

# Disability Law Service

advice and legal representation for disabled people

## Carers Allowance



Sean Rivers, the solicitor who wrote this factsheet, will be running the 2014 London Marathon to raise money for the Disability Law Service.

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# **Carers Allowance**

## **What is Carers Allowance?**

Carers allowance is a benefit that is available to anyone that cares for a severely disabled person for at least 35 hours per week. The severely disabled person must be receiving Disability Living Allowance care component at the middle or higher rate or they must be receiving Attendance Allowance at any rate. That includes time spent preparing for and cleaning up after the person cared for, even when they are not there.

You are allowed to be related to the person but it does not matter if you live with them or not. More than one person from a residence can claim carers allowance but each claim has to have a different person that is cared for. Below are some additional conditions that you must satisfy for claiming Carers Allowance

- You must be aged 16 or over;
- Not in full time education (this means 21 hours of tuition and possibly homework);
- You must earn less than £95 per week net after income tax and national insurance;
- Care costs paid for disabled person or child under 16 when carer working.

## **Overlapping Benefit Rule**

If you receive any of the following benefits then you will not receive the full amount of Carers allowance. If you receive more than £53.10 of any of the following benefits then you will not receive any carers allowance. The reason is that the following benefits are described as overlapping benefits which are meant to top you up to a set income.

- State Retirement Pension
- Maternity Allowance
- Incapacity Benefit / Contribution Based Employment and Support Allowance
- Contribution Based Jobseekers Allowance
- Widows Benefit
- Bereavement Benefit
- State training Allowance
- Severe Disablement Allowance

**Important:** If you are entitled to carers allowance but do not receive it due to the above overlapping benefit rule, that does not mean that it will not assist you. You will instead be classified as having an 'Underlying Entitlement' which could enable you to qualify for other benefits.

## So what could an 'Underlying Entitlement' to Carers Allowance give you?

You may be able to qualify for other means tested benefits. You may be able to receive 'Carers premium' if you are already in receipt of Income Support, income based Jobseekers Allowance, Housing Benefit, Council Tax Benefit, income based Employment and Support Allowance. You may also be allowed an extra amount in your Pension Credit.

There are other advantages for carers under pension age. You can gain assistance with National Insurance contribution credits which can help towards satisfying contribution conditions for Incapacity Benefit, contribution based Employment Support Allowance, and contribution based Jobseekers Allowance. There is also the possibility of a £10 Christmas bonus.

**Overlapping benefit example – Jack and his father**

Jack is 60 and cares for his father who receives low rate Attendance Allowance. Jack has no savings and his total income consists of State Retirement Pension of £95.25 and Pension Credit of £34.75.

Jack applies for Carers Allowance, unfortunately although he satisfies the conditions it cannot be paid because his retirement pension is higher than the level of Carers Allowance, £53.10. But because he has an underlying entitlement to Carers Allowance he will now qualify for a 'Carers Addition' of £29.50 in his Pension Credit. Jack's total income will increase from £130 to £159.50. Because the carers allowance cannot be paid, Jack's father can receive severe disability premium.

## So what effect does this have on the main means tested benefits?

We will concentrate on the following benefits:

- Pension Credit
- Income support
- Income based Employment support allowance
- Income based jobseekers allowance
- Housing benefit
- Council tax benefit.

The means tested benefits can cause a lot of confusion and this is why many claimants can lose out on benefit entitlement by claiming the wrong benefit. The issue in a nutshell is that means tested benefits are designed to make sure you receive a minimum amount of income. If you receive carers allowance then the DWP pay you less of the benefit you were receiving, such as less income support, so that you just receive the same amount as before.

You will not lose out entirely as you can be paid a carers premium addition which is £29.50 for each claimant or partner that qualifies.

#### **Means tested benefit example – Jane**

Jane lives with her sister Karen and provides around the clock care for her as she is unable to care for herself and is severely disabled. Jane is receiving income support at £64.30 a week. Her sister Karen is receiving Disability Living Allowance at middle rate care component and low rate mobility component. Jane makes a claim for Carers Allowance and is told she is entitled to it as she cares for Karen.

She finds that her income support is then paid at a lower rate because Income Support takes Carers Allowance into account when calculating the amount of money you need to live on. So she does not have any increase in money even though she is receiving Carers Allowance. But because she is entitled to Carers Allowance she therefore has an underlying entitlement and so is entitled to a Carers Premium of £29.50 in her Income Support amount. She now receives her Income support amount of £64.30 and on top of that she has the £29.50 but now her sister can not receive Severe Disability Premium.

What you may lose out on is Severe Disability Premium which is part of all of the above named benefits. Pension Credit calls it Severe Disability Addition but it is the same thing, other than slightly different name.

## So how do I know if I qualify for the Severe Disability Premium?

To qualify, you must be receiving Disability Living Allowance at:

- a. Middle rate care or Higher rate care or Attendance Allowance; **and**
- b. Must live alone, or technically live alone; **and**
- c. No one receives Carers Allowance for you.

Technically living alone can mean that, no non dependants aged 18 or over live with you. People living with you who are themselves disabled are not counted.

## Severe Disability Premium for Couples

For couples to receive Severe Disability Premium each person must match the above criteria for single people. As they are both disabled, it does not matter that they live together as each technically live alone.

In cases like this, it can be possible for both members of the couple to get both the Severe Disability Premium and Carers Premium. For that:

- Both claimants must be in receipt of a qualifying benefit
- Both must be in receipt of an overlapping benefit paid at a higher rate than Carers Allowance.
- Both care for each other.
- Carers Allowance cannot be paid, but they both have an underlying entitlement.

## Breaks From Caring

A carer must have received carers allowance for at least 22 weeks before breaks are allowed. Carers Allowance can be paid for up to four weeks if you go on holiday, or there is a short term stay in care home.

Carers allowance allows you to take up to 12 weeks break in any 26 week period. This is available if you go into hospital. If the person being cared for is a child aged under 16 and he goes into hospital, Carers Allowance can be paid up to 12 weeks but if the person you care for is 16 or over Carers Allowance stops after 28 days or before.

## Death of the person cared that is being cared for

If person being cared for dies, then Carers Allowance continues to be paid for a further eight weeks after the death.

## Claiming Carers Allowance

Complete claim form DS700 or the DS700 if you receive the state pension. You can get a form by calling 01253 856123 or the free benefit enquiry line on 0800 882 200 or in Northern Ireland you can call 0800 220 674 or at you can claim online via: [www.dwp.gov.uk/carersallowance](http://www.dwp.gov.uk/carersallowance).

## Backdating

The date of claim is the date the form is received by the DWP. You can request that it can be backdated for up to three months. But if you claim within three months of date of Disability Living Allowance/Attendance Allowance being awarded, then the Carers Allowance claim is treated as having been

made on the first date of payment of Disability Living Allowance/Attendance Allowance

If you believe your claim to one of the above benefits will allow you to claim Income Support then you should submit your Income Support claim at the same time as your Carers Allowance claim as that will allow the benefit to be backdated to the date of Disability Living Allowance/Attendance Allowance award.



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For further advice on these matters please contact:

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