular day, and tell the three members of the panel face-to-face how your disability affects you.

A 'paper' hearing is when the panel look at your claim form, appeal letter and any other evidence again on their own. You don't meet them and they have no opportunity to ask you questions.

You need to think carefully about whether to ask for an oral hearing or a paper hearing. Almost everybody, when given these two options, wants to choose the paper hearing – because it seems less scary. However, you are *much* more likely to win if you go and speak to them face-to-face. It gives them a chance to meet you and see and hear for themselves how your disability affects you, and gives them the chance to ask questions.

Remember, your claim form has already been looked at twice and each time the DWP have made the wrong decision. It may be that there simply isn't enough information in the papers to support your case.

An oral hearing won't be like going to court, or like something you have seen on the telly. In fact, it looks like a rather boring office and everybody is wearing normal clothes. You will sit on one side of the table and the three members of the panel will sit the other side. You can take somebody with you for moral support.

We strongly advise you to ask for an 'oral hearing'. If you really can't go to a hearing because of your disability, you may be able to get the panel to come to you. You will need a letter from your GP.

If you choose a 'paper' hearing despite this, you will need to get as much new evidence as you can – see 'What do I need to do before the hearing?'.

Further evidence

It is usually possible to get further evidence (perhaps from a GP or social worker, or evidence that you write yourself) – and this is often very useful. We'll explain how to go about this in the next few pages. For now, just write on the form that you will get further evidence, and that you will send it in as soon as possible. Don't set yourself a deadline.

Ideally, you should send any evidence at least a week before the hearing – but if it only arrives last minute, you should send it as soon as you can, or even take it with you on the day.

Do you have a representative?

If you have not already tried to get help and advice do so now (See 'What if I don't have an adviser?' on page 3.) An adviser may be able to come with you and represent you – this is what they mean by 'representative'.

If you don't have a representative, don't worry. The most important thing is that you go to the hearing. Nobody knows more about how your condition affects you than you.

Are you willing to be given a date for the hearing at short notice?

You should get at least 14 days notice of the hearing, unless you agree to accept less. It is up to you whether you do this.

If you say that you do not need 14 days notice, make sure you get all the evidence you need ASAP.

Do you need any help with communication?

If so, you have a right to professional help – such as an interpreter, signer, lipspeaker, or speech-to-text reporter at the hearing. If you can sometimes cope, but sometimes need help, ask for help. It is important that you can say everything you want to say, and can understand everything that is said, at the hearing. Tell them what type of support you need.

I've received a huge pack of papers!
What do I do?

“What do I need to do before the hearing?”

There are a lot of things for you to do over the next few months. It is important to start preparing as soon as you can. Some things can take a long time.

If you are getting help from an adviser, he or she might do some or all of this for you. You need to be clear which things your adviser is going to do for you, and which you need to do yourself.

When will the hearing be?

Usually you won't get told the date of the hearing until 2–3 weeks before (you should be given at least 14 days notice unless you agreed to be given less on the form). However, it is useful to know how long you have to prepare for your appeal. You can phone the tribunal centre dealing with your appeal (see the form they sent you) and ask them. They will be able to give you a rough idea.

Getting help

If you are not getting any professional help to prepare for the hearing, you might want to ask somebody else to help you. You may not need any help, but it might stop it from feeling too stressful. It might be particularly useful if you are not very good with paperwork or deadlines. If you do think it might be useful, think about who you could ask – do you have a family member, friend, or someone who helps you who is good with paperwork and organising things?

Support groups

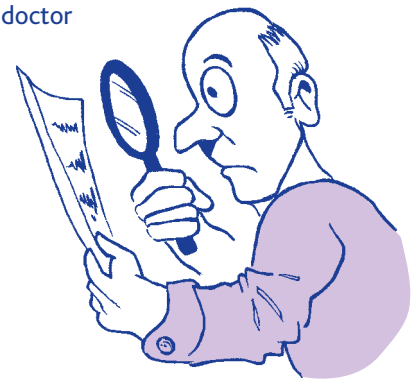
Support groups can sometimes be very helpful. There may be other people there who have had the same problems, who can give you emotional or practical help.

Appeal papers

Look at the big pack of papers that you were sent with the form. Go through them and look for anything you don't agree with.

The most important part is the reports from any doctors. If you saw a doctor sent by the DWP, go through his/her report – is there anything that isn't true? Did the doctor ask you the right questions and listen to your answers? If your condition is better or worse on different days, did the doctor understand that?

