

Lines to Take / Frequently Asked Questions.

Employment and Support Allowance - Treatment of claimants with the most severe and lifelong health conditions or disabilities

Reassessments are designed to ensure that claimants receive appropriate financial support, and take account of changes in how health conditions and disabilities affect people over time. For example, on average, more than one in five repeat Employment and Support Allowance (ESA) assessments find the claimant fit for work. We want to ensure claimants who can work are supported to do so, and reassessments are an important part of ensuring that happens.

Under the Limited Capability for Work/ Limited Capability for Work-Related Activity (LCW/LCWRA) procedures Healthcare Professionals (HCP) are required to provide advice on the re-referral period as part of a Work Capability Assessment (WCA).

From the 29 September 2017, when considering the re-referral period, the HCP will consider whether the condition or its functional effects meet the new Severe Conditions criteria. Where the criteria is met, the HCP will advise no further assessments are needed (unless there is a change in circumstances).

Q: What is the ESA Severe Conditions criteria?

The new re-referral period will apply to those with LCWRA, i.e. in the Support Group or UC equivalent, ONLY.

If a claimant has LCW, i.e. they are in the Work-Related Activity Group (WRAG) or UC equivalent but not LCWRA, the process remains unchanged.

New criteria:

ONE of the following Functional Support Group (LCWRA) descriptors must be met:

- Mobilising 50m
- Transfer independently
- Reaching
- Picking up and/or moving
- Manual dexterity
- Making yourself understood
- Understanding communication
- Weekly incontinence
- Learning tasks
- Awareness of hazards
- Personal actions
- Coping with change
- Engaging socially
- Appropriateness of behaviour
- Unable to eat / drink / chew / swallow

If ONE of the above descriptors is met, ALL FOUR of the following criteria must also be met. That the condition:

- is lifelong
- the level of function would always meet LCWRA
- is an unambiguous condition, and
- has no realistic prospect of recover.

Q: What do I need to provide in order to be considered for this criteria?

This criteria will be considered as part of the WCA. The ESA50 questionnaire gives the claimant the opportunity to explain in their own words the effects of their condition, or conditions, in relation to the functional activities that make up the WCA.

Claimants are encouraged to provide existing medical evidence about their condition and its effect on their capability for work, especially at the outset of a claim. All available evidence will be examined and fully considered by a HCP as part of the assessment.

Q: How will I know if I come within this new criteria?

Claimants will be told if they come within this criteria following the WCA decision.

Q: Who decides who comes within the Severe Conditions criteria?

This criteria will be considered as part of a claimant's initial/next WCA after the 29 September 2017.

ESA re-referral periods are decided by the Department's decision makers, on the basis of a person's functional capacity.

Decision makers will have advice from HCPs on the assessment of a person's disability and its effects.

Q: How can I dispute a decision not to be placed within the severe conditions criteria?

The severe conditions criteria sits alongside the current re-referral periods of 3,1,2,18,24 or 36 months, and comes within the Secretary of State's discretion as to how often the DWP should review a claim or ask for further information, to which there is no right of appeal.

We can of course look again at any claim where asked by a claimant who feels it has not been processed correctly. However this would not be by the formal Mandatory Reconsideration process and would not carry the right of appeal.

Q: What happens if my health condition or disability deteriorate?

Claimants can request a WCA if they are in the LCW group – Work-Related Activity Group or UC equivalent - and they feel that their condition has deteriorated to the extent that they come within the LCWRA group.

Claimants already within the LCWRA the severe conditions criteria will be considered as part of their next WCA.

Q: How was the criteria identified?

We worked with healthcare professionals and other stakeholders, including disability charities, to develop the criteria and guidance.

Rather than a list of specific medical conditions, the criteria is based on identifying claimants with severe, lifelong, often progressive and incurable conditions, whose level of function would always meet LCWRA and who are unlikely to ever be able to move into work.

Q: Will this effect/increase my benefit?

This change has no effect on ESA entitlement or its benefit rates.

Q: Why don't you switch off re-assessments for everyone?

Re-assessments are designed to ensure that claimants receive appropriate financial support, and take account of changes in how health conditions and disabilities affect people over time. We want to ensure claimants who can work are supported to do so, and re-assessments are an important part of that process.

Q: Why does the Severe Conditions criteria only apply to those with LCWRA?

The Severe Conditions criteria is aimed at people with the most severe and lifelong health conditions or disabilities who are unlikely to ever be able to move into work, and for whom reassessments are likely to provide no further new information.

Q: Why have you created a criteria, why not just include xxx conditions?

Rather than a list of specific medical conditions, the criteria will be based on identifying claimants with the most severe health conditions or disabilities where it would be unreasonable to expect the individual to undertake any form or amount of work or work-related activity.

The WCA assesses individuals against a set of functional descriptors to determine how their illness or disability affects their ability to work. As two people with the same condition can be affected in different ways, there is no condition based entitlement to ESA. The WCA recognises that conditions can vary in their severity and therefore people with the same condition can be placed in the Work Related Activity Group or the Support Group (or UC equivalent), and be given different re-referral periods.

Q: Where can I find out information about this change?

Information about this change can be found on GOV UK: xxxxx

The amended guidance will be incorporated into the WCA Handbook published annually on GOV.UK. This change will be reflected in the published summer 2018 update.

Q: Will the decision that I fall within the Severe Conditions criteria have any effect on my claimant commitment?

Any claimant commitment that you have signed for universal Credit will be unaffected. If you are claiming ESA, a claimant commitment is not required if you have LCWRA i.e. in the Support Group or UC equivalent,