



Appeals process pre 23 May 2016

A certificate of recoverable benefits contains details of the benefits and/or lump sum payments paid in respect of an accident, injury or disease. A compensation payment may sometimes be reduced to take account of the amount repaid.

A certificate of health services charges contains details of the hospital and/or ambulance charges incurred as a result of an accident or injury.

If you do not agree with the details contained in either certificate you may appeal. The table on the following pages provides details of the appeal process.

	Certificate of Recoverable Benefits	Certificate of HS Charges
	<p>An appeal cannot be made until:</p> <ul style="list-style-type: none"> • the compensation claim has been finally disposed of; and • the Compensator has paid the amount specified in the certificate to CRS*. 	
Who can appeal?	<ul style="list-style-type: none"> • the Compensator • the Injured Person* (or another person to whom the compensation payment has been made) but only if the compensation payment has been reduced to take account of benefit recovery • a representative acting on behalf of either the Compensator or Injured Person 	<ul style="list-style-type: none"> • the Compensator • a representative acting on their behalf
Grounds of appeal	<ul style="list-style-type: none"> • any amount, rate or period specified in the Certificate is wrong • the Certificate shows benefit which was not paid as a result of the accident, injury or disease • benefits 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 	<ul style="list-style-type: none"> • an amount specified in the Certificate is incorrect • an amount specified in the Certificate takes into account treatment which is not HS treatment received by the injured person, as a result of his injury, at a HS hospital • an amount specified in the Certificate takes into account ambulance services which are not HS ambulance services provided to the injured person as a result of his injury • the payment on the basis of which the Certificate was issued is not a compensation payment
How to appeal	<p>A request for an appeal should be made in writing on Appeal Form Z3.</p> <p>You should summarise the arguments which you will use to support your view that the Certificate is wrong.</p>	<p>Use form HS30 to lodge your appeal. You should summarise the arguments which you will use to support your view that the Certificate is wrong</p>

	Certificate of Recoverable Benefits	Certificate of HS Charges
<p>When to appeal and time limits</p>	<p>An appeal must be made within the following time limits:</p> <ul style="list-style-type: none"> • not later than 1 month after the date the Compensator makes full payment to the CRS • where the appeal request has been treated as a review by the Department, not later than one month after the date on which the certificate is confirmed or, as the case may be, a new certificate is issued • where an interim payment has been made and is later treated as a final payment by way of an agreement between the Compensator and the Injured Person, not later than one month after the date of that agreement. <p><i>For appeal purposes, orders for provisional damages in personal injury cases made under or by virtue of paragraph 10(2)(a) of Schedule 6 to the Administration of Justice Act 1982, are to be treated as having been finally disposed of.</i></p>	<p>An appeal must be made within the following time limits:</p> <ul style="list-style-type: none"> • not later than three months after the date on the certificate or, if later, the date on which the compensation payment is made; • where a certificate is confirmed following a review by the Department, not later than three months after the date of that confirmation; • where an agreement is made under which an earlier compensation payment is treated as having been made in final discharge of a claim made by or in respect of an injured person and arising out of the injury or death, not later than three months after the date of that agreement • where the compensator makes a waiver application, not later than one month after the date of the waiver decision, or if the compensator appeals against that decision, the date on which the appeal is decided or withdrawn
<p>Late appeals</p>	<p>Where the time limit has expired an application can be made to the Legally Qualified Member of the AT, via CRS, for an extension of the time limit. The application should contain particulars of the grounds on which the extension of time is sought, including details of any relevant special circumstances. However, the applicant must satisfy the Legally Qualified Member that:</p> <ul style="list-style-type: none"> • if the application is granted there are reasonable prospects that such an appeal will be successful • it is in the interests of justice that the application be granted. <p>No appeal may be accepted if it is made one year or more after the date the right to appeal arises.</p>	

*Compensators may apply for the requirement for prior payment to be waived if payment would cause exceptional financial hardship. You should provide particulars of the exceptional financial hardship that would

be caused by payment of the amount specified in the HS Certificate. Compensators will have a right of appeal against a waiver decision using the same procedures as for an appeal against a Certificate.

