

**ESA, IB & SDA: EXEMPT WORK AND ESA: HARDSHIP**

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**INTRODUCTION**

- 1 This memo gives guidance on the Social Security (Exempt Work & Hardship Amounts) (Amendment) Regulations 2017<sup>1</sup>, which come into force on 3.4.17.

*1 SI 2017 No.205; SS (EW & HA) (Amdt) Regs*

- 2 The regulations
  1. remove the 52 week limit on PWHL for ESA, IB and SDA claimants<sup>1</sup> **and**
  2. make changes to the hardship amounts payable to ESA(IR) claimants who are in hardship<sup>2</sup>.

*1 SS (EW & HA) (Amdt) Regs, reg 2 & 3; reg 5*

## EXEMPT WORK

3 The general rule is that a claimant who works is treated as

1. capable of work for IB and SDA<sup>1</sup> **or**
2. not entitled to ESA<sup>2</sup>, and therefore treated as not having LCW for ESA<sup>3</sup>.

See [DMG 13846](#) et seq (IB and SDA) and [DMG 41122](#) et seq (ESA) for detailed guidance. However, the general rule does not apply in specified circumstances, including where the claimant does exempt work<sup>4</sup>. [DMG 13910 - 13926](#) and [41213 - 41253](#) give guidance on the conditions for PWHL, which is a category of exempt work.

**Note:** See also [DMG 41176](#) for an exception to **2.** where a claimant entitled to ESA(Cont) is receiving certain treatments and the general rule does not apply<sup>5</sup>.

*1 SS (IW) (Gen) Regs, reg 16(1); 2 ESA Regs, reg 40(1); 3 reg 44(1); 4 SS (IW) (Gen) Regs, reg 16(3)(e) & 17; ESA Regs, reg 40(2)(f) & 45; 5 reg 26, 44(2) & 46*

4 The conditions are that the claimant can

1. work for less than 16 hours a week **and**
2. earn no more than 16 x NMW a week **and**
3. work for a limited period of 52 weeks, known as the PWP<sup>1</sup>.

*1 SS (IW) (Gen) Regs, reg 17(4)(a), (8) & (9); ESA Regs, reg 45(4)(a), (4A) & (10)*

5 From 3.4.17

1. PWHL and PWK (LCWRA) are combined into one type of PWK, referred to as permitted work (PW)<sup>1</sup> **and**
2. the PWP no longer applies<sup>2</sup>.

*SS (EW & HA) (Amdt) Regs, reg 2(a) & 3(a); 2 reg 2(b) & (c) & 3(b) & (c)*

6 Where a claimant is already serving a PWP which ends after 3.4.17, there is no restriction on the period for which they can undertake PW. The guidance at [DMG 13920 - 13921](#) and [41253](#) is **cancelled** and should no longer be followed.

7 Where a claimant has completed a PWP, there is no requirement for a break in PW before the claimant can undertake PW again. The guidance at [DMG 13922](#) and [41251 - 41252](#) is **cancelled** and should no longer be followed.

## ESA HARDSHIP AMOUNTS

8 Where a claimant's award of ESA(IR) has been reduced by an amount equivalent to 100% of the prescribed amount for a single person in the main phase, because they have failed without good cause to

1. take part in a Wfl **or**
2. undertake WRA

and the DM is satisfied that the claimant is or will be in hardship unless hardship payments are made<sup>2</sup> the current amount of hardship payment is 60% of the prescribed amount for a single claimant in the main phase<sup>3</sup>.

*1 ESA Regs, reg 63; 2 reg 64A - 64C; 3 reg 64D(1)*

9 From 3.4.17, the guidance at [DMG 53120](#) on hardship amounts is replaced by the guidance at paragraphs 10 - 29 below.

**Note:** The test for hardship is not related to the WCA which is the functional assessment to determine eligibility for ESA. The test of whether a claimant is in hardship is one of privation and has not changed, see the guidance at [DMG 53095](#) et seq. A claimant is judged to be in hardship if they have insufficient funds to meet their immediate, essential and basic necessities of life, i.e. accommodation, food, heating and lighting, clothing and hygiene requirements.

10 Once a person is determined to be in hardship, the amount of hardship payable is

1. 80% of the prescribed amount for a single claimant in the main phase where
  - 1.1 the claimant has an award of ESA which does not include the WRAC  
**and**
  - 1.2 the claimant, or any other member of their family, is pregnant or seriously ill **or**
2. in any other case, 60% of the prescribed amount for a single claimant in the main phase<sup>1</sup>.

