Employment and Support Allowance: outcomes of Work Capability Assessments, Great Britain

Background Information

27th March 2014
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* Totals may not sum due to rounding.
1. **Information**

1.1. **Benefit introduction**

On 27 October 2008, pre-existing benefits paid on grounds of incapacity and disability, that is Incapacity Benefit (IB), Severe Disablement Allowance (SDA) and Income Support (IS), were replaced with Employment and Support Allowance (ESA) for all new claimants. The new benefit is more aligned with Jobseeker’s Allowance (JSA):

- placing greater emphasis on assessment of an individual’s functional capabilities;
- providing support and encouragement to move claimants with health conditions towards employment; and
- paying at a pre-assessment rate equal to JSA.

Starting from October 2010 most claimants who receive IB, SDA and IS paid on the grounds of illness or disability will be assessed to see if they qualify for ESA.

This reassessment will not affect claimants if:

- they are entitled to ESA already; or
- they are due to reach State Pension age before 6 April 2014.¹

1.2. **Functional assessment**

Whether as part of a new claim or the reassessment of incapacity benefit, a key part of the Employment and Support Allowance regime is the Work Capability Assessment process, which is used to assess functional capability for work and eligibility for benefit – please see 4.3 and 4.4. Within this the service contractor, Atos Healthcare, carries out any face to face assessment. They then make a recommendation for each claimant to the DWP’s decision maker who in turn makes the final decision. A claimant can have three possible outcomes:

- Individuals can be found fit for work –
  - in this case their claim closes and the claimant can make a claim for Jobseeker’s Allowance. They can dispute the ESA decision by requesting a Mandatory Reconsideration (MR) (this can be done at the same time as claiming Jobseeker’s Allowance). If the MR application fails they can then appeal to Her Majesty’s Courts and Tribunals Services (HMCTS). If they do that they can go back onto ESA – it is paid at the assessment phase rate – pending the hearing of the appeal; it will also be backdated to cover the period of the MR application (when ESA is not paid);

- Individuals can be found to have limited capability for work –
  - in this instance they are allowed the benefit and placed in the Work Related Activity Group. Those in this group are not expected to work, but are provided with help and support to prepare for work where possible. They receive a higher payment than those on Jobseeker’s Allowance. As above this decision can be disputed first through MR and then appeal. Unlike the above process ESA continues to be paid at the higher rate throughout the dispute process; and

- Individuals can be found to have limited capability for work and in addition, limited capability for work related activity –
  - in this situation they are allowed the benefit and placed in the Support Group. Those in this group have the most severe functional impairments and so are provided with unconditional support and receive a higher premium than those in the Work Related Activity Group.

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¹ The State Pension age for women will be between 61 years and 11 months and 62 years. For men it is 65 years.
Both Work Related Activity Group and Support Group claims run until the initial or latest ‘prognosis period’ ends, which is usually but not always a standard length of time such as 3, 6, 12, 18 or 24 months based on the individual claimant’s health and then have a repeat assessment.

1.3. Claimant journey

Figure A below depicts the process for new claims of Employment and Support Allowance – starting with the original claim, taking in the functional assessment, and ending with an initial decision, a decision after mandatory reconsideration or appeal, or a repeat decision after a prognosis period. These points form the basis for the analysis of this bulletin and its tables.

Figure A: Employment and Support Allowance new claims customer journey

Figure B below depicts the process of incapacity benefits reassessments – starting with claimants being informed about the reassessment process, taking in the functional assessment, and ending with an initial decision, a decision after mandatory reconsideration or appeal, or a repeat decision after a prognosis period.
1.4. **Decision-making basis**

The decision on longer-term Employment and Support Allowance entitlement (after assessment) is based on functional impairment.

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**Figure B: High level reassessment journey**

1.4.1. **Reasons for Work Related Activity Group assignment**

The possible recorded reasons for a claimant placement in the Work Related Activity Group are:

- scored 15 points or more against the technical descriptors (due to physical functions or mental, cognitive and intellectual functions or a combination of both); or
- non-functional descriptors or ‘treat as’ limited capability for work provision apply.
Please see 4.5.2.