A waiver application must be sent to the Department not later than;

- three months after the date on the Certificate, or if later, the date on which the compensation payment was made
- if the compensator has been granted an extension of the time limit for an appeal against a Certificate, one month after the date of that decision

Please note: The waiver provision applies to the waiving of pre-payment being made prior to an appeal application. This does not mean that payment of HS charges can be waived where an appeal upholds the Certificate of HS Charges.

** The Compensator must inform the Injured Person that the compensation payment has been reduced to take account of benefits recovered. This will normally be done in writing. A copy of that letter must be sent with the appeal. If the Injured Person has not received a letter, the Appeal form must include a statement saying who the Compensator is, and that the Compensator has informed the Injured Person that the compensation payment had been reduced.

Please note: Any requests for appeal that do not comply with the above grounds will be regarded as invalid and not submitted for hearing to The Appeals Service (TAS).

Late appeals are determined by an Officer of the Department or the chairperson of TAS and may be accepted where there are special circumstances for lateness. Late appeals may not be accepted 13 months after the date the right to appeal arose.

Appeals are heard by an independent tribunal administered by TAS.

THE APPEAL TRIBUNAL

The tribunal may decide that the amount on a Certificate is correct or it may increase or decrease it. It may declare that the Certificate is to be revoked. Following the decision we will either confirm the Certificate or revoke it and issue a fresh one.

Where the amount on a Certificate is increased following an appeal the compensator will be liable to pay the balance of recoverable benefits to DfC.

Where the amount on a Certificate is reduced, the balance will be refunded to the compensator.

Any party may make an appeal to the Social Security Commissioner against the decision of an appeal tribunal on the grounds that the decision was erroneous in law. Such an appeal may only be brought with leave of the Appeal Tribunal Chair or the Commissioner. Application for leave to appeal to the Commissioner should be made to TAS.

An application for leave to appeal to the Social Security Commissioner must also include a copy of the tribunal's Statement of Reasons. This should be requested within **one calendar month** of the date of issue of the tribunal decision. The time for making a request for a Statement of Reasons can be extended in certain circumstances, but not beyond an absolute time limit of three months.

An application for leave to appeal to the Social Security Commissioner should then be made within one month of the date of issue of the tribunal's Statement of Reasons.

Please note: Articles 12-16 of the Social Security (Recovery of Benefits) (NI) Order 1997 and Regulations 9 and 29-58 of the Social Security and

Child Support (Decisions and Appeals) Regulations (NI) 1999 contain all information regarding Reviews and Appeals.

HS APPEALS ONLY

For Road Traffic Accidents up to and including 28 January 2007, where the amount on a Certificate is increased following an appeal the compensator will be liable to pay the balance of HS charges to DfC.

Where the amount on the Certificate is reduced, the balance will be deducted from the HS Trust and refunded to the compensator.

An appeal against the decision of an appeal tribunal may be made by the compensator or the DfC to the Social Security Commissioner (or to the High Court in respect of injuries prior to 29 January 2007) on the grounds that the decision was erroneous in law. The appeal tribunal will send details of how to lodge such an appeal and the time limits, after your appeal to the Tribunal has been heard.

THE APPEALS SERVICE (TAS)

The decision making function of the Appeal Tribunal is completely independent of the Department for **Communities** and any other Government Department or Agency. This function is the responsibility of a President, a lawyer appointed by the Lord Chancellor. Tribunal members are also appointed by the Lord Chancellor. Queries about the decisions of Tribunals should be addressed to:

The President
The Appeals Service (NI)
Cleaver House

3 Donegall Square North
Belfast BT1 5GA

ABOUT THE APPEAL TRIBUNAL

CRS appeals are considered by an Appeal Tribunal (AT) which looks at the case again.

For Benefit Recovery appeals the AT will be composed of a person who is legally qualified & a person who is medically qualified. For appeals against a certificate of HS charges there is no requirement for a medically qualified person but one can be on the panel for appeals against accidents/injuries after 29 January 2007.