Make a note of all the things that are wrong. If you can, say why they are wrong.



What do I need to do before the hearing?

Getting evidence

For most people, the thing that is of most help is written evidence from their GP or other doctor. If you have a social worker, community psychiatric nurse, occupational therapist, or other healthcare professional evidence from them will be very useful too.

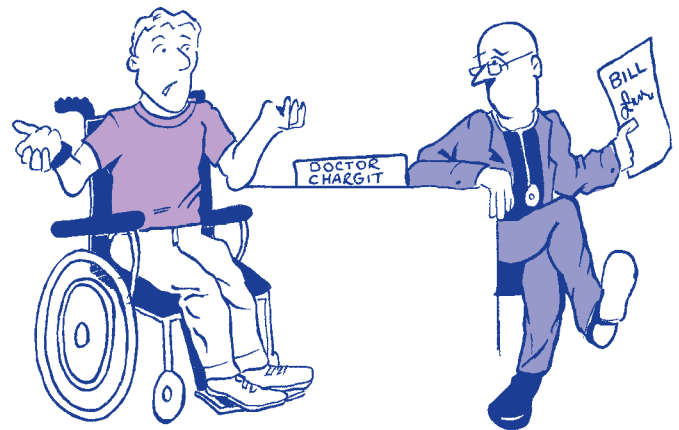
The most useful evidence will explain how your illness or disability affects you, and the help you need. This is quite unusual, so your doctor/social worker etc may not understand that. Look at page 22. This is a guide for your doctor, social worker, or anybody else writing evidence for you. When you ask them for evidence to support your appeal, show them page 22. It will help them to write evidence that will be really helpful to you.

The best evidence will come from people who know you well and who understand your situation. If your GP does not know you well, you should still ask him or her for evidence, but try to get evidence from other professionals who know you well too. This could be your social worker or community psychiatric nurse, a paid carer, your occupational therapist, or somebody who works at a day centre you go to, or somebody else.

Before you ask anybody for evidence – read this!

You are appealing the decision the DWP made on a particular date (on the top of the letter). You need to prove how your condition was at that time, not how it is now. Write the date of the decision you are appealing in the little blue box on page 22, before you ask anybody for evidence. Then show them page 22.

It is important not to be offended if the evidence embarrasses you. For example, if it says that sometimes you appear not to have washed or eaten properly. They are just trying to ensure you get all the help you are entitled to.



Paying for medical evidence

GP's and other medical professionals are allowed to charge for evidence. However, many won't do this – particularly if they know you cannot afford it.

If your doctor suggests that he or she will charge you, tell them that you only need a brief note from them, and that it could be hand-written if this is quicker. Reassure them that it will only take the time of an appointment. Show them the information on page 22 – so that they are sure of what you need from them.

If they insist on charging you, you should still get the evidence if you can possibly afford it. If it helps to get you an increase in benefit, it will have been a good investment.

What do I need to do before the hearing?

Evidence from your carer/ the person that helps you

If there is somebody who helps you a lot (this might be somebody you pay, or might be your partner, a family member, or a friend), they may be able to write some very useful evidence too. Ask them to write a letter to the tribunal panel explaining what help they give you and how often. Show them the information for doctors on page 22 – it may help them to remember everything.

It can be very useful for this person to come to the hearing with you – so that the panel can ask them questions. They may be asked to wait outside until their evidence is needed – so you need to be prepared to go in alone at first.

Diary

You should think about keeping a diary of the help you need each day. It will help the tribunal panel to get a proper understanding of your situation. It is particularly helpful if your condition isn't the same every day. Keep a diary for a month if you can (but a shorter time will also be helpful). It can be very brief. For example – 'Monday – Joints and back very painful today. Needed help to fasten my bra, and put socks and shoes on, as I couldn't bend down. Marie had to help me downstairs'.

If you get help from somebody and find this sort of thing hard, you could ask them to keep a diary of the help they have given you instead (as an alternative to the letter – see above).

Be realistic

Be realistic about what you want to happen. There is no point going to the tribunal hearing to demand high rate mobility DLA if you can in fact walk to the end of the road and back. If you have seen or spoken to an adviser – did they tell you what they thought you might be entitled to?

Is there any other evidence that you have?

There may be useful evidence you already have or can easily get. For example, if you are registered as blind or partially sighted, you can get a copy of your registration from the social services. These usually detail how much your sight is impaired, and so can be very useful.

