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## [Long Term Illness/Disability of a Relevant Other Child: Decision Making Guidance](#)

What is a Long Term Illness / Disability variation?

[2012/2677](#) *Regulation 64 of the Child Support Maintenance Calculation Regulations 2012*

Long term illness / disability covers certain additional costs that a non-resident parent incurs when providing day-to-day care for a relevant other child with a long term illness or disability.

### **The permitted expenses include:**

- personal communication;
- mobility;
- domestic help;
- medical aids\*;
- heating;
- clothing;
- laundry;
- food: where this is required to meet medically recommended dietary requirements;
- adaptations to the non-resident parent's home;

- day care;
- rehabilitation;
- respite care.

\*NOTE: where an aid or appliance can be provided under the NHS (by health services or local authorities) a variation will normally not be agreed, even if the item is not available due to lack of funds at a particular time. However, a variation can be agreed where there is likely to be a serious delay in supplying an item, which could lead to the child's condition seriously deteriorating.

Important Definitions for these purposes

### **Long Term Illness**

is defined as an illness likely to last for:

- at least twelve months (from the date of the variation application or the date that the variation, if agreed, would take effect); or
- for the rest of the relevant child's life, if that is likely to be less than 12 months.

### **Disability**

A relevant other child can be treated as disabled if at the time the variation application is made;

- Personal Independence Payments (PIPs)/Disability Living Allowance (DLA)/Armed Forces Independence Payments (AFIPs) is in payment for them, or has been awarded but is not yet being paid; or
- the relevant other child is / would be entitled to PIPs/DLA/AFIPs, but benefit is not in payment because they are a patient in hospital; or
- the relevant other child is registered blind or has only ceased to be registered as blind within the last 28 weeks. A child who has ceased to be registered as blind, because they have regained their eyesight, should still be considered disabled for variation purposes for a period of 28 weeks from the date on which they ceased to be registered.

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[Long Term Illness/Disability of a Relevant Other Child: Decision Making Guidance: Application](#)

All applicants must state the ground(s) they want to apply on or provide enough information for an appropriate ground to be identified.

## **Long term illness / disability: is the ground identified?**

Some non-resident parents may be aware of the variations scheme, and specifically ask for a variation to be considered. In other cases, they may just say that their assessment is too high and / or that they cannot afford to pay it, because of additional costs due to a relevant other child's illness / disability.

Example:

'I can't afford / it isn't fair that I have to pay this amount. My other child still lives with me and needs to have a special diet which costs me £30 extra a week'.

In these circumstances, you should try to establish whether the non-resident parent's costs fall within the grounds for a long term illness / disability variation. If so, you should advise the non-resident parent of the variations scheme and explain the process to them.

If the non-resident parent would then like to apply for a variation, you should try and obtain as much information as possible for the application to proceed.

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## **[Long Term Illness/Disability of a Relevant Other Child: Decision Making Guidance: Preliminary Consideration](#)**

All applications should be given preliminary consideration and rejected immediately if certain criteria are not met / apply.

If an application is made on multiple grounds, then preliminary consideration is applied to each ground individually. Only the ground(s) that fail preliminary consideration would be rejected on this basis. Any other ground(s) can be taken forward.

### **Fact based reasons for rejection**

An application should be rejected immediately if any of the following apply:

- a default maintenance decision (DMD) is in force;
- the non-resident parent is liable to pay the flat rate or nil rate because they or their partner are in receipt of prescribed benefits;
- the non-resident parent's gross weekly income would still exceed the capped amount (£3000) after deducting the special expenses claimed

### **Discretionary reasons for rejection: general**

Applications may also be rejected if you consider that the applicant has:

- not stated a ground or provided enough information for you to identify a ground;
- stated a ground, but has not provided any facts to support that ground or justify further enquiries;
- stated a ground and provided facts, but those facts do not fit that ground or any alternative ground

### **Long term illness / disability: discretionary reasons for refusal**

For the ground to be identified, the non-resident parent must confirm that they have particular expenses, relating to specific day to day care needs, arising from the relevant other child's illness / disability.

Examples:

The following type of statement will be sufficient to pass preliminary consideration:

- 'I cannot afford to pay this amount because one of the children living with me has severe food allergies, and I have to spend £30 extra a week on special food for them'.

