
 STATUTORY INSTRUMENTS

1986 No. 1541

SOCIAL SECURITY

The Mobility Allowance Amendment Regulations 1986

Made - - - - *4th September 1986*

Laid before Parliament 10th September 1986

Coming into Operation 1st October 1986

The Secretary of State for Social Services, in exercise of the powers conferred upon him by section 37A and 114(1) of and Schedule 20(a) to, the Social Security Act 1975(b) and sections 51(1)(b)(c)(d) and (e), 84(1)(c) and 89(1) of the Social Security Act 1986(d) and of all other powers enabling him in that behalf, by this instrument, which contains only provisions consequential upon section 71 of the Social Security Act 1986, makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Mobility Allowance Amendment Regulations 1986 and shall come into operation on 1st October 1986.

Amendment of the Mobility Allowance Regulations 1975

2.—(1) The Mobility Allowance Regulations 1975(e) shall be amended in accordance with the following paragraphs.

(2) In paragraph 2 of regulation 4 (entitlement to an allowance in respect of weeks before that in which claim is received by the Secretary of State) for the words “3 months” there shall be substituted “6 months”.

(3) For regulation 5 (claim and award for period beginning after the date the claim is received) there shall be substituted —

“Claim and award for period beginning after the date the claim is received

5.—(1) A claim for an allowance may be made, or treated as made, for a period beginning on such date later than the date on which the claim is received, being a date not more than 3 months after the date on which it is so received as the Secretary of State may determine,

Provided that —

(a) See the definitions of “prescribed” and “regulations”.

(b) 1975 c.14; section 37A was inserted by section 22(1) of the Social Security Pensions Act 1975 (c.60) and amended by section 3(3) and (4) of the Social Security Act 1979 (c.18) and section 71 of the Social Security Act 1986 (c.50).

(c) See the definitions of “prescribed” and “regulations”.

(d) 1986 c.50.

(e) S.I. 1975/1573; relevant amending instrument is S.I. 1981/1817.

- (a) in the case of a claim in respect of a child who will attain the age of 5 within the 3 month period, no date earlier than the date of his fifth birthday shall be treated as the date the claim is made; and
 - (b) in the case of a claim for the renewal of an existing award of an allowance, the first day after the ending of the period of the existing award shall be treated as the date the claim is made.
- (2) Where, in accordance with the foregoing provisions of this regulation, a claim is made, or treated as made, for a period beginning after the date on which it is received —
- (a) the entitlement to an allowance of the person in respect of whom such claim is made shall be determined having regard to the physical disablement to which that person may be expected to be subject at the beginning of the period for which the claim is, or is treated as being, made; and
 - (b) if it appears that the conditions for entitlement to an allowance will be satisfied from the beginning of such period, an allowance may be awarded, payable from that date, subject to the condition that, when the allowance becomes payable, the person in respect of whom such claim is made satisfies the requirements for entitlement to an allowance for which provision is made in section 37A or in these regulations; and if at any time during the period for which such an award is made, any of those requirements are found not to have been satisfied, the award shall be reviewed.”.
- (4) In regulation 6 (claim received within 3 months after the end of a period for which allowance awarded) for the words “3 months” there shall be substituted “6 months”.

Amendment of the Social Security (Adjudication) Regulations 1984

3.—(1) The Social Security (Adjudication) Regulations 1984(a) shall be amended in accordance with the following paragraphs:—

- (2) In regulation 53 (reference of medical questions for report) for paragraphs (1)(a) and (1)(b) there shall be substituted the following paragraphs —
- “(a) whether a person is suffering from physical disablement such that he is unable to walk or virtually unable to do so at the date the claim is received or treated as received or at any subsequent date up to the date the question is determined, and if so, what date; or
 - (b) whether such inability or virtual inability to walk is likely to persist for at least 12 months from the date found for the purposes of paragraph (a); or”

(a) S.I. 1984/451, to which there are amendments not relevant to these regulations.