Write a statement

If you (or someone who is helping you) are good with writing, you should think about writing a statement. These can be very useful as they set out all your points, which means that you don't have to remember everything to say on the day. They also give the panel time to think about what you've said and why you should be getting more, before they meet you.



For more advice on how to write a statement and what to put in it, see 'How to write a statement' on page 23. You can also read Rose's statement and see what she put in hers.

What to do with the evidence

Read the evidence through – does it support your case? If it doesn't, you don't have to send it to the panel (but if they ask if you had any evidence you didn't send them, you have to tell the truth). If you don't think the evidence is useful it may be worth going back to the person who wrote it and discussing it with them. Is there anything they can add?

If you've got useful evidence, photocopy it and send it into the Tribunal Service before your hearing. Ideally, send it at least a week in advance. On the day of your hearing, take your copies with you, and ask the panel to confirm that they have received them.

What do I need to do before the hearing?



How will you get to the hearing?

Some people find it helpful to work out how they will get to the hearing and do a 'dry run', so that you know how to get there.

You should be able to claim travel expenses for the day of the hearing, and sometimes money for a sandwich or a coffee if you are there a long time. Expenses are often limited to the amount it would cost to come by public transport – if you need a taxi, phone and check if they will pay for that.

What will happen at the hearing?

You can go alone or take a friend or family member with you for moral support.

When you arrive at the tribunal centre you will usually be shown into a waiting room. You might have to wait here for a little while. When the panel are ready for you, you will be called into the room.

When you go into the room (it looks like a big, empty office) there will be a big table in front of you. You (and anyone who goes with you) will sit at one side of the table and the panel will sit on the other side.

The person that sits in the middle of the panel is the Chair. They are a solicitor who should know a lot about benefits. They are a bit like the judge, but the other two members of the panel have to agree to the decision too. The panel should introduce themselves and explain what will happen.

Remember the panel do not work for the DWP. They are independent, and they are here to see that you get the benefit if you can show you are entitled to it.

Usually the three members of the panel will be nice and easy to talk to, and will just want to get a full picture of your disability and the help you need.

However, you might be very unlucky and get a hostile panel member, or just one having a bad day. If this happens, try to keep calm. Don't take it personally. Stick to what you wanted to say, and answer their questions fully. It is ok to tell them that you feel they are acting a bit aggressively towards you – they might not realise that it is upsetting you, and they might stop if you tell them.

The DWP have a right to send somebody to your appeal to explain why they made their decision. Don't worry about this though. If they do send someone, they are usually very nice and non-confrontational. It will not be the person that made the original decision about your claim.

Remember it is YOUR appeal. You can have a break whenever you want. If you get upset, you can ask for a short break. However, don't go too far. If you ask for too many breaks, you might annoy the panel and you'll be dragging it out for yourself too.

If you do get some DLA or AA already and are asking for a higher rate, you can stop the hearing completely at any time. This will also stop your appeal. If you do this, the Tribunal will not be able to take away the benefit you get at the moment. It is only a good idea to do this if you think that the hearing is going so badly that the panel may think you should get less benefit than you currently get.

Your hearing might be postponed

In some areas, hearings are often postponed. Hopefully this won't happen to you, but it is possible that you will arrive to find that you have had a wasted journey.

At the end of the hearing

The panel will usually make the decision that day. You will be asked to go to the waiting room while the panel discuss your case. This usually takes between 10–30 minutes. You will then be asked back into the room and told the decision. They will give you a written outline of their decision as well.

Sometimes the panel will not be able to make a decision quickly. If this happens, they will post it to you instead. It should arrive within a week.

What do I need to do before the hearing?

I have been sent a date for the hearing – I can't go!

If you can't go on the date they give you, contact the tribunal centre and ask for another date as soon as you can. Don't put it off or just do nothing about it – they are usually extremely helpful. You may have to explain why you can't go and you should have a very good reason, like a hospital appointment.

It is a good idea to follow up the phone call with a letter and to keep a copy – that way, if anything goes wrong, you can prove you told them.

If you leave it until the last minute, they may not change the day and the appeal might happen whether you are there or not. Don't delay. If they refuse to change the date, you should do everything you can to move your other appointment.



How do I stay calm?

Staying calm isn't easy, particularly in very stressful situations, like waiting for your appeal hearing.

Many people find that the best way of reducing stress immediately is to concentrate on their breathing. Take several long, deep breaths. If you can, breathe in through your nose. Try to take the air into your stomach (you should feel your stomach rising). And then slowly breathe out through your mouth. It might help to close your eyes and picture nothing, others like to imagine a scene they find calming. Some people prefer to keep their eyes open and to watch other people. If you do this try to concentrate on details. It doesn't matter what you look at or think about – the aim is to slow down your thoughts.

