



APPEALING AN ATTENDANCE ALLOWANCE DECISION

If the DWP didn't change their decision when you asked for a mandatory reconsideration, you can appeal to an independent panel, called a tribunal.

The tribunal looks at the evidence from both sides, then makes a final decision. The tribunal is part of the court system - it's not part of the DWP.

It can take a long time to get to a tribunal hearing. The process can be daunting but it's worth remembering that many people who appeal their AA decision win at a tribunal, so if you feel your decision is wrong, don't be put off appealing.

The appeal will look at whether the decision was right at the time it was made - they won't consider whether your condition has got worse since then.

1. Complete the appeal form

You have 1 month from the date on your mandatory reconsideration notice to appeal to His Majesty's Courts and Tribunals Service (HMCTS).

You can start your appeal by either:

- Completing an online appeal form on GOV.UK
- Printing an SSCS1 form from GOV.UK, filling it in, and posting it to HMCTS

If you missed the deadline you can still send in the SSCS1 form, you'll need to explain why it's late (for example, if you were in hospital). Your appeal will usually be accepted if less than 13 months have passed since you were sent the decision, as long as you give reasons for the delay.

Explain why you're appealing

The most important part of the application is 'The reasons for your appeal' - if you're filling in form SSCS1, this is Section 5. In this box you need to give the specific reasons why you disagree with the decision.

Remember that AA is paid if you need help caring for yourself, e.g. getting dressed, washed, preparing food, managing medication, etc, or if you need supervision to keep you safe.

Choose to attend the hearing.

You will be asked whether you want to attend a hearing. You have a better chance of a successful appeal if you take part in the hearing. You do not have to choose a face-to-face hearing; you can choose to take part by telephone or video if you prefer. Taking part in the hearing gives you an opportunity to put your case forward, and the panel to ask you questions if they need further information. You can have someone such as a family member, friend, carer, or support worker with you for moral support.

2. What happens next?

HMCTS will send a copy of your appeal to the DWP and ask them to respond within 28 days. You will receive a copy of the DWP's response, this is known as the appeal bundle.

It is often around 70 pages, or sometimes even longer. Don't be put off by the size of it. It will contain your application form and copies of the decision letters you have already received, and any evidence the DWP has gathered from other places or that you sent in. Keep it safe. You will need it to prepare for your hearing.

3. Preparing for your hearing

Look at the appeal bundle

Don't be put off by the references to laws and regulations at the beginning. You are not expected to know about these – the tribunal will know which laws apply.

The most important parts of the appeal bundle are the written explanation of the decision, and the written explanation of mandatory reconsideration. You should read through them carefully and make notes about anything that is wrong or information that is missing.

Gather more evidence

In most cases, the DWP do not contact your GP or other health professionals. If you have not already provided medical evidence, you should try to do so now.

You can ask your GP for a copy of your medical records, and they should provide them free of charge in the first instance. You should request your full records, including specialist correspondence and hospital letters, starting 12 months before your AA claim.

You can also get evidence from people such as, support workers, social services, psychologists, paid carers, or friends and family – anyone who knows you well and understands your condition.

If you are asking other people for a supporting letter, ask them to say how they know you, what difficulties they have witnessed, and any help they provide you. The letter should be signed and dated.

We do not recommend paying for medical evidence. If you are considering paying for evidence (for example a GP letter) we suggest that you ask what will be in the letter and check that it will be helpful. Letters that just confirm your health conditions will not be helpful to the appeal.

Write a statement

It can be useful for you to write a statement covering any issues you have identified in the appeal bundle, and anything else you want the tribunal to know. If you send your statement ahead of the hearing date, you don't have to remember everything you want to say on the day, and the tribunal panel will have had a chance to think about what you've written before they speak to you.

Send your evidence to the tribunal

You should try to send your evidence and your written statement to HMCTS before your hearing date. Details of where to send your evidence will be given to you by HMCTS when you lodge your appeal.

4. The Hearing date

You will get your hearing date in a letter from HMCTS. You are normally given at least 14 days' notice of the hearing. (unless you agreed to a cancellation on the appeal form)

If you cannot attend, you should call HMCTS straight away to let them know. They may agree to rearrange the hearing for another date. If they do, it may take several months to get the new hearing date.

5. The day of the hearing

A friend or family member can attend with you for support. They will not normally be allowed to answer questions for you but should be given an opportunity to speak at the end of the questions, if you want them to.

If your hearing is face-to-face, make sure you get to the venue at least 15 minutes before the hearing is due to start.

If it is a telephone hearing, ensure that your phone is fully charged and that you have somewhere private to take the call.

If it is a video hearing, ensure that your device is charged, your internet connection is stable, and you have logged onto the practice site before the day (details will be given in your hearing date letter).

In the hearing

The tribunal panel is made up of three members. The Judge who knows about the law relevant to your appeal, and who is in charge of the hearing. A medically qualified member who provides medical expertise for the tribunal, and a disability qualified member who provides expertise about the effects of the disability.

Sometimes a person from the DWP will attend the appeal. They are called a Presenting Officer. They are there to represent the DWP, but are not involved in making the final decision.

Usually, the members of the panel will be nice and easy to talk to and will just want to get a full picture of your illness or disability and the help you need.

What you can expect in the hearing:

- The judge will introduce the tribunal and explain what it's for - they might call you 'the appellant' and the DWP 'the respondent'.
- They'll ask you questions about your reasons for appealing, and about the difficulties you face on an average day. Remember that the tribunal has to look at how you were at the time the DWP made its decision, which might have been some months ago.
- If someone goes with you, they should be asked if they want to say anything.
- Once everyone has had a chance to speak, you will be asked if there's anything more you'd like to say - so if there's anything you want to add or clarify, you can.
- You may be asked to leave the room while a decision is made and then called back into the room and told the decision, or alternatively the judge will tell you that a decision letter will be sent to you in the post.

When you're being asked questions

- Don't be embarrassed to talk about how your condition affects you. It is important that the panel gets a true picture of your daily life.
- Do ask the tribunal to repeat any questions you don't understand.
- Use your own words and don't feel you have to use medical language.
- Tell them if someone has helped you on the day, e.g. helping you to dress, driving you to the hearing or reading signs for you.
- Be prepared to answer questions about all aspects of how your condition affects you, not just the reasons you're appealing.
- Make sure you've said everything you want to say - don't be afraid to speak up if you feel there's something else important to say.

6. After the hearing

If you need any further help or advice once you get the appeal decision, please visit your local Citizens Advice Bureau, or call the adviceline on 0808 250 5715.