

# Derbyshire Welfare Rights Service

## Industrial Injuries Benefits

You can claim Industrial Injuries Benefits if you are an employee (not self-employed) and you have suffered personal injury through an accident at work or as part of your work, or if you have an illness which was caused through work, for instance because of a noisy work environment, or through working with hazardous materials.

An award of benefit is decided upon the degree of disability caused by the accident or disease. It is administered by the Department for Work and Pensions (DWP).

You do not need to have paid National Insurance contributions to get benefit, and it is not affected by your savings or any other income. You can qualify whether or not you are still working.

Benefit is assessed separately from any compensation claim you may have against your employer. It can also be paid alongside National Insurance contribution-based benefits such as Employment and Support Allowance, Jobseeker's Allowance or State Retirement Pension.

Industrial Injuries Benefits are not taxable. Some of them count as income for some means-tested benefits but not for Tax Credits.

### Who is an employee?

You must be an 'employed earner' - your benefit is not based on how much NI you have paid). You may also qualify under special rules if you are working on a low wage, or if you are an apprentice or an agency worker, or you do particular types of job (such as rescue worker, special constable, minister of religion, taxi driver, office cleaner, member of aircrew, mariner).

You do not have to be in any special type of 'industrial' work – the scheme covers employees of many sorts.

You may not count as an employee if you work for your spouse or civil partner or a close relative. Seek advice.

### Personal Injury

This could be physical or psychological; it may also apply if an existing problem has been made worse, but you may have to show that the problem has been made substantially worse.

# Derbyshire Welfare Rights Service

## **Accident**

An accident can be unexpected, or can arise from dangerous situations or the actions of another person.

An industrial accident is something which arises 'out of and in the course of your employment'. This may count even if you are on your employer's premises or private property even if you have not yet reported your presence, and probably during breaks when you remain on the premises.

If a problem has built up over a long period, it may not be seen as an 'accident' – but seek advice, because a sequence of events over a period of time (usually a short period) may be accepted as a series of accidents.

If an accident happens when you are not on work premises (at home, off sick, travelling) or in some cases you have done something that is against your employer's instructions it may still count, but you should seek advice. The details of your contract of employment will be helpful in deciding questions like this.

## **Disease**

To count, a disease must be a 'prescribed industrial disease'. Other illnesses arising from a prescribed disease may also count towards your assessment of disability.

In law, there is a list of industrial diseases - which include industrial deafness, lung diseases, liver or kidney diseases and skin problems - and types of job likely to cause the problems. Details are available on the gov.uk web site.

Getting benefit will depend upon the DWP accepting that the disease was caused by your work.

## **'Loss of faculty' and disability**

You need to show that you have suffered 'loss of faculty' (damage or impairment to body or mind) and that you are 'disabled' because of that loss and that this is linked to your work.

## **Extent of disablement**

Your assessment for benefit will also include an assessment of the extent of your disability, expressed as a percentage. Your situation is compared with someone of the same age and sex whose physical and mental health is 'normal'.

You must usually be assessed as at least 14% disabled but there are some exceptions.

# Derbyshire Welfare Rights Service

Some conditions mean that you are regarded as 100% disabled, but in most cases an assessment will be needed, which may include seeing a healthcare professional whose medical opinion will be passed to the DWP for a decision to be made.

When a decision is made, it will also set the length of time for which you are expected to be affected by the injury or disease. You may need go through a reassessment at a later date.

## What benefits may I claim?

Under the current scheme you may be able to claim:

- **Industrial Injuries Disablement Benefit (IIDB)**

IIDB is payable according to the percentage of disability, with 20% disability attracting the lowest payment and 100% disablement the highest.

<b>Assessed level of disablement</b>	<b>Weekly amount</b>
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100%	£182.00
90%	£163.80
80%	£145.60
70%	£127.40
60%	£109.20
50%	£ 91.00
40%	£ 72.80
30%	£ 54.60
20%	£ 36.40

## **Constant Attendance Allowance (CAA)**

CAA is payable if you are entitled to IIDB for 100% disablement and you require constant care and attention because of your 'loss of faculty'. CAA is considered automatically so you don't need to apply.

# Derbyshire Welfare Rights Service

It is paid at one of four rates which depend on the level of care needed:

- £145.60 'exceptional' rate
- £109.20 'intermediate' rate
- £ 72.80 'normal maximum'
- £ 36.40 'part time' rate

CAA does not count as income for means-tested benefits.