Some people also find it useful to clench and then relax their fists, arms, and jaw; and to frown and then relax, or raise their eyebrows and then relax them. If you get stressed a lot, you can reduce your stress long-term by trying to do this every day.

If you are getting stressed because of the number of things you have to remember – write a list (or get someone to write a list for you). As soon as it is down on paper, you don't have to remember it. This can be instantly calming.

What do I need to do before the hearing?

Spencer's story



I didn't want to go to the hearing. But my adviser said I'd have a much better chance if I did.

When the day came, I hadn't slept so I felt terrible. I didn't want to be late and rushing, so I was there really early. I hated the waiting. It wasn't so bad once I was in there talking to them.

When I went in, they introduced themselves and explained what was going to happen.

Then they asked me lots of questions – some of which I didn't really want to answer, but I forced myself.

They asked how I was feeling today. I had to explain that I wasn't feeling too bad but that I often have epileptic fits that leave me feeling terrible and 'foggy' for about four days afterwards.

We talked about the things I've done when I've had seizures, like the time when I fell down the stairs and broke my collarbone. I also had to admit I don't always take my medication because I don't like the side effects.

They asked what help I need when I go somewhere I don't know, which was really difficult because I don't go to places I don't know. I avoid going to my corner shop on my own if I can help it in case I have a fit. But when I explained that, they seemed to understand. They quizzed me about how I had got to the tribunal centre.

Then we talked about what I cook and when. This was a bit embarrassing because I know I shouldn't just eat tinned spaghetti or beans on toast but I can't get round to doing anything better.

Then they asked me to go back to the waiting room. When they called me back in, they told me that they had given me middle rate care and low rate mobility. I was chuffed. Maybe I'll be able to afford a few extra taxis now, so I can go and see my brother a bit more.



Spencer, 39

What do I need to do before the hearing?

“

What should I do

on the day?”

- If you think it might help, ask a friend or family member to come with you for emotional support. They might also be able to help by reminding you of things you have forgotten. If you do ask a friend, show them the box 'For friends or relatives' on page 17.
- Make sure you arrive in plenty of time.
- Don't dress up or make a big effort with your appearance. It is important that the panel see you as you are on a normal day. Otherwise, they might get the impression that you don't need help, even if you do.
- The panel may be running late and so you might have to wait. If you have made any notes of what you want to say, use this time to go over them. Try to keep calm (see page 14). There will be water available.
- Many people find they get very emotional at the hearing. It doesn't matter if you get upset. It won't make any difference to your chances. Remember – you can ask for a break to compose yourself.
- Be aware that it is possible that you will be watched from the moment you arrive. For example, if you have said you have trouble getting in and out of chairs they will watch you as you sit down, or how you move around. If you are having a good day, and your condition is normally worse, make sure you tell them.
- If the person who helps you a lot has come with you to give evidence, they may be asked to wait outside until the panel are ready to speak to them. You need to be prepared to go in alone to start with. This will not happen if they have just come with you to give you emotional support.
- If you had asked for any help with communication or translation and it is not available, you should insist on having the hearing another day.
- If you don't understand a question, ask them to repeat it or put it another way.
- Don't worry about using the 'right' language or 'buzz words'. It is much better to use your own words. If you think they haven't understood something you have said, say it again in a different way.
- If you sent them any evidence before the hearing, check that they received it.
- If somebody has helped you on the day (perhaps by physically helping you to get up and dressed, or by encouraging you to get yourself ready and keeping you calm) – be sure to tell the panel. Even if you didn't get any help as such, but needed to get a taxi because of your problems walking or going to places you don't know – tell them. They will often ask you about how you got there or if you had any problems this morning, but if they don't ask try to make sure you bring it up.
- Don't make light of your condition. It's tempting to gloss over the difficulties you have, particularly if you find them embarrassing, but you will only harm your case if you do. Be as frank about your condition as you can be, and explain the help you really need rather than how you manage. Remember, it doesn't matter what the panel think of you – they would be wrong to judge you badly because of your disability, and you are never going to see them again!
- Try to make sure you don't exaggerate the problems that you have either. If you do this, the panel might not believe you when you are not exaggerating.

What
should I do
on the day?

