

Chapter U4: ESA claimant responsibilities – work-related requirements groups

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Chapter U4: ESA claimant responsibilities - work-related requirements groups

Introduction

U4001 Depending on their circumstances, a claimant may fall into a particular work-related group. These are also known as conditionality groups or work-related requirements groups. The group that a claimant falls into will determine what is required of them in relation to their award of ESA. ADM Chapter U5 provides guidance on the work-related requirements in ESA.

The work-related requirement groups

U4002 The work-related requirements which can be imposed on a claimant depend upon which group the claimant falls into¹. The groups for ESA are

1. no work-related requirements
2. work-focused interview requirement only
3. work-focused interview and work preparation requirements.

1 WR Act 07, s 11(3)

What a work-related requirement is

U4003 For ESA a work-related requirement means¹ a

1. work-focused interview requirement
2. work preparation requirement.

1 WR Act 07, s 11(2)

U4004 The Secretary of State can impose a work-related requirement on a claimant which the claimant must comply with¹. If a claimant does not comply with a work-related requirement then there may be a reduction in their award of ESA². ADM Chapter V7 provides guidance on reductions and sanctions.

1 WR Act 07, s 11(1); 2 s 11J

U4005 – U4029

Carers

U4030 The requirements that a claimant may be subject to can be affected by their caring responsibilities. In this guidance the following terms are defined.

Adopters

U4031 An adopter means¹ a person who has been matched with a child for adoption who is, or is intended to be, the responsible carer for the child. This does not include a

1. foster parent **or**
2. close relative

of the child.

Note: A person is matched with a child for adoption when it is decided by an adoption agency that the person would be a suitable adoptive parent for the child².

1 ESA Regs 13, reg 47(5); 2 reg 47(5)

Close relative

U4032 A close relative in relation to a person means¹

1. parent
2. parent-in-law
3. son
4. son-in-law
5. daughter
6. daughter-in-law
7. step-parent
8. step-son
9. step-daughter
10. brother
11. sister
12. where any of 1. – 11. is a member of a couple, the other member of the couple.

1 ESA Regs 13, reg 2

U4033 – U4034

Responsible carer

U4035 A claimant is a responsible carer where¹ they are

1. the only person who is responsible for the child **or**
2. a member of a couple where
 - 2.1 both members are responsible for the child **and**
 - 2.2 the claimant has been nominated by the couple jointly as responsible for the child.

1 ESA Regs 13, reg 41(1)

Responsible foster parent

U4036 In relation to a child, a responsible foster parent means¹

1. a person who is the only foster parent of that child **or**
2. a person who is a member of a couple where
 - 2.1 the couple are foster parents in relation to that child **and**

- 2.2** the person has been nominated by the couple jointly as the responsible foster parent.

1 ESA Regs 13, reg 41(1)

Responsible carer and responsible foster parent – couples and nominations

U4037 Joint claimants can nominate¹ which one of them can be regarded as either the

1. responsible carer **or**
2. responsible foster parent.

1 ESA Regs 13, reg 41(2)

U4038 At any one time, only one person can be nominated as a responsible carer or a responsible foster parent¹.

1 ESA Regs 13, reg 41(3)

U4039 Where there is more than one child, the nomination applies to all the children for whom either of the joint claimants is responsible¹.

1 ESA Regs 13, reg 41(4)

U4040 The nomination of a responsible carer or responsible foster parent can change¹ which member is nominated

1. once in a 12 month period starting from the date of the previous nomination
or
2. on any occasion where the Secretary of State considers that there has been a change of circumstances which is relevant to the nomination.

1 ESA Regs 13, reg 41(2)

U4041 – U4049

Claimants subject to no work-related requirements

Introduction

U4050 There are certain claimants who cannot have work-related requirements imposed on them¹.