The AT can change the Certificate if it is wrong, but they cannot change the law that the decision is based on.

HOW TO MAKE AN APPEAL

A request for an appeal should be made in writing on the relevant appeal form. A computer-generated version of the appeal form can be used, provided it is in exactly the same format. It is important to indicate, on the appeal form, on which ground the appeal is being made and the date of the certificate or review decision of the Department against which the appeal is made.

You should summarise the arguments which you will use to support your view that the certificate is wrong.

If the Injured Person is to make the appeal in a benefit recovery case, then they must attach any letters they have received from the Compensator telling them that the compensation payment has been reduced.

WHAT HAPPENS AFTER YOU HAVE WRITTEN TO SAY THAT YOU WANT TO APPEAL TO THE AT?

Your appeal will be referred to the AT immediately upon receipt of your application as long as the appeal form has been correctly completed. The appeal must:

- be made on one of the grounds of appeal previously described. If the appeal is not made on one of the grounds of appeal, then there is no right to an appeal in these cases
- contain all the information requested on the appeal form. If this is not the case, the form will be returned to the person making the appeal who must return it to the CRS within the required time limit or, if that time limit has expired, within a further 2 weeks of that time limit

If the certificate is found to be incorrect, it will be amended and a new certificate issued. The new certificate will carry new appeal rights.

If the certificate is found to be correct, CRS will submit the appeal to TAS and the clerk to the Tribunal will write and ask if you want an oral hearing of the appeal. An oral hearing is one which all parties may attend. Otherwise the determination is decided solely on the written evidence sent to the AT by you, the other party and the Department. This is called a paper determination. You must respond to the clerk to the Tribunal, in writing and within 14 days, giving notification of which type of hearing you require.

Even if you decide not to have an oral hearing of your appeal the clerk to the Tribunal may advise you that an oral hearing will take place because the Department or the other party has requested one, or the legally qualified member of the Tribunal feels that an oral hearing is necessary. If an oral hearing is to take place the clerk to the Tribunal will let you know where and when the appeal will be heard. The clerk to the Tribunal will also send you a set of the appeal papers. These will have been prepared for the Tribunal by the CRS and set out how the Department reached the decision. You will get at least 14 days notice of an oral hearing.

If you decide not to have an oral hearing of your appeal, and then change your mind, you should write to the clerk to the Tribunal as soon as possible. The legally qualified member of the Tribunal will decide whether to hold an oral hearing.

WHAT HAPPENS IF YOU WANT TO WITHDRAW YOUR APPEAL?

The person who made the appeal may withdraw:

- at the hearing or
- by writing to the clerk to the Tribunal anytime before the appeal has been decided.

PREPARING FOR A PAPER DETERMINATION

Even if you have opted for a paper determination it is still important that you read the appeal papers very carefully. If there is anything you do not understand, ask the CRS to explain. The address and telephone number can be found on **page 10**.

You will be given the opportunity to respond to the appeal papers and send in any further information it is thought will help your case. The appeal will then be heard and the AT's decision will be issued.

PREPARING FOR AN ORAL HEARING

Please read the appeal papers. If there is anything you do not understand, ask CRS to explain. The address and telephone number can be found on page 10 .

If you cannot go to the hearing, for example because of illness, please let the AT clerk know immediately and ask for another date. If you wish to postpone the hearing, you must make such a request, in writing, to The Appeals Service.

Appeal Tribunals are held in

Cleaver House
3 Donegall Square North
Belfast BT1 5GA

or

12 Dublin Road
Omagh BT78 1ES

If you live abroad you should tell the AT clerk if you mean to go to the hearing. The hearing will be at the AT centre nearest to your place of arrival in Northern Ireland. If you cannot go, but someone is acting for you, the hearing will be at the AT centre nearest to them. If you are abroad temporarily you can ask for the hearing to take place after you come back to Northern Ireland.

