

# Benefits Bulletin

## Changes to PIP...

27<sup>th</sup> March 2017

Issue **5**

### PIP Mobility...

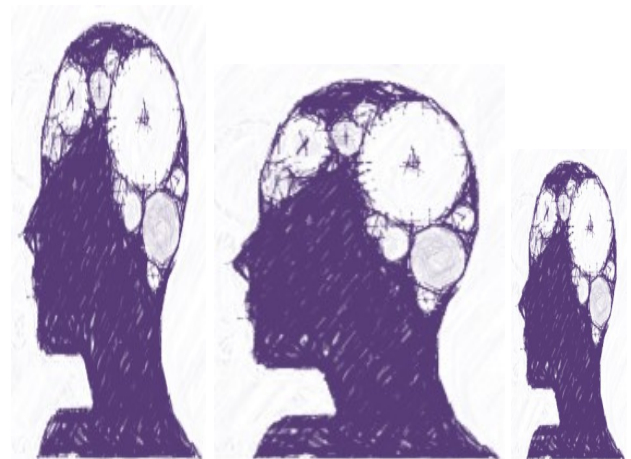
New rules from 16<sup>th</sup> March 2017 have changed the circumstances in which people may be awarded the Personal Independence Payment (PIP) mobility component. The changes have been made to Schedule 2 (Part 3) Activity 1 which covers a person's ability to plan and/or follow a journey.

#### Mobility: Planning and Following Journeys Since 16<sup>th</sup> March 2017 the law reads:

- A.** Can plan and follow the route of a journey unaided. (scores 0 points)
- B.** Needs prompting to be able to undertake any journey to avoid overwhelming psychological distress to the claimant (scores 4 points)
- C.** For reasons other than psychological distress, cannot plan the route of a journey (scores 8 points)
- D.** For reasons other than psychological distress, cannot follow the route of an unfamiliar journey without another person, assistance dog or orientation aid (scores 10 points)
- E.** Cannot undertake any journey because it would cause overwhelming psychological distress to the claimant (scores 10 points)
- F.** For reasons other than psychological distress, cannot follow the route of a familiar journey without another person, an assistance dog or an orientation aid (score 12 points)

**Psychological Distress - Means:** The regulations provide that 'psychological distress' means 'distress related to an enduring mental health condition or an intellectual or cognitive impairment'.

Schedule 1 Part 1 and Part 3 Interpretation - Social Security (Personal Independence Payment) Regulations 2013 as amended by Statutory Instrument 2017 No. 194



The changes will most likely affect those with mental health problems, learning disability and/or a cognitive impairment.

The new test will apply to those claiming Personal Independence Payment (or making renewal claim) for Personal Independence Payment on or after 16<sup>th</sup> March 2017.

See page 2 for what the changes mean.

## What this all Means:

This now means that a person may not get an award of PIP mobility under this provision if:

- the only thing stopping them from planning the route of a journey is 'psychological distress' (e.g. stress/anxiety/panic attacks); or
- the only thing stopping them from following (with or without the help of another person) the route of a familiar journey is 'psychological distress' (e.g. stress/anxiety/panic attacks); or
- the only thing stopping them from following (with or without the help of another person) the route of an unfamiliar journey is 'psychological distress' (e.g. stress/anxiety/panic attacks).

Note: No rule change was made to Descriptor E. which enables a person to qualify for the mobility component if they are unable to undertake ANY journey (both familiar and unfamiliar - with or without the help of another person) due to effects of 'psychological distress' (e.g. stress/anxiety/panic attacks).

## Mobility: Why the Change?

The government has made the change to reverse the stated effects of the case law decision *MH v Secretary of State for Work and Pensions* - [2016] UKUT 0531 which was a decision of a Three-Judge Panel of Upper Tribunal Judges. It is the view of the government that the change reverts the legislation back to what was originally intended. Many commentators consider that that change is unfair. This is because it means that people with physical disabilities who are unable make certain journeys will get financial assistance whereas those with only a mental health condition may not.