1 WR Act 07, s 11D(1)

U4051 The Secretary of State may not impose a work-related requirement on claimants¹ who

1. have LCW who also have LCWRA²
2. have regular and substantial caring responsibilities for a severely disabled person³
3. are the single person responsible for a child under the age of one⁴
4. have caring responsibilities for one or more severely disabled persons for at least 35 hours a week but are not entitled to CA⁵

5. are the responsible foster parent of a child aged under one⁶
6. are adopters where
 - 6.1 it is 12 months or less since the date that the child was placed with the claimant⁷ **or**
 - 6.2 the claimant chose that the 12 months (referred to in **8.1**) should run from a date within 14 days before the child was expected to be placed with them⁸
7. have enrolled on, been accepted for, or are undertaking, a full-time course of study or training which is not a course of advanced education where they are
 - 7.1 aged under 21 or are 21 and reached that age whilst undertaking the course **and**
 - 7.2 without parental support⁹
8. are entitled to ESA payable at nil rate¹⁰
9. are pregnant and it is 11 weeks or less before the expected week of confinement¹¹
10. were pregnant and it is 15 weeks or less since the date of confinement¹².

*1 WR Act 07, s 11D(1); 2 s 11D(2)(a); 3 s 11D(2)(b); 4 s 11D(2)(c);
5 ESA Regs 13, reg 47(1)(a); 6 reg 47(1)(b); 7 reg 47(1)(c)(i); 8 reg 47(1)(c)(ii);
9 reg 47(1)(d); 10 reg 47(1)(e); 11 reg 47(1)(f); 12 reg 47(1)(g)*

Claimants with LCWRA

U4052 A claimant who has LCWRA cannot have a work-related requirement imposed on them¹.

1 WR Act 07, s 11D(2)(a)

Example

Mark has claimed ESA. When making his claim for ESA, he indicated that the state of his health would limit his capability for work. The DM requires that Mark attend a WCA in order to assess his capability for work. Following the WCA, the DM takes into account the findings of the HCP and determines that Mark has LCWRA. Mark cannot have any work-related requirement imposed on him.

Caring responsibilities

Severely disabled

U4053 Where the claimant has

1. regular **and**
2. substantial

caring responsibilities for a severely disabled person then work-related requirements cannot be imposed on them¹.

1 WR Act 07, s 11D(2)(b)

U4054 Regular and substantial caring responsibilities for a severely disabled person in U4053 means¹ that the carer

1. satisfies the conditions of entitlement for CA **or**
2. would satisfy the conditions of entitlement for CA if their earnings did not exceed the prescribed limit for CA.

This definition applies regardless of whether or not that the carer has made a claim for CA². This definition does not apply to a person who derives earnings from those caring responsibilities³.

1 ESA Regs 13, reg 47(2); 2 reg 47(4); 3 reg 47(3)

Example

Kath has claimed ESA. She is the carer for her elderly father who is in receipt of AA. Although Kath is caring for her father for at least 35 hours a week, she has not claimed CA and does not want to. With regards to her award of ESA, Kath is placed in the no work-related requirements group and this means that work-related requirements cannot be imposed on her.

U4055 Where the claimant

1. has caring responsibilities for one or more severely disabled persons for at least 35 hours a week **and**
 2. does not satisfy the conditions of entitlement to CA
- then work-related requirements cannot be imposed on them¹.

1 ESA Regs 13, reg 47(1)(a)

U4056 A severely disabled person in U4055 means¹ a person for whom

1. AA² **or**
2. the care component of DLA at the highest or middle rate³ **or**
3. CAA payable as
 - 3.1 an increase of IIDB⁴ **or**
 - 3.2 an increase of an old scheme allowance⁵ **or**
 - 3.3 an increase of WC⁶ **or**
 - 3.4 a WDisP⁷

is payable provided that it is payable at a weekly rate of at least that specified in legislation⁸.

Note: The meaning of WDisP is prescribed⁹.

