

DECISION MAKING: FORMER BENEFITS

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INTRODUCTION

- 1 This Memo gives guidance on
1. the SS Act 98 (Prescribed Benefits) Regulations 2006¹ **and**
 2. the SS Act 98 (Commencement Nos 9 and 11) (Amendment) Order 2006²
- which enable decisions on former benefits to be revised and superseded. The provisions come into force on 16.10.06.

1 SI 2006 No 2529; 2 SI 2006 No 2540

BACKGROUND

- 2 In a recent Commissioner's decision¹, the Commissioner held that there was no jurisdiction for the DM to supersede a decision awarding Mobility Allowance, even though the award was treated as an award of DLA. This was because Mobility Allowance had not been prescribed as a relevant benefit when the present system of decision making was introduced in 1999.

1 CDLA/2999/04

- 3 The amendments
1. prescribe former benefits as relevant benefits for the purposes of decision making¹ **and**

2. enable decisions about former benefits made by adjudicating authorities to be
 - 2.1 treated as decisions of the Secretary of State **and**
 - 2.2 revised or superseded as appropriate².

1 SS Act 98, s 8(3); 2 SS Act 98 Commencement Orders Nos 9 & 11; s 8(3), 9 & 10

PRESCRIBED BENEFITS

4 From 16.10.06, the following benefits are prescribed as relevant benefits

1. AA (decisions made before 1.7.92)¹
2. IVA²
3. IVP³
4. mobility allowance⁴
5. SB⁵
6. Supp B⁶
7. transitional award of short-term IB⁷
8. transitional award of long-term IB⁸
9. UB⁹.

1 SS Act 75, s 35; 2 s 16; 3 s 15; 4 s 37A; 5 s 14; 6 Supp B Act 76; 7 SS(IB)(Transitional) Regs, reg 11; 8 reg 17;

9 SS Act 75, s 14

5 Any decision made before the coming into force of these provisions to revise or supersede decisions made on these prescribed benefits is made without jurisdiction, and is therefore invalid. The decision can be made valid by revising for official error and remaking it to the same effect. Where a decision made before 16.10.06 is challenged by the claimant on the grounds that it is invalid, please refer the case to ACI Leeds for guidance under the normal arrangements (see Contacts).

ANNOTATIONS

Please annotate the number of this Memo (DMG Vol 1 10/06) against the following DMG paragraphs:

01270 main heading and Vol 1 Annex A

CONTACTS

If you have any queries about this memo, please write to ACI Division, Room GS36, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in DMG Letter 02/06.

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