Show this to a friend or relative who you are asking to come with you to the appeal

- Try to answer every question as broadly as you can. If you just give short answers, the panel won't be able to get a better understanding of your situation. So, try to give longer answers and be willing to explain things. For example, if they ask if you need help to get washed in the morning, don't just say yes or no. Tell them if you do, and if you need help with anything else in the morning. If you don't need help because you don't usually have a wash in the morning, explain why you don't.
- If you find you haven't said everything you want to say because they haven't asked the right question – tell them anyway. It is important that you say everything. A clever tactic is to make notes about what you want to tell them and tick them off as you say them. Make sure that they are all ticked off before you leave. If you have taken somebody with you for moral support – this is a very useful thing for them to do.
- If your condition goes up and down and you need different amounts of help on different days, you will need to make this clear. It is best if you can say roughly how often you need help with each thing, rather than saying 'sometimes'. For example, 'My condition is bad for three weeks out of every four. At these times my joints are very painful and I cannot walk very far or stand'. If you have kept a diary of your needs (see page 12) you should be able to use that to work out how often you need help with different tasks.

What to take with you on the day

- Take copies of any evidence you have sent in beforehand.
- If you have any new evidence that you think will be useful that you haven't already sent in, take that and hand it in when you arrive.
- If you are taking any medication, take it with you so that the panel can see it. Do not take old medication.

You can take a friend or relative to the appeal with you. If you have asked somebody to come with you to give you support, show them the information in the box on this page. It explains what they can do to help.

For friends or relatives

If someone has asked you to go with them to the hearing to give them support, there are several things that you could do that would be very useful.

- Before the hearing, sit down with your friend and write a list of all the help they need or should have. Take it with you on the day and tick them off as they are said. If at the end of the hearing there are still things that haven't been said – you can remind them.
- Try not to answer questions on your friend's behalf. If you realise that your friend has left bits out when answering a question – try to remind them, rather than say it for them. However, if they are finding it difficult or becoming very emotional you can answer the question yourself (although it is best to ask the Chair if it is OK first, just to be polite).
- If they get upset or stressed you can try to calm them down. If this doesn't work, ask them if they want a short break (don't over do this though – too many breaks will prolong the stress and won't help anybody).
- Read through this leaflet (particularly the sections about the hearing and what to do on the day). This will help you to know what will happen so that you can help your friend.

What should I do on the day?

“What happens after the hearing?”

The tribunal panel will tell the DWP their decision. If you were successful, the DWP will change your records and work out how much they owe you. You will start receiving the new amount every month, and a sum covering the amount they should have been paying you all along. You will usually receive your money in about 4–6 weeks.

If you weren't successful, you might be able to appeal to the Social Security and Child Support Commissioners. This is like a higher court. However, this can only be done if the panel did something wrong with the law. It is very complicated, and you can't do this without an experienced adviser. If you want to look into this possibility, you need to move quickly – you will need to ask for a copy of the tribunal's statement of reasons within one month.

The DWP also has the right to appeal to the Social Security and Child Support Commissioners if they think the tribunal panel did something wrong. This rarely happens. If it does happen, they will write and tell you. You won't receive the money until the commissioners have heard the appeal again.

What happens after the hearing

Adviser

This is a benefit expert who can give you advice about your claim. They may also be able to help you prepare for the hearing. Some advisers will also be able to be your representative at the hearing (see below).

Appeal

This means a panel of three experts who do not work for the DWP will look at your claim and see if the right decision was made. If they think the wrong decision was made, they will change it. See page 6.

Attendance Allowance (AA)

This is a benefit for people over 65 who need help with their personal care because of their disability or long-term illness.

Carer

This is a person who helps you often, like every day or every week. It might be somebody you pay, or might be your partner, a family member, or a friend or neighbour. The help they give you might be physical help (for example to get in the bath or up the stairs), they might help you by getting your shopping or helping you prepare a meal, or they might help you by encouraging and prompting you to do things.

Chair of the Tribunal

This is the person that sits in the middle of the panel who will make a decision on your case. He or she is a bit like a judge, but the other two members of the panel have to agree the new decision too.

Clerk to the Tribunal

This is the person who organises the hearing and deals with the paper work.

Department for Work and Pension (DWP)

This is the government department that deals with most benefits, including DLA and AA. It used to be called the Benefits Agency.

Disability Living Allowance (DLA)

This is a benefit for people under 65 who need help with their personal care or have walking difficulties because of their disability or long-term illness.

Enquiry form

This just means the form they send you with the big pack of papers. They might also call this the 'TAS1'. See page 8.

Reconsideration (or Revision)

This means the DWP will look at their decision again. See page 6.

