

Employment and Support Allowance (ESA): the implications for people with depression

DA member Cathy Stillman-Lowe looks at the changes that the introduction of employment and support allowance will bring to people with depression who are too ill to work.

Introduction

Employment and Support Allowance (ESA) is a new benefit that will replace Incapacity Benefit (IB) and Income Support (IS) paid on the grounds of ill-health or disability. ESA will have a new structure that has both a contributory element and a means-tested element. The test of entitlement to the contributory element will be similar to that currently used for IB, i.e. sufficient national insurance contributions paid. The test of entitlement for the means-tested element will be similar to that currently used for IS, i.e. an income-based assessment. The introduction of ESA for new claimants is scheduled for 27 October 2008.

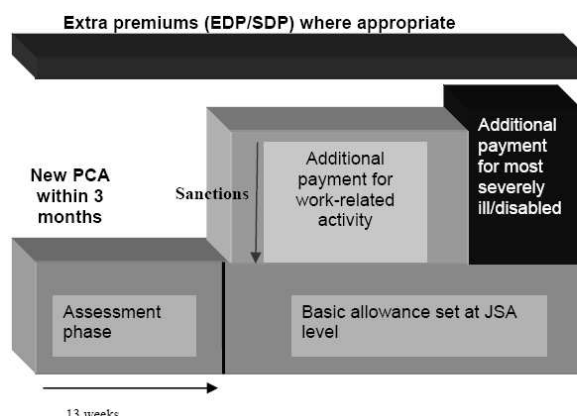
According to the Government, ESA has been designed to help claimants achieve their full potential, if they have a health condition or are disabled, and help them to gain independence from benefits. It does so by focusing on a claimant's abilities – on what they can do rather than what they can't – and supports their return to work. *Disability Alliance* (see contact details below) has produced detailed information on how the new benefit will work, and this is summarised in the remainder of this article. They will be producing an ESA guide in October that will explain how the benefit will work in practice, available to purchase via their website.

How ESA is structured

There will be a 13-week assessment phase for all new ESA claimants. During this period, claimants will be paid an 'assessment phase' rate of ESA, with a lower rate payable for under 25-year-olds. After the 13-week assessment

phase, there will be an additional element payable on top of the basic rate of ESA. Claimants placed in the 'support group' will receive a slightly higher element than claimants in the 'work-related activity group'. Claimants under 25 years that have completed the 13-week assessment phase will receive the full basic ESA rate rather than the reduced amounts payable in the assessment phase referred to above. Further, the Severe Disability Premium and Enhanced Disability Premium, currently payable with IS, will also be payable under the new system.

The diagram below shows how the system should work:



During the 8th week of an ESA claim, the DWP intend to carry out a work-focused interview with all ESA claimants. A Jobcentre Plus personal adviser will meet the claimant to discuss their ESA entitlement, their aspirations for work, the steps that could be taken to help them to take-up a job and the support that is available.

The work capability assessment

In addition to the basic tests of entitlement, ESA claimants will have to undergo a work capability assessment (WCA) within the 13-week assessment phase. The new WCA will look at:

- whether they have limited capability for work, and
- whether they have limited capability for work-related activity, and
- a work-focused health-related assessment for most claimants.

The first assessment will be similar in structure to the current incapacity benefit Personal Capability Assessment (PCA) and will be used to assess basic eligibility for ESA. The second part of the assessment is new and will assess whether a claimant is placed in the 'support group' or the 'work-related activity group'. The third part of the assessment only applies to claimants placed in the work-related activity group.

Taking the three assessments in turn:

1. **Limited capability for work assessment:** This assessment will be carried out by a health care professional working for DWP. The health care professional will investigate a number of physical and mental health functions of the ESA claimant. The various functions are called 'descriptors'. Depending on the level of a claimant's functional limitations in relation to these descriptors, a score of 6, 9 or 15 points is assigned to each descriptor. If the total score of descriptors is high enough (15 points or more) then, as with the existing PCA, it will be accepted that the claimant has limited capability for work and is thus entitled to ESA. More information on the scoring system for the mental descriptors is given below.
2. **Limited capability for work-related activity:** This assessment will be carried out at the same time as the limited capability for work assessment. This looks at whether it is reasonable for the claimant to undertake any work-related activity. If a claimant demonstrates that any one of 46 descriptors applies to them, they will be put into the 'support group'. Those claimants placed in the 'support group' will not be expected to engage in work related activity, although they can volunteer to do so. Those in the 'work-related activity group' will have to undertake a variety of work-related activities as a condition of continued entitlement to ESA, and will undergo five further work focused interviews after the 13-week assessment phase has passed. During these interviews, a

personal adviser will try to help the claimant back to work.

