



Delayed assessments for disability benefits causing undue hardship

The Early Warning System was set up by CPAG in Scotland to collect and analyse case evidence about how social security changes are affecting the wellbeing of children, their families and the communities that support them. This report highlights that delays carrying out assessments for disability benefits means that many disabled people are not receiving or are losing support intended to help them meet the additional costs of ill health or disability.

Summary

Delays to PIP awards means that claimants awards are ending before a decision has been made on a new claim. Poor communication with claimants has led to confusion about whether awards will be extended or not.

The loss of PIP alone ranges from £23.60 to £151.40 a week, but can also result in the loss of additional amounts (premiums) payable in means-tested benefits too

Delays to work capability assessments mean that contributory ESA awards are ending after 365 days without an assessment having been carried out.

Failings of telephone assessments mean that UC and ESA claimants are being told they will have to wait for a face to face assessment (which are not being carried out at present due to COVID-19) and therefore remain on the basic amount of benefit indefinitely.

PIP assessments

Personal independence payment (PIP) is paid to adults to help meet the additional costs of disability. It is not means-tested¹ but receipt of PIP can lead to additional amounts being paid in means-tested benefits

PIP is usually awarded for a fixed period and payments stop at the end of this period unless:

- the award is extended; *or*
- a new claim is submitted and a decision made on that claim,

before the end of the fixed period.

¹ It is not affected by income or savings

The Early Warning System has received an alarming number of case studies² about claimants who have not received a decision prior to their existing PIP award ending. This means that their existing PIP payments stop pending a decision on their new claim.

If the new claim is successful, payments will generally be backdated to the date the award ended, but in the meantime many claimants experience a huge drop in income, which can cause severe financial hardship. The loss of PIP alone ranges from £23.60 to £151.40 a week, but can also result in the loss of additional amounts (premiums) payable in means-tested benefits too (in some cases £66.95 a week for a single person or £133.95 for a couple, less, or even more depending on circumstances). The ending of PIP may also have an impact on benefit entitlement for the claimant's carer – in some cases forcing the carer to claim universal credit if income support entitlement is on the basis of being a carer.

In March last year, DWP announced that it was pausing reviews and assessments for at least three months due to COVID-19.³ However in July the Early Warning System reported receiving a number of cases highlighting claimants' PIP stopping at the end of the award if a review form had been issued prior to the announcement, but an assessment had not yet been carried out.⁴

Some PIP awards that were due to end after 24 March have been automatically extended. However, we have received a number of cases regarding claimants whose PIP has stopped pending a decision on their new claim:

- who were incorrectly advised by DWP that their award could not be extended because they had been awarded PIP by a tribunal;
- who did have their award extended but the six-month extension has now ended; or
- whose award end date fell after the extension period.

The Minister of State for Disabled People, Health and Work stated on 21 January 2021 that

'The Department has been automatically applying extension of awards of Personal Independence Payment (PIP) for all claims due to end between March 2020 and January 2021, except those where a new decision has been made since review and reassessment activity resumed in July. Additionally, a small number of awards have not been extended where action on their case is pending. These are not included in Covid-19 easements and will not be extended as part of this exercise.'⁵

However, this appears to be at odds with the evidence submitted to the Early Warning System.

² 11 between October to December 2020, alongside advisers reporting the issue for multiple clients

³ DWP press release 23 March 2020 - <https://www.gov.uk/government/news/coronavirus-update-benefit-reviews-and-reassessments-suspended>

⁴ EWS report Impact of COVID 19 on people with disabilities and their carers July 2020 - https://cpag.org.uk/policy-and-campaigns/report/impact-covid-19-people-disabilities-and-their-carers#_ftn1

⁵ House of Commons Written question UIN 139052, answered 21 January 2021, available from questions-statements.parliament.uk/written-questions/detail/2021-01-18/139052

