

MEDICAL SERVICES

PROVIDED ON BEHALF OF THE DEPARTMENT FOR WORK AND PENSIONS

Update to Standard – 31/2012

Subject:	Aids and Appliances in WCA
Effective from:	Immediate
Target Audience:	All ESA trained HCPs, trainers, clinical managers, auditors
Guides affected:	Registered Nurse WCA Academy Registered Medical Practitioner WCA Learning Path Registered Physiotherapist WCA Academy WCA Handbook Mental Health Support Scenarios Consolidation Cases Registered Nurse Neurological WCA Filework Learning Path ESA Filework Guidelines
Contact:	Process Design Team

INTRODUCTION

This Update to Standard revises guidance on the use of aids and appliances as part of the WCA process, and what steps HCPs undertaking the WCA must take when considering whether a claimant's function may be improved by the use of an aid or appliance. The need to consider aids and appliances will apply to all the physical activities within the WCA.

The change is as a result of a decision at an Upper Tribunal hearing.

This Update to Standard for HCPs is set out in three sections:

1. The original case which has led to this change is summarised, to give an overview and context.
2. The processes that the Decision Maker must follow when considering aids and appliances is detailed; this is based heavily on the actual guidance DMs will follow and therefore gives a clear insight into what they will require from HCPs to facilitate their decision making.
3. Guidance to HCPs as to how this change should be applied when advising on aids and appliances in the WCA.

SECTION 1 - BACKGROUND

Here is the background to this change, which was based on the outcome of a single ESA claim which passed through the Appeals process. It contains the essence of what Decision Makers – and therefore HCPs – will be required to consider as a result of the change.

The facts of the Upper Tribunal decision were as follows. The case was assessed under the ESA 2008 regulations.

The claimant suffered from problems with his knee. He had not been advised to use a walking stick, and did not do so. Following application of the WCA, the DM determined that the claimant did not score any points, and ESA was terminated. On appeal, the First Tier Tribunal awarded 9 points for descriptor 3(b) (bending or kneeling). They considered that the claimant's difficulties with walking, standing and sitting could be helped by the use of a walking stick. As the score was still less than 15 points, the DM's decision was upheld.

On a further appeal, the Upper Tribunal Judge held that

A - Where a claimant normally uses an aid or appliance, they must be assessed as if they were using it

B - If an aid or appliance has been prescribed or recommended by a person with appropriate expertise, the claimant must be assessed as using it, unless it would be unreasonable for them to use it

C - if a claimant does not use an aid or appliance, *and* it has not been prescribed or recommended, the claimant must be assessed as if using it if

a. it is normally used by people in the same circumstances acting reasonably **and**

b. It would be reasonable for the claimant to use it.

The Judge also held that where paragraph C applies, the DM must explain how an aid or appliance would help the claimant.

The Judge's application of the test of 'normal use of an aid or appliance' applies to the assessment of all of the physical activities in the WCA. It is not restricted to those activities that make specific reference to aids or appliances.

Four of the physical activities within the WCA refer specifically to the use of aids. Activity 8 (navigation) and Activity 9 (continence), refer to aids that are normally used. Activity 1 (mobilising) and Activity 7 (understanding communication) refer to the reasonableness of the use of an aid.

SECTION 2 – THE DECISION MAKER PROCESS

The paragraphs below describe the process that the ESA Decision Maker will be required to follow when assessing claims, in relation to aids and appliances. It is hoped that they will offer a useful insight into the DM's needs when considering the use of aids and appliances, and therefore will guide HCPs as to the breadth and depth of information and justification that will be required when considering their use.

WHERE AN AID OR APPLIANCE HAS BEEN PRESCRIBED OR ADVISED

The DM assessing the claim will need to establish whether the claimant normally uses an aid or appliance, and if not, whether the use of it has been prescribed or advised.

If the claimant has been prescribed or advised to use an aid or appliance, **but** they either do not have the aid/appliance **or** do not use it, the DM will need to establish;

- Whether the aid/appliance would help the claimant
- Why they are not using it
- Whether their explanation for not using it is reasonable

Example 1

Billy has been advised by his GP to use a walking stick to help with balance problems when walking and standing. He has no upper limb problems. He states that he doesn't like the idea of a walking stick because it makes him look old. The DM considers that it would be reasonable to expect Billy to use a walking stick, and assesses LCW as if he is using it.

Example 2

Annie lives in a one bedroom apartment on the upper storey of a two storey block. There is no lift. She has been advised by her GP that a wheelchair would help her to mobilise over longer distances and that a wheelchair could be provided on request. Annie states that she could not manage to get a wheelchair into her apartment because of the stairs, and has nowhere to store a wheelchair, either in her apartment or elsewhere. The DM considers that it would not be reasonable to expect Annie to use a wheelchair, and assesses LCW without it.

WHERE AN AID OR APPLIANCE HAS NOT BEEN PRESCRIBED OR ADVISED

The DM must consider all the circumstances in order to determine whether it would be reasonable to assess the claimant as using an aid or appliance that has not been prescribed or that they have not been advised to use.