1.4.2. Reasons for Support Group assignment

The possible recorded reasons for a claimant placement in the Support Group are:

- having a severe functional disability which meets the technical descriptors;
- awaiting, undergoing or recovering from certain types of cancer treatment;
- deemed to be mental or physical health risk;
- having a pregnancy risk; and
- being terminally ill, with a life expectancy of 6 months or less.

1.4.3. Non-specified reasons for allocation to either the Work Related Activity Group or Support Group

Some claims are clerically processed, where only a record of initial decision, and decision after reconsidertations or successful appeal, is available. For these cases there is no information on functional impairment.

1.5. International comparability

This report breaks down the Employment and Support Allowance claims into the World Health Organisation’s (WHO’s) International Classification of Diseases, 2010 (ICD10).² This enables some comparisons between countries.

Northern Ireland has its own benefit system. However statistics for Northern Ireland WCA are not yet available and are unlikely to be produced in the near future.

1.6. Closed and live claims

A sizeable percentage of Employment and Support Allowance new claims were closed before a face to face assessment took place and a small proportion were still in progress at the time the data were extracted. Current data does not allow anything conclusive to be said about the destinations of closed and in progress cases, nor to infer what would have been or would be the outcome of the assessment. However, DWP has published research³ that investigated why some cases were closed before assessment. It found that an important reason why ESA claims in the sample were withdrawn or closed before they were fully assessed was due to individuals recovering and either returning to work, or claiming a benefit more appropriate to their situation. ESA claims were also closed or withdrawn due to non-return of the ESA 50 form. Some customers reported being deterred from continuing their claim by the ESA 50 form, particularly for marginal claims when the form was deemed too time-consuming or for cases where they had an alternative source of income such as part-time, self employment or family support. A fairly widespread reason for claims closed by Jobcentre Plus was that the claim for ESA was income-based, and that the customer’s partner had started work. ESA claims had also ended for a variety of other reasons including extended periods abroad, and claiming Maternity Allowance.

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1.7 Benefit eligibility

Employment and Support Allowance (ESA) provides financial help to people of working age who are unable to work because of illness or disability. Eligibility to the assessment phase of the benefit is dependent on personal circumstances. The most current information on eligibility is available on the GOV.UK website.

The GOV.UK website provides a complete explanation of eligibility at the following links:
https://www.gov.uk/employment-support-allowance#overview
https://www.gov.uk/employment-support-allowance/eligibility

On 27 October 2008, pre-existing benefits paid on grounds of incapacity and disability, that is Incapacity Benefit (IB), Severe Disablement Allowance (SDA) and Income Support (IS), were replaced with ESA for all new claimants. Claimants already in receipt of these benefits at the said date could remain on those benefits (if they continued to satisfy the rules of entitlement) until their claims are reassessed to see if they qualify for ESA.

IB and IS
IB is a contributory benefit payable if the claimant had paid sufficient National Insurance (NI) contributions. People without sufficient NI contributions could claim IS on grounds of incapacity instead. IS could be paid on its own or it could top up IB.

Eligibility for IB and IS was assessed under the Personal Capability Assessment (PCA). The PCA was a points-related assessment of the extent to which a claimant’s condition affected their ability to perform a range of activities. It consisted of two parts: a physical/sensory assessment and a mental health assessment. The WCA was a logical development of the PCA.

SDA
Some claimants still get SDA due to being severely disabled and incapable of work before April 2001.

1.7.1 Claimant conditions

Employment and Support Allowance can be awarded on the basis of low income or National Insurance (NI) contributions:

Income-related Employment and Support Allowance (ESA-IR) – in this instance a claimant may be entitled to claim the benefit (regardless of how much they have paid by way of NI contributions), if they satisfy the conditions relating to financial position. This means they must have savings of less than £16,000, and if they have a partner or civil partner, this person must work for less than 24 hours per week on average; and

Contributory Employment and Support Allowance (ESA-C) – in this case a claimant may be entitled to claim contributory Employment and Support Allowance if they have paid enough NI contributions. From May 2012, the Welfare Reform Act 2012, introduced a time limit to ESA-C to 12 months for those in the Work Related Activity Group; however those exhausting ESA-C may still be eligible for ESA-IR if they meet the conditions.

Note that those entitled to ESA-C in the Support Group and ESA-IR: Work Related Activity Group and Support Group claimants are not subject to this time limit.

