

Benefits for disabled students

Benefits for disabled students is one of a series of Child Poverty Action Group in Scotland factsheets giving guidance to advisers who are working with people who are studying or thinking about doing a course of education. Child Poverty Action Group promotes action for the prevention and relief of poverty among children and families with children.

Introduction

If you are a full-time student with a long-term illness or disability you may be able to stay on benefits while you are studying. This factsheet explains the rules allowing you to do so. There are no special rules for part-time students, so if you have a disability or illness and are claiming benefits and start studying part-time, then as long as you continue to satisfy the rules for those benefits, your benefits can continue.

Whether or not you can get benefits if you are a full-time student with a disability depends in part on your age and level of course. How long you have been disabled, how your disability affects you, and what other income and benefits you have are also important factors.

There are a number of benefits that can be paid to a student who is ill or disabled. Some of these have special rules for full-time students. The main benefit for someone who is ill or disabled is **employment and support allowance**, which is a new benefit introduced in October 2008. **Disability living allowance** can also be paid on the basis of disability. There is also provision for full-time students with a disability to claim **housing benefit** and **council tax benefit**.

Note that before the introduction of employment and support allowance in October 2008, people with a disability claimed **incapacity benefit** and/or **income support**. People who are already on these benefits because of disability can stay on them. In addition, someone who is claiming income support for a reason other than disability, e.g. because they are a lone parent, can, if they become ill or disabled, get income support on the grounds of disability, rather than claiming employment and support allowance.

Employment and support allowance

Employment and support allowance (ESA) is for people who are ill or disabled and have 'limited capability for work' (see below). There are two types of ESA - **contributory** and **income-related**. It is possible to receive one or both types of ESA. Contributory ESA is for people who have paid national insurance (NI) contributions, or whose period of limited capability for work starts when they are young. Income-related ESA is means-tested and is for people who are on a low income. You claim ESA by phoning the national Jobcentre Plus contact centre number on 0800 055 6688. Both contributory and income-related ESA can be backdated for up to three months, if you satisfied the conditions of entitlement during that time.

Contributory ESA

This type of ESA is not means tested, so you can get it as well as any loans or grants you are eligible for.

You can claim after three days ill health if you have paid enough NI contributions. If you have not paid enough NI contributions, you may be able to claim ESA 'in youth'. To claim ESA in youth you must have had limited capability for work for 28 weeks before the date your claim starts (this is known as your 'qualifying period'), and either:

- You claim when you are under 20 (you can claim after this as long as your qualifying period starts before you turn 20, and your claim starts at the end of this 28 week qualifying period), or
- You claim when you are under 25, AND you have left a course you started when you were under 20 (your date of claim can be after age 25 as long as your qualifying period of 28 weeks starts before this). For full details see CPAG's *Benefits for Students in Scotland Handbook*.

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If you are aged 19 or over and already getting ESA in youth you can continue to get it if you are studying, as long as you still satisfy the medical test. Starting a course may trigger the DWP to ask you to undergo a medical re-assessment, to check that you still qualify.

If you are under 19 and qualify under the ESA in youth rules, you cannot get benefit if you are on a course that is more than 21 hours per week, not including breaks and lunchtimes. In counting these 21 hours, any special tuition not suitable for a student without disabilities is not counted. Time on a special needs course is not counted. Time on a course spent using Braille is not counted.

You can claim ESA in youth from age 16. You can serve the 28-week qualifying period before you reach age 16, so your benefit can start from your 16th birthday. To satisfy the qualifying period, ask your doctor for a backdated medical certificate.

Example

Rowan has a learning disability and starts a course designed for people with disabilities in August 2009, aged 17. She telephones to start her claim for ESA on 31 August 2009 and provides a medical certificate for the 28-week period from the beginning of March to the end of August 2009. Her course does not affect her ESA because all the hours are ignored, as they are not suitable for non-disabled people. She is awarded ESA in youth from 31 August 2009.