## Mobility: Planning and Following Journeys Prior to 16<sup>th</sup> March 2017 the law read:

- A. Can plan and follow the route of a journey unaided. (scores 0 points)
- B. Needs prompting to be able to undertake any journey to avoid overwhelming psychological distress to the claimant (scores 4 points)
- C. Cannot plan the route of a journey (scores 8 points)
- D. Cannot follow the route of an unfamiliar journey without another person, assistance dog or orientation aid (scores 10 points)
- E. Cannot undertake any journey because it would cause overwhelming psychological distress to the claimant (scores 10 points)
- F. Cannot follow the route of a familiar journey without another person, an assistance dog or an orientation aid (score 12 points)

## PIP Daily Living...

### Another Change - Daily Living: Managing therapy or monitoring a health condition



At the same time as amending the provisions to the mobility component the government also amended the conditions for the 'daily living component'. This change has amended the wording of Schedule 1 (Part 2) Activity 3: descriptor B.

### Daily Living: New Wording - Managing therapy or monitoring a health condition:

- B. needs any one or more of the following:
  - (i) to use an aid or appliance to be able to manage medication
  - (ii) supervision, prompting or assistance to be able to manage medication
  - (iii) supervision, prompting or assistance to be able to monitor a health condition (scores 1 point)

Schedule 1 Part 1 and Part 2 Interpretation - Social Security (Personal Independence Payment) Regulations 2013 as amended by Statutory Instrument 2017 No. 194

This rule change also took effect from 16<sup>th</sup> March 2017.

At the same time, as amending Activity 3: descriptor B. amendments were also made to the definitions given to the terms 'managing medication or therapy', 'monitor health' and 'therapy'. From 16<sup>th</sup> March 2017, these terms have the following meaning:

**managing medication:** means - take medication where a failure to do so is likely to result in a deterioration in the claimant's health

**managing therapy:** means - undertake therapy where a failure to do so is likely to result in a deterioration in the claimant's health

**monitor a health condition:** means:

(a) detect significant change in the claimant's health condition which are likely to lead to a deterioration in their health; and

(b) take action advised by a

(i) registered doctor

(ii) registered nurse

(iii) health professional who is regulated by the Health Professional Council

without which the claimant's health is likely to deteriorate

**therapy:** means: therapy to be undertaken at home which is prescribed or recommended by a:

(a) registered

(i) doctor

(ii) nurse

(iii) pharmacist

(b) health professional regulated by the Health Professions Council but does not include taking or applying, or otherwise receiving or administering, medication (whether orally, topically or by any other means), or any action which, in the claimant's case, falls within the definition of 'monitor a health condition'.

### Daily Living: Old Wording - Managing therapy or monitoring a health condition:

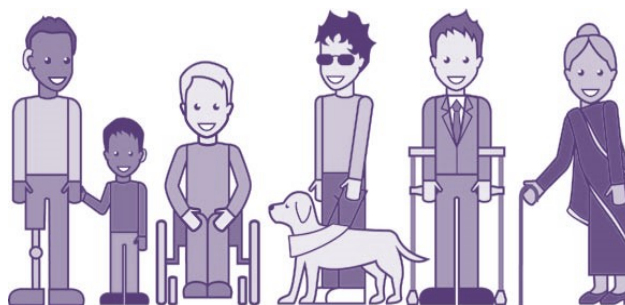
b. needs either:

(i) to use an aid or appliance to be able to manage medication; or

(ii) supervision, prompting or assistance to be able to manage medication or monitor a health condition (scores 1 point)

### Daily Living: Why the Change?

The government has made the changes to reverse the stated effects of *Secretary of State for Work and Pensions v LB - [2016] UKUT 0530* which was a decision of a Three-Judge Panel of Upper Tribunal Judges. The changes also seek to make it clear that 'therapy' does not include receiving or administering medication by any means and is aimed at restricting what action may constitute monitoring a health condition.



### What is Personal Independence Payment?

Personal Independence Payment (PIP) was introduced in April 2013 as a replacement for Disability Living Allowance for people of 'working age' (aged 16 to 64). PIP intended to provide a "cash contribution towards the additional costs faced by disabled people" (PIP Assessment Guide - 22 January 2013). PIP has a 'daily living component' for those who need help with their personal care and a 'mobility component' for those who have limited mobility. How much money is actually payable is determined by a point scoring system. A person needs to score at least 8 points to get any money for 'daily living' and/or at least 8 points to get any money for 'mobility' needs.

Do seek further information and advice as necessary.

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