Starting in October 2010, most claimants who receive IB, SDA and IS paid on the grounds of illness or disability will be assessed to see if they qualify for ESA. If they qualify for ESA their IB, SDA or IS claim is converted into an ESA claim. For claimants who were previously in receipt of IB or SDA, their benefit will be converted to contributory ESA; if they were previously in receipt of IS their benefit will be converted to income-related ESA. In the same way as with IB, contributory ESA can be paid with an income-related top up and a transitional addition if appropriate.
1.7.2 Youth provision

Prior to May 2012, special ESA-C provisions applied for certain young people. To get this, a claimant needed to be aged between 16 and 20 (or under 25, if in education or training at least 3 months immediately before turning 20). Entitlement was based on inability to work because of health for at least 28-weeks, and having been resident and present in Great Britain for 26-out-of-52-weeks prior to the claim. From May 2012, the Welfare Reform Act 2012 abolished this provision and all new claims of this kind are now subject to the same ESA-C conditions.

1.7.3 Overseas claimants

A person living or working abroad may be entitled to claim Employment and Support Allowance. To do this, a claimant might have paid enough UK NI Contributions in the past or the equivalent in certain other countries – either a country within the European Economic Area or one that has a reciprocal social security agreement with the UK; or else they might have worked abroad for an employer based in the UK and paid NI contributions for the first 52 weeks of that employment.

IB and SDA claimants living overseas will have their claims reassessed following broadly the same process as that for UK residents. However, there are some differences both in the process and in the options available to overseas customers after a decision has been made.

1.8 Benefit structure – ESA new claims

Time on Employment and Support Allowance is divided into two phases by the process of assessing work capability.

1.8.1 Assessment phase (this lasts 13 weeks)

When a claimant first applies for the benefit, they are put into the assessment phase. During this time, they are assessed through the Work Capability Assessment process. Individual claimants do not have to engage in work-related activity. They receive benefit paid at the assessment phase rate (equivalent to JSA personal allowances).

While in the assessment phase, the claimant has to provide up-to-date medical certification of their disability or illness, and is assessed against the criteria set out in legislation. Most of them are sent a limited capability for work questionnaire (also known as the ESA50) and following completion are invited to a face to face assessment carried out by a trained healthcare professional (HCP) working for Atos Healthcare. However, depending on the severity of an individual’s condition some claimant journeys will differ; for example those who are terminally ill are fast-tracked into the Support Group on the basis of paper evidence rather than having an assessment.

Information gathered through the questionnaire and the face to face assessment, together with any other evidence provided by the claimant or requested by Atos Healthcare, is used by the DWP’s decision maker to determine their eligibility for Employment and Support Allowance main phase.

1.8.2 Main phase (outcomes of the Work Capability Assessment process)

After the face to face assessment, a claimant can have three possible outcomes:

- Individuals can be found Fit for Work – in this case their claim closes and the claimant can move to JSA or it remains open pending recourse against the decision, via reconsideration from DWP or appeal to HMCTS. If redress is sought, the pre-assessment rates remain until closure;

- Individuals can be found to have limited capability for work – in this instance they are allowed the benefit and placed in the Work Related Activity Group. Those in this group are not expected to work, but are provided with help and support to
prepare for work where possible. They receive a higher rate of payment than those on JSA; and

Individuals can be found to have limited capability for work and in addition, limited capability for work related activity –

in this situation they are allowed the benefit and placed in the Support Group. Those in this group have the most severe functional impairments, and so are provided with unconditional support and receive a higher premium than those in the Work Related Activity Group.

1.8.3 Repeat assessments

All claimants in the Work Related Activity Group and Support Group are given a prognosis indicating when they should be assessed again. Individuals are then reassessed through repeat assessments after the initial or last prognosis period expires.

The interval between assessments is usually but not always a standard length of time such as 3, 6, 12, 18 or 24 months based on the claimant’s health. This is to ensure that they are still eligible for Employment and Support Allowance and are allocated to the correct group.

1.9 Benefit structure – reassessment of incapacity benefits

IB, SDA and IS claimants are assessed through the WCA process to determine their capability for work and eligibility for ESA whilst still on their current benefit. Customers who qualify for conversion to ESA will move directly into the ‘main phase’ of ESA.

They will immediately be placed in either the WRAG or SG, receiving the relevant personal allowance and component and transitional addition if appropriate.

