Part 10 - Labour Market

Contents

INTRODUCTION
CHECKING METHODOLOGY
AVAILABILITY
ACTIVELY SEEKING EMPLOYMENT (ASE)
Dormant Cases
Doubts identified about availability and/or restrictions placed on availability while checking ASE
TREATED AS ASE
JOBSEEKER’S AGREEMENT (JSAg)/CLAIMANT COMMITMENT
CLAIMANT FAILED TO ATTEND (FTA), INCLUDING MANDATORY INTERVIEWS,
ATTENDANCE FOR FORTNIGHTLY JOBSEARCH REVIEW AND SIGNED DECLARATION (FJR)
RULE OF THUMB
FAILURE TO PROVIDE A SIGNED DECLARATION, (POSTAL JOBSEEKERS).
No attendance or provision of declaration within 5 working days.
Fortnightly Job Search Review and signed declaration
SHORT PERIODS OF SICKNESS
ISSUES ARISING FROM THE END OF EMPLOYMENT
Date discrepancy on ES85
SANCTIONS (GENERAL)
REFUSAL OF EMPLOYMENT (RE)
Introduction

10000 This guidance explains the specific methodology that will be followed for the Labour Market (LM) aspect of the Jobseekers Allowance (JSA) check.

10001 Full guidance on the legislative requirements relating to LM can be found in DMG Volumes 4 and 6.

10002 Guidance on JCP policy and procedures for LM are found on the intranet in the Labour Market Conditions Guide.

Checking methodology

10003 You will have regard to the Jobseekers Agreement (JSAg), Intervention History, and Conversations screens on the Labour Market System (LMS), referral and decision screens on the Jobseekers Allowance Payment System (JSAPs).

Availability

10004 You will check whether the jobseeker is available for employment as set out in DMG Volume 4 chapter 21, and in the Labour Market Conditions Guide.

10005 Details of the circumstances where a person may be treated as available are contained in the Labour Market Conditions Guide and DMG Volume 4, Chapter 21.

10006 You will also check whether:

- the jobseeker is placing restrictions which have not been agreed and which do not fall within any of those categories where the Jobseeker is allowed to place restrictions on their availability; or
- the jobseeker is restricting on wages after 6 months, other than to the National Minimum Wage.

10007 If there is a doubt in the selected period as to whether the claimant was available for employment, or whether they were restricting their availability, you must leave the case outstanding for referral to a SDM for an opinion only for the period of the doubt.

10008 If the SDM gives an opinion that the claimant was not available, or was restricting their availability and did not have reasonable prospects of finding employment, during the selected period then you will record an official error.
Actively Seeking Employment (ASE)

10009 You will check whether the jobseeker is actively seeking employment during the selected period as set out in the DMG Volume 4 Chapter 21, and the Labour Market Conditions Guide.

10010 All jobsearch activities must be reviewed by the jobcentre. To record if ASE conditionality has been met the Jobcentre must complete the ‘conditions met’ or ‘conditions not met’ in the Interview History box on LMS. You will check ASE in the selected period or the previous two fortnights. If the ‘conditions met’ box has been completed in the selected period or one of the previous fortnights that part of the check may be cleared as correct.

10011 If neither of the ‘conditions met’ or ‘conditions not met’ options have been chosen in the selected period or the previous two fortnights, you must leave the case outstanding for the Jobcentre to arrange an interview with an adviser to establish whether the claimant was actively seeking during the selected period.

10012 If the adviser is satisfied that in their opinion there is evidence that the jobseeker was ASE during the selected period, accept the adviser’s reasons for accepting ASE unless there is evidence to the contrary. The adviser must substantiate why they have made their decision to accept ASE.

10013 A deemed error will be recorded if there is insufficient evidence to confirm that their decision is accurate.

10014 If the adviser identifies a doubt that the claimant was actively seeking employment, the claim should be referred to the SDM for an opinion only on ASE for the selected period.

10015 If the SDM gives an opinion that the jobseeker was not actively seeking employment in the selected period then record a payment error.

