

Turned down for DLA/AA?

Think you're not getting enough?

“Nora's story

My granddaughter said I should apply for Attendance Allowance because my sight had got really bad. When they turned me down I was happy to leave it, but my granddaughter said we should appeal because I should get what I'm entitled to.

I can't see now and although I do manage, things are quite hard. I have my systems though, and I get a lot of help from my daughter and son-in-law.

I went to see an adviser at my GP surgery and he helped me ask for an appeal. On the form, we explained what I need help with. 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 last thing, or they wouldn't know why they were wrong.

We got a letter from my doctor to support what we had said. And I kept a record every day for a month of all the things I had problems with or needed help with. I can't see to write now but I phoned my granddaughter every evening and told her, and she wrote it down.

When the day came to go to the hearing, I was very nervous. I didn't want to go. But my daughter came with me, which made it feel a bit more normal. They asked me a lot of questions, some of which seemed a bit rude, but I suppose it was ok. It was a bit like going to see a new doctor.

When I had answered all their questions and said everything I wanted to say, they asked me to go back to the waiting room. Then they called me back, and said they agreed I should have been receiving it all along.

Six weeks later, they started putting the money into my account. I use it to pay a woman to come in every day and help me cook and do my hair. And then another woman comes once a fortnight to do my finger and toenails.

I grumbled a bit, but 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. I don't feel like I'm a burden on anyone.

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'). Sometimes 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.

How DLA and AA work

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

Whether you are entitled to DLA or AA 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. For DLA, whether you are able to cook a proper meal by yourself is also considered.

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 either DLA or AA, you must need repeated help at night *and* during the day.
- To get the middle rate of care for DLA or the lower rate for AA (there is no middle 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.
- To get the lower rate of DLA 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 rate 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.

What rate you get is based on specific things which can sometimes seem very unfair. 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.

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 19) 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.

They've
got it
wrong!

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 6.)
- 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 5 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 5 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 7 for our advice.

Step 6

- You need to prepare for your appeal and get evidence. See pages 9–14 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 15–16 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:

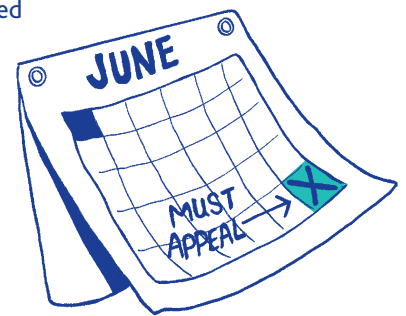
- **What the symptoms or details of your condition are *and* describe the problems they cause.** Remember, they probably don't know anything about your disability, and how it affects you or what help you should have. Don't just say that you have problems with your sight, or mental health – explain how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

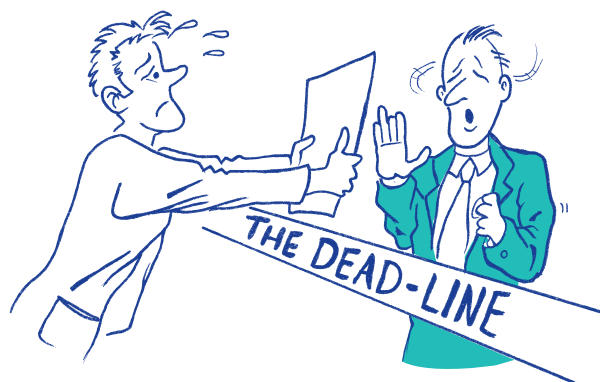
If your condition varies, explain what it is like on a bad day.
- **If you can't go to places you don't know on your own, explain why.** This might be because you need help finding your way, or it might be because something might happen (you might have a seizure or a panic attack), or because you might 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.

You can still ask after the deadline, if the delay was unavoidable or a result of your disability. For example, perhaps you were unable to deal with it until now because you needed help to read it, or because you are too ill to deal with your post. Explain why it was impossible for you to ask them to look at their decision again until now.

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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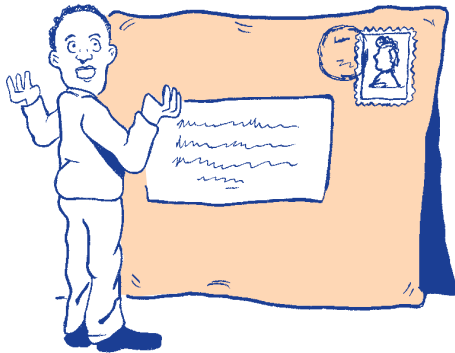
I've received

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 9. 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?

You need to think carefully about whether to ask for an oral hearing or a paper hearing.

At an oral hearing you go and tell the three members of the panel face-to-face how your disability affects you.

A paper hearing is when the panel just look at your claim form and your appeal letter and any other evidence again on their own.

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. If it helps you, 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?'.

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.