Income-related ESA

This type of ESA is means tested, so any student funding you receive may count as income and reduce your entitlement (see *Student funding and benefits*, below). If you are a full-time student, you are only eligible if you get disability living allowance (DLA).

In **further education** (FE) you are full-time if:

- you are under 19, or are 19 but were under 19 when you were accepted on, enrolled on or started the course, and you are doing a non-advanced course, which is more than 12 hours a week during term time. These 12 hours include classes and supervised study, but not meal breaks or unsupervised study either at home or at college. If you fit these rules, you are termed a '**qualifying young person**'.
- You are 20 or over, or are 19 and were already 19 when you were accepted on, enrolled on or started the course, and you are doing more than 16 hours of classes/workshops per week. If you are not doing more than 16 hours of classes/workshops, you are full-time if you are doing more than 21 hours per week when all study requirements are included.

In **higher education** you are full time if the college or university says that the course is full time.

Example

Lewis is 26 and recently disabled. He has not paid enough NI contributions to get contributory ESA. He claims income-related ESA only. He starts a full-time course of study in January 2010. His income-related ESA stops because he does not get DLA. He can reclaim income-related ESA when his course ends or if he is awarded DLA.

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Limited capability for work

One of the basic rules of entitlement to ESA is that you must be assessed as having 'limited capability for work'. This means that because of your mental or physical condition it is unreasonable to require you to work. This is normally assessed at a medical known as the 'work capability assessment'. The work capability assessment also assesses whether you have 'limited capability for work-related activity'. If you do, then your ESA includes an extra amount called a 'support component', which is paid to the most disabled people. If you do not, your ESA includes a 'work-related activity component' and you are expected to attend work-focused interviews, and failure to engage may result in reduction of benefit.

Full-time students who get DLA and who are claiming income-related ESA are treated as having limited capability for work so do not have to satisfy this part of the work capability assessment. However this does not apply to all full-time students. If you are a qualifying young person (see above) and claiming income-related ESA then you will have to be assessed. Similarly, if you are claiming contributory ESA (including ESA in youth), you still have to have your limited capability for work assessed - even if you get DLA. All students, unless they get the support component, do have to attend work-focused interviews. These include agreeing an action plan of activities that would help you find work.

Disability living allowance

Disability living allowance (DLA) is paid to meet the extra costs associated with disability. It is paid at different levels depending on your care and mobility needs. DLA is not affected by studying as long as you have the same care and mobility needs as before. If your needs increase, for example if you need a scribe at college or university, you may be entitled to more DLA. You should get advice before asking for an award to be looked at again, as you could put your existing award at risk.

DLA is not affected by any other income you have coming in. It can be paid in addition to other benefits, and may increase the amount of income-related ESA or housing benefit you are entitled to. To claim, telephone the DWP's Benefit Enquiry Line on 0800 882 200.

Housing and council tax benefit

Housing benefit (HB) helps with the cost of rent if you are on a low income. Contact your local authority to claim. You usually get maximum HB if you are entitled to income-related ESA or income support. In order to be eligible for HB you must be liable for rent, so you cannot claim this if you live with your parents in their home.

Council tax benefit (CTB) helps with council tax payments if you are on a low income. Contact your local authority to claim. If you are eligible for HB then you are usually eligible for CTB, but note that most full-time students are exempt from paying council tax. Council tax only applies to people over 18.

If you are a disabled full-time student you may be eligible to claim these benefits. The rules for whether you are full time or not are the same as the rules for income-related ESA, but note that all young full-time students in FE are eligible for HB and CTB. To be eligible, you must be under 19, or aged 19 or 20 if you were under 19 at the start of the course. HB and CTB are affected by most other income and capital that you have, so you will only get benefit if your income is low enough. Most student funding that you have is taken into account as income, so even if you are eligible for HB or CTB you may not receive any or receive only a small amount (see *Student funding and benefits*, below).

