

UC: CLAIMANTS ENTITLED TO SEVERE DISABILITY PREMIUM

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INTRODUCTION

- 1 This memo gives guidance on the UC (Transitional Provisions) (SDP Gateway) Amendment Regulations 2019¹, about where claims for UC may not be made by people who are, or have been, entitled to an existing benefit which includes the severe disability premium (SDP).

Note: See M6003 for the meaning of existing benefit². For the purposes of this memo, this means IS, JSA(IB), HB and ESA(IR), as awards of WTC or CTC do not include the SDP.

1 SI 2019 No. 10; UC (TP) (SDP Gateway) Regs; 2 UC (TP) Regs, reg 2(1)

- 2 DMs should note that references to “entitlement to an existing benefit which includes the SDP”, in relation to HB, are where the claimant’s applicable amount includes the SDP for the purposes of entitlement to HB¹.

1 SS C&B Act 92, s 130

- 3 The provisions described in this memo come into force on 16.1.19¹.

Note: From 12.12.18, the requirement to meet the gateway conditions² when claiming UC no longer applies to any postcode in GB. See Memo ADM 18/18 for further details.

1 UC (TP) (SDP Gateway) Regs, reg 1; 2 WR Act 12 (Commencement No. 9 etc.) Order, art 3(3)(a) & Sch 5

BACKGROUND TO CHANGE

- 4 A claimant may be entitled to the lower or higher rate of SDP where the conditions in paragraphs 5 or 6 - 7 are satisfied¹.

*1 IS (Gen) Regs, Sch 2 para 15(5); JSA Regs 96, Sch 1 para 20(6); HB Regs, Sch para 20(6);
ESA Regs 08, Sch 4 para 11(2)*

- 5 A single claimant who has an award of IS, HB, JSA(IB) or ESA(IR) and is a severely disabled person may be entitled to the lower rate of SDP¹. Normally the conditions are that

1. the claimant must be in receipt of
 - 1.1 the middle or highest rate care component of DLA **or**
 - 1.2 the daily living component of PIP **or**
 - 1.3 AFIP **or**
 - 1.4 AA **and**
 2. the claimant must not live with any non-dependants **and**
 3. no person must be in receipt of
 - 3.1 CA **or**
 - 3.2 the carer element of UC
- in respect of caring for the claimant.

*1 IS (Gen) Regs, reg 17(1)(d) & Sch 2 para 13; JSA Regs 96, reg 83(1)(e) & Sch 1 para 15 & 20I;
HB Regs, reg 22(d) & Sch 3 para 14; ESA Regs 08, reg 67(1)(b) & Sch 4 para 6*

- 6 The lower rate of SDP is payable to a claimant who has a partner where the claimant and the partner are in receipt of any of the benefits in paragraph 5 **1. and**
1. a person is in receipt of CA or the carer element of UC in respect of caring for the claimant or the claimant's partner **or**
 2. the benefits in paragraph 5 **3.** are not payable because the person is a patient in hospital.
- 7 The higher rate of SDP is payable where both the claimant and their partner satisfy all the conditions in paragraph 5.

Note 1: Detailed guidance on the SDP qualifying conditions, and the meaning of a severely disabled person, is in DMG Chapter 23 for IS and JSA, and Chapter 44 for ESA. See also Chapter BP3 of the [HB and CTB](#) manual for HB.

- 8 There is no equivalent to the SDP in UC, and until the managed migration process begins, currently there is no transitional protection available for claimants who have a change of circumstances which means that they are required to claim UC as in Chapter M5 (UC – claims in the digital service area).
- 9 From 16.1.19 no claim for UC may be made by a person who is, or within the past month has been, entitled to an existing benefit which includes the SDP. Instead, their existing benefit award will continue where appropriate, and they will be able to claim other existing benefits instead or in addition where necessary. See paragraphs 10 - 14 for further details.

