

Incapacity Benefit for Blind and Partially Sighted People 2008/2009

This fact sheet tells you how to claim Incapacity Benefit (IB). It is useful for blind and partially sighted people and those who support them.

Basic rules

Claim this benefit if:

- you are blind or partially sighted; **and**
- you are aged between 16 and 60 (for women) 65 (for men); **and**
- you are incapable or treated as incapable of work.

Why claim Incapacity Benefit?

Incapacity Benefit is useful to claim as you can get it in addition to most other sources of income. It is a non means-tested benefit, so you can claim it even if you have savings or capital.

If you have recently stopped work, you may have the option of claiming Jobseeker's Allowance or Incapacity Benefit. There are several good reasons why you might find claiming Incapacity Benefit more suitable than Jobseeker's Allowance. For example:

- after 6 months, Contribution-based Jobseeker's Allowance stops, whereas Incapacity Benefit continues as long as you satisfy the conditions for receiving it
- if you leave work voluntarily, you might not qualify for Jobseeker's Allowance, but this does not stop you getting Incapacity Benefit
- long-term Incapacity Benefit gives entitlement to a disability premium within Income Support, Housing Benefit and Council Tax Benefit.



Action for blind people

The rates of Incapacity Benefit are:

- £63.75 for your first 28 weeks - this is short-term Incapacity Benefit lower rate
- £75.40 for the next 24 weeks - this is short-term Incapacity Benefit higher rate
- £84.50 thereafter - this is long-term Incapacity Benefit.

Once you get long-term Incapacity Benefit you get an extra:

- £17.75 if you are under 35; **or**
- £8.90 if you are aged 35 - 44.

Please note, if you were receiving Incapacity Benefit prior to April 2003, you may have received additional amounts for your child/ren. Since this date, dependents' amounts are included in Child Tax Credit.

Occupational pensions

If you get an occupational pension, the Department for Work and Pensions (DWP) may reduce your benefit. For each pound of your pension over £85 per week, the DWP reduces your Incapacity Benefit by 50p. For example, if you get an occupational pension of £100 per week, the DWP will reduce your Incapacity Benefit by £7.50. If you claimed Incapacity Benefit before 6 April 2001, you are exempt from this rule.

Tax

Short-term lower rate Incapacity Benefit is not taxable. All other rates are.

Statutory Sick Pay

If you are still officially employed, you get Statutory Sick Pay (SSP) for 28 weeks before you can get Incapacity Benefit. SSP is £75.40, but it is taxable. Your employer pays your SSP and this may be included in any contractual sick pay you receive. If your sickness or disability continues for more than 28 weeks, you need to transfer from SSP to Incapacity Benefit. You will need to contact your local Jobcentre Plus to arrange this.

National Insurance contribution rules

If you are over 25, you have to satisfy the following conditions:

- in one of the previous three tax years, you have paid some Class 1 or 2 contributions to the value of 25 times the lower earnings limit; and
- in each of the two previous complete tax years you paid or were credited with contributions to the value of 50 times the lower earnings limit.

The lower earnings limit is the lowest wage you can earn and should have to pay National Insurance contributions. The DWP will treat your credits as actual National Insurance payments if you got them because you were a carer. They may also treat you as meeting the contribution conditions if you were getting the disability element of Working Tax Credit. Contact your Jobcentre Plus office for further information. If you have not paid National Insurance contributions because you are under 25 see our '**Young People and Students in Full-time or Part-time Education**' fact sheet for information on claiming Incapacity Benefit in youth.

For details about the current lower earnings limit, or any queries concerning your National Insurance contributions, contact HM Revenue and Customs (HMRC) on 0845 302 1479.

Incapacity for work rules

There are two ways of testing whether you are unfit for work - the own occupation test and the Personal Capability Assessment.

The own occupation test

For the first 28 weeks, incapacity is based on whether you can perform your own occupation, i.e. most recent occupation. To show this, you need to get a 'MED 3' medical certificate from your GP.

The Personal Capability Assessment

After 28 weeks incapacity, the DWP uses the Personal Capability Assessment (PCA). If you have not worked for at least 8 out of the 21 weeks prior to your current spell of incapacity, the PCA will apply at the start of your claim.