The following type of statement will not be sufficient to pass preliminary consideration:

- 'I cannot afford to pay this amount because I spend £30 a week on groceries for the children who live with me'.

In this situation, the facts stated do not fall within the allowable costs for this ground. You should explain this to the non-resident parent and clarify what type of costs can be considered.

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[Long Term Illness/Disability of a Relevant Other Child: Decision Making Guidance: Gathering information and evidence](#)

If the case passes preliminary consideration, you need to obtain the necessary information and evidence from the applicant.

Long term illness / disability applications relate to the non-resident parent's own expenditure and so they can be expected to provide any information / evidence needed to support their application. You must obtain details of the amount and type of expenses that the non-resident parent wants to claim for. This is basic factual information that a non-resident parent must provide for an application to be properly considered.

You will also need to obtain appropriate documentary evidence to confirm the expenses claimed. Non-resident parents should be encouraged to provide supporting evidence, as this will help you to make an accurate decision. If a non-resident parent is unable to provide documentary evidence, you can still proceed with an application. In this situation you will need to make your decision on the balance of probabilities, taking into account the factual information the non-resident parent has provided and any information / evidence provided by the parent with care.

**REMEMBER:** you can only consider additional expenses relating to the child's health / disability. For example: if a child has special dietary requirements, you can only consider the difference between the normal cost of the item concerned and the special product required.

### **Details of the amount / type of expenses**

#### Example

'I pay £40 a week in extra heating due to my child's health condition.

The amount (£40 weekly) and type (additional heating costs) have both been identified.

### **Details not provided of the expenses amount / type**

If the non-resident parent does not know the exact amount, you can allow them 14 days to provide the details. If the information is not provided, you can reject the application without inviting representations from the other party.

#### Example

The non-resident parent states they want a variation to be considered for additional heating costs associated with their child's health. They state they will send in further details of the amounts involved and the reasons the increased costs are incurred.

The case passes preliminary consideration, because the facts alleged by the non-resident parent fall within the ground for a long term illness / disability variation, and there are no known reasons for automatic rejection. But there is not enough information about the amount / type of costs that the non-resident parent wants to be considered.

If the information is not provided after 14 days, the application can be rejected on the basis that there is insufficient information for a decision to be made.

### **Requesting additional information from applicants**

[2012/2677](#) *Regulation 58 of the Child Support Maintenance Calculation Regulations 2012*

If you need more information / evidence from an applicant in order to proceed with the application, you can ask them to provide this and allow fourteen days for their response. You may allow additional time if you are satisfied it is reasonable in the circumstances of the case.

Documentary evidence

For an application on this basis, evidence will be required of:

**the amount / type of costs claimed;**

The usual range of documentary evidence may be submitted to support an application based on long term illness / disability: e.g. receipts / bank statements / utility bills.

Where the costs claimed are for an increase in usual expenditure e.g. grocery bills or fuel costs – it may be difficult to establish the amount that should be attributed to the child's health. In these circumstances, you should consider whether the amounts claimed seem reasonable. If necessary, further evidence should be requested such as a letter of confirmation from the child's GP.

**the relevant other child's illness / disability**

Suitable evidence will include:

Long Term Illness:

- A letter from the child's GP / hospital / specialist

Where the link between a cost claimed and the child's medical condition is not clear, you may require the non-resident parent to provide evidence confirming the expenditure is necessary: e.g. a letter from the child's GP / Specialist / Hospital.

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[Long Term Illness/Disability of a Relevant Other Child: Decision Making Guidance: Representations](#)

This part of the process gives the other parties notice of the application and the opportunity to comment on it. This step should be completed once any information / evidence to support the application has been obtained from the applicant / other available sources.

**Representations do not need to be invited if:**

- it is clear from information provided by the applicant / other available sources that the variation will not be successful; or

- the non-resident parent has not provided details of the specific amount / type of their special expenses. In this situation you do not have enough basic information to make a decision on the application. Regulation 59(2)(a) of the Child Support Maintenance Calculation Regulations 2012

**When you invite the other party / parties to make representations, they must be:**

- notified that an application has been made; and
- informed of the grounds that the application has been made on, including any relevant information / evidence that has been provided by the applicant or obtained from other sources, unless it falls within the excluded information category;
- the other party should be allowed fourteen days to respond. You may allow additional time if you are satisfied it is reasonable in the circumstances of the case. If the other party fails to respond in the time allowed, you should decide whether to proceed with the application on the basis of the information held.