1.9.1 Reassessment of IB, SDA and IS claims

IB, SDA or IS claimants are informed by Jobcentre Plus when their benefit becomes due for reassessment.

Claimants will then be assessed through the WCA process. As part of the WCA process claimants are sent a limited capability for work questionnaire (ESA50) and following completion may be invited to a face to face assessment carried out by a trained healthcare professional working for Atos Healthcare. However, depending on the severity of an individual’s condition some claimant journeys will differ; for example those who are terminally ill or otherwise have sufficient medical evidence are fast-tracked into the SG on the basis of paper evidence rather than having a face-to-face assessment.

Information gathered through the questionnaire and any face to face assessment, together with any other evidence provided by the claimant, is used by the DWP’s decision maker to determine whether their IB, SDA or IS claim is converted into an ESA claim.

Outcomes of the WCA process – Main phase

The WCA process can have three possible outcomes for an IB, SDA or IS claimant:

Individuals can be found fit for work – in this case their IB, SDA and/or IS claim closes. The claimant may be entitled to JSA, IS on grounds other than incapacity for work, or PC. If the claimant disagrees with the decision they can ask the DWP decision maker to reconsider the decision or appeal to HMCTS. ESA can be paid at the assessment phase rate pending the outcome of the appeal;
Individuals can be found to have limited capability for work –

in this instance their IB, SDA or IS claim is converted into an ESA claim and they are placed in the WRAG. Claimants in the group are expected to take part in WFIs with their personal adviser. They are not expected to work, but are provided with help and support to prepare for work and eventually move into work where possible. Claimants can ask for the placement into the WRAG to be reconsidered, or appealed; and

Individuals can be found to have limited capability for work and in addition, limited capability for work related activity –

in this situation their IB, SDA or IS claim is converted into an ESA claim and they are placed in the SG. Those in this group have the most severe functional impairments and so are provided with unconditional support and receive a higher rate of benefit than people in the WRAG.

1.9.2 Repeat assessments

All claimants in the WRAG and SG are given a prognosis indicating when they should be assessed again. Individuals are then again assessed through repeat assessments after the prognosis period expires. Similar mandatory reconsideration and appeal arrangements apply where claimants disagree with the decision to that described in the previous paragraph.

The interval between assessments is usually but not always a standard length of time such as 3, 6, 12, 18 or 24 months based on the claimant’s health. This is to ensure that they are still eligible to ESA and are allocated to the correct group.

2. Work Capability Assessment development

The Work Capability Assessment was developed by medical and technical experts alongside disability organisations. It is subject to continuous review.

2.1 Department-led Review

A Department-led review of the Work Capability Assessment began in March 2009 and engaged with medical and other experts and disability representative groups. It was published on 29 March 2010 and made some recommendations for how the Work Capability Assessment could be developed. The review’s recommendations included:

- making greater provision for individuals awaiting or between courses of chemotherapy;
- making greater provision for individuals receiving residential treatment for drug or alcohol misuse;
- expanding the Support Group to cover more people with certain communication problems and severe disability due to mental health conditions;
- taking greater account of how an individual has adapted to a condition or disability; and
- simplifying the language of the descriptors to ensure fair, consistent and transparent application.

These changes were implemented on 28 March 2011.

2.1.1 Revision of the functional assessment

Following the department-led review of the Work Capability Assessment, revised criteria were introduced on 28 March 2011. Claimants who received the limited capability for work questionnaire at or after 14 March 2011 were assessed under the new criteria. What this means is that between March and June 2011 the majority were assessed under the revised criteria.
2.1.2 Independent reviews of the Work Capability Assessment

The Government has a statutory commitment to independently review the Work Capability Assessment annually for the first five years of its operation. The first four reviews have been undertaken and published.

In the first review, published in November 2010, Professor Harrington made a series of practical recommendations for improving the Work Capability Assessment, all of which the Government has accepted and now implemented. These include:

- improving the way Jobcentre Plus communicates with claimants;
- introducing mental, cognitive and intellectual 'champions' into assessment centres to improve the assessment of these functions;
- empowering and improving training for decision makers; and
- improving the transparency of the process.

