

After the Visit

For DLA or AA form applications, notification by post of the decision will follow very quickly. However, if the report is requested for a tribunal then they and your advocate will receive the report and a new tribunal hearing date will be set and the appeal will continue.

If an award is made

If an award is made, it will be either or both the Mobility Component/Personal Care. It is usually made for a period of time, for CFS/ME, usually one to three years, after which you will have to submit a further DLA or AA form. If you are not satisfied with the level, you can go through the appeals procedure. You must seek informed advice first. Bear in mind that:-

- a) A review tribunal can overturn a previous award as well as upgrade it. This process can take as long as a year.
- b) You could wait three months and apply again for an upgrade. This can however trigger a review of your application.

If an award is refused.

If an award is refused, you should appeal, and not accept that decision as final. Many people with CFS/ME are hesitant to take their case any further because of the hassle involved. The procedure is complex, and we advise that you appoint an advocate to act on your behalf. Many of the welfare organisations can provide an advocate free of charge. However the success rate varies enormously. Leger ME monitor cases and can advise you of the best options in your case based on our experience. However, the decision who you appoint is yours alone.

The Appeal Process

We strongly advise you to appoint an advocate if you haven't got one. They will ask you to sign a consent form so that they can act on your behalf. Usually then, they do all the office work, and you get on with your life. Your advocate will contact the DWP and deal with the appeals procedure. Sometimes it may be six months before anything happens. Don't be tempted to check up yourself because you could be given misleading information by the DWP. You will be told if you have to attend a tribunal, another medical examination, or get further information.

Your advocate will also request copies of all the papers in your case. Very often, the reason for refusal is quite clear, and is directly attributable to the way the DLA 140 was filled out by the EMP.

The DWP decision makers are instructed to put their EMP's report over that of a G.P., so even if the problem is identified and corrected with a G.P.'s letter, the DWP insist that the matter goes to a tribunal.

The tribunal is independent of the DWP, and may choose to ignore the EMP's report if other evidence is available. Your advocate can argue your case and challenge the evidence. In almost all cases our members have won, if taken to tribunal.

It is a concern of Leger ME as well as other welfare organisations that the EMP reporting system is flawed and has poor quality control. This has resulted in members unnecessarily being forced to face tribunals and wasting public money. One problem is that there is no accurate method of grading or reporting in fatigue issues within the DWP forms.



Leger-ME:

*Supporting Myalgic Encephalopathy or Encephalomyelitis (ME),
Chronic Fatigue Syndrome (CFS),
Post Viral Fatigue Syndrome (PVFS),
Fibromyalgia Syndrome (FMS), Patients & Carers*

When A D.W.P. Appointed Doctor Visits.

Very often after a claim is received for Disability Living Allowance (DLA) or Attendance Allowance (AA), the Department of Work and Pensions (DWP) will appoint a doctor the Examining Medical Practitioner (EMP) to visit the claimant at home, and supply a 'Factual Report'.

From many members' past experiences, this can be stressful or intimidating, but it is a necessary step to process a benefit claim. This leaflet is compiled to help from group members experience, as a supplement to the helpline guidance.

About the DLA or AA Claim.

These are both non contributory, non means tested benefits. They are awarded on the bases of defined criteria on how an illness or condition affects the claimant, and not on the diagnosis.

Why is the visit necessary ?

- a) If there is not enough evidence in the applicants form make an award.
- b) Where there is doubt in the 'Decision Makers' mind as to the contents of the application.
- c) Where there may be conflicting evidence.
- d) When directed by a tribunal of the appeals service.
- e) When the DWP directs for their own reasons. The are usually not disclosed.

Who Will the Doctor be ?

Normally you will be contacted by the DWP or the doctor will send a letter or telephone to arrange a home visit. The doctor will normally be from a local panel of G.P.s trained by the DWP, or who works for the DWP. The Doctor will usually be from a nearby practice. For reasons of impartiality, the doctor will not be your own G.P. or from the practice where you are registered.

Can I refuse to see the doctor ?

Yes you can. This may be because you wish to see a doctor of the same sex, the appointment is inconvenient or some other reason. The doctor is obliged to fit in with your convenience. If you however refuse too many times, then your claim will be denied.

The Visit

Before the doctor arrives:

- a) Ensure that a third person is present. This can be anyone e.g. a carer, friend or welfare advisor, but make sure they are aware of the details of your claim.
- b) Ensure that you know what you have stated in the original AA or DLA application form. We advise all clients to keep a copy of the originals. The doctor will have seen a copy of the original application for and may ask you questions about it.
- c) Ensure the any drugs, appliances or aids are clearly visible to the doctor.
- d) Have somewhere available where the EMP can do a medical examination.

When the doctor arrives

- a) Get the person with you to answer the door. Wait in the bedroom or sitting room wherever you wish to see him.
- b) Make a note of the time the doctor arrives, and his name and where he is from.

The doctor has to fill out a DLA 140 form which consists of two parts, an Interview. and a Medical Examination & Report

The Interview

The doctor will ask you questions from the DLA 140 form. Although you may be tempted to give a long explanation, you should give

. Some doctors have been known to try a catch people out by offering a negative question something like "You have no trouble with walking ?". You have to make it clear if you do, and why. You have to be prepared to argue your case if necessary. Remember that ME's under pressure are not very good at concentrating, so it is important that he third person listens in and corrects anything you might say wrong. Don't forget that where CFS/ME concerned the problem is "*what happens if*". If you have any other health problems other than CFS/ME, even though they may be minor, tell the doctor, because this will strengthen your claim.

At the end of the interview you will be asked to sign the form. Don't let the doctor read it out to you. Read it yourself or better still, get your friend to check it out for accuracy. Make sure that you are satisfied with the content and correct any errors. We have known some doctors be told one thing, read that back when they have written down something completely different. If you are pressured e.g. the Doctor saying he is in a hurry or keeps looking at his watch, tell him to call back. You can terminate the visit any time you want and ask the doctor to call back.

The Medical Examination and Report

This part of the visit is not easily controlled. If the doctor ask you to do something, and it will be painful, harmful or some else, refuse to do it and tell the doctor why. The doctor may ask you to undress or do something else. This is where you need the third person present. Sometimes only basic medical check are done. Once the doctor has finish he or she will leave without any further ado. Usually the parting words are "I'll send in the report. It's not me that make the decision, it's the DWP". What he doesn't tell you is that what he report can be pivotal in what you get. Record the time of departure.

The doctor will complete the report either at the time of examination or just after he has left your home. If you see the report has been completed prior to the examination, stop the examination, and ask the doctor to leave and contact the helpline 01302 787353.