

Housing Benefit and Council Tax Benefit Circular

Department for Work and Pensions

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HB/CTB A3/2012(Revised)

ADJUDICATION AND OPERATIONS CIRCULAR

WHO SHOULD READ	Local authority (LA) Housing Benefit (HB) and Council Tax Benefit (CTB) staff
ACTION	For information
SUBJECT	<ul style="list-style-type: none">• Amendment to HB/CTB regulations to take account of contribution based Employment and Support Allowance (ESA (C)) time-limiting: SI 2012/913• The impact of ESA (C) exhausting after 365 days for their HB/CTB claimants.• Amendment to the HB/CTB regulations to take account of abolition of ESA 104 week linking rule: SI 2012/919

Revision

We apologise for any inconvenience caused but this circular has had to be re-issued to correct minor errors in paragraphs 19, 20, 27, 28, 30, 31, 32, 33, 34 and 35. Recipients should destroy the previous version.

Guidance Manual

The information in this circular does affect the content of the HB/CTB Guidance Manual. Please annotate this circular number against paragraph BW3 W3.153 and W3.300.

Queries

If you

- want **extra copies of this circular/copies of previous circulars**, they can be found on the website at <http://www.dwp.gov.uk/local-authority-staff/housing-benefit/user-communications/hbctb-circulars/>
- have any queries about the
 - **technical content of this circular**,
email hb-ctb.claimsandpayments@dwp.gsi.gov.uk
 - **information flow content of this circular**, contact Beverley Winnemore
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LA operational guidance, providing details of the information flow that will take place between the DWP and LAs, to support LAs administering the impact of ESA (C) exhausting after 365 days for their HB/CTB claimants.

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Changes to contribution- based Employment and Support Allowance (ESA (C)) for claimants in Great Britain

Introduction

- 1 This circular provides guidance to support LAs administering Housing Benefit (HB) and Council Tax Benefit (CTB) as a result of changes being introduced by the Welfare Reform Act in relation to ESA (C).
- 2 The circular contains guidance on the operational procedures and information flow that LAs will need in order to correctly administer HB and/or CTB when the changes come into effect on the 1 May 2012.

Background

- 3 The Government wants to modernise the current welfare system, focus support where it is needed most and redefine the contract between the state and individuals, in advance of the introduction of Universal Credit (UC).
- 4 The Welfare Reform Act will introduce changes to ESA (C) that will:
 - limit the period for which people in the Work Related Activity Group (WRAG) can receive ESA (C) to 365 days and will
 - prevent new claims for ESA on the grounds of youth (ESA (Y)).
- 5 The changes reflect the fact that ESA (C) for people in the WRAG was never intended to be a long term benefit but to provide interim support for those who presently have limited capability for work and are expected to be able to move into work in the future. The Government expects people receiving benefits to take up the help and support available through Jobcentre Plus, including the Work Programme, to enable them to move off benefits and into work.
- 6 The Welfare Reform Act 2012 will limit the amount of time people, not in the Support Group, can claim ESA (C) to a period not exceeding 365 days without re-qualifying. Time spent in the assessment phase will count towards the 365 day time limit unless it is immediately followed by entitlement to the support component.
- 7 Introducing a 365 day limit on the length of time people in the WRAG can be entitled to ESA (C) is more consistent with the rules for contribution-based Jobseeker's Allowance (JSA (C)), which has a time-limit of six months, whilst recognising the different nature of ESA recipients and the purpose of the benefit.
- 8 People in the Support Group and those solely claiming income related ESA (IR) are unaffected by this change in legislation.

Claimant journey

- 9 Two ESA (C) claimant journeys have been developed and are based upon the same principle for ending JSA (C) entitlement after a set period of time:
- The standard process which will ensure the majority of claimants are issued with a notification 8 weeks before their contribution-based benefit ends; including details of how to make a claim for ESA (ESA (IR)).
 - A more compressed process which has been designed for people who will be immediately affected on 1 May 2012. This is due to the short timescales between the Welfare Reform Act receiving Royal Assent and the introduction of the time limit.
- 10 Both of the claimant journeys have been taken into consideration when looking at the information flow between DWP and LAs and are reflected in the guidance shown from paragraph 17.