In the second review, published in November 2011, Professor Harrington (while satisfied that the department has taken the advice in his first review) made further recommendations to improve the WCA’s fairness and effectiveness. The Government has endorsed Professor Harrington’s second review; and accepted the majority of its recommendations. For the remainder they conducted work to assess the feasibility and implications of the remaining recommendations and have now accepted these.

In the third review, Professor Harrington set out a series of recommendations to the Government which complement the recommendations from his first and second reviews. The Government welcomed Professor Harrington’s findings and recommendations and has responded with how it will work towards achieving all of Professor Harrington’s recommendations.

On 26 February 2013 the Secretary of State for Work and Pensions appointed Dr Paul Litchfield to undertake the fourth independent review of the Work Capability Assessment.

In the fourth independent review, published in December 2013, Dr Litchfield has made 32 recommendations to the Department to improve the WCA and 5 further recommendations to the Department for Social Development in Northern Ireland. The key findings and recommendations from his report are around simplifying the WCA process, improving the way people going through an assessment feel they are treated, improving decision making and improving knowledge of mental health for Decision Makers and Healthcare Professionals.

The Government has welcomed Dr Litchfield’s recommendations and is currently carefully considering them before publishing a response in the first quarter of 2014.

Background and full text of reports are on the departmental website at the following links: https://www.gov.uk/government/policies/simplifying-the-welfare-system-and-making-sure-work-pays/supporting-pages/improving-the-work-capability-assessment

2.2 Assignment information

2.2.1 Reason for group placement

The tables below detail some of the reasons for placement into the Work Related Activity Group or Support Group. The reasons offered below are merely inferences based on the claimant’s medical condition and their assessment decision. This is because Employment and Support Allowance entitlement and allocation is not based on the condition of the claimant but instead is based on the effect that this has on their ability to work. For example an individual will not qualify simply because they have arthritis, but could qualify if their condition means they have severe difficulty holding a pen.
2.2.2 Reasons for assignment to the Work Related Activity Group

**Figure C** below provides potential reasons for placement in the Work Related Activity Group with descriptions.

**Figure C: Reason for placement in the Work Related Activity Group**

<table>
<thead>
<tr>
<th>Reason</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>15 points or more</strong></td>
<td>This is where claimants score 15 points or more against the functional descriptors laid down in legislation. This award is based on the following functional impairment descriptors:</td>
</tr>
<tr>
<td>Physical functions</td>
<td></td>
</tr>
<tr>
<td>Lower limb – inability to mobilise, stand, sit;</td>
<td></td>
</tr>
<tr>
<td>Upper Limb – inability to reach, pick up and/or lack of other manual dexterity;</td>
<td></td>
</tr>
<tr>
<td>Sensory – inability to make self understood, understand communication or navigate safely</td>
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<tr>
<td>Continence – limitation of control over the bladder and bowel;</td>
<td></td>
</tr>
<tr>
<td>Consciousness – involuntary loss of consciousness;</td>
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</tr>
<tr>
<td>Mental, cognitive and intellectual functions</td>
<td></td>
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<tr>
<td>Understanding and focus – this relates to inability to learn tasks, to be aware of hazards, inability to initiate and complete tasks;</td>
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<tr>
<td>Adapting to change – this is to do with inability to cope with changes to routine, to get about; and</td>
<td></td>
</tr>
<tr>
<td>Social Interaction – this relates to inability to deal with other people.</td>
<td></td>
</tr>
<tr>
<td>Note that scoring 15 points or more is the most prevalent reason for being in the WRAG.</td>
<td></td>
</tr>
<tr>
<td><strong>Medical reasons</strong></td>
<td>This combines claimants with non-functional descriptors or those treated as limited capability to work at assessment. This award can be based on the following non-functional impairments:</td>
</tr>
<tr>
<td>suffering from a life-threatening disease – this is where there is medical evidence that the disease is uncontrollable or uncontrolled by a recognised therapeutic procedure, and in the case of a disease that is uncontrollable there is a reasonable cause for it not to be controlled by a recognised therapeutic procedure; and</td>
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<tr>
<td>suffering from some specific disease or bodily or mental disablement – this is whereby reasons of such disease or disablement, there would be a substantial risk to the mental or physical health of any person if they were found not to have limited capability for work.</td>
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</tr>
<tr>
<td>It can also be based on the following limited capability to work:</td>
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<tr>
<td>undergoing regular treatment - this means receiving regular weekly treatment, such as by way of haemodialysis for chronic renal failure, treatment by way of plasmapheresis or by way of radiotherapy, or by way of total parenteral nutrition for gross impairment of enteric function;</td>
<td></td>
</tr>
<tr>
<td>undergoing medical or other treatment as an in-patient to a hospital or similar institution;</td>
<td></td>
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<tr>
<td>recovering from treatment as an in-patient to a hospital or similar institution;</td>
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<tr>
<td>undergoing pregnancy and in receipt of Maternity Allowance with an ESA top-up;</td>
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<tr>
<td>during a period of confinement for pregnancy; and</td>
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<tr>
<td>pregnant where there is a risk of harm to the mother and/or child.</td>
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</tr>
<tr>
<td><strong>Clerical assessment</strong></td>
<td>This is where the Atos Healthcare recommendations are recorded clerically. In such cases, WRAG assignment is determined from the DWP decision maker information only, and so no more detail about the nature of the health situation is recorded on the database.</td>
</tr>
<tr>
<td><strong>At reconsideration</strong></td>
<td>There are some cases because they come after DWP reconsiderations that are recorded clerically. Once again in such cases, WRAG assignment is determined from the DWP decision maker information only, and so no more detail about the nature of the health situation is recorded on the database.</td>
</tr>
<tr>
<td>Here the Atos Healthcare recommendations may differ from the DWP decision, or else recommendation might have changed but the revision is not on the system.</td>
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</tbody>
</table>
After appeal