**Note 1:** These new rates only apply to people put into the WRAG on or after 3.4.17 who no longer receive the additional work related component.

**Note 2:** See Memo [DMG 6/17](#) for guidance on when the WRAC is not included in ESA awards.

**Note 3:** See Appendix 1 to this memo for an illustration of the decision making process for determining ESA hardship amounts.

*1 ESA Regs, reg 64D(1); Sch 4, para (1)(a)*

### **Meaning of ‘family’**

- 11 For the meaning of family<sup>1</sup> see [DMG 43004](#).

*1 ESA Regs, reg 2(1)*

### **Pregnancy**

- 12 The DM should establish that a claimant, or a member of their family, is pregnant, before applying the hardship amount at 80%.
- 13 If the DM has any doubts that the claimant, or a member of their family, is pregnant, the claimant should be requested to produce further evidence such as a certificate of the expected date of confinement.

**Note:** See paragraphs 24 - 29 for further guidance on evidence.

### **Meaning of ‘seriously ill’ for hardship purposes**

- 14 ‘Seriously ill’ is not defined in the law. For the purposes of determining the rate of ESA hardship payable, the consideration of ‘seriously ill’ is whether the claimant is able to demonstrate that

1. they or
2. a member of their family

will incur additional day to day living costs due to a medical condition in order to receive 80% instead of 60% of the basic ESA rate.

- 15 Within the hardship context, ‘seriously ill’ is not a test of whether a particular medical condition is serious or not. It is a test of whether a medical condition means additional day to day costs are incurred.

**Note:** It is acknowledged that the claimant, or a member of the claimant’s family, may have more complex and expensive needs that require additional costs for heating, hygiene, dietary needs or travel costs that means without the 80% higher rate of hardship payment to meet those extra costs their health would be impacted. For example, a person with a severe mobility problem may need more heating, or a person with severe diabetes may have more complex and more expensive needs to

provide certain foods or a person with psoriasis may need to change and wash bedding and clothing more frequently.

- 16 Each case should be considered carefully on its own facts and circumstances. DMs should bear in mind that
1. additional costs that are not necessary for one individual may be necessary for another **and**
  2. what is regarded as a reasonable additional cost may well vary
    - 2.1 in each individual case **and**
    - 2.2 over time **and**
    - 2.3 depending on other factors, for example symptoms may be worse at certain times of the year due to seasonal weather or allergens (also see paragraph 18).

- 17 It is important that the DM gathers the appropriate and relevant information to be able to determine the rate of hardship to be paid at the face to face hardship interview. The claimant has to demonstrate on their application for hardship
1. the relevant medical condition **and**
  2. how or why the medical condition incurs additional costs.

**Note:** Care should be taken with claimants who have mental health conditions who might lack the insight to appreciate the extra costs that might be associated with their illness, or that of a member of their family.

- 18 The claimant should be the expert of
1. their, or the relevant member of their family's, medical condition,
  2. how it affects them **and**
  3. how it incurs additional costs.

However if it is unclear, improbable or self contradictory the DM can ask the claimant to provide additional information on why and how a certain medical condition incurs extra costs.

**Note:** The DM should not require the claimant to incur any costs to provide further evidence. Also see the guidance at paragraphs 24 - 28 regarding evidence.

19 The DM also has to consider all relevant facts and circumstances that may impact the medical condition and contribute to the claimant having to incur additional costs. Certain symptoms, for example, may vary in response to the season, i.e. may be worse in cold, damp weather or exposure to allergic reactants such as pollen, dust or animal fur. If the application is made during the summer months or a period of warm weather it may be difficult for the claimant to justify their assertion that they will incur additional heating costs unless the claimant or a member of their family has a serious respiratory illness or a condition that seriously restricts their mobility or the condition of the dwelling is such that the claimant, or a member of their family, are more likely to suffer an impact on their health from a lack of heating despite prevailing weather conditions.

**Note:** See further guidance at paragraphs 24 - 28 regarding evidence and the illustrative examples in paragraph 29.

20 Guidance on the effects of some common medical conditions that may result in additional costs being incurred is given at Appendix 2 to this memo. This is not an exhaustive or prescribed list of conditions that will qualify a claimant to receive the 80% rate of ESA hardship automatically; the DM should consider all the facts and circumstances of the individual case.

**Note:** The DM can also find information regarding medical conditions in the Customer Case Management disability guidance.