1 ESA Regs 13, reg 47(5); 2 SS CB Act 92, s 70(2); 3 s 70(2); 4 SS (ICA) Regs, reg 3(1)(a); 5 reg 3(1)(b); 6 reg 3(1)(c); 7 reg 3(1)(d); 8 reg 3(1); SS CB Act 92, Sch 4, Part V, para 2(a); 9 SS (ICA) Regs, reg 3(2)

U4057 The conditions for entitlement to CA are that the claimant

1. is engaged in caring for a severely disabled person for any day¹ **and**
2. is regularly and substantially engaged in caring for that person² **and**

3. is not gainfully employed³ **and**
4. is aged 16 or over⁴ **and**
5. is not in FTE⁵ **and**
6. satisfies prescribed conditions of residence or presence in GB⁶.

Note 1: The claimant does not have to be related to the severely disabled person⁷.

Note 2: DMG Chapter 60 provides guidance on CA.

1 SS CB Act 92, s 70(1); 2 s 70(1)(a); 3 s 70(1)(b); 4 s 70(3); 5 s 70(3); 6 s 70(4); 7 SS (ICA) Regs, reg 6

Caring for a child under the age of one

U4058 Where the claimant is the single responsible person for a child under the age of one then no work-related requirements can be imposed on them¹.

1 WR Act 07, s 11D(2)(c)

U4059 - U4060

Adopters

U4061 Work-related requirements cannot be placed on a claimant who is an adopter where it is 12 months or less since the date that the child was placed with the claimant¹.

1 ESA Regs 13, reg 47(1)(c)(i)

U4062 Where a claimant who is an adopter chooses that the 12 month period should start from a date within 14 days before the child was expected to be placed, then the 52 week period runs from that date¹.

1 ESA Regs 13, reg 47(1)(c)(ii)

Example

Cassie is in receipt of ESA. She is due to adopt a child on 2.12.13. She is aware that her work-related requirements can be lifted for a period of 12 months. She asks her adviser that she would like the 12 month period to run from 25.11.13 because she needs to get things ready at home for when she adopts her child. Cassie is not subject to work-related requirements for a period of 12 months from 25.11.13.

Foster parents

U4063 Work-related requirements cannot be placed on a claimant who is the responsible foster parent of a child aged less than one year old¹.

1 ESA Regs 13, reg 47(1)(b)

Pregnant claimants

U4064 Work-related requirements cannot be placed on certain claimants who

1. are or
2. were

pregnant.

U4065 A woman who is pregnant and it is 11 weeks or less before her expected week of confinement cannot be subject to work-related requirements¹.

1 ESA Regs 13, reg 47(1)(f)

U4066 A woman who was pregnant and it is 15 weeks or less since the date of their confinement cannot be subject to work-related requirements¹.

1 ESA Regs 13, reg 47(1)(g)

Example

Terri gave birth to her daughter on 18.11.13. She makes a successful claim for ESA on 16.12.13. This means that work-related requirements cannot be placed on Terri until 3.3.14.

U4067 – U4069

Claimants in certain types of education

U4070 A person who is receiving education who

1. is undertaking or enrolled on or been accepted for a full-time course of study or training which is not a course of advanced education **and**
2. is under the age of 21 or is 21 and reached that age whilst undertaking the course **and**
3. is without parental support

cannot have work-related requirements placed on them¹.

Note: ADM Chapter U1 provides guidance on ESA and education.

1 ESA Regs 13, reg 47(1)(d)

U4071 In U4070 **3.** without parent support means¹ that the claimant is not being looked after by the LA and

1. has no parent **or**
2. cannot live with their parent because the claimant is estranged from them or there is a serious risk
 - 2.1 to the claimant's physical or mental health **or**
 - 2.2 the claimant would suffer significant harm if the claimant live with them **or**
3. is living away from their parents and neither parent is able to financially support the claimant because that parent
 - 3.1 has a physical or mental impairment **or**
 - 3.2 is detained in custody pending trial or sentence or is serving a sentence **or**
 - 3.3 is not allowed to enter or re-enter GB.

