

**INOU Welfare Rights
Information Services**

Discussion Forum

Tuesday 5th November, 2024



Social Welfare Payments – Issues and Anomalies

**A scheme based overview underlying issues
and anomalies occurring in Social Welfare
Schemes**

Robbert J. Lynch

Manager – Welfare Rights Information Service

Disability Allowance

Access, eligibility and qualification for Disability Allowance remains one of the most contentious means tested payment issues that the INOU regularly provides information and support on, to both individual applicants and those working with applicants.

The INOU carries out a significant amount of support and advocacy work relating to Reviews and Appeals in relation to Disability Allowance refusals.

From engagement and feedback through INOU affiliates and other organisations and groups, it is evident that a number of underlying anomalies currently affect the scheme.

These qualification / eligibility anomalies are directly quantifiable and measurable through the output of work through Social Welfare Appeals Office.

Through our ongoing work and analysis of the available data information deficits and gaps are clearly identifiable in the context of how the scheme is portrayed and communicated to applicants.

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Introduction

Qualification

To Qualify for a Disability Allowance payment an applicant must:

- have an injury, disease or physical or mental disability that has continued for a year,
- have an injury, disease or physical or mental disability that may be expected to continue, for at least one year
- be substantially restricted from doing work that would otherwise be suitable for a person of their age, experience and qualifications
- be aged between 16 and 66.
- satisfy a means test – Capital (savings, investments, property, etc including that of a spouse or partner)
- Satisfy a means test – Income (a test of income and or any income from a spouse or partner i.e. employment / self-employment etc.)
- Satisfy the habitual residence conditions (HRC)
- No 'transfer' from another payment to Disability Allowance.



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Qualification

DA Application Form

DSP Disability Allowance Application Form

Section 9: Medical Report for Disability Allowance

“One of the conditions for receiving disability allowance is that you must have a disability, medical condition, illness or injury.

As a result of this disability, medical condition, illness or injury, you must be determined by a Deciding Officer of the department as being substantially restricted in undertaking work that would otherwise be suitable for a person of your age, experience and qualifications.

In order to assess your medical eligibility, we need you to give us some information about you, your disability, medical condition, illness or injury and how it affects your daily life”

- Note the focus of the statement is not specifically on the nature and extent of the medical condition itself, but with an assessed impact that any declared medical condition has on a person's capacity or ability to engage in employment.



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DA Application Form

Website: www.inou.ie

DA Considerations

- Applications for Disability Allowance are not automatically refused on first application
- An underlying clinical medical condition does not automatically qualify a person for a Disability Allowance payment, in its own right – with some exceptions
- Subjective and contextual decisions about a person's ability and capacity are determined by a Deciding Officer as part of the persons application
- Evaluation of any education, training, work experience, voluntary work and / or family or household duties / responsibilities may impact qualification
- Consideration may be given to any current / previous SW payment the person was in receipt of – and any possible reasons for applying for DA from that payment
- The vast majority of applications are assessed / processed as Desk Assessments by Deciding Officers – who are not medically qualified
- There is no automatic ‘in person’ medical assessment for qualification
- There is no facility for the applicant, or their doctor, to request an ‘in person’ medical assessment as part of any application
- Jobseekers Allowance can be paid pending outcome of DA application.



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DA Considerations

DA Appeal Outcomes

Social Welfare Appeals Office:

From the SWAO Annual Report 2022.

Total Appeal outcomes 5,435 – highest number by SW scheme category

Disability Allowance Appeals	Figures	%
Appeal Allowed	2,348	43.2%
Appeal Partially Allowed	74	1.4%
Revised DO Decision	722	13.3%
Disallowed	2,222	40.9%
Withdrawn	69	1.3%



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DA Appeal Outcomes

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Appeals – Revised Decisions

- A Revised Decision refers to cases where a Deciding Officer or Designated Person in the Department of Social Protection has revised the original decision in favour of the customer, making it unnecessary for the Social Welfare Appeals Office to conduct an appeal.
- *“Typically, this arises where the customer produces evidence at appeal stage that was not available to the original decision maker.” (SWAO Annual Report 2022)*
- Overall Revised Decisions (27.7%): 6,728 were finalised as a result of revised decisions in favour of the appellant being made by Deciding Officers or Designated Persons before the appeals were referred to an Appeals Officer (6,462 or 27.0% in 2021).
- Revised Decisions for Disability Allowance Applications were 722 (13.3%)
- Appeal Allowed - 3rd highest at 43.2% of 5,435 - (Incapacity Supp 1 (100% of 1)
Insurability of Employment 60 (44.8% of 134)
- Appeals – average 13.7 weeks for Disability Allowance.
- Disallowed – no data or Oral Hearings / SW File or Representation



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Appeals – Revised
Decisions

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Why this matters

- Qualification for DA is based on two primary 'subjective' grounds – likely duration of disability and ability / capacity
- Initial decision on both usually made as Desk Assessment by a DO – not medically qualified
- Client's confusion / misunderstanding in relation to clinical medical condition being the primary qualification as opposed to DSP capacity / ability assessment
- In person medical assessment option not offered as option for GP when completing DA Medical Assessment part of application form
- In person medical assessment not being offered to applicant where in person engagement may support evidence / information / detail on application
- Over 13% of appeals the subject of a Revised Decision by a Deciding Officer subject to further evidence / information supplied as part of Appeal process
- Over 43% of appeals are Allowed by the SWAO, highly likely to be summary appeals (not in person) based on additional information / evidence supplied for appeal that was not the subject of a Revised Decision by a Deciding Officer.



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Why this Matters

Key Recommendations

It is evident, through the large number of successful Social Welfare Appeals and the significant number of revised Deciding Officers decisions that an underlying issue exists with the Disability Allowance scheme process.

On the basis of the 'reasoning' for the success of revised DO's decision and Appeals by the Social Welfare Appeals Office the following is recommended:

- Provide better 'plain English' communication of the official qualifying grounds for eligibility for Disability Allowance as applied by the Deciding Officer
- Engagement with medical professionals to clarify 'only fit for 20 hours work' opinions and scheme qualification in support of underlying medical conditions on DA application
- Greater recognition and awareness of the progressive and degenerative nature of conditions by DSP / DO's for DA. Promote a more practical and 'real life' impact and implications evaluation for applicants / recipients beyond an overly simplistic clinical 'medical' evaluation and assessment
- This would reduce the number of failed applications / reviews, increase processing times and reduce the number of requests for review and appeals.



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Key
Recommendations

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