Dormant Cases

10016 Where the jobseeker ceased claiming because they have started work, clear the case as correct.

10017 If the jobseeker has ceased claiming JSA for any other reason, and there is no evidence on LMS to show that they were Actively Seeking Employment, you must leave the case outstanding for information to be obtained from the claimant regarding their job search in the selected period. If there is a doubt, the case must be referred to a SDM for an opinion on ASE.
10018 If the SDM gives an opinion that the jobseeker was not actively seeking employment in the selected period, you will record an official error.

10019 If no evidence is provided to show that ASE evidence has been obtained from the claimant, or if the SDM cannot give an opinion on the evidence submitted, you must record a deemed error.

Doubts identified about availability and/or restrictions placed on availability while checking ASE

10020 If you identify evidence whilst checking ASE that the jobseeker may be imposing restrictions on their availability or their availability is in doubt, the Jobcentre should be asked to interview the jobseeker regarding both their job search (if ASE in doubt) and/or their availability in relation to the selected period.

10021 If there is no doubt after the adviser interview, the adviser should be asked to re-examine the JSAg, and the adviser should refer any doubts to a SDM.

10022 If the doubt is for a past period and no longer exists, the Jobcentre should refer the case to a SDM for an opinion only on availability for the period of the doubt. If the SDM gives an opinion that the jobseeker was not available or was restricting availability in the selected period, then record a payment error.

Treated as ASE

10023 In certain circumstances jobseekers may not be able to satisfy the ASE requirements as set out in the DMG Volume 4 Chapter 21 and the Labour Market Conditions Guide.

10024 If you identify that the jobseeker has been treated as actively seeking and does not fulfil the criteria for the ‘treated as’ provision, you must leave the case outstanding for the claimant to be interviewed by an adviser, and for referral to the SDM on ASE if appropriate.

10025 If the ‘Treated as’ provision has been recorded for incorrect dates or longer than legislation allows, ask the Jobcentre to input the dates correctly or refer to the SDM as necessary. Record as an official error if the decision is to disallow JSA.

Jobseeker’s Agreement (JSAg)/Claimant Commitment

10026 You will check that there is a valid JSAg for the Selected Period as set out in DMG Volume 4 Chapter 21 and the JSAg section of the Get Britain
Working Guidance on the intranet. Where appropriate, a Claimant Commitment will replace a JSAg for all new claims and Work Programme returnees. In non UC pathfinder offices the Claimant Commitment is legally a Jobseeker’s Agreement and has to conform to what is required under the Jobseekers Act and regulations. Therefore Claimant Commitments must meet the appropriate requirements as specified at DMG 21810 et seq. The PM check of these Claimant Commitments will continue as per current methodology for checking JSAGs.

10027 The Claimant Commitments in pathfinder and non pathfinder offices will be stored electronically in a shared folder that PM will not be given access to. A paper copy of the latest Claimant Commitment will be held in the LMU and it will be necessary for you to request the Claimant Commitment. Where the case is live and there is not a Claimant Commitment to cover the selected period and the office cannot provide a hard copy, you will leave the case as incomplete for the office to provide a hard copy of the original or a claimant’s copy of the Claimant Commitment.

10028 The JSAg on LMS is acceptable evidence of an agreement providing that the JSAg agreed status shows “yes” and it covers the selected period.

10029 If a jobseeker makes a renewal claim within 14 days of the previous claim and the new claim is taken on form JSA4 RR (rapid reclaim) - the previous JSAg is still valid and an error should not be raised.

10030 Where the case is still live on LMS there is not a JSAg on LMS to cover the selected period and the office cannot provide a hard copy, PM will leave the case as incomplete for the office to provide a hard copy of the original or a claimant’s copy of the JSAg.

10031 If:-

• the office subsequently provides a signed copy of a valid JSAg covering the selected period or enables PM to have sight of a valid JSAg on LMS you will record this element of the check as correct;
• If it is confirmed that a Jobseeker’s Agreement definitely does not exist the cases will be classed as a full award error;
• the office provides an unsigned copy of a valid JSAg covering the period examined you will record a procedural error;

• Where the office fail to provide evidence of a valid JSAg within to the allowable period for incomplete evidence you will record a deemed error.
Claimant Failed to Attend (FTA), including mandatory interviews, attendance for fortnightly Jobsearch Review and signed declaration (FJR)

10032 You will have regard to the DWP benefit systems JSAg, Intervention History, and Conversation screens on LMS, referral, notepad and decision screens on JSAPS.

