

# Consideration of the appeal

## Single appeal letter includes an appeal against another DM's decision

[See CAP Bulletin 03/08]

- 3000 If the appeal letter you are dealing with also contains an appeal from an outcome decision on another benefit:

Step	Action
1	send a copy of the appeal to the appropriate business unit
2	tell the tribunal clerk that there is a second appeal and this appeal needs to be heard with the other one, by annotating the AT37 - see para. 3005. The clerk will arrange for the appeals to be heard at the same session.

## Linked appeals

- 3001 To ensure the minimum delay in processing a claimant's appeal(s), as well as to save administrative costs, it is important that linked appeals (**where the outcome of one appeal is affected by, or depends on the outcome of the other appeal**) are heard at the same time by the same tribunal.
- 3002 This may be difficult where the tribunal composition is different for different benefits, e.g. IS and IB or IS and DLA. However, all that needs to happen is (taking linked IB and IS appeals as an example) for the medical member to retire from the tribunal while an IS appeal is considered.
- 3003 Linked appeals generally arise where qualifying benefits are involved. They may involve only one claimant, e.g. where entitlement to the SDP on IS depends on the outcome of a related appeal about DLA or they may involve two different claimants, e.g. CA and DLA. The onus is on both DMs to contact each other once it is known that they are dealing with linked appeals.
- 3004 In many cases it will be clear from the appeal form or letter that there are linked appeals. But problems may arise where there are linked appeals involving claimants with different surnames, for example partners, or appeals where the claimant's SDP has been stopped because a non dependant's SDP has been lost (and so the non dependant is no

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3005 - 3060

longer treated as such). However, where it is known from local knowledge that such cases may arise, they should be linked as above for hearing.

3005 Whenever linked appeals are identified, they should be noted on form AT37 in the linked appeal boxes.

3006 Appeals officers are reminded of the following guidance about action on linked appeals:

1. Where there are linked IB/Incapacity credits and IS appeals it is important to ensure that the IB/Incapacity credits appeal is heard first. In such cases, the IB DM should take the lead. (**See CAP 2300 - 2331**).
2. If CA is awarded and paid for the same period as a dependency benefit, e.g. an increase of RP for a spouse, there may be overpayments of both CA and the dependency benefit. (**See CAP 3201**).
3. If the appeal letter being dealt with also contains an appeal from an outcome decision on another benefit take the action outlined in para. 3000.

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## Liaison between JSA DMs and Sector DMs

### General

3050 The guidance in the following paragraphs modifies the foregoing guidance on linked appeals and must be considered when you need to liaise with colleagues dealing with LM questions in order to process a JSA appeal.

3051 Business units are encouraged to make local arrangements for effective liaison between JSA DMs and SDMs.

3052 - 3059

## Appeal against JSA outcome decision made solely as a result of a Labour Market determination

3060 If there is no doubt that an appeal is against a JSA outcome decision and the sole issue is a LM determination, the SDM will:

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- write the appeal with a contribution from the JSA DM **and**
- refer the appeal to the TS **and**
- if appropriate, present the appeal.

3061 The JSA DM may need to become involved at the end of the appeal process if the outcome results in a change in JSA entitlement.

3062 If an appeal is received against a JSA outcome decision, but the decision was made solely as a result of a LM determination it should be noted either clerically or on the system:

- that a copy of the letter of appeal has been sent to the SDM who will produce a submission which includes a contribution from the JSA DM, **and**
- show details of the office dealing with the appeal, i.e. where the SDM involved can be contacted.

3063 The JSA DM will send to the SDM:

- a copy of the form GL24DWP/appeal letter
- a covering minute telling them that the JSA outcome decision is dependent on a LM determination
- an opinion about when a contribution to their submission is likely to be completed, **or**
- a contribution to their submission.

3064 The contribution provided by the JSA DM will:

- explain how the LM determination affects entitlement and payability
- explain how the entitlement and payability of the decision under appeal will be affected if it is revised following a change in the LM determination
- include a reference to the relevant legislation (which can either be:
  - quoted in the body of the contribution **or**
  - included in an appendix).

3065 - 3069

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### **Appeal against a JSA outcome decision not involving a Labour Market determination**

3070 If an appeal is against a JSA outcome decision and does not involve any LM issues, the JSA DM will be responsible for the administration of the appeal.

3071 - 3089

### **Appeal against JSA decisions incorporating a Labour Market determination and a non Labour Market determination**

3090 This situation may arise, for example, where:

- an unfavourable determination has been made on the claimant's availability for employment, **and**
- they have appealed against the decision incorporating that determination, **and**
- the appeal is also against a determination that "the jobseeker has savings over the prescribed limit".

As there is only one outcome decision to appeal against, only one appeal submission is needed to cover both issues.

3091 Where an appeal is against a JSA outcome decision incorporating a LM determination and another non LM determination the SDM will:

- prepare the appeal, **and**
- obtain a contribution from the JSA DM on the non LM determination to be included in the appeal submission, **and**
- refer the appeal to the TS, **and**
- if appropriate, present the appeal.

