

**Compensation Recovery
Unit**

**Z2 - Recovery of benefits and or
lump sum payments appeal guide**

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Contents

- Compensation recovery scheme 3
 - Do you want more information about CRU's decision? 3
 - If you think the decision is wrong..... 3
 - What happens next?..... 3
 - If the decision can be changed 3
 - If the decision cannot be changed 4

- Who can appeal..... 5
 - When to appeal and time limits..... 5
 - Late appeals 6
 - How to appeal..... 6

- After you have made an appeal..... 7
 - Appeal tribunals..... 7
 - Oral hearings 8
 - Paper hearing 8
 - The result 8

- Appeals to the Upper Tribunal 9
 - How to appeal to the Upper Tribunal 9
 - Late Applications 9

Compensation recovery scheme

Social security benefits, lump sum payments and compensation payments may be paid because of the same accident, injury or disease. If this happens, the person or organisation that pays the compensation (the compensator) has to pay back the benefits and or lump sum payment to the Department for Work and Pensions (DWP), via the Compensation Recovery Unit (CRU).

CRU issue a Certificate that shows the compensator how much they have to repay. CRU send a copy of the Certificate to the injured person or their representative.

The compensator may, in certain circumstances, reduce the compensation award to take account of the amount of benefits and or lump sum payments they have to repay to DWP.

This guidance tells you what to do if you get a Certificate which you think is wrong. It also tells you how to appeal against a Certificate.

Do you want more information about CRU's decision?

You can contact CRU if you want more information about their decision and they will provide you with an explanation.

If you think the decision is wrong

Contact CRU immediately if you would like them to look at their decision again. You must put your request in writing, giving the reasons why you think the Certificate is wrong and providing relevant evidence.

What happens next?

When you ask CRU to look at a decision again, CRU will look at the evidence provided in order to determine if the decision can be changed. This action will be carried out by someone other than the original Decision Maker.

A different member of staff will usually do this.

If the decision can be changed

If CRU find that the amount on the certificate is wrong, CRU will

- send you a revised Certificate showing the correct details, or
- revoke the original Certificate.

Z2 - Recovery of benefits and or lump sum payments appeal guide

The amount on the Certificate can only be increased if the compensator gave CRU incorrect or insufficient information.

If CRU become aware that recoverable lump sum payments have been paid after a Certificate has been issued, CRU will issue a revised Certificate to include the lump sum payment amount and the revised Certificate will supersede all previous certificates.

If you do not agree with the new decision, you can ask CRU to look at it again.

If the decision cannot be changed

If the decision cannot be changed CRU will send you a letter telling you that they cannot change it. The letter will confirm CRU's original decision.

If you still think the decision is wrong after CRU have looked at it again, you may be able to appeal. The letter will tell you if you whether or not you can appeal.

Who can appeal

An appeal may be made by:

- a compensator, or
- by an injured person whose compensation payment has been reduced by the compensator to take account of benefit/lump sum payment recovery

The appeal must be in accordance with section 8 of the 1997 Act and Regulation 12 of the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008.

An appeal must be made in writing. You can use the Appeal form available on the DWP website at <http://www.dwp.gov.uk/docs/z2form.pdf>

An appeal against a Certificate may be made on the grounds that:

- any amount, rate or period specified in the Certificate is wrong;
- the Certificate shows benefits and or lump sum payments which were not paid as a result of the accident, injury or disease;
- benefits and or lump sum payments listed which have not and are not likely to be paid to the injured person have been brought into account;
- the compensation payment made was not as a consequence of the accident, injury or disease.

Please note: CRU will regard any requests for appeal that do not comply with the above grounds as being invalid and refer them to the Tribunals Service. A tribunal judge will decide if the appeal can be accepted as being valid.

When to appeal and time limits

An appeal can only be made after

- final settlement of the compensation claim, and
- payment of recoverable benefits and or lump sum payments has been made.

An appeal must be made **within one month** of the date on which the compensator makes the full payment of recoverable benefits and or lump sum payments to the Secretary of State.

Late appeals

Late appeals can be accepted where there are special circumstances for lateness. The absolute time limit for making a valid appeal is 13 months after the date the right to appeal arose.

A late appeal may be considered if there are special circumstances such as:

- a death
- serious illness
- absence abroad
- postal strike

The above list is not exhaustive.

The reason for the late appeal must always be provided.