10033 You will consider whether a sanction should be imposed on the JSA paid to a jobseeker or joint claim couple because they have not:

• attended on the day; or
• attended on time

At a place specified by an Employment Officer and they have not shown good reason for not attending within 5 working days.

Note: Where one member of a joint claim couple is awarded an exemption the Employment Officer will not require that person to attend.

Full guidance is available in the Labour Market Conditions Guide.

10034 If the jobseeker fails to attend a notified interview, and subsequently contacts the Job Centre within 5 working days, but no referral to a SDM has been made, you must leave the case outstanding and for the necessary action to be taken, and refer to the SDM if appropriate.

10035 You should record an official error if the decision made by the SDM is to sanction the Jobseeker for receiving JSA and using ‘rule of thumb’ (see below), the decision would cover the selected period.

Note: If the sanction would not impact on the selected period, record a procedural error.

Rule of Thumb

10036 If a sanction referral was instigated by PM, a payment error is recorded if the decision would have covered the selected period, had it been referred by the Jobcentre at the time the original doubt was identified.

10037 In deciding on a start date for the sanction the SDM would apply the following principles, where the DM has to revise or supersede an award to impose a sanction, the sanction starts on:

• the first day of the benefit week following the date on which the DM decides to impose a sanction on the jobseeker or
• if JSA is paid other than fortnightly in arrears, the first day of the benefit week following the benefit week for which JSA was last paid. DMG Volume 6

10038-10049

Failure to Provide a Signed Declaration, (postal jobseekers).

10050 If the Jobseeker fails to provide a signed declaration as notified, and then provides such a declaration within 5 days, where the Jobcentre have not treated as straightforward and no referral to the SDM has been made on good reason, raise an error.

10051 The overpayment will be for any days in the selected period from the day of failure to provide a signed declaration up to and including the day before they actually do so. (Do not ask for a referral to the SDM or obtain a new claim to JSA.)

10052 If the Jobseeker fails to provide a signed declaration as notified, does so within 5 days, the SDM has disallowed good reason for the day of failure but no new JSA claim has been made, raise an error. The overpayment is for any days in the selected period from the day after the jobseeker failed to provide a signed declaration up to and including the end of the award period or until a new claim is made.

No attendance or provision of declaration within 5 working days.

10053 If Jobseeker FTA as notified within 5 working days, or fails to provide a signed declaration within 5 working days and no action is taken, raise an error. The overpayment is for any days in the selected period from the day after the last day attended, or a declaration was provided, up to and including the end of the award or until a new claim is made.

Fortnightly Job Search Review and signed declaration

10054 A Commissioner has accepted that where there is evidence that the Jobseeker attended the Jobcentre as required but there is no signature because it was forgotten by the client and the officer, it must be taken that the officer waived the direction that the client sign the declaration. If there is evidence on LMS to show the jobseeker attended the Jobcentre for their FJR, unless there is some additional evidence to show the Jobcentre requested the jobseeker to sign but they refused, there is no requirement to check the signature for the LM check.
Note: The fact that evidence was recorded on JSAPS and a payment was issued does not constitute evidence that the claimant attended for the purposes of this check. Under these circumstances record a procedural error.

10055 If you are content from information held on DWP benefit systems that the claimant attended for the period covered by the PM selected week you will treat this element of the check as correct.

10056 If there is no evidence that the claimant has attended the office in the form of an LMS record, record of job submissions and interventions history for the selected period leave the case as incomplete and ask the office to supply a copy of the relevant ES24 signing coupon to check that there is a signature for the PM selected period.

10057 Where the office fail to provide the requested evidence within the allowed PM deadlines a deemed error will be recorded.

10058 Where the office provided the ES24 signing coupon and no signature is present you will raise a whole award error for this element of the check. This error scenario should be recorded as, Control activities not carried out appropriately – Labour market issues.