You are eligible for HB and CTB as a full-time disabled student if you:

- get DLA; or
- get income-related ESA or income support; or
- qualify for a disability premium or severe disability premium (eg, you get DLA, contributory ESA, long-term incapacity benefit or are registered blind); or
- have had limited capability for work (see '*limited capability for work*' section for what this means) for at least 28 weeks; or
- (higher education only) get a disabled students' allowance because of deafness.

Examples

Stacey is 18 and is on an NC course, which is 15 hours per week. She is a qualifying young person. She has cerebral palsy and gets DLA. She rents a local authority flat. She can claim income-related ESA because she gets DLA, but will have to pass the limited capability for work test. She is eligible for HB on three grounds: because she gets income-related ESA, because she gets DLA, and because she is a qualifying young person.

Carl is 27 and gave up his job six months ago due to ill-health. He starts a degree course, which is full-time. He does not get DLA so he cannot claim income-related ESA. He can claim housing benefit because he has had limited capability for work for at least 28 weeks. The amount he receives will be affected by any student loan he is eligible for.

Other benefits for students with disabilities

Income support

This has now been replaced for people with disabilities by income-related ESA. If you are currently getting income support (IS), and are or become disabled, you may be able to stay on it when you study full-time if you:

- qualify for a disability premium or severe disability premium (eg, you get DLA, long-term incapacity benefit or are registered blind); or
- have been incapable of work for at least 28 weeks. You do not need to have been working to count as incapable of work. It depends on a medical certificate from your doctor at the start of your claim and then on a 'personal capability assessment' by the DWP, which assesses your physical and/or mental disabilities. If you have already been incapable of work for some time, ask your doctor for a backdated medical certificate; or
- (higher education only) get a disabled students' allowance because of deafness.

You can also make a new claim for IS on the above grounds if you are getting incapacity benefit or severe disablement allowance. IS is means-tested, so is reduced if you are eligible for a student loan or get some other student funding.

Incapacity benefit

Incapacity benefit has now been replaced for new claims by contributory ESA. If you are already getting this benefit, you can still get it throughout a course of study, unless you are under 19 and claiming incapacity benefit under the youth rules. In this case, the rules are the same as the rules for someone claiming ESA in youth (see *Contributory ESA*, above).

Incapacity benefit was abolished for most new claims in October 2008, but if you are already on it then you can stay on it.

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Severe disablement allowance

If you are getting this benefit, you can still get it throughout a course of study, as long as you are still incapable of work. This benefit was abolished for new claims in 2001.

Working tax credit

Working tax credit (WTC) is paid to people in work who are on a low income. WTC can be claimed by certain disabled people who are working at least 16 hours a week. To claim contact HM Revenue and Customs or go to www.hmrc.gov.uk. You must have a disability which puts you at a disadvantage in getting a job, and you must receive or have been recently receiving:

- Employment and support allowance;
- Incapacity benefit at certain rates;
- Severe disablement allowance;
- Disability premium in income support, jobseeker's allowance, housing benefit or council tax benefit; or
- Disability living allowance or attendance allowance (you must be getting this on your date of claim, and, normally, continue to get it.)

There are some other qualifying benefits and circumstances.

WTC has no special rules for students and most student support is disregarded when calculating how much WTC someone can get. For example, any bursary, student loan, or disabled students' allowance is disregarded. Your work must be expected to last for at least four weeks.

Student funding and means-tested benefits

Most student funding that you receive will reduce the amount of income-related ESA, income support or housing benefit that you are entitled to. A student loan counts in full if you are eligible for one, even if you do not take it out, as it is money that is available to you. A parental contribution usually counts as income but, for disabled students claiming income-related ESA or income support, it only counts if it is actually paid to you. Income-related ESA usually stops during the academic year and you may be entitled to a reduced amount of housing benefit, or none at all. In the summer student funding usually does not count so you can claim income-related ESA again in July and August, and get maximum housing benefit. Some students who have a high level of income-related ESA may continue to get some benefit during the academic year as well as full benefit in the summer.

