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## Work Capability Assessment determinations

The Work Capability Assessment (WCA) outcome report, together with any other relevant health-related evidence, is used to determine if the claimant:

- has limited capability for work
- has limited capability for work and work-related activity
- does not have Limited Capability for Work, so is fit for work

These in turn determine:

- the claimant's Labour Market regime
- whether an additional amount can be included in the Universal Credit award
- whether a Work Allowance applies
- if childcare costs are payable in couple claims

## Labour Market regime

The following table shows the three possible determinations following a Work Capability Assessment (WCA), the Labour Market regime and the claimant requirements:

<b>The claimant is determined as having -</b>	<b>Labour Market regime</b>	<b>The claimant is required to -</b>	<b>The claimant is not required to -</b>
<b>Limited capability for work</b>	changes to the Work Preparation regime, unless other circumstances mean the claimant is	participate in Work Focused Interview and undertake Work Preparation activities.	be available for and start work.

	already allocated to a less intensive regime.	inform Universal Credit if there is a change of circumstances.	
<b>Limited capability for work and work-related activity</b>	changes to No Work Related Requirements regime.	inform Universal Credit if there is a change of circumstances.	Fulfil any work related requirements.  They can access support on a voluntary basis.
<b>No limited capability for work (so is fit for work)</b>	is unchanged. They remains in the Intensive Work Search regime unless other circumstances mean the claimant is already allocated to a less intensive regime.	participate in a Work Focused Interview and can be set any of the work-related requirements, for example: Work Preparation activities, specific work search activities and availability for work.  inform Universal Credit if there is a change of circumstances.	

For more information, see Work-related activities and the Labour Market regimes and Labour Market regimes.

The entire Claimant Commitment is reviewed, including the Labour Market regime, following the WCA decision. This is to ensure that the regime and availability requirements are set as appropriately. More detailed guidance can be found in Claimant Commitment.

### **Limited Capability for Work**

A claimant has limited capability for work (LCW) when their capability for work is limited by their physical or mental condition and it is not reasonable to require them to work.

A claimant has LCW when either of the following apply:

- it is determined from the WCA decision that they have LCW
- they are treated as having LCW

## **Limited Capability for Work after 3 April 2017**

Claimants making a claim on or after 3 April 2017 on health grounds are no longer awarded the additional amount of Universal Credit for having Limited Capability for Work (LCW).

If payment of the additional amount for having LCW is already in place, payment will continue as long as the claimant continues to be entitled to Universal Credit and has LCW.

All claimants in the Work Preparation regime who have a LCW decision following the outcome of their WCA have access to a range of additional support. This support is to help them prepare for, and move into work. The support is provided through the Enhanced Support Offer (ESO).

## **Limited capability for work and work-related activity**

A claimant has limited capability for work and work-related activity (LCWRA) when their capability for work and work-related activity is limited by their physical or mental condition and it is not reasonable to require them to undertake work-related activity.

A claimant has LCWRA when either of the following apply:

- it is determined from the WCA)
- they are treated as having LCWRA

## **Risk to self and others**

In addition to the 'treated as' circumstances referred to above, there are further circumstances when a claimant can be treated as having LCW or LCWRA.

These circumstances can be considered by a healthcare professional during the assessment or by a decision maker following a recommendation from Centre for Health and Disability Assessments of 'fit for work' or LCW respectively.

The claimant can be treated as having LCW if they are suffering from a specific illness, disease or disablement where there would be a substantial risk of damage to anyone's physical or mental health if the claimant was found not to have LCW.

However, the claimant is not treated as having LCW if the risk could be reduced significantly by:

- reasonable adjustments being made in the claimant's workplace, or
- the claimant taking medication to manage their condition (as prescribed by a registered medical practitioner treating the claimant)

In these circumstances 'anyone' means the claimant or anyone else who may be affected by the decision.

If the recommendation of the health care professional is that the claimant is fit for work or has LCW but not LCWRA, they can be treated as having LCWRA if they are suffering from a specific illness, disease or disablement where there would be a

substantial risk of damage to anyone's physical or mental health if the claimant was found not to have LCWRA.

In these circumstances 'anyone' means the claimant or anyone else who may be affected by the decision.

### **Claimants found fit for work**

Fit notes are not required after the Work Capability Assessment (WCA) decision has been made. Only where the claimant's condition has worsened or a new condition is reported do we need another fit note.

Any work-related requirements must take into account any continuing health condition or disability even when the claimant is found fit for work.

Any work the claimant is expected to search for and the hours of work search must be reasonable taking into account their health, abilities and circumstances. Similarly, the type and location of any work being searched for must be appropriate. See Expected hours and Availability for work.

If a claimant is found fit for work and their condition is the same, or substantially the same, as the condition they were suffering before the WCA, work search and availability requirements are not automatically switched-off for up to 14 days.

See Switching-off work availability and work-related activities and Medical evidence including fit notes or Switching-off requirements (easements) for Labour Market regime interventions for further information.

### **Claimant feedback**

Claimants unhappy with the WCA decision can request an explanation by phoning the Service Centre. If the claimant is still unhappy following the explanation, they can request a Mandatory Reconsideration through their online account and may provide further medical evidence. If the claimant is unable to make the request on the online account, then they can do this over the phone.

If they are not happy with the Mandatory Reconsideration decision, there is the facility to lodge an appeal with His Majesty's Courts and Tribunal Service.