- 3. Work-focused health-related assessment:** The work-focused health-related assessment (WFHRA) will be carried out by a health-care professional approved by the Secretary of State. It seems likely that this will be carried out immediately after the two capability assessments, as noted above, although it only applies to those claimants placed in the work-related activity group. The WFHRA provides additional information about the claimant's residual functional capacity, ie what the claimant can do despite their disabling condition, as well as information about any health interventions that would improve their functional capacity. This includes adaptations that might be necessary to support a person going back to work. The advice from the WFHRA, in the form of a 'capability report', will be made available to the claimant and their personal adviser to be used when they have passed the assessment phase and are undertaking further work-focused interviews.

Sanctions

If you are in the work-related activity group, you have to participate in the work-focussed health-related assessment and the work-focussed interviews, otherwise your ESA could have a sanction applied. Sanctions can only be applied to the additional element of ESA that becomes payable after the 13-week assessment period has ended. Thus, an ESA claimant will always retain entitlement to the basic or 'assessment phase' rate of ESA, provided they satisfy the other basic entitlement criteria of having a limited capability for work. A sanction will initially be a 50% reduction of the additional element for 4 weeks. This will be followed by a 100% reduction of the additional element, and this lower rate of benefit will be paid until the claimant complies with the requirement(s) placed upon them.

ESA claimants in the support group cannot have a sanction applied to their ESA.

Existing claimants

ESA will only apply to new claimants to begin with, so existing claimants of IB and IS will not be subject to the new

rules. They can, if they wish, volunteer to participate in the Pathways to Work scheme which now has national coverage. The government has said that from 2010, all existing IB and IS claimants will be subject to the new work capability assessment, but there are no details of when, or if, existing claimants will be transferred across to ESA.

The limited capability for work test in more detail

If claimants do not pass this test, they will need to consider claiming jobseeker's allowance instead. There are physical and mental descriptors. The mental descriptors in the limited capability for work test are grouped into sets of activities under these ten headings:

- **Learning or comprehension in the completion of tasks.**
- **Memory and concentration.**
- **Getting about.**
- **Coping with change.**
- **Execution of tasks.**
- **Initiating and sustaining personal action.**
- **Propriety of behaviour with other people.**
- **Dealing with other people.**
- **Coping with social situations.**
- **Awareness of hazard.**

There is a list of descriptors under each activity heading. The scoring follows a similar pattern. Claimants score points if they cannot perform the activity described; the highest points they score under each heading are totalled up and the target is 15. The points claimants are awarded under the mental activities headings can be added to those under the physical activities, to reach 15 points.

How is this different from the current PCA? The new test, or '*mental, cognitive and intellectual function assessment*' as it is formally known, is substantially different from the one in the current PCA. Whereas the current PCA tends to focus on activities as they are affected by mental illness, the new test also focuses on the consequences of cognitive and intellectual deficit. The new descriptors also attract more points, in each case 6, 9 or 15 can be awarded (rather than 1 or 2 as in the current PCA).

In each case you are first asked whether you can manage that particular area of day-to-day life without any difficulty; read the rest of the text under the heading before ticking this box. Each heading is then usually broken down into two or three further questions. For instance under 'Going out' you are asked '*Do you feel confident enough to leave home on your own and go out to places you know?*' and '*Do you feel you cannot go out even if someone was there to look after you?*'. You are given a number of options in each case; such as '*usually*', '*not very often*' and '*it varies*'.

There is a box within each heading where you can give extra information on the difficulties you have with each area of day-to-day life. Brief explanations are given next to the box as to the sort of things to write down. To help you complete this part of the form, you might want to keep a diary for a couple of days listing all the day-to-day activities that you have difficulty doing or need assistance doing; including where you need reminding, prompting or encouraging to start or complete a task.

Further information

Disability Alliance

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The expert advice of the Disability Alliance on the factual content of this article is gratefully acknowledged. The diagram is taken with permission from their ESA Briefing ref B19, available from their website.

As *A Single Step* went to press, the Government published the **green paper** '*No one written off: reforming welfare to reward responsibility*'. This gives more detail on the implementation of ESA.

Responses to the consultation will need to be submitted to the Department for Work and Pensions by 22 October 2008.

Further information is available at: www.dwp.gov.uk/welfarereform/noonewrittenoff/.