21 It is essential that the claimant and members of their family

1. have sufficient supplies of any prescribed medication (see **Note 1.**) and
2. continue any course of treatment arranged by a recognized health professional which requires attendance at a health establishment (see **Note 2.**).

**Note 1:** Claimants in receipt of ESA(IR) should be able to obtain free NHS prescriptions under the Low Income Scheme but the DM should establish if, where free prescriptions are not available to the claimant, that the claimant and members of their family have an adequate supply of any prescribed medication when considering additional costs.

**Note 2:** If a claimant, or member of their family, is currently undergoing a systematic course of treatment needing attendance at a treatment centre twice or more times a week, it is important to continue that treatment for their recovery and prevent any decline of their condition, or indeed they may live remotely with no reliable or regular public transport and as such they may incur additional or more expensive transport costs (e.g. using taxis).

22 Illnesses such as colds or coughs are not normally serious on their own, but the DM should decide if for the claimant, or a member of their family, any illness

1. has any impact on any other existing health conditions or personal circumstances **and**
2. will mean additional daily living costs will be incurred.

For example, the effect of a common cold on someone who suffers with a respiratory disease such as asthma or chronic obstructive pulmonary disease can have a serious impact on their general health and could mean additional costs for heating are incurred.

**Note:** For common minor ailments such as coughs and colds, sufferers often buy treatments over the counter rather than requesting prescriptions. This should be taken into account when considering what additional costs may be incurred.

23 The DM must determine if the 'seriously ill' test is satisfied at the date

1. entitlement to hardship payments begins **or**
2. a request for revision of the amount of hardship payments is made.

**Note 1:** The DM should not determine if additional costs are likely to occur in the future. The claimant can apply for increased hardship payments if a medical condition deteriorates (for example they suffer a flare up of a fluctuating condition) and/or circumstances change such that it means they will incur additional day to day living costs (see example 8 at paragraph 29).

**Note 2:** This is not a revision of the claimant's entitlement to ESA or of the determination of whether the claimant is in hardship. This is a revision of the amount of hardship payable and whether a claimant is able to demonstrate at a later point that they incur additional day to day living costs as a result of a change that means they may qualify to receive 80% from that point.

## **Evidence**

24 The DM will determine the amount of hardship based on the claimant's statement on their application for hardship (also see paragraph 17). The DM should not request further evidence unless

1. there is contradictory or conflicting evidence that puts the claimant's statement in doubt **or**

2. it is inherently improbable **or**
3. there is insufficient evidence to make a decision

in line with the normal rules on evidence (see [DMG Chapter 01](#) – Principles of decision making and evidence).

**Note:** Decisions should normally be based on the evidence that is provided on the hardship application. DMs should bear in mind that the claimant's direct evidence should be accepted unless the conditions at **1.**, **2.** or **3.** apply.

- 25 If the DM has doubts that the claimant, or member of their family, is 'seriously ill' for hardship purposes, the claimant may be asked to provide further evidence about how the relevant medical condition incurs additional costs. For example, they may be able to provide a letter already in their possession from a doctor, health care professional or case worker that confirms the medical condition and how it is likely to incur additional costs.

**Note 1:** The DM should not expect the claimant to incur any costs to provide further evidence; also see paragraph 28 for examples of evidence the claimant may be able to provide.

**Note 2:** The DM should not delay payment of hardship to await further evidence; also see paragraph 27.

- 26 Any evidence should be contemporaneous with the application for hardship and it will be for the DM to decide what

1. evidence is required **and**
2. is reasonable and practicable for the claimant to provide

taking into account any incurred costs that may be involved to provide any evidence and whether evidence will be available in a particular case.

**Note 1:** A DM may want to confirm, for example, that incontinence pads or gluten free products are, or are not, available on prescription in a certain area as provision of such products can vary geographically. This may be easily resolved by telephoning the local surgery or NHS services for general information regarding the availability of certain products without talking to the surgery about a specific claimant so as not to delay a payment of hardship.

**Note 2:** See Appendix 2 for further examples of some conditions that may incur additional costs.

27 If in exceptional circumstances the DM

1. needs to confirm evidence **or**
2. requires some further evidence

payment of hardship should not be delayed to await that evidence and hardship should be put into payment at 60% until such time as the evidence is provided regarding the additional costs incurred and the amount payable can be adjusted to 80% if and as appropriate when any further evidence has been provided and evaluated.