Impact upon local authorities

- 11 A claimant's ongoing entitlement to other benefits can be directly affected when ESA (C) exhausts. As such LAs paying HB and CTB have a responsibility to correctly identify, and where applicable, supersede a claimant's benefit entitlement based upon their new circumstances.
- 12 Claimants who are currently in receipt of ESA (C), including those with an underlying entitlement to ESA (IR) will need to have their case reassessed following cessation of ESA (C) due to time-limiting.
- 13 For claimants receiving both ESA (C) and ESA (IR), who are already treated as passported for the purposes of HB and CTB; there will be no need for LA intervention as a direct result of ESA (C) exhausting. They will move to ESA (IR) only. If nothing else about their case changes there will be no need for their case to be reassessed.
- 14 Claimants not moving on to ESA (IR) following exhaustion of ESA (C) will have the award element of their ESA terminated, however, they will still be classed as having limited capability for work. This means they can continue to receive national insurance (NI) credits from the date their ESA (C) exhausts.
- 15 The availability of NI credits for such cases means that claimants will continue to qualify for the work-related activity component within their HB/CTB applicable amount, as well as any transitional addition that might have been awarded as a result of Incapacity Benefit to ESA conversion (see circular HB/CTB A14/2010). Please note, there will be no ESA (C) or transitional amount to take into account as **income** in the HB/CTB assessment once ESA (C) ceases due to time limiting. It is the component added to the applicable

amount, and any transitional addition awarded in the applicable amount that the claimant remains eligible for.

- 16 Following cessation of ESA (C), a claimant may move onto another benefit, such as JSA. In the event of that happening, the LA should consider removal of the work related component and any transitional addition. An ESA termination notification will be sent to the LA in this instance.

Information Flow

- 17 Automated Transfer to Local Authority Systems (ATLAS) is the chosen method for sending information to LAs for claimants moving off contribution based ESA because they have reached the date of exhaustion.

Cases reaching exhaustion on the 30 April 2012 (inclusive)

- 18 The following paragraphs provide details of what you will receive via the ATLAS notifications at the point ESA (C) exhausts. You should note that the only new change being communicated via ATLAS as a result of time limiting ESA (C) will be the new award end reason: 'ESA Conts Exhausted' as described in the following paragraphs.

Claimant in receipt of ESA (C) only and ESA (C) exhausts:

- 19 ATLAS notifications will output with a change type of "Benefit Change of Circumstance". A minimum of 2 awards will be output. The first award which includes the period where ESA (C) has exhausted will have an award end date and award end reason which will display as "Award Not Stopped". The ESA (C) component amount will be displayed as the amount in payment prior to exhaustion.
- 20 The award following this (or 2nd award) will have no end date and the award end reason will display "ESA Conts Exhausted". The ESA (C) component amount will be displayed as £0.00.
- 21 Following receipt of this type of notification, LAs should end ESA (C) and the work-related component from the income assessment, including any transitional addition. As explained in paragraph 15, the claimant remains eligible for the work related component and any transitional addition within the applicable amount.

ESA (C) exhausts and the claimant has an underlying entitlement to ESA (IR):

- 22 ATLAS notifications will output with a change type of "Benefit Change of Circumstance". A minimum of 2 awards will be output. The first award which includes the period where ESA (C) has exhausted will have an award end date and will show the component amounts for ESA (C) and ESA (IR) as the

amounts in payment prior to exhaustion. The award end reason will display as "Award Not Stopped"

- 23 The award following this (or 2nd award) will have no end date and the award end reason will continue to display as "Award Not Stopped". The ESA (C) component amount will then be displayed as £0.00 and the ESA (IR) component amount will display the actual ESA (IR) amount.
- 24 Following receipt of this type of notification, LAs should recalculate the claimants HB/CTB based on their entitlement to ESA (IR).

