

LIBERTY TO APPLY

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INTRODUCTION

- 1 This Bulletin is issued to supplement guidance in DMG Memo 36/07, in cases where the tribunal has decided an appeal, and referred calculation of amounts to a DM. In such cases the claimant has no right of appeal against the calculation, but disagreements can be referred back to the tribunal. This is known as "liberty to apply".

BACKGROUND

- 2 The process of referring disagreements about calculations back to the tribunal is usually applied in overpayment cases, where the tribunals decides that an overpayment is recoverable but calculation of the amount is referred to the DM. However, it can also be considered in other benefit cases.
- 3 For more information, including details of how applications will be processed by the TS, please see AMP 4/2006 which can be accessed at <http://intranet.dca.gsi.gov.uk/tribunals/Tribunals/sscsa/atwork/guides/chap/index.htm>.

ACTION TO TAKE

- 4 "Liberty to apply" is only appropriate where the decision notice clearly states that it is available. The LQPM will usually set a time limit for making an application. Appeals officers should note that this process is not an alternative to making an appeal. It is available because the claimant has no right of appeal against the DM's determination in cases where calculation is referred to the DM.
- 5 If the appellant contacts DWP and disagrees with the DM's calculation, the DM or appeals officer should refer the matter to the TS for consideration, with an explanation of the calculation.

- 6 Alternatively the appellant may apply directly to the TS. The TS will inform DWP that an application has been received.
- 7 Where the application is admitted by the TS, the appeal will be listed before the same tribunal for hearing. The sole issue before the tribunal is the calculation by the DM. The LQPM may direct that a further submission is produced before the hearing to explain the calculation.
- 8 If the application is not admitted, the LQPM may treat it as a request for
 1. a statement of reasons
 2. an application for set aside **or**
 3. an application for leave to appeal.

ANNOTATIONS

The number of this Bulletin (CAP Bulletin 07/07) should be annotated against the following CAP paragraphs:

6550, 6750.

CONTACTS

If you have any queries about this Bulletin, please write to ACI Division, Room GS36, Quarry House, Leeds.

ACI Leeds: October 2007