

# Periods of sickness and self-employment

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## Introduction

A self-employed claimant may have occasional minor illnesses like anyone else. Periods of minor illness need to be regarded as part of the normal pattern of self-employment. It is important that self-employed claimants understand they need to plan for this possibility and factor into their budget plans.

If they cannot run their business due to illness and cannot manage the loss of earnings, they may need to decide whether it is viable for them to continue. If they decide they cannot continue with their self-employment, they may have to accept they will be subject to normal conditionality.

## Decision making

When making the decision on how a period of illness will affect a claimant's self-employment status, you should consider the type and set up of the business, and the period of sickness. You must also decide all of the following:

- is the business on-going and if so who is running the business in their absence, for example friends or relatives?
- have they had to employ anyone specifically because of their illness?
- can they draw any assets from the business, for example money?

The capital assets of the business can be disregarded for a time to allow the claimant or partner to start or resume work if they:

- own all or some of the business assets and are temporarily not working as a self-employed earner because of illness or physical or mental disablement
- intend to start or resume work in the business as a self-employed earner when they are fit or able enough to do so.

If these conditions are satisfied, the business capital assets can be disregarded for 26 weeks or such longer period as is appropriate in the circumstances.

### **Example 1**

Person A is a self-employed physiotherapist within a long established business. They are the only physiotherapist and are unable to work because they are suffering from flu. Person A is unable to work for a total of two weeks. During that time their receptionist is:

- rearranging the appointments
- continuing to send out reminders for appointments
- booking new appointments

Person A is regarded as self-employed by HMRC National Insurance Contributions Office (NICO) and the bank still regards the business as a going concern.

It is decided that person A remains gainfully self-employed and the MIF will apply if necessary.

### **Example 2**

Person B is a plumber who is a sole trader. They have broken their leg and have been told by their doctor to avoid work for six months. Person B states that:

- their business activity depends entirely on their ability to work and until their leg heals they cannot do any work connected with their business
- they have told their customers they cannot do the work they have arranged, and to find another contractor
- they and their bank do not consider the business as a going concern
- they intend to restart work in the business when their leg has healed
- they have not removed any of their advertisements in case any contracts can be arranged for when they return to work

It is decided that person B has ceased self-employment temporarily and there are no earnings to be calculated. Any business assets can be disregarded because the claimant intends to return to the business as soon as they are well enough.

It is decided that person B is gainfully self-employed and the MIF will apply if necessary.

### **Example 3**

Person C is a self-employed mobile hairdresser. They have had a serious operation and have been advised by the doctor to avoid work and are unsure when they will be fit for work. Person C states that the business will cease trading.

As person C is unclear if/when they can take up work, the gainfully self-employed test has been applied again and they have been placed back in full conditionality whilst awaiting the outcome of their Work Capability Assessment (WCA).

### **Period of sickness during start-up period**

If the claimant's circumstances change and this results in them moving to a different regime, this could mean they are no longer considered to be gainfully self-employed. The start-up period will not be suspended, for example, if the claimant is unable to trade for 3 months due to illness the start-up period will not be suspended for those 3 months. The start-up period continues to run and additional time will not be added to the original one year.

The claimant can return to the start-up period when they are again considered to be gainfully self-employed, as long as it is within the original one year start-up period. They will only continue for the balance of time remaining.

### **Self-employed claimant makes a new Universal Credit claim**

A self-employed claimant attends to make a new Universal Credit claim and states they have a current fit note. Consider if it is a:

- **short term illness** – treat as a new claim for Universal Credit from self-employed, carry out a gainfully self-employed (GSE) test and apply Minimum Income Floor (MIF) if necessary
- **longer term illness but claimant wants to return to business when well** – treat as normal self-employed claim, if considered gainfully self-employed and running an established business MIF will apply
- **long term illness** – if claimant cannot run their business and it is unclear when/if they will take it up again, apply GSE test and potentially put claimant back into full conditionality whilst awaiting WCA (explain that there can only

be one start-up period every five years, and only for a different type of business)

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