Factors include whether;

- The claimant possesses the aid or appliance
- The claimant was given specific medical advice about managing their condition, and it is reasonable for them to continue following that advice
- The claimant would be advised to use an aid or appliance if they raised it with the appropriate authority such as a GP or occupational therapist (advice may only be given on request). *Note: It is recognised that HCPs offering advice as part of the WCA process do not necessarily have specialised knowledge of aids/appliances or of their prescription. The expectation is that HCPs will make a judgement that is based on his/her medical and functional training and awareness.*
- It is medically reasonable for them to use an aid or appliance

- the health condition or disability is likely to be of short duration (*Where a disability is likely to resolve in the short term, it is likely that only very simple aids that are very widely available should be considered; it is unlikely that claimants would be offered aids or appliances that require any form of specialised fitting or prescription, or structural alterations to property, would be relevant in this situation. So, if a claimant has sustained a fracture to their ankle, it would be reasonable to consider the use of crutches or a walking stick, as these would commonly be provided following an acute injury, but anything more complex than these would not be appropriate since the disability will resolve in the short term.*)

- An aid or appliance is widely available (*again, common sense should prevail and HCP's advice should be confined to devices that are recognised and in common use by those with similar disabilities. The HCP will, of course, have no knowledge of actual availability of aids or appliances within the claimant's local area at any given time so will be unable to consider this when offering advice.*)

- An aid or appliance is affordable in the claimant's circumstances (people are not routinely required to buy equipment where it can be prescribed.) *Note: HCPs will not be aware of the claimant's financial situation and are not asked to explore this area. The DM has to consider this aspect of the case but the HCP is not expected to comment here.*

- The claimant is able to use and store the aid or appliance

- the claimant is unable to use an aid or appliance due to their physical or mental health condition (for example they are unable to use a walking stick or manual wheelchair due to a cardiac, respiratory, upper body or mental health condition).

Example 3

Miranda has significantly reduced mobility due to arthritis of the right hip and is on the waiting list for a hip replacement. She uses a walking stick to help with balance, but this does not enable her to walk any further than 200 metres before she experiences pain. She has not been advised to use a wheelchair. She lives in a bungalow with step-free access and a spacious hallway. The HCP advises that she has no other health problems, and in their opinion based on clinical experience, would be provided with a manual wheelchair if she asked her consultant about this. If she had a wheelchair, she would be able to mobilise over longer distances. The DM decides that it would be reasonable, having considered all relevant factors, for Miranda to use a manual wheelchair, and that none of the Activity 1 descriptors apply.

Example 4

Gary has problems standing due to a condition which affects his balance. He would normally be helped by the use of a walking stick. However, the HCP advises that due to arthritis of the hands, Gary would have difficulty using a stick because he has reduced grip. The DM determines that it would not be reasonable to assess Gary taking a walking stick into account.

SECTION 3 – HCP GUIDANCE WHEN CONSIDERING AIDS AND APPLIANCES WITHIN THE WCA

This final section provides some background information on aids and appliances, and by what routes these are normally prescribed/advised. It also guides HCPs as to the level of information and justification that will be required when addressing the use of aids or appliances within the WCA.

Aids and appliances form an important part of the effective rehabilitation of an individual.

Aids are devices that help a performance of a function, i.e. they augment a remaining function. Examples include walking sticks and spectacles.

Appliances are devices that provide or replace a missing function. Examples include artificial limbs, stomas, and wheelchairs.

Claimants may have been advised to use aids or appliances, or indeed had these supplied, following assessment by various clinicians involved in their care. For example, Health Visitors, District Nurses and General Practitioners may provide incontinence products, commodes, and access to laundry services. Occupational Therapists can provide aids to daily living and advice on housing adaptations. The Physiotherapist can advise on appropriate walking aids and appliances. Communication aids can be supplied via a Speech Therapist.

Disability Analysts will see many people using a variety of walking aids. Walking sticks, crutches, tripods, frames and trolleys are often used. Walking aids are used by many people to provide stability because of muscle weakness or poor balance, or to reduce the load on painful or damaged joints. However, though the load to the lower limbs is reduced, the load to the upper limbs is increased. The upper limb joints are not designed for this load, and problems such as synovitis may result especially if there is an inflammatory arthritis.

The Disability Analyst will also see many people using orthoses. Orthoses are externally applied devices that are used to modify the structure or function of the neurological or musculo-skeletal system. For example, prescribed footwear, knee braces, and hand/wrist supports are commonly seen in our assessments.

It is becoming increasingly common to see people in wheelchairs within the community. The commonest reasons for the need for a wheelchair are arthritis, cerebrovascular disease, chronic obstructive pulmonary disease, and heart disease. The majority of wheelchair users do not use the wheelchair all the time. Indeed special consideration needs to be given to full-time wheelchair users, with the need for lightweight, highly manoeuvrable wheelchairs. In addition, wheelchairs may need to be easily assembled and taken apart, so the person can get in and out of a car alone.

