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

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

Introduction

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

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

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

What a work-related requirement is

For ESA a work-related requirement means a

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

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

Carers

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

An adopter means 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
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 child.\(^2\)

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

### Close relative

U4032 A close relative in relation to a person means\(^1\)

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

### Responsible carer

U4033 – U4034

A claimant is a responsible carer where\(^1\) 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 means\(^1\)

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)

**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 one\(^6\)

6. are adopters where
   
   6.1 it is 12 months or less since the date that the child was placed with the claimant\(^1\) 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 them\(^8\)

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 support\(^9\)

8. are entitled to ESA payable at nil rate\(^10\)

9. are pregnant and it is 11 weeks or less before the expected week of confinement\(^11\)

10. were pregnant and it is 15 weeks or less since the date of confinement\(^12\).

\(^1\) 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 them\(^1\).

\(^1\) 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 them\(^1\).

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

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)

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); 9 SS (ICA) Regs, reg 3(2)

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
Caring for a child under the age of one

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 them.

Adopters

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 claimant.

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

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

Pregnant claimants

Work-related requirements cannot be placed on certain claimants who

1. are or
2. were pregnant.
A woman who is pregnant and it is 11 weeks or less before her expected week of confinement cannot be subject to work-related requirements\(^1\).

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

A woman who was pregnant and it is 15 weeks or less since the date of their confinement cannot be subject to work-related requirements\(^1\).

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.

**Claimants in certain types of education**

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 them\(^1\).

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

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

In U4070 3, without parent support means\(^1\) 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 love 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

A work-focused interview requirement is a requirement that the claimant is required to participate in one or more work-focused interviews. The Secretary of State may specify how, when and where a work-focused interview is to take place. The purposes of a work-focused interview for a claimant are any or all of assessing the claimant’s prospects for remaining in or obtaining work, assisting or encouraging the claimant to remain in or obtain work, identifying activities that will make remaining in or obtaining work more likely, identifying training or educational or rehabilitation opportunities that may make it more likely to remain in or obtain work or be able to do so, identifying current or future work opportunities that are relevant to the claimant’s needs and abilities.

Who is subject to a work-focused interview requirement only

Claimants who

1. are the responsible carer for a child aged at least one and under three or
2. are the responsible foster parent of a child aged at least one 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 needs 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 needs 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. 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 child

are subject to a work-focused interview only.

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 welfare.

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 only.

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 requirement\(^1\).

\(1\) WR Act 07, s 11F(1)

A claimant in this group may have a work preparation requirement imposed on them\(^1\). 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