Representative

This is an expert in benefits who will help you prepare for the hearing and will come with you to help you put your case.

Supercession

This means having your claim looked at again because your condition has worsened since the date of the decision.

TAS1

They might also call this the 'enquiry form' (see above).

Tribunal

This is the panel of three experts who do not work for the DWP who look at your claim to see if the DWP made the right decision.

Tribunal Service

This is the government department that organises the panel and the hearing.

Useful contacts

Find the appeal form

On the internet

www.jobcentreplus.gov.uk/jcp/stellent/groups/jcp/documents/websitecontent/dev_012310.pdf

DWP Disability Benefits Helpline

Helpline: 08457 123 456
Monday to Friday 7.30am–6.30pm

Find your local advice service

Citizens Advice Bureau (CAB)

Citizens Advice Bureaux help people resolve their legal, money and other problems by providing free information and advice. You can find your local CAB by going to:

www.citizensadvice.org.uk/index/getadvice

Community Legal Advice

Community Legal Advice helps people find information and advice, including local independent advice services and CABs.

www.communitylegaladvice.org.uk
Helpline: 0845 345 4 345
Minicom: 0845 609 6677

Call your council and ask if they have a welfare rights service or look in your Yellow Pages.

For more details on how to find an adviser see 'What if I don't have an adviser?' on page 3.

For further information about appeals

The Tribunals Service

The Tribunals service is the government agency responsible for the administration of all kinds of appeals. You can find details about venues and how to get to them, as well as useful information about the appeal process.

www.appeals-service.gov.uk

For further information and help with your appeal whatever your disability

Community Legal Advice

Community Legal Advice is a free and confidential advice service paid for by legal aid. If you live on benefits or a low income, call 0845 345 4 345 for independent advice about debt, education, benefits and tax credits, employment and housing problems.

Helpline: 0845 345 4 345
Minicom: 0845 609 6677
www.communitylegaladvice.org.uk

DIAL UK

DIAL UK is a network of disability information and advice services.

Helpline: 01302 310 123
Text Phone: 01302 310 123. Please use voice announcer.
Email: informationenquiries@dialuk.org.uk
www.dialuk.info

The Disability Law Service

The Disability Law Service is a national charity that provides confidential and independent legal advice for disabled adults, their families and carers.

Helpline: 020 7791 9800
Monday to Friday 10.00am–1pm, 2.00pm–5pm
Minicom: 020 7791 9801
Email: advice@dls.org.uk
www.dls.org.uk

Further help for older people

Age Concern

Age concern is a large charity working with and for older people. It has a network of local services across the country.

Helpline: 0800 00 99 66
7 days a week from 8am–7pm

Useful factsheet about DLA and AA:
http://www.ageconcern.org.uk/AgeConcern/Documents/FS34_Attendance_Allowance_and_Disability_Living_Allowance.pdf

Useful
contacts

Help the Aged

Help the Aged is an international charity working with and for disadvantaged older people.

Helpline: 0808 800 6565
Monday to Friday 9am–4pm

Useful factsheet about AA:
www.helptheaged.org.uk/en-gb/AdviceSupport/FinancialAdvice/HelpClaimingBenefits/AttendanceAllowance/default.htm

Further help for deaf and hard of hearing people

RNID

RNID is a charity working with and for deaf and hard of hearing people.

Telephone: 0808 808 0123
Textphone: 0808 808 9000
Fax: 020 7296 8199
Email: caseworkteam@rnid.org.uk

Useful factsheets about DLA and AA:
www.rnid.org.uk/information_resources/factsheets/benefits/factsheets_leaflets

Further help for blind or partially sighted people

Action for Blind People

Action for Blind People is a charity which provides support and advice for blind and partially sighted people.

Helpline: 0800 915 4666
Email: benefit.check@actionforblindpeople.org.uk

Useful factsheet about AA:
<http://static.actionforblindpeople.org.uk/files/attendance-allowance-colour-572.pdf>

Useful factsheet about DLA:
<http://static.actionforblindpeople.org.uk/files/disability-living-allowance-colour-574.pdf>

RNIB

RNIB is a charity working with and for blind or partially sighted people.

Helpline: 0845 766 9999

Useful factsheet about DLA and AA:
www.rnib.org.uk/xpedio/groups/public/documents/publicwebsite/public_welfare_rights.hcsp

Further help for people with mental health conditions

MIND

Mind is the leading mental health charity in England and Wales.