**Evidence to support 'seriously ill' test for hardship**

28 Examples of evidence the claimant, or member of their family, may have in their possession that confirms the relevant medical condition which could be provided as evidence the 'seriously ill' test is satisfied if required are

1. the ESA claim form
2. the statement of circumstances form for hardship payments (i.e. the ESA hardship application)
3. any letters or written statements regarding the claimant, or member of their family's, medical condition
4. any records of interviews with the claimant, or member of their family, with the relevant medical condition
5. records held by the DM about relevant incapacity test results or recent DLA, AA, IIDB or SDA claims
6. any medical certificates or statements from any of the doctors treating the claimant, or member of their family, with the condition
7. any medical reports from people treating the medical condition, together with any interpretation from a Medical services HCP
8. any reports from a Medical services HCP about the condition and its likely effects
9. evidence from the Disability Employment Advisor if the claimant is on a Disability Employment Advisor's case load.

**Note 1:** This is not an exhaustive list and some of the sources of evidence may not be available in a particular case. The DM should usually make a decision based on the evidence that is available (see paragraph 24).

**Note 2:** The DM should not expect the claimant to incur costs to obtain further evidence.

### **Illustrative examples**

29 The following are examples for illustrative purposes only in consideration of the amount of ESA hardship to be paid.

**Note 1:** For the purposes of these examples the claimant has an award of ESA which does not include the WRAC, has had a sanction imposed and qualifies for a hardship payment.

**Note 2:** Also see the guidance at Appendix 2 for further examples of medical conditions that may incur additional costs.

#### **Example 1**

Pauline is 45 years old and suffers from depression and rheumatoid arthritis. She says she needs to have her heating on constantly because she lives in a draughty old house and even in the summer months any damp or cold can exacerbate and cause a worsening of her arthritis.

Pauline provides a letter from the occupational health services verifying she needs a constant and comfortable temperature even in the summer months due to her severe rheumatoid arthritis.

The DM considers Pauline can demonstrate she will have additional day to day heating costs due to her medical condition and will receive 80% of the ESA rate.

#### **Example 2**

Dev is 29 years old and suffers from depression. He lives in a flat with his older sister and qualifies for hardship payments. He applies for ESA hardship in August following a sanction being imposed.

The flat has gas central heating and Dev says he has no money to put in the gas meter. The flat has an electric hob, microwave and kettle.

The DM considers that the lack of heating in August for a single man aged 29 years with no mobility restrictions or respiratory problems would not lead to Dev having to

incur additional costs for heating and he has alternative cooking facilities available to cook a meal.

Although his GP has advised him to lose weight to help with his general health, Dev does not follow a special diet that would require additional costs.

The DM determines Dev will receive 60% of the ESA rate.

### **Example 3**

Flavia is a 40 year old lady who suffers from anxiety and coeliac disease. She says that she has additional costs in order to be able to buy gluten free food products which are more expensive than similar non-gluten free products.

Flavia says she risks a deterioration in her health if she does not eat gluten free food. She says only gluten free biscuits and flour are available free from her local NHS services which alone do not meet her dietary needs.

The DM considers that Flavia will have additional costs for food because of her medical condition.

The DM determines Flavia will receive 80% of the ESA rate.

### **Example 4**

Dorian suffered a spinal injury and has severe mobility problems. He lives in a remote village with a sporadic bus service and no supermarket. He says the nearest supermarket to shop for food is seven miles away and he normally uses a taxi to do his shopping and also to attend regular physiotherapy appointments at the clinic in the nearest town three times a week. He cannot walk to the nearest bus stop without severe difficulties and there is not a regular bus service. He does not own a car and lives alone.

The DM considers due to his medical condition it is reasonable for Dorian to use taxis to go to the supermarket and the clinic for his appointments and that this will be at an additional day to day cost to pay for taxis.

The DM determines Dorian will receive 80% of the ESA rate.

### **Example 5**

Shirley suffers from Detrusor Instability (Urge Incontinence) and depression. She says she needs to use the toilet frequently, at least 15 to 20 times per day, and often has 'accidents' which means she frequently has to wash and change her clothing, wash

soiled bedding and underwear/clothes and clean up after 'accidents'. Her condition causes her to feel depressed and her depression would get worse if she cannot follow her normal hygiene routine.

Shirley takes a prescribed mild anti-depressant for her depression and has an adequate supply.

Shirley says her local NHS services do not provide free incontinence pads which the DM confirms by phone call to Shirley's local surgery.