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.

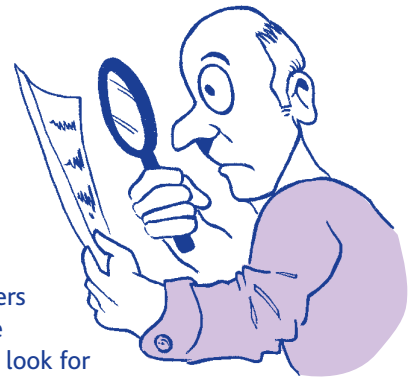
Ideally, you should send any evidence at least a week before the hearing – but if it only arrives last minute, you should send it as soon as you can, or even take it with you on the day.

Do you 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 carer 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.

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 or community psychiatric nurse 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. On page 21 we have written a guide for people writing evidence. When you ask them for evidence, show them this information. It will help them to write evidence that will be really helpful to you.

You are appealing the decision they 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 21, before you ask anybody for evidence.

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.

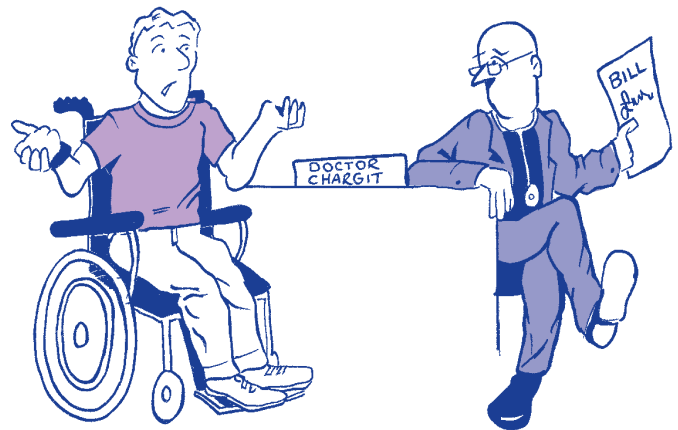
What do I need to do before the hearing?

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 21 – 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.



Evidence from your carer

If there is somebody who helps you to look after yourself, 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 21 – it may help them to remember everything.

It can be very useful for your carer 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?

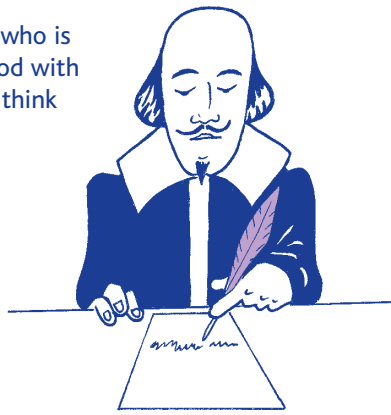
Is there any other evidence that you have?

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.

What do I need to do before the hearing?

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.



If you know the level of benefit you think you are entitled to say that at the top of the statement. For example, 'I believe I am entitled to the middle rate of the care component of DLA and the lower rate of the mobility component.'

If you don't know what rate you might be entitled to, or if you don't know why you are entitled to it – go to page 3 for more information about the different rates.

Next, you need to explain why you are entitled to that level. Explain how your condition affects you on a bad day, and what help you need. Refer to any evidence you have that backs this up. If you can, say how frequently you have this problem or need this help. It is much better to say 'I need help to get to the toilet 8–10 times a day' than just 'I need help to get to the toilet'. 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, and I have to do it slowly' than 'I can only walk for 50 metres'.

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.

Read Rose's statement on pages 22 and 23 – it may help you to write your own.

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

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.

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 do I need to do before the hearing?



What will happen at the hearing?

When you arrive at the tribunal centre you will be shown into a waiting room. You might have to wait here for a little while. Use this time to read through any notes you have made. 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 unlucky and get a hostile panel member, or just one having a bad day. If they seem aggressive, try to keep calm. Don't take it personally. Try to 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 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 and need a few moments to compose yourself – just 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. 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.

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.



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. He couldn't come with me and neither could my brother, so I had to go on my own.

As the day came closer, I started making notes of the things I wanted to say, just to calm myself. I couldn't get my act together to write it up in a letter, but when my social worker came round she helped me. She wrote a letter too.

Then came the day of the hearing. 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 today I wasn't feeling too bad but that I feel worse some days, and I often have epileptic fits that leave me feeling terrible and 'foggy' for about four days afterwards.

We talked about the things I had done when I had had seizures, and 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 me about 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 – my brother had booked a taxi for me and phoned me twice to ensure I had got up and was ready.

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.

They asked me if I had anything more to add. I had brought my medication to show them, so I got that out of my bag.