If you qualify for CAA at the same time as Personal Independence Payment, Disability Living Allowance, Attendance Allowance or Armed Forces Independence Payment, the other benefit will be reduced by the amount of CAA that you get.

- **Exceptionally Severe Disablement Allowance**

Exceptionally Severe Disablement Allowance is payable at a weekly rate of £72.80 if you get CAA at the 'intermediate' or 'exceptional' rate and you are likely to remain disabled permanently. ESDA is considered automatically so you don't need to apply. It does not count as income for means-tested benefits.

For claims that applied before 1/10/1990 you may also be able to apply for (or continue to get):

- Reduced Earnings Allowance (REA)
- Retirement Allowance

REA is payable where there is a disability from an accident or disease which arose before 1/10/1990 which means that your earnings are now less than in your previous regular occupation.

Retirement Allowance is a reduced rate of REA payable when you are over pension age, and you have given up regular employment (whichever is later) and you were entitled to REA immediately before that.

It may be possible to claim Reduced Earnings Allowance even now – seek advice

## How do I claim?

- You will usually need to make a written claim – form BI100A for accident claims and form BI100PD for industrial disease claims.
- Call the Helpline.
- The claim is in your name only, you cannot claim for anyone else.
- There is no age limit upon claiming.

# Derbyshire Welfare Rights Service

## **When should I claim?**

Seek advice as soon as you know there is a problem. Claims may be backdated, but not in all cases, so the sooner the DWP has your claim the better.

For Industrial Injuries Benefit, 90 days (not including Sundays) must have passed since the accident or the onset of the disease before benefit is payable.

You may be able to claim benefit even if a long time has passed since an industrial disease arose but there are some time limits – for instance there is a 10-year time limit for claiming industrial asthma, and for some claims you must have worked in the particular job for a set minimum time.

## **How is benefit paid?**

Usually in to a bank account or via the 'Simple Payment' scheme for people who cannot open or manage an account. It is possible for someone to be paid benefit on your behalf – an 'appointee'. Seek advice if you think this would help you.

## **Can I dispute a decision?**

DWP Decision Makers decide your claim, and you may dispute their decisions through requesting Mandatory Reconsideration of the decision; a Mandatory Reconsideration decision may be appealed to an independent tribunal. See our leaflet *Challenging Benefit Decisions*.

It is not possible to appeal Constant Attendance Allowance or Exceptionally Severe Disablement Allowance decisions but you should seek advice if not satisfied with the decision.

## **Change of circumstances**

If your circumstances change (for instance a change of name or address, or if you are leaving the country) tell the DWP.

It is of course especially important to report changes in your health which may affect the amount of benefit that is payable to you.

# Derbyshire Welfare Rights Service

## **Lump-sum compensation schemes available via Jobcentre Plus**

Jobcentre Plus may pay you a lump sum if you have one of the following diseases (caused by your employment) and you have not taken any court action or received compensation in respect of the disease:

- Pneumoconiosis
- Byssinosis
- Diffuse mesothelioma
- Bilateral diffuse pleural thickening
- Primary carcinoma of the lung when accompanied by asbestosis or bilateral diffuse pleural thickening

You must be getting Industrial Injuries Disablement Benefit for one of the listed diseases and you must claim within 12 months of the decision awarding you Industrial Injuries Disablement Benefit.

You may be able to make a claim if you're the dependant of someone who suffered from a relevant disease but who has died. A claim must be made within 12 months of the death of the sufferer.

If you suffer Diffuse Mesothelioma (exposure to asbestos which occurred in the United Kingdom) and you are not entitled to a payment under the scheme described above and you have not received compensation via other schemes, you may be able to claim a one-off lump sum payment if you came into contact with asbestos from a relative – e.g. by washing their clothes or if your exposure to asbestos was while you were self-employed.

Additional information can be found on our website, visit [www.derbyshire.gov.uk/welfarebenefits](http://www.derbyshire.gov.uk/welfarebenefits)

**To keep up-to-date with benefit changes in Derbyshire go to**  
**[www.derbyshire.gov.uk/benefitnews](http://www.derbyshire.gov.uk/benefitnews)**

**Benefits Helpline – 01629 531535 or email**  
**[welfarebenefits@derbyshire.gov.uk](mailto:welfarebenefits@derbyshire.gov.uk)**

**Monday, Tuesday, Thursday, Friday**  
**11.00am – 4.00pm**