Client submitted a new claim for PIP in mid-October in anticipation of his PIP award ending in mid-December. Client's MP contacted DWP in December as the client was concerned that his award was going to end in less than a week without the new claim having been processed. DWP advised that the claim had been passed to Independent Assessment Services (IAS) to decide whether there was sufficient information in the claim form and other written evidence to make a decision or whether an assessment would be required. IAS had not yet reviewed the claim to check whether an assessment would be required and could not give a timescale for doing so. DWP advised that the client's PIP would be stopping that week as a result. #EWS Sco 17 (9/12/20)

Client contacted the PIP helpline as his award was due to end and was told that it would be extended automatically for 6 months due to COVID-19. He didn't receive this in writing and the award was not extended. DWP said this was because it had been awarded at tribunal. Client's PIP stopped, as did his carer's carers' allowance. He submitted a new claim but there was a gap of two weeks between the old award stopping and the new claim being submitted. #3011 (15/10/10)

Client's PIP was due to end in April but was extended to October due to COVID-19. He completed a PIP 2 in June but an assessment was not carried out before October and his PIP award ended. #3485 (10/12/20)

Client's PIP award ended in November 2020. He was sent a letter in July 2020 advising him to make a new claim, which he did but it has not been processed and in the meantime his current PIP award stopped. #3504 (18/11/20)

The Early Warning System also received cases where PIP award had ended before a decision on a new claim prior to the coronavirus pandemic, particularly in rural areas. So, whilst COVID-19 has exacerbated the issue, there were delays in PIP processing in evidence before the pandemic.

Policy recommendations

Extend all PIP awards that are due to end if a new claim has been submitted but has not yet been processed, or a review is underway or a supersession request made by the claimant being considered. Notify all award extensions in writing as soon as decisions are made.

Produce guidance for decision makers and helpline staff setting out clearly how reviews relate to the legal powers that they have, and what the restrictions on amending an award made by a tribunal are.

Practical recommendations for advisers

If it is under six months until an award ends and a client has not been sent a PIP review form, a new claim should be made or a supersession to extend the award requested as early as possible.

If the client has received a review form, return this as early as possible.

If an award has already ended, check that a new claim or review form has been submitted.

If the award is about to end, or has already ended, it may be appropriate to make a complaint and involve the client's MP to try to get a new decision made promptly.

Frontline workers and advisers can seek further advice from [CPAG in Scotland's advice line](#).

Assessment delays for ESA and UC

If you claim contributory employment and support allowance (ESA), or universal credit (UC) because you are sick or disabled a decision has to be made about whether you have limited capability for work, and/or limited capability for work-related activity. This affects the length of an ESA award and the amount of money you will receive.

If you have limited capability for work you might be expected to take part in activities to help you return to work. If you have limited capability for work-related activity you will receive an additional amount of money in your ESA or UC and you will not be expected to take part in any activity.

While you are waiting for a decision you will be paid the basic amount of universal credit or employment and support allowance. DWP will ask you to provide information about your ill health or disability on a form (UC50 or ESA50). This gets sent to an independent assessment service who will then decide whether there is enough information or if an assessment is required. In almost all cases an assessment is required. Because of COVID-19, claimants are being referred for telephone assessments rather than face to face assessments. If you get UC you may be expected to look for work whilst awaiting an assessment, even if your GP has provided a medical certificate.

In March 2020 DWP suspended all face to face assessments. In September we reported that no assessments appeared to be being carried out at all⁶, so when telephone assessments were introduced there was a considerable backlog. We know that some people have been waiting for more than a year for an assessment.

Contributory ESA ending before an assessment is carried out

Employment and support allowance (ESA) is paid to people who are unable work because of ill health or disability who are not entitled to statutory sick pay. Contributory ESA is not affected by income or savings (with the exception of pensions) but is normally only available to people who have paid sufficient national insurance contributions.

Contributory ESA is payable for a maximum period of 365 days unless the claimant is placed in the support group. This is usually determined by an assessment. The Early Warning System

⁶ EWS latest findings July/August 2020 <https://cpag.org.uk/policy-and-campaigns/latest-findings-early-warning-system-%E2%80%93-julyaugust-2020>

has received an increasing number of reports of claimants having their contributory ESA stopped after 365 days without an assessment having been carried out.