If you are registered blind, you are exempt from the PCA. You will need to provide the DWP with proof that you are registered blind. Contact your local council if you need to get proof of this. You will not need to fill in an IB50. If you are sent one, contact your local Jobcentre Plus office and explain to them that you are registered blind.

If you are registered partially sighted or not registered at all, then you must complete the IB50 incapacity questionnaire, unless you have another disability that makes you exempt from the PCA.

Vision

This is the part of the PCA that most obviously relates to blind and partially sighted people. Within this activity there are six descriptors each having a point scoring value. You need to score 15 points to pass the PCA. The following is a sample of what is included in the PCA, and you should see which one would apply to you:

- you cannot tell light from dark - 15 points

- you cannot see the shape of furniture in the room - 15 points
- you cannot see well enough to read 16 point print at a distance greater than 20 centimetres - 15 points
- you cannot see well enough to recognise a friend across the room at a distance of at least 5 metres - 12 points
- you cannot see well enough to recognise a friend across the road at a distance of at least 15 metres - 8 points
- no problem with vision - 0 points.

When you consider whether you can 'read 16 point print at a distance greater than 20 centimetres' ask yourself:

- is your normal reading distance less than 20 centimetres (about 8 inches)? At what distance can you comfortably read text?
- do you have to bring text closer to your eyes over a period of time?
- do you have problems scanning and focusing on text?
- for how many minutes can you comfortably read large print?
- does sustained reading cause pain, fatigue, watery eyes, blurred vision, headaches, or other problems?
- how frequently do you take breaks and how long are the breaks? Over time, do the breaks become more regular and longer?

The DWP may argue that the above is irrelevant when applying the reading test. They may say that if you can see print from the required distance (even if you cannot read for a sustained period), you will fail the test. If this happens please contact us for advice.

When you consider your ability to recognise people ask yourself the following:

- do you rely on voices or familiar colours to recognise your friends?
- do you recognise your friends only in places where you expect them to be?
- if you passed a friend on the street would you recognise them?
- is it more difficult to recognise people if either of you are walking?

Getting enough points

As previously stated, you need 15 points to satisfy the DWP that you pass the PCA. You only get one scoring descriptor from the vision part of the assessment. If this is not worth 15 points, you need to look at the other areas to get some more points. They are: walking, walking up and down stairs, standing, sitting, rising from

sitting, bending and kneeling, manual dexterity, lifting and carrying, reaching, speech, hearing, continence, and fits or seizures.

What the law says

It is important to ask yourself the above questions because of the rules laid out in social security law. The meaning of these rules is not always clear, so the Courts of Law and Social Security and Child Support Commissioners explain how to interpret them.

Commissioners' decisions

In the following paragraphs we make mention of 'Commissioners' Decisions'. Decisions made by the Social Security and Child Support Commissioners give guidance on how the law should be interpreted, not just in a particular case, but in general. This guidance can then be applied to future applications for Incapacity Benefit.

The Schedule to Social security (Incapacity for Work) (General) Regulations 1995 states that the PCA is an assessment of:

'...vision in normal daylight or bright electric light with glasses or other aid to vision, if such aid is normally worn'.

In assessing the appropriate environment for testing vision, a Commissioner in **CIB/2584/2002** said:

"If it is shown that the claimant cannot meet the visual descriptors in bright artificial light, then the fact that she can meet them in some natural daylight conditions is in my view, not enough to allow itself to allow her limitations to be ignored."

This supports our view that the test should not be a snapshot of a person's ability to read, but should be assessed on a sustained level in the appropriate environment.

Although your capacity for work is being tested, a Commissioner in **CIB/14587/1996** said the descriptors themselves must be considered in an 'everyday context' and not a 'work context'. However, Commissioners in **CIB/13161/1996, CIB/13508/1996 and CIB/664/1998** said you must be able to do the task 'as and when called upon to do so'.

C1/95(IB) established that the DWP must look at your ability to repeat an activity with 'reasonable regularity'. If a particular task exhausts you, this should be taken into consideration.

The Commissioner in **CIB/14587/1996** said:

"It is not enough to ask whether a person is able to perform a task on one

occasion, it is necessary to ask whether someone can do so without discomfort and with reasonable frequency."

It is also relevant to consider how your ability to perform a task may fluctuate from day to day. **CIB/14543/1996** instructs the DWP to consider how often you have good and bad days, along with the predictability of your bad days.