On an FE course you can stay on benefits instead of applying for a bursary maintenance allowance, as this is discretionary and there is no guarantee of getting it. If you are entitled to an Education Maintenance Allowance you can get this on top of your income-related ESA.

Allowances for disability or additional support needs do not count as income for benefits. Nor do amounts for travel or study expenses.

Example

Lydia is 22 and starting a four-year degree course. She is disabled and is getting income-related ESA, HB and DLA. When she starts studying she is still eligible for income-related ESA because she gets DLA. However, her student loan means that her income is too high to get any income-related ESA. She applies for HB, and because the means test is not as strict as for income-related ESA she gets most of her rent paid by HB. She can claim income-related ESA again over the summer when her student loan does not count as income, and get maximum HB over the summer.

Keith is an FE student on a one-year course. He has an acquired brain injury and is 25. He is on income-related ESA and DLA, and HB to pay the rent on his housing association flat. He stays on benefits rather than applying for a bursary, and his benefits continue at the same rate.

Time out for ill-health or disability

If you fall ill or become disabled while you are studying then you may be able to claim benefits. You are still treated as a full-time student if you take time out of your course, unless you abandon or are dismissed from the course. If you do leave the course, then you are no longer treated as a student and normal benefit rules apply. This section deals with benefits for you if you are taking time out, but not abandoning your course.

You may be eligible for DLA if you are disabled and have had care or mobility needs for three months or more, and you expect to have these needs for at least another six months. If you get DLA you are then eligible for income-related ESA and HB. Otherwise, after 28 weeks of ill-health, you can claim HB. You can also claim ESA in youth if you satisfy the qualifying conditions and age limits (see *Contributory ESA* above, and note that if you are under 19 your course must be less than 21 hours per week of ordinary tuition). People who have paid enough NI contributions do not need to wait for 28 weeks and can claim contributory ESA after three days of ill-health.

Example

Corin is 22 and in his third year of a degree. He falls ill with ME and has to take time out from his course. After 28 weeks of ill-health he can claim HB. If Corin had worked and paid enough NI contributions, he could claim contributory ESA after three days of illness.

If he withdraws completely from his course he may be able to claim ESA in youth, under the special rules for ex-students who are under 25.

When you recover, ESA will stop. Instead, you can claim jobseeker's allowance and HB until you return to your course, for up to one year.

Other sources of funding

Disabled students in HE may be able to claim a disabled students' allowance for extra expenses that arise because of the course. A disabled student in FE may be eligible for an additional support needs for learning allowance, to help with study and travel expenses.

If you are a disabled student and you need support in order to be able to attend your course, you may be able to get help from the local authority's social work department in the form of services or a direct payment. If your disability is severe, you may be eligible for help from the Independent Living Fund.

Further information and advice

Child Poverty Action Group in Scotland

0141 552 0552 advice line for advisers on benefits and tax credits

Monday, Tuesday, Wednesday and Thursday 10 am to 12 pm

CPAG's advice line is only for advisers. If you are a student or thinking of doing a course of education and are in need of advice, contact your local college/university student welfare services, or your local citizens advice bureau.

E-mail: advice@cpagscotland.org.uk

e-mail advice for advisers on benefits and tax credits.

Web:

for more information about

- CPAG in Scotland's Benefits for Students Project and more leaflets go to www.cpag.org.uk/scotland/studentbenefitsproject
- CPAG's *Benefits for Students in Scotland Handbook* go to <http://scottishhandbooks.cpag.org.uk>.
- CPAG's *Welfare Benefits and Tax Credits Handbook*, go to www.cpag.org.uk

Skill Scotland: National Bureau for Students with Disabilities

Norton Park, 57 Albion Road, Edinburgh, EH7 5QY

Information service: 0800 328 5050

(Tuesday 11.30-1.30pm and Thursday 1.30-3.30pm)

Email: admin@skillscotland.org.uk

Web: www.skill.org.uk

**CHILD
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GROUP**
in SCOTLAND

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