They can then make a claim for UC (if they are not receiving it alongside their contributory ESA already), but as this is means-tested, someone with other income or savings may not be eligible, whereas they might have continued to receive contributory ESA if they had been assessed.

A disabled client who is in receipt of PIP, claimed ESA when he lost his job, but it has now stopped after 365 days without an assessment having been carried out #3980 (18/12/20)

A client's ESA stopped after 365 days without an assessment being carried out in August 2020. The client is now receiving UC at the standard rate, but could be entitled to an additional amount if he is placed in the support group. Adviser asked that a decision be made using alternative evidence but has not received a response. #3632 (25/11/20)

A client has been receiving ESA for ten months and has still not received an ESA50 asking for information about his ill-health or disability. His ESA will stop after twelve months if an assessment has not been carried out. #3737 (2/12/20)

A client claimed ESA 11 months ago but has not had an assessment yet. The GP stated they would require a home visit, so CHDA/Maximus have said they cannot carry out an assessment due to COVID-19. The client is happy to have a phone assessment but this has been refused because the notes state a home assessment is required. If the client is assessed as being in the support group, their ESA can continue beyond 12 months, but will stop if an assessment has not been carried out on time. #2999 (14/10/20)

The Minister of State for Disabled People, Health and Work has confirmed that:

'There are no plans to extend the time limit for people claiming contributory Employment and Support Allowance who reach their 365-day limit and have not had a Work Capability Assessment. ...

Furthermore, we now have a ring-fenced operational team in place to identify contributory ESA claims that we can progress in the absence of face-to-face assessments – for instance, those where further evidence might exist on other DWP benefit systems.'⁷

Receiving basic rate/standard allowance

In November and December we received four cases where a telephone work capability assessment has been carried out, but the claimants have been told there was not enough information gathered to make a decision so a face to face assessment will be required. There are no face to face assessments being carried out at the moment so they will have to wait indefinitely and will not receive an additional amount in their UC or ESA until a decision is made.

⁷ House of Commons Written question UIN 138435, answered 20 January 2021, available from questions-statements.parliament.uk/written-questions/detail/2021-01-15/138435

Two clients have been waiting on a decision on their capability for work for over 15 months. Both had telephone assessments, but have been told there was insufficient evidence gathered to make a decision and that face to face assessments would be required, but as assessments are not currently being carried out, this leaves them in limbo (and receiving the basic rate of benefit) indefinitely. #3461 (17/11/20)

A client claimed UC in April 20, completed a UC50 and took part in a telephone assessment. She received a letter in November advising that the telephone assessment had not collected sufficient information for a decision to be made and a face to face assessment would be required. These are not being carried out at the moment due to COVID-19, so her award will not be changed until this is carried out. #3604 (25/11/20)

A client claimed ESA in January 2020. Her adviser contacted DWP complaints team in November and was advised that her notes stated an assessment would be required to be carried out at home. The client then received notification of a telephone assessment, only for it to be cancelled and for her to be told that she would have to have a face to face assessment at home, which are not being carried out at present. She has now received a letter advising that her contributory ESA will be stopping shortly due to time limiting at 365 days. #3404 (11/11/20)

Policy recommendations

The Minister of State for Disabled People, Health and Work noted that the healthcare professionals who carry out assessments are expected to seek further evidence where it would help them provide advice to a DWP decision maker on a person's claim. Early Warning System evidence suggests that healthcare professionals may not be aware of this. Guidance should be provided to assessment providers so that they are aware of the different ways in which they can gather evidence.

Assessment delays and the benefit cap

The benefit cap is a limit that has been placed by the UK government on the amount of benefit that can be paid to working age people. The cap is applied by reducing the amount of housing benefit (HB) or universal credit that you are entitled to. It is not applied if you receive PIP or if your ESA or UC includes the limited capability for work related activity. Delays in assessments mean that not only do claimants have to wait before they receive additional money in respects of their ill health or disability, but that their benefits may be reduced by the benefit cap in the meantime.

For more information this report or the Early Warning System, please contact:
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Frontline workers and advisers can seek further advice from [CPAG in Scotland's advice line](#)