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?,”

- Make sure you arrive in plenty of time.
- Don't dress up or make a big effort with your appearance. It might give them 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 13). 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 you've taken the person who helps you with you to explain what help you need (rather than simply to give you emotional support), they may be asked to wait outside until their evidence is needed. You need to be prepared to go in alone to start with.
- 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 – your own words are perfect. 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 answer every question as broadly as you can. For example, if they ask you if you need help to get washed in the morning – tell them if you do, and if you need any other help at this time too (this could be physical help, or being reminded or encouraged). If you don't need help because you don't usually get washed in the morning (perhaps because your condition is worse in the morning, or because you find it hard to be bothered to have a proper wash) explain that.
- 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.

What
should I do
on the day?

- 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 10) 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.

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 5.

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.

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 7.

Reconsideration (or Revision)

This means the DWP will look at their decision again. See page 5.

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

Or look in your Yellow Pages.

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

Barton Hill Advice Service

Barton Hill Advice Service is an advice service in East Bristol. It has a useful website.

www.bhas.org.uk/freeguides

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:
www.ageconcern.org.uk/AgeConcern/Documents/FS34AADLAAPR07.pdf

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

Useful
contacts

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/attandal-406.pdf>

Useful factsheet about DLA:

<http://static.actionforblindpeople.org.uk/files/dla-131.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

Useful factsheets about AA and DLA:

www.mind.org.uk/Information/Factsheets/Employment+and+benefits/Benefits.htm

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:

www.cafamily.org.uk/FactsheetDLA.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.

For doctors, social workers, CPNs and other professionals

Writing useful evidence for Disability Living Allowance and Attendance Allowance appeals

Evidence from a doctor or other professional helps the tribunal to come to the right decision probably 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.

If they cannot physically walk even short distances without discomfort, or if they are very slow, please say so. 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 become anxious, need help to find their way, or might put themselves in danger if they had to go to another town, the Tribunal needs to know that.

Next, look at the help they need in the home. Do they need prompting, encouragement, or physical help 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.

Does their condition fluctuate? If it is bad on some days but better on others, please 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.

Rose's statement

Rose sent this statement to the panel before her hearing. If you are writing one yourself it might be useful to see the sorts of things she said. On the right, we've explained why what she has written is useful, to help you write yours.

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

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.

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

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

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

It is very painful to have a bath because of the pain and stiffness in my limbs (my shower is in the bath). I am not steady on my feet and getting into the bath is very painful and it feels dangerous, so I don't do it unless my sister is there to help me in and out.

Washing my hair causes a lot of pain in my arms and shoulders and I often cannot do it at all, so I need help. Drying myself is very painful too because I cannot bend enough to do my calves and feet.

Usually I just wash my face or have a quick wash with a flannel at the sink.

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

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

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

Say what you think you are entitled to, and tell them what conditions you have.

Explain the main symptoms of your condition and how it affects you.

If your condition is better on some days than it is on others, explain what help you need on both. If you can, say how frequently you have better days and bad days.

If you can, spell out what help you get – or what help you would get in an ideal world.

Explain exactly what problems you have with each part of looking after yourself.

If you have ever been hurt (or might have been), or have hurt somebody else because of your illness, tell them. You should also say if you have ever hurt yourself on purpose.

Say if there is anything you don't do because you don't have the help you need.

Refer to any other evidence that backs up what you are saying.

(continued)

Being dirty and looking bad makes me feel depressed, so I don't like to go out or see anyone. But there is nothing I can do about it.

I find it hard to dress myself too because I find buttons and the fastening on my bra too hard. Even putting on knickers, jogging bottoms, and a jumper is tiring for me, and sometimes I don't change them when I need to, because I can't without help.

Because of my colitis I have to go to the toilet 5 or 6 times during the day. It leaves me exhausted and feeling sick and I have to lie down afterwards. Most of the time I do get to the toilet in time, but sometimes – approximately twice a week – I don't make it.

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.

Sometimes I don't have the energy to do this immediately so have to stay in my dirty clothes. I also have to clean the toilet before it stains, and I can't because of the tiredness and pain.

As I have said, washing properly is very painful and I can't manage it without help. I also have to use a cream after each bowel movement. I often can't use this because I have been unable to wash, which makes it more painful.

I can't cook a proper meal for myself and my sister says I don't eat properly. Even opening a tin and putting the hob on is painful so I find it hard to find the motivation to cook. I make a microwave meal or some toast, or don't eat at all.

I can't remember the last time I was able to cook a proper meal by myself. Last year my sister was trying to encourage me to cook. She asked me to move a pan on the stove but my wrists were too weak and I spilt it, scalding my foot. I don't even try now.

My sister tries to cook for me sometimes, and she brings me microwave meals. She phones me from work most days to ask if I've eaten and encourage me to make something if I haven't.

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.

Remember to say how frequently things happen.

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

Don't be afraid to say things twice, if they are relevant twice.

Try to say everything and explain all your problems.

The help you get or need might not be physical help – it might be encouragement, reminding or prompting.

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.

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