A tribunal judge may be asked to look at the reasons you have given for not appealing in time and will decide if your appeal can be accepted. They will look at:

- whether there were special circumstances for the delay
- the length of time since the compensator paid the money to the CRU
- whether it is in the interests of justice that your appeal is accepted, and
- whether your appeal is reasonably likely to succeed.

How to appeal

Use the Appeal form available on the DWP website at <http://www.dwp.gov.uk/docs/z2form.pdf>

You can use a computer-generated version of the appeal form if it is in exactly the same format.

Write to CRU with the reasons for your appeal. Make sure you sign and date the letter/form. Complete all relevant boxes on the form. You can get help from an advice centre or a solicitor.

If you are the injured person, you must attach any letters you have from the compensator telling you that the compensation payment has been reduced in accordance with either section 8 of the Social Security (Recovery of Benefits) Act 1997 or Regulation 12 of the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008.

Send the form back to the Compensation Recovery Unit within the time limit.

After you have made an appeal

CRU will look at the Certificate, if they have not already done this.

If CRU agree that the Certificate is wrong, CRU will change it or CRU may revoke it.

If you still think the Certificate is wrong after CRU have looked at it again, you can appeal against the new decision. You can do this within a month of the date the new Certificate is issued.

The amount of benefit on the Certificate can only be increased if the compensator gave CRU information that was wrong, or did not give CRU enough information.

If CRU become aware that recoverable lump sum payments have been paid after a Certificate has been issued, CRU will issue a revised Certificate to include the lump sum payment amount and the revised Certificate will supersede all previous Certificates.

If CRU decide the Certificate cannot be changed, CRU will send your appeal and an explanation of the law and facts used to make the decision to the Tribunals Service. CRU will also include any other important papers.

CRU will send a copy of these papers to you. If you want the papers sent to someone who is going to represent you, you must contact CRU to tell them.

CRU will send you a letter advising which tribunal will contact you regarding your appeal.

Appeal tribunals

Appeals are heard by an independent tribunal administered by the Tribunals Service. The tribunals are made up of qualified members who are not from of the Department for Work and Pensions. The tribunal can only look at the:

- evidence,
- law, and
- circumstances at the time CRU made the decision you are appealing against.

The appeal decision will usually be made by a legally qualified panel member and a medically qualified panel member.

For appeals only, a claim is treated as finalised if provisional damages are paid.

Oral hearings

This is an appeal hearing which you can go to.

The tribunal may ask you questions.

You can ask questions.

If you are the injured person you can take someone with you to represent you.

You can call a witness to give evidence to the tribunal.

A representative from the Department for Work and Pensions will usually be at the hearing. They may ask you questions and call witnesses.

Oral hearings are usually open to the public, but anyone who goes to the hearing will usually be involved in the appeal. You can ask to have your appeal heard in private.

Paper hearing

This is an appeal hearing which you do not go to. The appeal will be heard and the Tribunals Service will send you the decision.

If you choose a paper hearing but change your mind, you can choose to have an oral hearing. But you must write to the tribunal straight away.

The result

You will be given a summary decision letter explaining the tribunal's decision as soon as possible after the appeal hearing. A copy will be sent to CRU.

If your appeal is successful, CRU will revise their decision and issue a fresh Certificate. CRU may not do this if they decide to appeal to the Upper Tribunal.

If your appeal is unsuccessful, you can ask for a Statement of Reasons. This gives an explanation of the Tribunal's decision including the

- facts, and
- relevant law used to make the decision.

You must ask for this within one month of the date of the summary decision.

You should read the Statement of Reasons carefully. If you still do not agree with the reasons for the tribunal's decision, you can apply for leave to appeal to the Upper Tribunal.

Appeals to the Upper Tribunal

Before you can appeal to the Upper Tribunal, you must have:

received a written statement of the initial tribunal's decision, and applied to the tribunal judge for permission to appeal.

A leaflet which gives a full explanation of how to appeal to the Upper Tribunal is available from the Tribunals Service.

Members of the Upper Tribunal are lawyers who are not from the Department for Work and Pensions, Jobcentre Plus or the Tribunals Service.

You can only appeal to the Upper Tribunal on a point of law. You cannot appeal to the Upper Tribunal about:

- questions of fact
- a tribunal's medical findings or conclusions.

How to appeal to the Upper Tribunal

Your decision letter from the Tribunals Service will tell you what to do if you are unhappy with the tribunal's decision. Read this carefully. It tells you important time limits for your appeal.

Late Applications

Late applications for a Statement of Reasons or for leave to appeal to the Upper Tribunal can only be accepted if there are special reasons for the late application. You will need to show why you were not able to make your request on time.