10059 If the ES24 signing coupon presented for checking has the wrong dates on it but contains the signature you will ask the office to get the claimant to sign a new coupon with the correct dates on it. If the office subsequently supplies a signed ES24 coupon with the corrected dates you will raise a procedural error. This error scenario should be recorded as, Control activities not carried out appropriately ES24/ES25.

Note: It is accepted that the LM signing day may not be the same as the JSAPs BWE day which is determined by the claimant’s NINO. You must not request amendment of ES24 dates erroneously under these circumstances.

10060 If no coupon with the correct dates, and signed, is produced by the office in the allowed PM deadline a deemed error will be recorded.

Note: Sight of the coupon will only be required where there is no evidence on DWP benefit systems that the claimant has attended the office.

10061 – 10069

Short periods of sickness
10070 You will have regard to the LMU, Intervention and Conversation Screens on LMS, linking, referral and decision screens on JSAPs.

10071 You will check whether Jobseekers can be treated as capable, available and actively seeking employment for short periods of sickness once they have become entitled to JSA.

Note: Further information is available in the DMG Volume 4 chapter 20, and the JSA Procedural Guide

10072 You must leave the case outstanding if the dates for which the jobseeker has been treated as available and/or ASE are incorrect. Ask the Jobcentre to refer the case to the Decision Maker and record as a payment error if the decision is to disallow JSA.

10073 Ask the Jobcentre to refer the case to the Decision Maker and record as a payment error if the decision is to disallow JSA.

10074 You must leave the case outstanding if:

- the jobseeker has already had a period of temporary sickness on two occasions in 12 months or in a current job seeking period; or
- their period of sickness exceeds 14 days; or
- they have had a claim to IB or IS in the previous 8 weeks; or
- they have had a claim to ESA in the previous 12 weeks, and
- JSA has remained in payment for the selected period.

10075 You must ask that the JSA28 is referred to the BC to consider capability and record as a payment error if the decision is to disallow JSA.

Issues arising from the end of employment

10076 You will have regard to The History, and Conversation screens on LMS, form ES85, forms ES84 and ES461LV, the CMS input document and/or JSA1, referral and decision screens on JSAPS.

10077 You will check the reasons why a jobseeker’s employment ended, and whether the appropriate documentation was issued either to the jobseeker or their last employer.

Note: Full guidance is available in the DMG Volume 6 chapter 34 and the Labour Market Conditions Guide.

10078 You must leave the case outstanding for the correct forms to be issued and referred to the SDM as appropriate where:
• The claim is still ‘live’;
• and the jobseeker’s statements on form CMS1/JSA1 indicate they may have left their last job voluntarily prior to the JSA claim;
• and ES84/461LV was not issued to the jobseeker.

10079 You must record an official error if the SDM’s decision is to sanction JSA, and using ‘rule of thumb’ the sanction would cover the selected period.

10080 If the sanction would not impact on the selected period, record a procedural error. If no decision is received by the deadline for outstanding information, you must record a deemed error.

10081 If the claim subsequently goes dormant before the SDM decision, the SDM will not decide the case, and will supply a ‘Reserved’ decision. You must record the case as correct.

10082 You must leave the case outstanding for an ES85 to be issued to the previous employer, and referred to the SDM as appropriate where:

• the jobseeker gives some reason on the JSA1 for employment ending other than that they left voluntarily

10083 You must record an official error if SDM’s decision is to sanction for receiving JSA, and using ‘rule of thumb’ the sanction would cover the selected period

10084 If the sanction would not impact on the selected period, record a procedural error. If no decision is received by the deadline for outstanding information, you must record a deemed error.

10085 If the claim subsequently goes dormant before the SDM decision, the SDM will not decide the case and will supply a ‘Reserved’ decision. In this circumstance do not record an error, clear the case as correct.

**Date discrepancy on ES85**

10086 Where there is a date discrepancy and this has not been actioned, and there is a potential impact on the selected period, ask Jobcentre to take the appropriate action to refer to the relevant DM. If JSA is disallowed, use ‘rule of thumb’ to decide if to record as a payment error.

*Note: If the DMs decision does not affect the selected period, you will consider recording an ‘other period’ error due to claimant mistake or fraud, if the claimant contributed to the error.*
Sanctions (general)

10100 An amended sanctions regime was introduced on 22 October 2012 for Jobseeker’s Allowance (JSA) claimants aged 18 and over.