DWP Guidance

The DWP also issues guidance to its doctors about how they interpret the descriptors. It says:

'Vision has to be useful vision in the context of a normal environment. A condition causing severe tunnel vision where, despite reasonable visual acuity, an individual cannot read whole sentences or scan a page, causes significant disability.'

With regard to the term 'recognising a friend' it says this should be taken to mean:

'...the ability to recognise a friend's features, not to recognise them for example from the clothes they are wearing'.

Mental health problems

There is a different assessment of functional limitation for people with mild or moderate mental disabilities. There are four broad functional areas for mental health: completion of tasks, coping with pressure, daily living, and interaction. Scores from the mental health descriptors can be combined with points from the physical and sensory activities to achieve 15 points.

Will I have to see a DWP doctor?

The DWP will decide whether you have satisfied the test on the basis of your completed questionnaire, together with medical evidence from your own doctor. If the DWP is not satisfied with the medical evidence, or if you score less than 15 points in total, then you will be examined by a DWP doctor. The doctor's role is to give a clinical opinion of your functional ability and allocate the appropriate descriptor to you.

For a more comprehensive guide to the scoring system for each functional area you should get leaflet **IB214JP, 'A Guide to Incapacity Benefit – The Personal Capability Assessment'**.

What if I fail the Personal Capability Assessment?

If you are found fit for work under the PCA, you still have the right to appeal. You can ask the DWP to look at the decision again (this is called a revision) and will be notified of a change. If you are still not happy, you then have a further month to appeal. If you do wish to appeal against a decision you should seek assistance from an advice agency, as many decisions are successfully challenged at tribunal.

Returning to work

There are a number of concessions within the benefit system for disabled people who want to work.

Permitted Work

It is possible to try some paid work, without losing your entitlement to Incapacity Benefit, as long as the work you do keeps to a set of rules known as the Permitted Work rules. These rules are as follows:

- **Permitted Work lower limit:** You can do the work for an unlimited period, but you cannot earn more than £20 a week
- **Permitted Work higher limit:** You can do the work for 52 weeks, and then you have to have a break of 52 weeks before trying again. Your earnings must stay below £88.50 a week, and your hours must stay below 16 a week

Please note that if you are exempt from the PCA on the basis that you are registered blind, the 52-week limit does not apply to you, you can do Permitted Work at the higher limit indefinitely.

- **Supported Permitted Work:** The earnings and hours limits are the same as for Permitted Work higher limit, but the difference is that you can do Supported Permitted Work indefinitely. However, in order for it to count as Supported Permitted Work, it must be supervised by a person employed by a public or local authority or voluntary organisation, which provides or arranges work opportunities for people with disabilities.

You will not need a doctor to approve any work that you do as Permitted Work, but you will need to tell the office that pays your benefit about your job before you start.

Voluntary work

If you do voluntary work you can still claim Incapacity Benefit. There is no limit on the number of hours you can do, but again, you must tell the office that pays your benefit about the work you are doing.

Linking periods

The linking rules help to protect your entitlement to Incapacity Benefit if you stop claiming for a period, but then have to claim again. They are as follows:

- **8-week linking rule:** If you stop claiming Incapacity Benefit, but then have to claim again within 8 weeks of stopping, you can go back onto the same rate as you were on when you stopped. So if, for example, you are on the long-term rate of Incapacity Benefit at the point you stop claiming, as long as you reclaim within 8 weeks you will go straight back on the long-term rate. This is important

because without this linking rule, you would have to start again on the short-term lower rate, which is more than £20 less than the long-term rate.

When you reapply you must submit a claim for benefit and obtain a medical certificate from your GP in order for the linking rule to apply.

- **The ‘Welfare to Work’ linking rule:** If you come off Incapacity Benefit to start work or training, but then become incapable of work again and have to reapply, you can get back on Incapacity Benefit at your old rate provided your new claim is within 2 years of your previous one. There is no limit to the number of times you can make use of this protection within the 2 year period, so you may go off and on Incapacity Benefit on more than one occasion.

Please note however that you are not covered by the Welfare to Work linking rule if the reason you initially come off Incapacity Benefit is because you have been found capable of work (for example, because you have failed the PCA).

You should advise the Jobcentre Plus that you would like the linking rule to apply if you start work.

