**Personal Independence Payment (PIP)**

**Implementation of legal judgment MM: Frequently Asked Questions (FAQ)**

**The MM judgment**

**What does the MM judgment mean?**

The MM Supreme Court Upper judgment was handed down on 18th July 2019. The case concerned the definition of “social support”, when engaging with other people face to face, in Activity 9 of the Personal Independence Payment (PIP) regulations, and how far in advance that support can be provided.

The full judgment is available online at: <https://www.supremecourt.uk/cases/docs/uksc-2017-0215-judgment.pdf>

The Department has undertaken significant work to implement the Supreme Court judgment in the PIP assessment process. We consulted Mind, the mental health charity (who joined the Supreme Court Case) and have updated the PIP Assessment Guidance (PIPAG) to reflect the clarity provided by this judgment.

We started to implement the judgment on 17 September 2020 and will be undertaking an administrative exercise, in due course, to identify existing claimants who may be entitled to more PIP as a result of the judgment.

**Implementing the MM judgment into the PIP assessment process**

**When did you implement the MM judgment into the PIP assessment process?**

DWP published the updated PIPAG on 17 September 2020. Our Case Managers and Healthcare Professionals working for our Assessment Providers started using the updated guidance on the same day.

**Where can I find the guidance (PIPAG)?**

The updated PIP Assessment Guide can be found here: <https://www.gov.uk/government/publications/personal-independence-payment-assessment-guide-for-assessment-providers/pip-assessment-guide-part-2-the-assessment-criteria>.

**MM Administrative Exercise**

**What are your plans for checking past claims that may be affected by the MM judgment?**

We are currently considering the administrative exercise we will need to carry out to identify those who may benefit.

We will be consulting with stakeholders over our plans for the exercise.

This is a really important area of work, and we are determined to get it right for all claimants and start the exercise as soon as we can.

**How will you identify people who may benefit?**

We will be treating the Upper Tribunal’s decision on 6 April 2016 as the “relevant determination” and will be using this date for checking claims.

We will be checking claims where claimants may be entitled to more points for Activity 9 (Engaging with other people face to face), in line with the Supreme Court judgment.

The extra points will need to make a material difference to a claimant’s PIP award i.e. where it means they should now be entitled to an award of the Daily Living component of PIP, either at the standard or enhanced rate.

We will provide further detail once our plans for the administrative exercise are finalised.

**What will this mean for current PIP claimants?**

Where claims are reviewed, as part of the administrative exercise, and this leads to an increase in the PIP award, claimants will receive backdated payments to the effective date in each claim. This will usually either be the date of the start of their PIP award, or the date of the UT decision, whichever is the later.

**What will this mean for PIP claimants who have previously been disallowed PIP?**

We will be checking claims which have been disallowed after the Upper Tribunal’s decision on 6 April 2016 to see if they are within scope for inclusion in the exercise.

If claimants were disallowed PIP before the UT decision on 6 April 2016, their disallowance decision will not be reviewed. If they think the MM judgment may apply to their claim, they should consider making a new PIP claim.

**Will claimants get compensation?**

We will pay claimants within scope of the administrative exercise any arrears of PIP they are due as a result of the Supreme Court judgment.

**What about claims where the DWPs award has been appealed?** **What about claimants who have appealed their PIP claim and their award was decided by a tribunal?**

We do not have the power to change decisions made by a Tribunal on the basis that their decision is wrong in law. Therefore, we do not plan to review cases where the award decision was made by a Tribunal.

If claimants feel that they are affected by the Supreme Court judgment, they can ask us to review their claim at any point and this may result in a supersession of their PIP award.

If a claimant’s needs arising from their health condition or disability have changed since their award was decided by a tribunal and they think they are affected by MM, they will need to ask for their claim to be reviewed as a Change of Circumstances.