



Medical evidence and appeals

This factsheet is intended for use by advice workers but may be useful to anyone appealing against a benefit decision. For information on employment and support see factsheet [employment and support allowance overview](#).

1. Introduction

Tribunals' decisions fit the facts of the appeal to a legal test. Facts are established by evidence.

Medical evidence is often essential to show that the appellant fits specific legal tests, for instance that:

- they are likely to have care needs sufficient for an award of disability living allowance or attendance allowance;
- they are exempt from the personal capabilities assessment;
- they have a recognised industrial disease;
- the effects of an illness were good cause for making a late claim for housing benefit.

2. What is medical evidence?

Medical evidence is information from a suitably qualified person about the appellant's medical conditions and their actual or likely disabling effects. It may also give information about medication, treatment, medical history and future expectations.

Medical evidence usually comes from health-care professionals involved in the appellant's treatment or from examining doctors working for the Department for Work and Pensions.

The most useful medical evidence addresses the specific legal test, but it not essential that it do so - inferences can be drawn from the evidence; e.g. medication dosages can indicate arthritis is severe enough to limit walking.

Medical evidence can take several forms, including:

- a report from a medical examination;
- a letter from a GP or specialist;
- X-rays, scan results, blood test results, etc;
- medical records or extracts from a medical file;



- a computer-printout prescription list;
- a sick note (form MED 3).

3. Can other evidence help?

Non-medical evidence can be used to establish medical facts. A statement (oral or written) from the appellant that they have a medical condition or a description of its effects is evidence that the tribunal must consider. Often, a diary showing the effects of the medical condition is very useful.

Similarly, social evidence can be used to corroborate medical evidence, including statements from:

- alternative therapists;
- care-workers;
- carers;
- childminders;
- community workers;
- employers;
- relatives and friends;
- social workers;
- teachers.

4. What medical evidence do you need?

Tribunals rarely need a full medical history. Ideally, a brief request to a GP or consultant for medical evidence will produce a letter or report that provides clear evidence that the appellant satisfies the relevant legal test. However, sometimes the medical professional is unable to answer the specific questions posed.

In most cases you will need to ask for:

- a list of all known medical conditions, with dates of onset or deterioration if needed;
- a list of medication and dosage;
- details of all medical treatments;



but not all of these will be needed in every case - especially if reliable evidence already establishes these facts.

Medical members on the tribunal will often use medication and treatments to estimate the severity of the medical condition.

Remember the legal test for the benefit - evidence requests should relate to this. For instance, for disability living allowance a request might include enquiries about:

- likely limitations on use of bodily functions;
- potential dangers that could be lessened by supervision;
- cooking difficulties;
- limitations to the ability to walk out of doors (effects from exertion, need for supervision, etc.);
- for a child, how their needs compare with children of similar age.

Sometimes very specific information is needed: details of terminal illness, kidney dialysis, severe mental impairment, degree of hearing loss, etc.

Where possible, the appellant should have seen the medical professional recently. If they have not, get them to make an appointment and make the professional aware of relevant symptoms – keeping a diary of recent effects of any medical conditions can be useful for this.

You need the information most helpful to the appeal, but try to avoid obviously leading the medical professional in your request – a tribunal may ask to see a copy of any letter you write asking for medical evidence. Ask open questions that allow the doctor room to express their opinion. Always ask the doctor to give any additional information they think will help.

If the appellant has a rare condition or one that you know little about, try to find out more about it. This can help you decide what information you need for the appeal. There is often a voluntary organisation that provides information about a specific medical condition. Many of these are listed in Disability Alliance's Disability Rights Handbook or on our website. A more detailed list is provided by the Voluntary Agencies Directory, available in most public libraries. Alternatively, an internet search can often provide useful information – but be careful; not all internet sites are careful in their research.



5. Paying for medical evidence

Medical professionals can charge for information. Practice managers at GP surgeries and hospital consultant's secretaries can give an indication of cost. Some appellants can afford to pay - others cannot.

Community Legal Service-funded advisers (casework) may be able to apply for the costs of medical evidence.

Some doctors do not charge or will write-off a charge that causes hardship.

Often, an informal approach to the doctor directly from the appellant will not result in a charge. If the appellant can explain what they need during an appointment with a GP or specialist and request a brief (perhaps handwritten) note, this can be both useful and free.

6. Presenting medical evidence

Once the evidence is obtained, its relevance must be explained clearly to the tribunal. If the evidence is sent to the tribunal before the hearing, think about writing a covering letter saying how it shows the appellant fits the legal test or corroborates evidence the tribunal already has. If the evidence is brought along to the hearing on the day, make sure you tell the tribunal why it is important.

Sometimes, evidence will need special equipment to allow the tribunal to use it – for instance a light-box to read an X-ray. Contact the Tribunals Service (TS) well before the hearing to make sure such equipment will be available if needed.

7. Alternatives

A copy of the appellant's full medical records can be requested. A charge of up to £50 can be made for supplying the records; but charges are usually less than this.

A medical report can be commissioned from an independent medical expert. Reports can be expensive. Again, if the appellant cannot afford the charges, Community Legal Services-funded (legal aid) advisers may be able to claim all or part of the costs. Advisers not funded by the Community Legal Service may be able to refer the appellant to a solicitor for a medical report to be commissioned.

If the appellant agrees, a tribunal can arrange for a medical examination to be carried out and a report prepared (except for industrial injuries benefit appeals). A tribunal will only ask for a medical report if it thinks it necessary to decide the appeal. The Tribunals Service will pay for the examination and report.



The appellant or their representative can ask a tribunal to arrange a medical report, but the tribunal is likely to do so only if it believes there is no other way of fairly deciding the appeal.

8. More information

Factsheet First Tier Tribunal Submissions – gives an overview of appeal tribunals.

DIAL Great Yarmouth are unable to provide representation at appeal, however they can refer you directly to a representative from CAB or Norfolk Coalition of Disabled People.

If you would like further information please contact

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