- **WTC Disability Element Linking Rule:** If you come off Incapacity Benefit to start work, and receive Working Tax Credit with the disability element while you work, you can get back on to Incapacity Benefit at your old rate if you have to reapply again within two years of your last claim.

Pathways to Work

In October 2003 the Government introduced a pilot scheme designed to help Incapacity Benefit claimants back into work. This scheme was called Pathways to Work. The Government has now concluded that the pilot was successful, and has decided to roll the Pathways scheme out across the UK. It is intended that the roll out will have been completed by April 2008. The main features of the scheme are as follows:

Mandatory Work-Focused Interview

If you make a claim for Incapacity Benefit, you will be allocated a Jobcentre Plus Personal Adviser. You will be required to attend an interview with this Adviser eight weeks after the start of your claim, and this initial interview will be followed by five further interviews over the following six months. The interview is intended to identify barriers that may be preventing your return to work, and assistance that could help you overcome these barriers. When you are called for the interview, you must do one of three things:

- go to the interview to explain what problems you would have at work; **or**
- ask the DWP to interview you in your own home; **or**

- tell the DWP why you should not be interviewed. You can be excused from the interview if it would be inappropriate for you to attend. For example, if you are very severely disabled or have recently had a baby.

If you fail to do one of these, you will not get any benefit. If you feel nervous about the interview, you can take someone with you.

If you are already on Incapacity Benefit, and live in an area where the Pathways programme is now being introduced, you only have to attend three mandatory interviews, rather than six.

If you are exempt from the PCA (for example, if you are registered blind), or receive the highest rate of the Disability Living Allowance care component, you only have to attend the initial new claim work-focused interview.

Return to Work Support

As part of the interview, your Personal Adviser will encourage you to draw up a return to work action plan and will offer you access to various forms of support, which are intended to help you back to work. These include:

- NHS Condition Management Programmes – these are intended to help claimants learn to ‘manage’ their health condition or disability so that they can get back to work.
- New Deal programmes, job grants, work trials, Workstep, Access to Work assistance.
- Job Preparation Premium – if you have drawn up a return to work plan and keep to it, you can claim a job preparation premium of up to £20 a week for up to 26 weeks. This is paid in addition to your Incapacity Benefit.
- Return to Work Credit – If you come off Incapacity Benefit to take on a job of at least 16 hours a week, but with an annual salary of less than £15000, you can claim a Return to Work Credit of £40 a week. Your period on Incapacity Benefit must have lasted for more than 13 weeks in order for you to claim this credit. The credit will not affect your entitlement to in-work benefits such as Working Tax Credit.

The only parts of this process that are compulsory are the work-focused interview, and the drawing-up of a return to work action plan. You cannot be sanctioned (i.e. your benefit cannot be reduced or stopped) simply because you do not access the support options outlined above.

For further information on the Pathways programme, contact your local Jobcentre Plus.

Training courses

If you leave Incapacity Benefit to attend a training course, the time spent on the course counts as part of your period of incapacity. You will, therefore, automatically re-qualify for your old benefit when the course finishes. However you may need to complete another claim form. If you start a non-mainstream training scheme, such as a European Social Fund course, or a course of further or higher education, you can receive Incapacity Benefit whilst studying. This is an increasingly complex area, so you should seek advice if you are thinking of starting a training course.

How to claim

If you want to claim Incapacity Benefit, you should contact Jobcentre Plus on 0800 055 6688.

Alternatively, you can apply online. Go to www.direct.gov.uk.

Employment and Support Allowance (ESA)

From October 2008 Incapacity Benefit will be replaced by the Employment and Support Allowance (ESA). It is expected that the Government will shortly publish the regulations for this benefit. For further information please see our information briefing on ESA which will be available late April 2008.

Further Information

To find out more, contact your local advice centre, Jobcentre Plus office, Citizens Advice Bureau or Action's Welfare Rights Service

Action for Blind People
14 - 16 Verney Road
London SE16 3DZ

National Freephone Helpline: 0800 915 4666
Email: benefit.check@actionforblindpeople.org.uk

You can also find all our fact sheets, briefings and checklists on our website at:
www.actionforblindpeople.org.uk/welfare-rights

This is only a brief guide about how blind and partially sighted people can benefit from Incapacity Benefit. It is not a complete or exhaustive statement of law.

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