THE AT HEARING

If you have opted for an oral hearing please try to attend. You do not have to go, but the AT would like to hear what you have to say. The AT is not as formal as a court. You can have someone to speak for you and you can also bring someone else with you. Even if you are on your own, the AT will help you to make the most of your case.

Hearings are usually open to the public, but normally the only people attending will be those involved in the appeal. You can have your hearing in private, if you prefer.

You may be asked questions. You can put questions to anyone called as a witness. You can also call witnesses to give evidence to the AT. In reaching their decision the AT must take into account any decision of a court relating to the same, or any similar issue arising from the accident, injury or disease in question.

THE RESULT

The AT may either:

- confirm the amounts/rates/periods specified in the certificate; or
- specify any variations which are to be made on the issue of a fresh certificate.

The AT cannot only decide that the certificate is correct or that it should be reduced, it can also decide that the certificate under appeal can be **increased** if benefits which should have been included have been omitted or if additional HS charges are payable for a Road Traffic Accident prior to 29 January 2007.

ADJUSTMENTS TO BE MADE FOLLOWING AN APPEAL

If a refund is due, as a result of a review or an appeal, where the Compensator has reduced the compensation payment to take account of benefit recovery, he/she must then re-calculate the net compensation payment and pay any amount over-deducted to the Injured Person.

If the AT decides that the Certificate should be increased following an appeal, then the Compensator will be liable to pay the Department the excess, via the CRS. The Compensator will need to refer to Schedule 2 of the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997, before considering whether or not he/she can seek reimbursement from the Injured Person for some, or all, of the extra payment from the increased Certificate.

IF YOU DO NOT AGREE WITH THE APPEAL TRIBUNAL (AT)

You may be able to appeal to a Social Security Commissioner. The next section tells you how.

APPEALS TO A SOCIAL SECURITY COMMISSIONER (SSC)

If you do not agree with what the AT has decided, you may have a right to appeal to a Social Security Commissioner (SSC)*. The following points are important.

An appeal must:

- be made in writing
- be given, or sent, to the office of the clerk to the Tribunal which made the relevant decision not later than 1 month after the date when a

notice of the AT's statement of reasons was given or sent to you, the applicant

- contain particulars of the ground on which it is made
- have a copy of the Statement of the Reasons for the AT's decision attached to it. As previously stated this statement is available, on request, from the clerk to the Tribunal

SSCs are lawyers who are independent of the Department and Tribunals. You cannot make your appeal to a SSC on a question of fact. You can appeal only on a point of law. You may think that the AT made a mistake in how they used the law, for example, they have not given the reasons for the decision they made, or, they have not used the right law for your case. If so, you can ask the AT Chairperson for permission to appeal to a SSC.

The SSC does not have the power to deal with medical questions, so you cannot appeal if you disagree with the AT's medical findings or conclusions. The letter that tells you what the tribunal has decided will also tell you how to appeal to a SSC.

A Statement of Reasons may be requested within 1 month of the issue of the decision of the AT. In appealing to the Commissioner you will need a copy of the Statement of Reasons. A copy may be requested within 6 months of the date of the decision.

***Note:** Where the appeal concerns a certificate of HS charges for a Road Traffic Accident which occurred prior to 29 January 2007 the AT's decision is appealed to the High Court instead of the SSC but the procedures for appeal are the same and "High Court" should be substituted for "SSC" in this instance.

WHO CAN APPEAL TO A SSC?

An appeal to a SSC can be made by:

- the Department
- the Compensator
- the Injured Person – but only if their compensation payment was reduced to take account of benefit recovery

Use the Appeal form below if you want to appeal against a certificate of recoverable benefits.

Use the HS30 form below if you want to appeal against a certificate of health services charges.

Please use **BLOCK CAPITALS** and **black ink** when you fill in the form.

WHAT TO DO NEXT

Send the form to:

Compensation Recovery Scheme
Debt Management
Social Security Agency
PO Box 2136
BELFAST
BT1 9RW

Or e-mail it to: CRSTEAM.BELFAST@NISSA.GSI.GOV.UK

If you need any further information write to us at the address above.