Note: Parent includes any person acting in the place of a parent.

1 ESA Regs 13, reg 47(5)

Claimants subject to a work-focused interview requirement only

U4100 A work-focused interview requirement is a requirement that the claimant is required to participate in one or more work-focused interviews¹.

1 WR Act 07, s 11B(1)

What is a work-focused interview

U4101 A work-focused interview is an interview which the claimant is required to participate in which relates to work or work preparation¹. The Secretary of State may specify

1. how
2. when **and**
3. where

a work-focused interview is to take place².

1 WR Act 07, s 11B(2); 2 s 11B(4)

U4102 The purposes¹ of a work-focused interview for a claimant are any or all of

1. assessing the claimant's prospects for remaining in or obtaining work
2. assisting or encouraging the claimant to remain in or obtain work
3. identifying activities that will make remaining in or obtaining work more likely
4. identifying
 - 4.1 training **or**
 - 4.2 educational **or**
 - 4.3 rehabilitationopportunities that may make it more likely to remain in or obtain work or be able to do so
5. identifying current or future work opportunities that are relevant to the claimant's needs and abilities

1 WR Act 07, s 11B(3); ESA Regs 13, reg 46

Who is subject to a work-focused interview requirement only

U4103 Claimants who

1. are the responsible carer for a child aged
 - 1.1 at least one **and**
 - 1.2 under three¹ **or**
2. are the responsible foster parent of a child aged at least one² **or**

3. are the responsible foster parent of a qualifying young person and it would be unreasonable for the claimant to comply with a work preparation requirement because that young person has care needs³ **or**
4. are a foster parent (but not the responsible foster parent) of a child or qualifying young person and it would be unreasonable for the claimant to comply with a work preparation requirement because that child or young person has care needs⁴ **or**
5. are a foster parent who
 - 5.1 does not have a child or qualifying young person placed with them but intend to **and**
 - 5.2 are within eight weeks of having fallen within 2.⁵ **or**
6. have become a friend or family carer in relation to a child
 - 6.1 within the last 12 months **and**
 - 6.2 are the responsible carer for that child⁶

are subject to a work-focused interview only⁷.

1 WR Act 07, s 11E(1)(a); ESA Regs 13, reg 48(1); 2 reg 48(2)(a); 3 reg 48(2)(b); 4 reg 48(2)(c); 5 reg 48(2)(d); 6 reg 48(2)(e); 7 WR Act 07, s 11E(2)

Example

Jo was in the no work-related requirements group because she was the responsible carer for a child aged under one. Her child has since had his first birthday. Jo is now in the work-focused interview requirement only group and has to attend an interview or otherwise face a reduction in her ESA. Jo's claimant commitment has been amended to reflect this.

U4104 A friend or family carer in U4103 **6.** means a person caring for a child who

1. is responsible for the child but is not the child's parent or step-parent **and**
2. has undertaken to look after the child because the child
 - 2.1 has no parents or has parents who are unable to care **or**
 - 2.2 would likely be otherwise looked after by the LA because of concerns about the child's welfare¹.

1 ESA Regs 13, reg 48(3)

U4105 Where a claimant falls into one or more of the categories in U4103 then a work preparation requirement should not be imposed on them. Any previous work preparation requirement ceases to have effect if the claimant is subject to a work-focused interview requirement only¹.

1 WR Act 07, s 11E(3)

U4106 – U4109

Claimants subject to a work preparation requirement and work-focused interview

U4110 Claimants who do not fall into the

1. no work-related requirements group **or**
 2. work-focused interview requirement only group
- are subject to a work preparation requirement¹.

1 WR Act 07, s 11F(1)

U4111 A claimant in this group may have a work preparation requirement imposed on them¹. They may also have a work-focused interview requirement imposed on them too.

1 WR Act 07, s 11F(2)

U4112 – U4999

The content of the examples in this document (including use of imagery) is for illustrative purposes only