



# MESOTHELIOMA UK

## Supporting People With This Asbestos Cancer

### Appeals Factsheet

June 2017

#### What do I do when a benefit has been refused or the amount I have been given is incorrect?

If you disagree with a decision then the first step is to seek a **mandatory reconsideration**. This needs to be done within one month of the date the decision was sent to you although deadlines can be extended in exceptional circumstances. If the decision is not revised you then have the right to appeal to the First-tier Tribunal.

#### What is the Mandatory Reconsideration process?

You can ask for a reconsideration over the phone, but you should confirm your request in writing. Write to the office address on the decision letter and keep a copy of your request. It may be helpful to ask for a copy of the original claim form and any additional evidence used in reaching the decision. When you ask for the decision to be reconsidered, you should explain why you think the decision is wrong. If you think some facts have been overlooked or if you have evidence to back up your argument include these in your letter. Remember to do this within the one month time limit. A Decision Maker will then look at your reconsideration request and, if they agree with it, they will revise the decision.

Once a decision has been reconsidered, the decision maker will send you two copies of a mandatory reconsideration notice to let you know the outcome. You will need the extra copy of the notice if you wish to appeal to the First-tier Tribunal.

#### How do I appeal to the First-tier Tribunal?

Appeals for DWP-administered benefits are independent of the DWP and are run by the HM Courts & Tribunals Service (HMCTS). Appeals are made direct to HMCTS and have to reach HMCTS within one calendar month of the mandatory reconsideration decision being sent. Form SSCS1 needs to be used. This can be downloaded from [www.gov.uk](http://www.gov.uk) (enter SSCS1 into the search box.) A copy of the mandatory reconsideration notice has to be enclosed with this form.

#### The SSCS1 will ask for the following information:

- The date of the letter containing the decision. It is possible for an appeal to be accepted outside the one-month time limit if there are special circumstances causing the delay. Seek specialist advice.
- Some reasons as to why you think the decision is wrong. **It is important to get help with this part of your letter.**
- You will be asked if you want to attend the hearing or if you want it to be decided on paper. It is always better for you and/or a representative to attend the hearing.

- The name and address of anyone who has agreed to be your representative at the Tribunal Hearing. This can be your carer, friend or professional worker.
- Any dates when you will not be available to attend the hearing.
- Whether you can attend a hearing at short notice.

### **What happens after the Appeal has been sent off?**

HMCTS will send a copy of your appeal to the DWP and ask them to provide a 'response' to explain how they came to their decision. You and your representative (if you have one) will receive a copy of this and all of the evidence that has been used in reaching their decision. You should examine this evidence closely. If anything is not factually correct, or is misleading, you now have an opportunity to argue this in your response, called a submission which should be submitted within 28 days. This is something your representative will help you with. If the decision still remains unchanged you will be sent a date for the tribunal hearing.

### **At the Appeal Hearing**

The appeal panel generally consists of three people including a legally qualified judge and, in the case of disability benefits, a doctor. Sometimes there is also a representative from the DWP. The hearing should be informal and all parties will have an opportunity to put forward their case. You will then be asked to leave the room while a decision is made. Appeals against a decision of the First-tier Tribunal can be made to the Upper Tribunal but **only** on a point of law arising from the First-tier Tribunal's decision.

### **Further Help**

For help to check benefit entitlement, assistance with form filling or to discuss any problems with benefit/compensation applications please contact the Mesothelioma UK National Welfare Benefits Adviser on **0800 169 2409** or email [info@mesothelioma.uk.com](mailto:info@mesothelioma.uk.com) Alternatively, you can contact an Asbestos Support Group or your local Citizens Advice office.