Alternatively, you can contact the CRS Appeals Team by:

telephone on 0300 123 1030

fax on 028 9037 4768 or

e-mail at CRSTEAM.BELFAST@NISSA.GSI.GOV.UK

Appeal form

Use this form if you want to appeal

Tell us who you are
Please tick the box that applies

A Compensator

An Injured Person

An Injured Person's
representative

- Please use BLOCK CAPITALS and BLACK INK when you fill in this form.

Injured Person's details

Surname and title

Mr/Mrs/Miss/Ms/Other

Other names

Address

Post code

Phone number

Social Security number or
National Insurance (NI) number

Compensation Recovery
reference number

Date on the Certificate of
Recoverable Benefits

/ /

Did the compensator make
a reduction in your
compensation payment? Yes
No

Did the compensator write
to you about this? Yes

Please send the copy of the letter with this form

No Please give full details of what the Compensator told you
about the reduction to your compensation payment.

Compensator's details

Name of company

Address

Post code

Phone number

Compensator's reference number

Did you make a reduction
in the compensation
payment? Yes
No

Please turn over ►

Appeal form – continued

Appeal grounds

Under which of the two grounds are you making your appeal?

Please tick the box that applies:

a amount, rate or period specified on the Certificate is wrong

b the Certificate shows benefit which was not paid as a result of the accident, injury or disease.

Please use the box below to summarise the arguments why you think the Certificate is wrong. It is not enough to say *'I disagree with the Certificate'*. The reason for the disagreement should be clearly stated. If you are applying for an extension of the time for making an appeal you must also state the special reasons for doing so. If you have additional evidence in support of your appeal, please attach it to this form. If there is not enough space in the box for all your reasons to be stated, please continue on a separate sheet.

Do you wish the appeal to be dealt with by oral hearing or paper determination?

Signature

Your signature

If someone has been officially appointed to act for you they should sign here

Date

/ /

What to do now

Send this form to the:

Compensation Recovery Scheme
Debt Management
Social Security Agency
PO Box 2136
BELFAST
BT1 9RW

Or email this form to:

crsteam.belfast@nissa.gsi.gov.uk

NOTIFICATION OF AN APPEAL AGAINST HS CHARGES

Please use **BLOCK CAPITALS** and **BLACK INK** when you fill in this form

INJURED PERSON'S DETAILS	
Surname and Title	
Other Names	
Address	
National Insurance Number	
CRS Reference Number	
Date on Certificate of HS Charges	
COMPENSATOR'S DETAILS	
Name of Compensator	
Address	
Telephone Number	
Compensator's Reference Number	
APPEAL GROUNDS	
On which of the following three grounds are you making an appeal?	
Delete the reason(s) that do not apply:	
<p>(a) that the amount specified in the certificate is incorrect;</p> <p>(b) that an amount so specified takes into account treatment which is not health services treatment received by the injured person, in respect of his injury, at a health services hospital;</p> <p>(c) that an amount so specified takes into account a journey, as a result of the incident, in a vehicle which was not a Northern Ireland Ambulance Trust vehicle; or</p> <p>(d) that the payment on the basis of which the certificate was issued is not a compensation payment.</p>	
<p>Please use the space overleaf to summarise the reason(s) why you think the Certificate is wrong. It is not enough to say, "I disagree with the Certificate" The reason(s) for the disagreement should be clearly stated.</p> <p>If you are applying for an extension of time to make an appeal you must also state your reasons for doing so. If you have additional evidence in support of your appeal please attach it to this form.</p> <p><i>If there is not enough space overleaf for all of your reasons to be stated please continue on a separate sheet of paper.</i></p>	
SIGNATURE	
DATE	
WHAT TO DO NOW	
Send this form to	Compensation Recovery Scheme Debt Management Social Security Agency PO Box 2136 BELFAST BT1 9RW Fax: 028 9037 4768

Statement of Reasons For Appeal

Do you wish the appeal to be dealt with by oral hearing or paper determination?