Some disabled people will need an artificial limb. Prosthetic technology has advanced such that a healthy individual with a mid-calf amputation should be able to participate in a full range of activity, walk without a limp, and engage in sports. Circulatory problems are the main reason for lower limb amputation, although 1/3 of these people have concomitant diabetes. They are usually over 50 years old, and most have additional health problems that limit walking ability.

It must be recognised that specific skills, knowledge, experience and training are required to fully assess individuals for aids and appliances which may ultimately help their function. Additionally, clinicians who assess and prescribe aids and appliances for an individual will normally have access to significantly more information about the individual's situation than HCPs offering advice as part of the WCA process. Therefore, in situations where an aid or appliance has not been recommended or prescribed, HCPs are being asked to use their skills and experience as a disability analyst to offer 'common-sense' advice to the DM in situations where they feel an aid or appliance could improve a claimant's function in terms of an individual WCA Activity.

Similarly, some of the situations in which a claimant may state they do not or cannot use an aid/appliance may involve information about the claimant's home or social situation (for example, that they have nowhere to store a wheelchair, or that their home is not suitable for a wheelchair). Unless there is clear evidence to the contrary - for example when the assessment is undertaken as a DV and the HCP can offer an informed opinion - it is reasonable to accept such information from the claimant as accurate and give advice accordingly. The HCP's role is simply to gather sufficient information on the claimant's accommodation to give reasonable advice on whether a wheelchair – or similar – could be used. This information will, of necessity, be heavily based on the claimant's own account of their domestic arrangements.

Lastly, although the DM may be required to consider whether an individual claimant could afford to purchase a particular aid/adaptation, this question is beyond the scope of the HCP's role within the WCA process and should not be taken into account when offering advice to the DM.

In terms of a practical approach to the issue of aids and appliances, the following is advised:

1. Remember that the use of aids and appliances should be considered in all the physical activities within the WCA. It should therefore become routine to specifically ask claimants if they have any aids or appliances that they use.
2. Where the claimant states they already use an aid or appliance, find out about any problems they may have with it as well as how it assists them. Assess all the relevant physical activities within the WCA taking into account the aid/appliance and any functional improvement it brings.
3. Where the claimant states they possess an aid or appliance but do not use it, find out why this is so. What problems emerged with the aid/appliance that led them to reject it? Are there any circumstances in which they are able to use it successfully? What would have to change in order to enable them to use the aid/appliance successfully? Are they embarrassed to use it for example (as in Example 1 above where 'Billy' did not want to use the walking stick as he felt it made him look old)? Have they approached the clinician that provided the aid, or their GP perhaps, to report the problems and, if so, is anything being done about it (for example providing an alternative aid/appliance)? Assess all the relevant physical activities within the WCA, considering the claimant's stated reasons for not using the aid/appliance and offering your opinion as to whether it would be reasonable to expect they could use it successfully, based on the information available. *Consider Examples 1-4 above again and, in the light of the new guidance, think about how the advice and justification on the issue of the aid/appliance might be worded in the WCA report for each.*

4. Where the claimant does not use an aid/appliance, or has not been prescribed/provided with/advised to use one, consider whether any simple aid or appliance could be used to improve the claimant's function in any of the activities. Take into account the information that has been gathered during the assessment, in terms of other medical conditions and disabilities present which may make it difficult to use an aid/appliance, as well as details about the claimant's accommodation and access to it which may affect the recommendation given. *Consider Example 2 above again. For absolute clarity, this revised guidance must be used when considering the issue of manual wheelchair use in Activity 1 – Mobilising.* There may be situations where descriptor W(e) would previously have been advised – as the claimant had the ability to use a manual wheelchair – where a different descriptor is now appropriate because of other circumstances which need to be considered.

5. Ensure that the Personalised Summary Statement addresses the issue of aids/appliances where this is relevant. Make it clear when a particular activity has been assessed with/without an aid/appliance, giving justification in terms of the relevant evidence used and the descriptor chosen. This will be particularly relevant, of course, when recommending an aid/appliance that has not previously been used by the claimant, as well as when advising that a claimant's decision not to use a particular aid/appliance seems inconsistent with the available information. *Consider again the factors that the DM needs to consider, as listed in Section 2 above, and ensure that the relevant aspects are covered off in the PSS.*

6. Remember that our role is to offer advice only: the DM will consider the evidence that is present and will come to their own conclusions as to the use of aids/appliances in each case. Likewise the HCP is only expected to use such evidence as is reasonably available to them when offering advice: in many cases this will be solely based on the claimant's own account.

7. Finally, remember that issues such as affordability and availability of particular aids/appliances are outwith the scope of the HCP role within the WCA assessment and need not be considered when offering advice.

Please contact the Clinical Team Leader or Clinical Manager in the first instance with any queries about this Update to Standard.

This revised guidance will be implemented with immediate effect. **No rework in relation to this change should be accepted for cases that pre-date this.**