

17 November 2011

Dear J Newman,

Your request received on the 27 October 2011 asks six questions which have been answered in turn below:

*This descriptor used to relate to walking, but now uses the word "mobilisation" which I assume is intended to mean movement by any appropriate means.*

Q1: Can you provide an exact definition?

*I have been assessed in a recent WCA as 1(e), which means that on this activity, my condition presents no impairment to me working and as a result I was attributed no points. The distance threshold is at least 200 meters. I cannot walk even with a walking stick any more than about 25m without severe pain and having to rest – over this there is no dispute and my Decision Maker (DM) was happy to concede that this might be the case, but pointed out that it is irrelevant. He explained that the assessment was based on the fact that he believed I could cover 200m+ self-propelled in a wheelchair, even though I have never used one and none of the medical experts I have seen nor the Atos HCP have ever suggested I should. On this basis, any person with lower body problems of any severity, with any level of pain would be regarded as being able to work as long as they have use of their arms to self-propel a wheelchair. The justification is apparently that I did not declare any particular problems with my upper body at my WCA. true, but there was no conversation at all anywhere close to this - the Q&A in this regard was no more than my ability to work at a desk and make a cup of tea – nothing as strenuous as propelling a wheelchair.*

The wording of activity (1) in regulations is "Mobilising unaided by another person with or without a walking stick, manual wheelchair or other aid if such aid can reasonably be used"

Q2: Is this the correct and universal interpretation applied through the whole of DWP?

*When discussing the distance thresholds (50m, 100m, 200m) the DM stated that in their opinion the fact that I could drive a car indicated that I could propel myself in a wheelchair over 200m+. This "correlation" does not appear in any manual and was just his opinion which he said may or may not be shared by other DMs. He admitted this makes the DM process highly subjective and was surprised that I thought it could be anything else. He acknowledged that the outcome of my assessment could well have been different from another DM.*

The WCA handbook for healthcare professionals which is used by both Atos Healthcare professionals and Jobcentre Plus decision makers states:

"The modern working environment should allow for the use of a wheelchair and any other widely available aid and therefore the concept of mobilising within a workplace is considered the critical issue – rather than just the individual's ability to walk around a workplace."

"If the person does not actually have a wheelchair, they should be considered in terms of whether they could use one if provided, as manual wheelchairs are widely available. In terms of considering whether or not the person could reasonably use a wheelchair, the HCP must consider their upper limb function and cardiorespiratory status."

*Q3: Is this suggested correlation between driving and wheelchair usage sanctioned by DWP management and if so why is it not included in any manual or guide?*

*Q4: Do you regard its use with all of the assumptions in contains as fair on claimants and legitimate?*

The DWP expects decision makers to make a reasonable judgement based on the available evidence, which varies from case to case. For example this might include consideration of evidence about upper limb function and cardiorespiratory status in judging whether or not a person could reasonably use a wheelchair. A person's ability to carry out another physical function such as driving a car might be relevant in this context but the DWP would expect the decision maker to obtain relevant advice from a Health care professional before making a decision of this type.

*Q5: How can you guarantee consistency in decisions with the level of subjectivity he acknowledged exists.*

*We then discussed my zero points on the standing/sitting descriptor along similar lines. He acknowledged that the assessment was probably in error and 9 points was probably more correct, but as my total was going to be less than 15, it didn't matter what score was recorded.*

Guidance is issued to decision makers and is updated, for example, where the decision of an Upper Tribunal Judge establishes new case law. The DWP has quality checking arrangements in place to provide assurance on the standard of decision making following a WCA. Where a claimant considers that there is something wrong with the decision they have been given they can ask for a reconsideration which will be carried out by another decision maker or they can appeal to an independent First-Tier Tribunal.

*Q6: Does this misrepresentation of points reflect departmental policy and if so, in which manual is it articulated?*

*What I am looking for here is a clear explanation of how the treatment I have received reflects department policy, not just a statement of what that policy is. i.e. is what I have*

*experienced precisely what you would have expected and if not what steps you will be taking to address.*

The DWP would not expect a decision to be revised where there is no reason to revise it. There is guidance on this at paragraph 03210 of the Decision Maker's Guide.

<http://www.dwp.gov.uk/docs/dmgch03.pdf>

If you have any queries about this letter please contact me quoting the reference number above.

Yours sincerely,

DWP Central FoI Team

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