



# **USERS OF RESPITE CARE**



## **SHORT TERM, TEMPORARY CARE AND DISABILITY BENEFITS**

### **THE “28 DAY” RULE**

This factsheet refers to how Attendance Allowance and Disability Living Allowance (DLA) are affected by periods in short term temporary Care.

These rules differ slightly depending on whether the Respite Care is provided by the Local Authority (County Council), or by the Health Authority.

#### **1. Care provided (or paid for) by the Health Authority**

For adults, after spending 28 days in NHS-funded Care, entitlement to DLA (Care and Mobility) and Attendance Allowance ceases for any subsequent day spent in that accommodation.

The 28 day limit can be reached in a single bloc, or as the total of a series of days over a period of time e.g. over 14 weekends.

The 28 day limit is a rolling total and not 28 days in any fixed period.

The adding up of the 28 days in Care will be broken by a continuous period of 28 (or more) days out of Care (or out of publicly-funded accommodation in general). After 28 days ‘back home’ a fresh 28 day cycle commences.

So, managers of Respite Care facilities can plan patterns of Respite Care to build in clear 28 day “breaks” from publicly-funded Care. The ideal is that the resident doesn’t spend more than 28 days in Care without having a distinct break of 28 days at home.

If the user of Respite Care is a child, the limit is 84 days, not 28 days.

- How are the days calculated?

Any day going into, or out of Care, does not count as a day in Care.

#### **EXAMPLE**

*Jenny goes into a Respite Care Home on Friday and comes out on Monday. Only Saturday and Sunday count as days in Care.*

**Thus, a simple overnight stay does not count as a day in Care.**

- What Benefits are affected?

Attendance Allowance, DLA Care, and DLA Mobility [and by extension Motability may be affected].

## 2. Care provided (or paid for) by the Local Authority

Using Local Authority - funded Care is the same as for Health, subject to the following two differences:

- a. Where the user of Respite Care is a child aged under 16, only 28 days in Care are allowed before the benefit ceases, not 84.
- b. The Mobility Component of DLA is not affected, only DLA Care Component or Attendance Allowance.

## 3. Breaking the Link

If you spend 28 days in your own home the link between Respite Care stays will be broken. You will then be able to go into Local Authority or NHS Care for another 28 days.

## 4. Linked periods in other forms of Care

Periods spent in any form of publicly-funded Care will be linked, unless broken by a clear period of 28 days out of Care. So, any time spent in hospital will link with time spent in a Local Authority, or a NHS-funded Home.

### EXAMPLE

*Aneeta has a fall at home. She goes into hospital for a fortnight and then goes into a Local Authority-funded Home for older people to convalesce for a few more weeks.*

*There is no 28 day break between the two types of accommodation, so the periods are linked.*

*After 28 days her Attendance Allowance is suspended.*

The situation where a child uses both Local Authority and NHS-funded Care is more complicated, and depends on the status of the later form of publicly-funded Care.

## EXAMPLES

*Grant (14) has done 14 days in a Respite Care Home over the last month. He goes into hospital for 60 days, then goes home. As the second period "in Care" is NHS-funded the 84 day rule applies and he doesn't lose his DLA.*

*Shana (12) has been in hospital for a continuous 20 days. She then goes home, but still has to use Local Authority-funded Respite Care. As there has not been a 28 day break her DLA will be affected after 8 days of Respite Care. This is because the later period is Social Services-funded, not NHS.*

*However, for the same reason, only her DLA Care is affected – the DLA Mobility is unaffected by Local Authority funding.*

### **5. What happens to the Attendance Allowance/DLA?**

If you do go over the 28(84) days you don't lose the Attendance Allowance/DLA completely – only for the days spent in publicly-funded Care.

If going over the 28 (84) days is a regular occurrence, the Attendance Allowance/DLA Unit will withdraw your normal payment arrangements, ask you to fill in a form giving days in and out of Care and may pay you in arrears.

### **6. Effect of loss of Attendance Allowance/DLA or other benefits**

There are implications of losing Attendance Allowance or DLA for both the disabled person, and their Carer.

Losing Attendance Allowance/DLA can affect the disabled person's other benefits. Mainly it will mean the loss of the extras (called premiums) paid as part of Income Support, income-based Employment & Support Allowance, income-based JSA, Pension Credit, Housing Benefit and Council Tax Benefit, which are called the Severe Disability Premium and the Enhanced Disability Premium. The loss of these premiums may reduce the amount of these benefits you get, or may prevent entitlement altogether.

As Attendance Allowance/DLA Care (middle or higher rate) are the qualifying benefit for Carers Allowance, the carer's benefits could be affected. This would include Carers Allowance, plus any Income Support, Pension Credit, Housing Benefit and Council Tax Benefit in payment to the carer.

See our leaflet Pb29 "A Risky Business" for further detail, & get advice.

## 7. What should you do?

- \* Try to avoid clocking up 28/84 days i.e. build in regular 28 day breaks from publicly-funded Care.
- \* Notify (in writing) the Disability Benefits Unit (and Jobcentre Plus/ Pension Service) as soon as the Respite Care user goes into Care.
- \* Get advice from your local advice agency (see below).

### **Citizens Advice Bureaux**

1<sup>st</sup> Floor, Chestnut House  
North Street  
**Rugby**, CV21 2AQ  
Tel: 01788 541000

25 Congreve Walk  
**Bedworth**, CV12 8LX  
Tel: 024 7631 1119  
To book an appointment in  
**Nuneaton** call 024 7635 1049

The Parish Rooms  
Welcome Street  
**Atherstone**, CV9 1DU  
Tel: 0870 120 2464

10 Hamilton Terrace  
**Leamington Spa**, CV32 4LY  
Tel: 01926 457900

25 Meer Street  
**Stratford-upon-Avon**, CV37 6QB  
Tel: 01789 293299 for advice or  
01789 261966 to book appointment

### **For Carers Advice, Information and Support .....**

#### **Guideposts Carers Support Service**

*(For Nuneaton, Bedworth, North  
Warwickshire and Rugby)*

44-45 Church Street  
Nuneaton  
CV11 4AD  
Tel: 024 7638 5888  
e-mail: [carerssupport@guidepoststrust.org.uk](mailto:carerssupport@guidepoststrust.org.uk)

#### **S Works Carers Support Service**

*(For Leamington Spa, Warwick,  
Stratford and South Warwickshire)*

8b Holly Court  
Holly Farm Business Park  
Honiley, Kenilworth, CV8 1NP  
Tel: 01926 485486  
e-mail: [info@swcss.f9.co.uk](mailto:info@swcss.f9.co.uk)

### **For Disabled people.....**

#### **D.I.A.L.**

*(Nuneaton & Bedworth only)*  
New Ramsden Centre  
School Walk, Attleborough  
Nuneaton, CV11 4PJ  
Tel: 024 7634 9954

#### **The Rowan Organisation**

Eliot Park Innovation Centre  
Barling Way  
Nuneaton, CV10 7RH  
Tel: 0800 783 1755  
e-mail: [info@therowan.org](mailto:info@therowan.org)

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