Helpline: 0845 766 0163
Monday to Friday 9.15am to 5.15pm
If you are deaf or speech impaired, use the same number. If you are using BT Textdirect add the prefix 18001.
Email: info@mind.org.uk

Further help with children's claims

Contact a family

Contact a Family is a charity working with and for families with disabled children.

Helpline: 0808 808 3555
Monday to Friday, 10am–4pm & Monday, 5.30–7.30pm
Textphone: 0808 808 3556

Useful factsheet about DLA for children with Learning Disabilities:
http://www.cafamily.org.uk/pdfs/DLA_factsheet.pdf

The charities listed above that deal with specific disabilities will usually provide help to children with those disabilities (for example, RNIB will be able to advise on claims for blind or visually impaired children).

Find another charity

There may be other charities that can help you that are not listed here. Often charities set up to help with your illness or disability are a good place to start.

Guidestar UK is a website that will help you find appropriate charities in your area.

www.guidestar.org.uk/index.aspx

You could also look in your Yellow Pages, or ask at your local library.

Useful contacts

Guide to writing useful evidence for Disability Living Allowance and Attendance Allowance appeals

Give this page to your doctor or somebody you are asking for evidence from

This page is written for doctors, social workers, CPNs, occupational therapists, and other professionals who might be able to tell the appeal panel what they need to know. It explains how to write helpful evidence for this kind of benefit appeal.

Evidence from a doctor or other professional helps the tribunal to come to the right decision more than anything else. We have written this section because we want to help ensure that the time you spend writing this evidence is efficiently spent. Your evidence doesn't need to be long or typed, but it would be most useful if it included everything you are aware your patient/client needs help with.

Whether your patient or client is entitled to DLA or AA is decided by how much help they need. They may not get this help, many people 'manage', but these benefits are based on help they should really have, in an ideal world.

This appeal is about a decision that was made on [patient/client to fill in]. Your evidence needs to be about how their condition affected them at that time.

It would be helpful if your evidence started by confirming any diagnoses, and any treatment that they receive.

Then you need to go into the detail. If they cannot physically walk even short distances without discomfort, or if they are very slow please say.

Equally, if you are aware that they have difficulty going out on their own to places that are unfamiliar, please say that. They should be able to get to their local shop or GP surgery alone – but if they would need help to find their way, become anxious, or might put themselves in danger if they had to go to another town alone, the Tribunal needs to know that.

Next, look at the help they need in the home. Do they need physical help, prompting or encouragement to do any of the following:

- get up
- get washed (this means have a bath or shower, as well as wash their face, teeth, shave etc)
- go to the loo
- get dressed and undressed
- move about indoors
- stay safe
- cook a proper meal

- communicate with other people (this includes reading, hearing, and speaking)
- take part in leisure activities (meeting friends, playing games, reading, watching TV)
- go to bed
- do they need help overnight? This might be help to sleep, stay in bed, to go to the loo, to calm down if they get distressed, etc.

If they *can* do any of these things on their own but it takes a very long time, causes them pain, or may put them (or somebody else) in danger – the law sees this as needing help.

Do you think that they can (and do) cook themselves a proper meal? This means a 'meat and two veg' style meal they cook from scratch, not just beans on toast. If they have issues with depression, or motivation, and don't generally cook themselves a proper meal, this would suggest that they can't be relied on to do it without help or prompting.

Please say if you have any concerns that your patient or client doesn't look after themselves very well. Do you have any reason to believe that they don't always wash or eat properly? Please do not leave things like this out for fear that it might offend your patient, as it will help their case.

If you are aware that they have been hurt, or could have been hurt, as a result of their condition, you should say so. Perhaps they have fallen or had violent seizures, burnt themselves, self-harmed, or attempted suicide.

If you are aware that they have trouble taking their medication, remembering to take it, or sometimes purposefully don't take it, that would also be very useful.

Do you have any reason to believe that, if left entirely alone for long periods, they might be a danger to themselves or somebody else? If you are aware of a time when they have posed a danger to themselves or somebody else, it would be most useful to include this.

Lastly, does their condition fluctuate? If it is bad on some days but better on others, it would be useful to make that clear.

If the person you are writing evidence for is a child – you need to compare what their needs are against the needs of another child the same age.

How to write a statement

On the **left**, is information to help you write your statement to the panel. It tells you all the things you should try to put in your statement and how to begin.

On the **right** is the statement Rose sent to the panel looking at her appeal. We have included it to show you what sorts of details about your condition you should include in your statement.

Rose's Statement

1. Explain why you are writing.

I am writing to you to explain my reason for appealing the decision to award me the lower rate of care of DLA.