(3) The following regulations shall be inserted after regulation 53:—

“Date for the determination of the medical questions

53A. In determining any medical question on a claim for mobility allowance, an adjudication officer, medical board or medical appeal tribunal shall have regard to the physical disablement of the person in respect of whom the claim is made at the date at which the claim is received or treated as received by the Secretary of State or, where those questions cannot be determined in that person's favour as at that date, they shall decide whether those questions may be determined in his favour from any subsequent date up to the date the questions are determined.

Reconsideration of entitlement conditions for an allowance

53B. Where the medical questions with respect to a claim for mobility allowance are determined in favour of the person in respect of whom a claim for an allowance has been made, from a date later than the date the claim was received or treated as received and the conditions of entitlement to an award are satisfied at that later date, the award shall be made payable from that date.”.

Transitional

4. Where a person, having claimed mobility allowance, has received payments by the Secretary of State to which section 71(5) Social Security Act 1986 applies (persons to be treated as entitled to mobility allowance) then

- (a) that person shall be treated as having made a fresh claim for the allowance from 25th July 1986; and
- (b) the medical questions relating to that claim shall be determined by the adjudication officer having regard to the report of the medical appeal tribunal by which that person was last examined for the purposes of his previous claim.

Signed by authority of the Secretary of State for Social Services.

Tony Newton,
Minister of State,
Department of Health and Social Security.

4th September 1986.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations further amend the Mobility Allowance Regulations 1975 and also amend the Social Security (Adjudication) Regulations 1984.

All the regulations are either made under section 37A Social Security Act 1975 as inserted by section 22(1) of the Social Security Pensions Act 1975 and amended by section 71 of the Social Security Act 1986 ("the 1986 Act"), or are otherwise consequential upon section 71. As they are made earlier than 12 months from the day appointed for the coming into force of section 71, they are exempted by section 61(5) of the 1986 Act from the requirement under section 10(1) of the Social Security Act 1980 to refer proposals to the Social Security Advisory Committee and are made without reference to that Committee.

Regulation 4 is amended so that where a claim for mobility allowance is made within 6 months of the ending of a previous award entitlement to a fresh award is to be determined from the date immediately following the date the previous award ended (regulation 2(2)).

A new regulation 5 is substituted for regulation 5 of the Mobility Allowance Regulations 1975, and provides that claims in respect of a child may be made up to 3 months before his fifth birthday to have effect on or after his birthday and that any claim for the renewal of an existing award may be made up to 3 months before that award expires. Where an award is made for a later date than the date on which the claim is received by the Secretary of State, if the conditions of entitlement are not satisfied on that later date the award may be reviewed (regulation 2(3)).

Regulation 6 is amended so that where a claim for an allowance is made within 6 months of the ending of a previous award, the claim shall be treated as being for the period beginning immediately after the previous award ended (regulation 2(4)).

Part X of the Adjudication Regulations, which concerns the adjudication of claims for mobility allowance, is amended so that the medical questions in regulation 53 relating to a person's inability to walk may be determined either at the date of his claim for mobility allowance or at a subsequent date. Two new regulations 53A and 53B are inserted. The former provides that the adjudicating authority in determining the medical questions relevant to a claimant's ability to walk, shall have regard to his physical disablement either at the date the claim is received or at any subsequent date up to and including the date on which the determination is made; and the latter provides that a person who satisfies the medical conditions at a date later than the date his claim is received, may be awarded an allowance from such later date, provided that the other conditions of entitlement are still satisfied (regulation 3).

Regulation 4 provides that where a person, who claimed mobility allowance, is treated as having been entitled to the allowance from a date later than the date of his claim and received payment of the allowance by the Secretary of State from that later date, he is to be treated as having made a fresh claim for the allowance from 25th July 1986 and his satisfaction of the medical conditions for an award is to be decided having regard to the report of the medical appeal tribunal by whom he was last examined on his earlier claim (regulation 4).

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