### **Claimant reports a deteriorating or new medical condition**

Following the WCA outcome, the claimant's condition may deteriorate or they may also develop a new health condition.

Claimants must be advised to declare their deteriorating or new condition and provide a fit note to support this in their Universal Credit account. The claimant must not be advised to ask their GP for a letter as there may be a charge for this.

Claimants who were found to have:

- LCW - must be referred for a re-assessment
- no LCW or were fit for work - must be referred for a new initial WCA assessment

A decision will be made on the WCA assessment based on the deteriorating or new condition.

For more information on making a WCA referral for these claimants, see Spotlight on: making a Work Capability Assessment or reassessment referral.

### **Additional amount for caring**

The additional amount for caring, and the additional amount for having LCW cannot be paid at the same time to one claimant.

The higher of these additional amounts, the additional amount for caring is payable. Refer to Claimant in receipt of an additional amount of Universal Credit for Limited Capability for Work or Limited Capability for Work and Work-Related Activity.

A claimant receiving the additional amount for caring has an underlying entitlement to the additional amount for having LCW. This is the case when they have been determined as having LCW based on medical evidence provided prior to 3 April 2017.

If the claimant no longer meets the carer criteria after the 3 April 2017, the underlying entitlement to the additional amount for having LCW no longer applies. This means the claimant will not be entitled to the additional amount for having LCW.

Claimants in receipt of the additional amount for caring who provide medical evidence of being unfit for work on or after 3 April 2017 will be referred for a Work Capability Assessment (WCA) where appropriate.

Following the outcome of the WCA, if the claimant is determined as having LCW this is noted on the Service. The claimant is eligible for a Work Allowance but no additional amount can be awarded.

### **Changes to a Work Capability Assessment decision on or after 3 April 2017**

When a review WCA decision is made on or after 3 April 2017 which results in a determination that the claimant has LCW, but before that date the claimant was either:

- in receipt of the additional amount for having LCWRA, or
- unfit for work and were awaiting the result of a WCA which subsequently determined the claimant to have LCWRA

The additional amount for having LCW is awarded to the claimant with either of the following exceptions, the claimant:

- is part of a joint claim and their partner has underlying entitlement to the additional amount for having LCWRA
- has underlying entitlement to the additional amount for caring

In joint claims, the claimant's partner may have an underlying entitlement to the additional amount for having LCWRA. Where this is the case and the partner's WCA determination is still valid, the partner is awarded the additional amount for having LCWRA. In these circumstances, the additional amount for having LCW cannot be paid to the claimant. The partner's additional amount for having LCWRA should be put into payment.

If the claimant has underlying entitlement to the additional amount for caring and the caring criteria continues to be met, this must be put into payment.

### **Work Capability Assessment outcome received on or after 3 April 2017**

If a claimant has made a health condition related claim for Universal credit or Employment and Support Allowance (ESA):

- on or before the 2 April 2017 but the WCA outcome report was received on or after the 3 April 2017, and
- the claimant has provided continuous medical evidence up to the date it is decided the claimant has LCW

The additional amount can be paid unless one of the following applies:

- the claimant is part of a joint claim and the partner is already in receipt of the additional amount for having LCW or for having LCWRA
- the claimant has been awarded the additional amount for caring and the caring criteria continue to be met

### **Reconsideration or appeal of an Employment and Support Allowance claim**

If an ESA claimant is found fit for work, ESA entitlement ends. The claimant has a number of options including asking for a Mandatory Reconsideration or claiming Universal Credit.

If the claimant does not claim Universal Credit, there will be no benefit payable throughout the Mandatory Reconsideration period.

If the ESA claimant did not make a Universal Credit claim and the Mandatory Reconsideration is successful, the claimant can return to ESA. See Mandatory Reconsiderations.

If an appeal is lodged and Universal Credit is not claimed, ESA can be reinstated at the appeal rate until the outcome is notified.

If the claimant made a claim to Universal Credit and then requested an appeal of their ESA decision, they will remain on Universal Credit even if their ESA Mandatory Reconsideration or appeal is successful.

ESA will notify Universal Credit of the Mandatory Reconsideration or appeal outcome. Universal Credit will consider the outcome and any impact this has on existing WCA decisions.

The additional amount for having LCW following an appeal:

- can be paid if the claimant was in receipt of the ESA work-related activity component when the ESA claim terminated, unless either one of the following apply:
  - the claimant is part of a joint claim and the partner is already in receipt of the additional amount for having LCW or for having LCWRA
  - the claimant has been awarded the additional amount for caring and the caring criteria continues to be met
- cannot be paid if the claimant was not eligible for payment of the ESA work-related activity component when the ESA claim was terminated

If there is no Universal Credit WCA decision on the claim, the ESA appeal outcome will apply from the start of the new Universal Credit claim. This will only apply if there is no gap between the ESA and New Universal Credit claim.

### **Natural migration to Universal Credit from Employment and Support Allowance**

If an ESA claimant in the work-related activity group migrates to Universal Credit, or makes a joint claim with a Universal Credit claimant on or after 3 April 2017, the additional amount **cannot** be paid unless:

- the claim for ESA was made before 3 April 2017
- the claimant was entitled to the Work Related Activity component of ESA
- the claimant was continuously entitled to the Work Related Activity component up to the date on which the Universal Credit claim is made or treated as made

### **Universal Credit award**

Additional amounts of Universal Credit may be awarded when claimants are found to have Limited Capability for Work or Limited Capability for Work Related Activities. More guidance can be found in Rates for Universal Credit.