3092 The JSA DM will register receipt of this type of appeal or the copy of the appeal from the SDM using the appropriate method for recording appeals.

3093 **In all cases** when the JSA DM produces a contribution for the SDM's submission

Step	Action
1	send the contribution to the SDM
2	Record the date the JSA DM's contribution is sent to the SDM on the appropriate method of recording appeals.

3094 The SDM will:

- annotate form AT37 'Joint Submission - JSA DM', **and**
- ensure the JSA DM has a copy of the appeal, **and**
- ask the JSA DM to produce a contribution to cover the non LM aspect of the appeal, **and**
- agree a date by which the contribution will be sent to them,
- on receipt of which, incorporate the JSA DM's contribution within their submission.

3095 The JSA DM will also produce a section headed 'Effect of labour market determination on JSA outcome decision' to be included in the SDM's submission. See para. 3064 for the information it should include.

3096 If an oral hearing is requested the LM PO and the JSA PO should liaise to decide whether one or both will need to present the case.

3097 - 3099

**Unclear which issue is under appeal**

3100 If it is unclear which issue is under appeal, the receiving DM must make necessary enquiries so that the appropriate matter can be addressed in the appeal submission.

3101 - 3117

3118 When the TS sets a date for the hearing they will inform whoever completed the AT37 of the date. This information should then be passed immediately to the appropriate DM(s).

3119 - 3134

3119 When the appeal has been heard and:

- the hearing was a paper one, **or**
- the S of S was not represented at the hearing, **or**
- the S of S was represented, but the decision was not handed out after the hearing,

the TS will send a copy of the tribunal's decision to whoever completed the AT37. The decision should be passed to the appropriate DM(s).

3120 - 3129

### **Appeal against a decision incorporating a Labour Market determination received outside the time limit for appealing**

3130 If the appeal against a decision incorporating a LM determination is received late the JSA DM will consider whether the time for appealing can be extended.

#### **See DMG volume 1 chapters 03 and 06**

3131 If the JSA DM extends the time for appealing, they will notify the SDM who will then follow the reconsideration process on the LM issue. If the appeal cannot be revised advantageously, the SDM will prepare a submission on the appeal.

3132 If the JSA DM **does not extend the time for appealing**, they will inform the SDM of the result. The JSA DM will then complete form AT37 and send it to the TS for a LQPM to give a ruling.

3133 The TS will notify the JSA DM of the LQPM's ruling. The JSA DM will then send a copy of the ruling to the SDM. Where the LQPM does not admit the appeal, the JSA DM should treat the late appeal as an application for supersession.

### **Late appeal decision - consideration of supersession**

3134 If a late appeal is received, and:

- the time for appealing is extended, but the decision is not revised, **or**
- the time for appealing cannot be extended **and**

- the time for applying for revision cannot be extended

the JSA DM will consider supersession. If the decision under appeal is superseded the claimant will be notified in the normal way.

- 3135 If the LQPM admits the appeal for hearing, and if the decision under appeal has been superseded, the TS must be told. Also, the submissions made to the TS should request the tribunal to limit their decision to the day before the first day covered by the superseding decision.

### **Appeal received outside the absolute time limit**

- 3136 If form GL24DWP/letter of appeal is received outside the absolute time limit, the JSA DM will send form AT37 to the TS for their ruling.
- 3137 The TS will notify the JSA DM of the ruling. The JSA DM will then send a copy of the ruling to the SDM.

### **Appeal is Outside of the Tribunals Jurisdiction**

- 3138 Where the appeal based on the LM issue appears to be OoJ, the SDM will complete the relevant boxes in the section "About the appeal" and give the reasons in the "Any other information" box, on form AT37, and send the AT37 to the JSA DM.
- 3139 On receipt of form AT37 from the SDM, the JSA DM should
- send the AT37 to the TS for a ruling on the OoJ issue **and**
  - send DL/CAP 34 to the customer.
- 3140 The TS will notify the JSA DM of the LQPM's ruling, and the JSA DM will then send a copy of the ruling to the SDM.

3141 - 3149

### **Appeals against Reduced Benefit Decisions**

- 3150 When an appeal is received against a RBD, any relevant CPs **must** be obtained from the appropriate CSA Centre before writing the appeal.
- 3151 The request for the CPs (CSA320) **must** be made by telephone or fax to the CSA Satellite Processing Centre.

3152 - 3999

3152 Where the appeal is made against the:

- **amount of the reduction**, the appeal will be OOJ of the appeal tribunal;
- decision and the amount of the reduction, the appeal submission should state that the 'amount of reduction' is outside the jurisdiction of the tribunal.

3153 - 3199

### **Overpayment of dependency benefit following award of CA**

3200 When CA is awarded and paid for the same period as a dependency benefit, e.g. an increase of RP for a spouse, there may be overpayments of both CA and the dependency benefit.

3201 If an appeal against the recoverability of a dependency benefit OP is received and CA has been awarded:

- check to see whether the CAU have received an appeal against their OP  
**and**
- if there is an appeal, liaise with the TS to arrange for them to be heard together.

**See paras. 3001 - 3005**

3202 - 3999