The DM considers Shirley has additional costs due to her medical condition as she needs to buy incontinence pads and wash her clothes and bedding more frequently.

The DM considers Shirley will incur additional day to day costs to buy essential cleaning products, e.g. soap, toilet paper and washing detergent as well as incontinence pads and without those products her health could deteriorate.

The DM determines Shirley will receive 80% of the ESA rate.

#### **Example 6**

Aarif suffers from epilepsy. He has prescribed medication for the condition. He has no other known medical conditions and lives with his parents.

Due to his epilepsy Aarif qualifies for free prescriptions so he will not suffer any additional day to day costs due to his illness and his medical condition will not deteriorate as he has access to his normal medication.

The DM determines Aarif will receive 60% of the ESA rate.

#### **Example 7**

Ryan suffers from sciatica. He lives with his partner and his young daughter. His daughter suffers from diabetes and has to follow a special diet and eat consistently and regularly to control her blood sugars.

To provide a special diet would incur additional costs and if not followed could have an adverse impact on Ryan's daughter's health.

The DM considers Ryan will incur additional day to day costs to pay for his daughter's specialist diet and determines he will receive 80% of the ESA rate.

### **Example 8**

Emma has crohns disease and depression. She has recurrent episodes of diarrhoea and abdominal pain during a flare up of her condition. Although relatively symptom free from her crohns disease at present, her symptoms tend to flare up every three to six months and she has to shower several times a day and use pads for minor leakage.

The DM considers that Emma may incur additional water heating and laundry costs during a flare up of her condition and that if she were unable to shower and change this might result in a worsening of her depression. She says incontinence pads are not provided free by her local NHS services. Emma lives alone and has an adequate supply of her prescribed medication.

The DM considers at present Emma would not incur additional day to day costs and determines she will receive 60% of the ESA rate.

However, should Emma suffer a flare up of her symptoms such that it means she will incur additional day to day living costs for laundry and incontinence pads, Emma can apply for increased hardship payments.

### **Example 9**

Mel is 33 years old and suffers from spondylosis of the neck. He lives with his partner and baby son.

Mel says his son has been medically diagnosed with lactose intolerance and soya baby milk is much more expensive than ordinary baby milk. The DM confirms that Mel should be entitled to free soya milk for his baby son on NHS prescriptions.

The DM considers Mel would not incur additional day to day costs and will receive 60% of the ESA rate.

### **Example 10**

John is a 50 year old man with OCD who has obsessions and associated ritual compulsive activity relating to contamination and dirt. He says that he has to shower several times a day and use freshly laundered towels on each occasion.

The DM considers that he has additional water heating and laundry costs and that if he were unable to shower frequently this would result in an increase in his anxiety and a worsening of his OCD.

The DM considers John will incur additional day to day costs because of his illness and will receive 80% of the ESA rate.

### **Example 11**

Sonny suffers from sciatica. He lives with his partner. There is no evidence provided that Sonny or his partner has a medical condition that will mean he will incur additional day to day costs.

The DM determines Sonny will receive 60% of the ESA rate.

Four weeks later Sonny has still not complied with the compliance condition to end the sanction and contacts the office to say his partner is pregnant and provides a certificate of the expected date of confinement.

The DM determines that Sonny will receive 80% of the ESA rate from the date of the change of circumstances.

## **ANNOTATIONS**

Please annotate the number of this memo (Memo DMG 7/17) against the following DMG paragraphs:

[13910 heading](#), [13920 heading](#), [41211 heading](#), [41251 heading](#), [49148](#), [53120](#).

## **CONTACTS**

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, 1S25, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in [Memo DMG 03/13](#) - Obtaining legal advice and guidance on the Law.

**DMA Leeds: March 2017**

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

## **APPENDIX 1**

### **DETERMINING THE AMOUNT OF ESA HARDSHIP PAYABLE**

## **APPENDIX 2**

### **COMMON EXAMPLES OF MEDICAL CONDITIONS THAT MAY INCUR ADDITIONAL COSTS**

Some more common factors to be considered when deciding if additional day to day costs may be incurred due to an illness in addition to the illustrative examples at paragraph 29.

This list of medical conditions and examples is not exhaustive, the DM should consider all the facts and circumstances of each individual case when considering the 'serious illness' test to qualify for the 80% rate of hardship.