ESA (C) exhausts and the claimant makes a successful claim to ESA (IR) before the date ESA (C) exhausts:

- 25 ATLAS notifications will output with a change type of "Benefit Change of Circumstance". A minimum of 2 awards will be output. The first award which includes the period where ESA (C) has exhausted will have an award end date and will show the component amounts for ESA (C) and ESA (IR) as the amounts in payment prior to exhaustion. The award end reason will display as "Award Not Stopped"
- 26 The award following this (or 2nd award) will have no end date and the award end reason will continue to display as "Award Not Stopped". The ESA (C) component amount will then be displayed as £0.00 and the ESA (IR) component amount will display the actual ESA (IR) amount.

ESA (C) exhausts and the claimant makes a successful claim to ESA (IR) following exhaustion:

- 27 ATLAS notifications will output with a change type of "Benefit Change of Circumstance". A minimum of 2 awards will be output. The first award which includes the period where ESA (C) has exhausted will have an award end date and award end reason which will display as "Award Not Stopped". The ESA (C) component amount will be displayed as the amount in payment prior to exhaustion.
- 28 The award following this (or 2nd award) will have no end date and the award end reason will display as "ESA Confs Exhausted". The ESA (C) component amount will be displayed as £0.00.
- 29 A further ATLAS notification will then be output displaying the details of the ESA IR entitlement.

New claims to ESA (C) made from 1 May 2012

Exhaustion date is prior to uprating

- 30 For new claims made from the 1 May 2012, where the exhaustion date is prior to uprating ATLAS will notify the award amount along with an award end

date which is the exhaustion date and an award end reason of “Award Not Stopped”. The award following this will have no end date and the award end reason will display as “ESA Conts Exhausted”. The ESA (C) component amount will be displayed as £0.00.

- 31 Where the claimant has made a successful claim to ESA (IR) or has an underlying entitlement to ESA (IR), the award stoppage reason will be “Award Not Stopped” and the ESA (IR) component amount will be displayed.

Exhaustion date is after uprating

- 32 The initial award produced directly after uprating will output the amount of ESA (C) in payment, but will not display an end date.
- 33 A further ATLAS notification will then be issued upon exhaustion confirming again the award details as a result of uprating but this time ATLAS will output an award with an end date and award end reason of “Award Not Stopped”. The award following this will have no end date and the award end reason will display as “ESA Conts Exhausted”. The ESA (C) component amount will be displayed as £0.00.
- 34 Where the claimant has made a successful claim to ESA (IR) or has an underlying entitlement to ESA (IR), the award stoppage reason will be “Award Not Stopped” and the ESA (IR) component amount will be displayed.

ESA Work Related Component

- 35 For the above scenarios, where there is no entitlement to ESA (IR) following the ESA (C) exhaustion the component “ESA Work Group” will continue to display, but the amount will display as £0.00.

Claimant Notifications

- 36 Claimants are notified in advance of their approaching exhaustion date and are reminded that if they do not have enough money to live on that they may be entitled to income related ESA and other qualifying benefits.
- 37 In order to obtain further information about these other benefits claimants are directed towards Direct Gov via the following link: www.direct.gov.uk/benefits

Annex A

ESA 104 Week Linking Rule

- 1 The ESA 104 week linking rule is also being abolished by separate regulations (SI 2012/919). This will take effect on the 1 May 2012. However claimants who make a claim to ESA up to and including the 30 April 2012 will still be able to make a linked claim.
- 2 Following the introduction of time limiting, the 104 week linking rule would have disadvantaged some claimants. They would have been prevented from re-qualifying for a further 365 days of ESA (C) even if they had made NI contributions during a later tax year than was used for their original claim.
- 3 Therefore the 104 week linking rule is being abolished at the same time that time-limiting of ESA (C) is introduced.

HB/CTB 104 Week Linking Rule

- 4 In line with this change, amendments have also been made to the HB/CTB regulations to withdraw the 104 week linking rule for protecting any transitional addition within the HB/CTB applicable amount. Circular A14/2010 (annex E) provided details of when the 104 week linking rule applied.
- 5 The 12 week linking rule for protecting any transitional addition still applies.

Annex B

Stakeholder Information Pack can be found on the DWP website at

<http://www.dwp.gov.uk/docs/esa-changes.pdf>