This is where a small number of cases because they come after appeals to HMCTS in favour of the claimant are recorded clerically. Once more in such cases, WRAG assignment is determined from the DWP decision maker information only, and so no more detail about the nature of the health situation is recorded on the database. Here the Atos Healthcare recommendations may differ from the DWP decision (after appeal process). Note that claimants initially found FFW in the process of appealing remain in this category for the purpose of statistical outputs until their cases are heard.

The GOV.UK website provides a broad explanation at the following link, including a document explaining the functional impairments in further detail: https://www.gov.uk/employment-support-allowance/overview

2.2.3 Reasons for assignment to the Support Group

Figure D below provides potential reasons for placement in the Support Group with descriptions.

**Figure D: Reason for placement in the Support Group**

<table>
<thead>
<tr>
<th>Reason</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chemotherapy/Radiotherapy</td>
<td>This is where claimants are awaiting, receiving or recovering from certain types of cancer treatment, which qualifies them for the SG. This award is based on the following limited capability to work at assessment:</td>
</tr>
<tr>
<td></td>
<td>The claimant is—</td>
</tr>
<tr>
<td></td>
<td>(i) receiving treatment for cancer by way of chemotherapy or radiotherapy;</td>
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<tr>
<td></td>
<td>(ii) likely to receive such treatment within six months after the date of the determination of capability for work; or</td>
</tr>
<tr>
<td></td>
<td>(iii) recovering from such treatment, and the Secretary of State is satisfied that the claimant should be treated as having limited capability for work;</td>
</tr>
<tr>
<td>Physical or Mental Health Risk</td>
<td>This is where regulations allow that in ‘exceptional circumstances’ claimants be put into the (WRAG or) SG, if there would be serious risk to the mental or physical health of any person were they found FFW (and they do not meet the usual criteria for WRAG or SG).</td>
</tr>
<tr>
<td>Pregnancy Risk</td>
<td>This is where pregnant claimants are put in the SG, if there is a serious risk to her own health or that of the unborn child were they found FFW.</td>
</tr>
<tr>
<td>Severe disability</td>
<td>This is where claimants meet the functional criteria for the SG, covering physical and mental capacity.</td>
</tr>
<tr>
<td>Terminally ill</td>
<td>This is where claimants are diagnosed as terminally ill with a prognosis of 6 months or less.</td>
</tr>
</tbody>
</table>

Note that the department does not always capture the reason for placement in the Support Group (as with the Work Related Activity Group). This is often due to assessments recorded clerically where the reason is not stated, such as where assignment follows an appeal or reconsideration.

The legislation, specifically Part 6, gives more detail on allocation at the following link: http://www.legislation.gov.uk/uksi/2008/794/contents/made?view=plain