10101 Sanctions already being served will not be affected and will not link to any new sanctions for escalation purposes.

10102 There are three levels of sanctions, higher intermediate and lower. You will check that any sanction recorded has been imposed for the correct fixed period and any offence missed that could impact the selected period, again bearing in mind the maximum penalty.

10103 Where the claim is still ‘live’ and a doubt has been identified but no referral to a SDM has been made, ask the Jobcentre to take the necessary action and refer to the SDM if appropriate.

10104 In cases where a high level sanction of three years has been imposed you will check if the case should have been referred to a DM to reconsider the decision where the claimant has done more than 26 weeks since the sanctionable failure that led to the 3 year sanction. This will mainly be on repeat claims but could also happen during the life of a claim where there is part time work.

10105 Only treat as a payment error if the decision made by the SDM is to sanction the Jobseeker for receiving JSA and using ‘rule of thumb’ (see below), the decision would cover the selected period.

10106 If the sanction would not impact on the selected period, record a procedural error.

10107 From 22 February 2013, 16/17 year old claimants in receipt of JSA will also be subject to the same higher level sanctions for misconduct or leaving voluntarily as those aged 18 and over.

10108 Form JSA1(ILS), has been introduced from 13/05/13 to ensure a claimant has reclaimed JSA prior to a Sanction, following a disallowance, being considered. As part of the PM LM check it will be necessary for you to confirm that the JSA1(ILS) has been completed in these circumstances. If the JSA1(ILS) is missing follow the current guidance as in PMG7605. If a JSA1 (ILS) has not been completed or produced within the time limits and JSA has
resumed after the period of sanction has ended it will be necessary to raise an error

10109-10129

Refusal of Employment (RE)

10130 You will have regard to LMS Universal Jobmatch, JSAg screens, referral and decision screens on JSAPS.

10131 Further guidance can be found in the DMG Volume 6 Chapter 34, and in the Refusal of Employment section of the Get Britain Working Guidance on the intranet.

10132 PM will check whether action has been taken to identify whether Jobseekers have:

• refused or failed to apply for a job or
• refused or failed to accept a job which was offered

10133 Universal Jobmatch has changed how jobs that the claimant has been submitted to are identified.

10134 If the claim is ‘live’, you must leave the case outstanding for an interview with an adviser to be arranged, and for referral to the SDM where

• There is information that the jobseeker refused or failed to apply for employment; and
• The vacancy has been correctly notified to the jobseeker by an Employment Officer; and
• The case has not been referred to the SDM

10135 You must record an official error if the decision made by the SDM is to sanction JSA and using ‘rule of thumb’ the sanction would cover the selected period.

10136 Where the outcome of the referral is not known, the case must be left outstanding with the ECO for clarification to be obtained and, where applicable, the case to be referred to an SDM for a decision to be made.

10137 If further queries show that RE action should have been taken, the “rule of thumb” should be applied to determine if the decision affects the selected period.
10138 The start date to be used in calculating the “rule of thumb” should be the date on which the jobseeker first attends an interview at the Jobcentre, either with an advisor or for a fortnightly Jobsearch Review, after they have been submitted to the vacancy.

10139 If the case had been referred to the SDM at the time that the doubt could have been identified, and the decision would have covered the selected period, record a payment error.

10140 Where no RE referral had been made previously because the discretions had been applied where not appropriate, refer to the SDM. If a sanction is imposed the “rule of thumb” should be applied to determine if the decision affects the selected period.

10141 The start date for the “rule of thumb” in these circumstances should be the date on which the discretion was applied incorrectly and it was decided not to take further action.

10142 If the sanction would not impact on the selected period, record a procedural error.

10143 If the claim is dormant and the jobseeker ceased claiming because they have started work, clear the case as correct.

10144 If the jobseeker has ceased claiming JSA for any other reason ask JCP to note LMS conversation to reconsider RE action if the claimant resigns within 26 weeks. Where this is done clear the case as correct. Where this is not done within the deadline for normal incomplete case action raise a procedural error.

10145-10999