2. Tell them what rate you think you should be entitled to. If you don't know, just say 'I believe I am entitled to more'. Go to page 4 for more information about the different rates.

I am appealing the decision as I believe that I am entitled to the middle rate of care. I have ulcerative colitis and severe depression and this means that I need a lot of help during the day.

3. Explain the main symptoms or difficulties you have because of your illness or disability.
Remember to explain how they affect you.

I find moving around painful and hard because I have pain in my limbs, and am unsteady on my feet. I need to go to the toilet frequently, and afterwards I feel sick and exhausted. I often soil myself.

4. If you have difficulty walking, it is most useful to talk about distances in terms that mean something to you. For example, it is better to say 'Walking around the community centre causes me pain' than 'I can only walk for 50 metres'.

Because of my depression, I often can't face getting up, so I stay in bed – sometimes all day, except when I have to go to the toilet.

5. If you feel better on some days than on others, explain what help you need on both. If you can, say how frequently you have better days and bad days.

Just walking from my room to the bathroom, or up or down the stairs causes me pain and can make me very tired.

6. If you can, spell out what help you get – or what help you would get in an ideal world.
Explain what problems you have with each part of looking after yourself.

On better days (approximately 3 days a week) I will get up and go downstairs to sit in a chair. I never do very much because I am very tired. When my sister is with me she helps me to get up and go downstairs.

7. Tell them if you have ever been hurt (or might have been hurt), because of your illness.

I am not steady on my feet and getting into the bath is very painful and feels dangerous, so I don't do it unless my sister is there to help me.

You also need to tell them if you have hurt somebody else because of your illness.

I cannot wash my hair because it causes a lot of pain in my arms, so I need help. I cannot dry myself properly because I cannot bend to reach my legs or feet.

You should also say if you have ever hurt yourself on purpose.

Usually I just wash my face.

Last year I fell when trying to get out of the bath – I wasn't badly hurt, but it shook me up.

(continued)

8. Is there anything you don't do because you don't have the help you need? →

Some days I don't wash at all because I don't have any help.

9. If there is any other evidence that backs up what you are saying, refer to it. →

The letter from my social worker, Karen Beardsley, confirms this.

10. If not getting the help you need causes other problems, it is very useful to say so. They won't make the connection for themselves. →

Being dirty makes me feel depressed, so I don't like to go out or see anyone.

11. It is important that they understand how often you need help. So if there is something you need help with, say how often it happens. →

Because of my colitis, I have to go to the toilet 5 or 6 times during the day. Most of the time I do get to the toilet in time, but sometimes – approximately twice a week – I don't make it.

12. Remember to say everything – even things that you find embarrassing. It will be a lot easier to write it down than to say it in the hearing. Going into a lot of detail may seem unnecessary, but it will help the panel understand your condition. →

Even when I do get to the bathroom on time, because of the blood and mucus, I often need to wash myself and change my clothes afterwards.

It's painful for me to wash and dress without help and I'm often very tired and do not have the energy.

13. If you have any problems cooking, or if you don't really cook for yourself properly, tell them and explain why. →

I can't cook a proper meal for myself. Even opening a tin and putting the hob on is painful. I make a microwave meal or some toast, or don't eat at all.

14. If anyone helps you by reminding or encouraging you to do things, tell them about it. →

My sister cooks for me sometimes, and phones me most days to remind me to eat or encourage me to make something.

If you don't get this help, but need someone to remind you or encourage you to do something, tell them that.

15. If you disagree with anything in the papers they sent you, you need to tell them what was wrong and why this isn't right. →

The report from the DWP doctor said I could cook a proper meal, but that isn't true. I haven't even tried to cook properly since I dropped a pan of boiling water on my foot last year, and hurt myself.

16. When you have finished writing the statement, read it back through more than once. Does it say everything you want it to say?

This guide was written by Mary Webber of Advice Services Alliance (ASA) Advicenow for Community Legal Advice. ASA Advicenow would like to thank all those who provided feedback on drafts of the guide and took part in the review.

Advicenow is an independent, not for profit website providing accurate up-to-date and relevant information on rights and legal issues.

(September 2008)

What do you think of this guide?

Has it helped you to get the DWP to change its mind about your DLA/AA?

Was it easy to read and interesting?

Or was the guide not much help at all?

If you've got any comments or would be willing to take part in a survey about the guide's usefulness please get in touch:

feedback@advicenow.org.uk

www.advicenow.org.uk

community
legal advice