**Notifying the applicant about representations**

If the other party / parties agree with the facts provided by the non-resident parent, and do not wish to make any further comments, you can proceed with the application and decide whether to allow the variation. It is not necessary to invite further comments from the non-resident parent in these circumstances.

If the other party / parties disagree with the facts provided and submit additional information / evidence that conflicts with the details provided by the non-resident parent, you may need to go back to the non-resident parent for their comments.

However, this will only be necessary if you are unable to make a decision on the basis of the information / evidence submitted.

**Excluded information**

[2012/2677](#) Regulation 59(5) of the Child Support Maintenance Calculation Regulations 2012

1. medical evidence / advice that has not been disclosed to the applicant or the other party and that you consider could be harmful to the health of the applicant or the other party if disclosed;
2. the address of the other party or qualifying child and any other information that could lead to that person / child being located;

3. details of the nature of the long term illness / disability of the relevant other child, if the applicant asks for these details not to be disclosed, and you are satisfied disclosure is not necessary for the application to be decided.

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### [Long Term Illness/Disability of a Relevant Other Child: Decision Making Guidance: Deciding whether to allow the variation](#)

When you are deciding whether to allow a long term illness / disability variation, you need to consider all the following points:

- Do the expenses claimed fall within the permitted expenses?

#### **Are the expenses claimed linked to current / future expenditure?**

The costs that the application is based on must be:

- in place at the time of the application; or
- due to start at a known future date that is agreed by both parties.

#### Example

The non-resident parent provides confirmation that the relevant other child will start receiving regular respite care from a specified future date. The care provider has confirmed this and provided details of the amounts that will be due.

In these circumstances, a variation can be considered, with a future effective date, based on the agreed future costs.

A variation can also be considered where the relevant expenses were in place at the time of the application, but have ceased by the time a decision on the application is made.

In these circumstances, the variation can be considered for the period between the effective date of the variation and the date the expenses ceased.

#### Example:

The non-resident parent applies for a variation on long term illness / disability grounds on 1 July 2010. Due to the need for further evidence, a decision was not made until 1 September 2010. By that time, the decision maker has been notified that the relevant other child's entitlement to PIPs/DLAAFIPs ceased on 1 August 2010 and there are no other qualifying grounds. A variation can only be considered for the period between the date of the application (1 July 2010) and the date that the child's entitlement to PIPs/DLA/AFIPs ceased (1 August 2010)

## **Are the expenses claimed reasonable?**

In most cases, a long term illness / disability variation will be based on actual expenditure. However, if – based on the available evidence - you consider any expenses to be unreasonably high or to have been unreasonably incurred, you may apply a lower amount. This may be particularly relevant where the costs claimed are based on an increase to normal expenditure: e.g. additional heating / food costs.

NOTE: if necessary, you should contact the Advice and Guidance Team for further advice when deciding whether the expenses claimed are reasonable.

## **Does the non-resident parent receive any financial assistance?**

Non-resident parents, or a member of their household, may receive financial assistance towards the specific expenditure on which their application is based.

In long term illness / disability cases, financial assistance may be received from a range of sources: e.g.

- grants;
- charitable funding;
- Disability Living Allowance

Any financial assistance that is paid to the non-resident parent or a member of their household should be deducted. However, this only applies where it relates to the expense claimed.

For example: if costs for personal care are claimed, DLA care component can be deducted, but not the mobility component.

If DLA has been applied for but not yet awarded, it can be deducted if, when awarded, it will cover the effective date of the variation. If no financial assistance is in payment, then no amount should be offset against the expenses claimed.

It is also possible for DLA to be in payment for a relevant other child, but paid to a person outside the non-resident parent's household. In these circumstances, it would be unreasonable to deduct DLA from the expenses total and no reduction should be made.

- Finally, taking all of the above into account, is it Just and Equitable to allow the Variation

Remember: there is no financial threshold for long term illness / disability variations.

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[Long Term Illness/Disability of a Relevant Other Child: Decision Making Guidance: Effect of a variation](#)

There is no ground specific guidance for the effect of a variation. Please refer to the overview.

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