WHEN A CLAIM FOR UC MAY NOT BE MADE

- 10 M5006 – M5008 gives guidance on the circumstances when claims for UC may not be made in the UC Full Service area. Paragraphs 11 – 13 below add a further circumstance when claims for UC may not be made.
- 11 A claim for UC may not be made on or after 16.1.19 by a single claimant, or joint claimants either of whom,¹
1. is, or within the past month (see paragraph 13) has been, entitled to an award of an existing benefit which includes the SDP² **and**
 2. in a case where the award ended during that month, continues to satisfy the SDP² conditions.

Note: But see paragraph 14 for exceptions.

*1 UC (TP) Regs, reg 4A; 2 IS (Gen) Regs, reg 17(1)(d) & Sch 2 para 13;
JSA Regs 96, reg 83(1)(e) & Sch 1 para 15 & 20I; HB Regs, reg 22(d) & Sch 3 para 14;
ESA Regs 08, reg 67(1)(b) & Sch 4 para 6*

- 12 Where a person cannot claim UC, a claim for any existing benefit may be made instead¹.

*1 2 WR Act 12 (Commencement No. 9 etc.) Order, art 5A(1);
2 WR Act 12 (Commencement No. 23 etc.) Order, art 7(2)*

Example 1

Denise is entitled to IS on the grounds that she is incapable of work, and is also entitled to the daily living component of PIP, and HB. Her awards of IS and HB include the SDP. Denise moves to a different LA area to be closer to family, and her award of HB terminates. Although she has moved to a UC Full Service area, Denise cannot claim UC. She claims HB instead, and her award of IS continues (subject to IB conversion).

Example 2

Idris is entitled to ESA(IR), as well as the middle rate care component of DLA. His award of ESA(IR) includes the SDP. Idris visits family outside the UK for six weeks, and his award of ESA(IR) ends four weeks after leaving the UK. As the period of temporary absence is for less than 13 weeks, the DLA award is not affected. During his temporary absence abroad Idris would otherwise continue to satisfy the conditions for the SDP. On his return, although he lives in a UC Full Service area, Idris cannot claim UC, and claims ESA(IR) instead.

Example 3

Tamara is entitled to ESA(IR) and HB which include the SDP, as well as the middle rate care component of DLA. Her awards of ESA(IR) and HB are terminated when she starts F/T employment. Three weeks later she gives up work when it proves too difficult for her to manage. Tamara cannot claim UC as she continued to satisfy the SDP eligibility conditions during the period when she was in work, and claims ESA(IR) and HB instead.

- 13 The past month is calculated by reference to the date on which the person attempts to claim UC.

Example

Martin's award of JSA(IB), which includes the SDP as he is entitled to the daily living component of PIP, terminates on 6.1.19 when he finds work. The job ends on 1.2.19. On 2.2.19 Martin attempts to claim UC. The past month is the period 3.1.19 – 2.2.19. As Martin was entitled to an existing award which included SDP, and continues to satisfy the SDP conditions, during that period, he cannot claim UC. He can claim an existing award instead.

If Martin does not make a claim until on or after 6.2.19, he can only claim UC (unless any of the exclusions in M5006 – M5008 applies).

- 14 Paragraph 11 does **not** apply where a UC claim is treated as made on formation of a couple by a single UC claimant and a person who was previously entitled to an existing benefit¹. This is because the former UC single claimant would not satisfy the conditions in paragraph 11.

1 UC, PIP, JSA & ESA (C&P) Regs, reg 9(8)

Example

Rory is entitled to ESA(IR) as well as the highest rate care component of DLA. His award of ESA(IR) includes the SDP and the support component. Rory is joined by his partner Val, who is a UC single claimant. Rory and Val are treated as claiming UC, and Rory's award of ESA(IR) terminates. No claim for UC is required, and Rory cannot remain entitled to ESA(IR) as a member of a couple.

ANNOTATIONS

Please annotate the number of this memo (Memo ADM 01/19) against the following ADM paragraphs:

M5006, M5090, M5106, S8080, V8080

CONTACTS

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, 3E, 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: January 2019

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