#### **Diet**

Full health depends upon a regular and varied intake of food containing sufficient calories and essential nutrients. The financial costs of a special diet may well be more than those of an average healthy diet and incur additional costs, but some special foodstuffs are available on NHS prescription, for example, gluten-free flour and biscuits.

There are certain medical conditions that require keeping to a strict diet, most commonly

1. diabetes mellitus
2. low protein diet for renal failure
3. gluten free diet for coeliac disease
4. low fat diet for hyperlidaemia
5. soft diet for conditions causing difficulty in swallowing
6. high fibre diet for diverticular disease
7. cow's milk free diet for lactose intolerance
8. weight reducing diets for obesity may be desirable but it may depend on whether they are being followed due to medical advice from a GP or NHS dietician because of a health condition such as high blood pressure, heart disease etc. A telephone call to local NHS services may confirm whether or not certain free products are available in a certain geographical area.

## Accommodation

1. The impact of loss of

- shelter
- access to cooking facilities
- fuel
- clean water and
- sewage disposal

may need to be considered in terms of their effect on a long term medical condition. The test is whether day to day additional costs to secure those facilities are incurred.

2. Stable housing is needed for some medical treatments, for example:

- suitable accommodation is needed for people using a kidney machine for dialysis at home which may incur extra electricity operating costs to run
- allergic conditions such as asthma triggered by house dust require clean accommodation where dust control measures may be applied which may incur additional cleaning costs, extra products or special products which are more expensive
- a refrigerator may be required for the storage of certain drugs, e.g. insulin, and therefore maintenance of the electric supply would be essential.

3. A plentiful supply of clean fresh water is necessary for good health but a person may have a medical condition requiring higher than average fluid intake, for example, renal stones.

4. The need for adequate cooking facilities is associated with some of the dietary measures outlined above, for example, baking gluten free foods, which may incur additional fuel costs.

5. The usual method of payment for gas, electricity and water may need to be considered if there is a risk that heating, water or cooking facilities may be lost and it is essential for the claimant or a member of the claimant's family.

## **Heating**

The time of year must be considered as lack of heating is only likely to cause problems at certain times of year for most people. However those with rheumatic or mobility conditions are likely to suffer an increase in the severity and frequency of symptoms in cold weather and may therefore incur additional costs for heating.

Exposure to extremes of temperature presents a risk to all people but certain medical conditions may deteriorate without an ability to control the ambient temperature, such as

1. angina pectoris
2. chronic respiratory conditions such as asthma, chronic bronchitis or emphysema
3. Raynaud's disease
4. peripheral vascular disease

and so even in summer months may incur additional heating costs to keep an ambient temperature.

## **Laundry and personal hygiene**

Some medical conditions require a level of hygiene greater than normal or result in a substantially greater quantity of laundry and the use of incontinence aids or sanitary towels. DMs may have to consider the medical need for regular baths or showers and extra laundry that will incur additional costs for water, electric, laundry detergents, soap, incontinence pads etc.

Examples of conditions that may lead to extra washing or laundry are

1. incontinence
2. exudative skin conditions such as eczema or psoriasis which may need bath additives
3. stoma patients
4. bleeding haemorrhoids
5. discharging fistulae or sinuses.

## Transport

Some medical conditions will produce long term problems in the ability to walk. People in hardship may need to travel to shop, attend appointments or for other reasons and may incur additional costs for taxis or extra journeys.

For example if a claimant is currently undergoing a systematic course of treatment needing attendance at a treatment centre twice or more times a week it is important to continue that treatment for their recovery and prevent a deterioration of their condition or indeed they may live remotely with no reliable or regular public transport and as such they may incur additional or more expensive transport costs (e.g. using taxis).

The following medical conditions produce a long term restriction in the ability to walk

1. cardio-respiratory disorders causing breathlessness
2. angina causing chest pain
3. neurological disorders affecting the gait
4. arthritis of a weight bearing joint causing pain and possibly a limping gait
5. spinal injuries or back, joint and muscle disorders where the use of the lower limbs in walking or climbing may be affected.

Any course of treatment arranged by a recognized health professional which requires attendance at a health establishment should be considered as essential to prevent a decline in health. DMs should consider if a person with a chronic medical condition would still be able to attend for treatment if ESA hardship is not paid at the higher rate of 80% due to additional costs incurred.

However DMs should bear in mind that refunds of all, or part of, necessary travel costs to and from hospitals for NHS treatment are available to people getting ESA(IR).

See paragraph 21 for guidance regarding prescription charges.