

UC: CLAIMANTS PREVIOUSLY ENTITLED TO THE SDP

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INTRODUCTION

1. This memo gives guidance on the UC (Transitional Provisions) (Claimants previously entitled to a severe disability premium) Amendment Regulations 2021¹, which come into force on 27.1.21.

1 SI 2021 No. 4; UC (TP) (SDP) Amdt Regs

2. The regulations

1. replace the current provisions for the transitional SDP amount with a new transitional SDP element for all UC awards made to people previously entitled to the SDP where UC entitlement begins on or after 27.1.21¹ **and**

2. provide savings for the current provisions for all UC awards made to people previously entitled to the SDP where UC entitlement begins before 27.1.21².

Note: See M6710 et seq for detailed guidance on the transitional SDP amount.

1 UC (TP) (SDP) Amdt Regs, reg 2; 2 reg 3



Removal of the SDP Gateway

3. The regulations are part of changes being made for claimants previously entitled to the SDP who move to UC from 27.1.21. DMs are reminded that from the same date, the SDP Gateway, which prevents claims for UC from claimants who are, or who within the previous month have been, entitled to an existing benefit which includes the SDP, is removed¹ (see Memo ADM 15/20 paragraph 18).

1 UC (TP) Regs, reg 4A; UC (MM Pilot) Regs, reg 7

4. The removal of the SDP Gateway means that, apart from the remaining exclusions where a claim for UC may not be made (see M5200 and M5260), from 27.1.21 no claims for ESA(IR), HB, IS or JSA(IB) may be made. This includes claims made on or after that date which are treated as made on, or are in time for claiming from, an earlier date.

Note: DMs are reminded that the time for claiming UC may be extended for up to a month where the claimant is not sent notification that an existing award is terminated before that award ends, and the claimant could not reasonably be expected to make a claim for UC earlier¹. See A2044 – A2045 for details.

1 UC, PIP, JSA & ESA (C&P) Regs, reg 26(2) & (3)

Example

Kevin is entitled to HB, PIP, CA and IS as a carer including the SDP. On 20.1.21 his award of IS terminates after he stops caring for the disabled person. Kevin makes a claim for ESA from 21.1.21 on 29.1.21. Kevin does not satisfy the ESA contribution conditions, and the making of the ESA claim brings into force the abolition of ESA(IR). Kevin must claim UC instead.

TRANSITIONAL SDP ELEMENT

5. Where

1. an award of UC is made to a single claimant or joint claimants **and**
2. the conditions in paragraphs 6 – 7 are satisfied

the UC award includes a transitional SDP element¹. But see paragraph 12 for where a transitional SDP element is not included.

Note: See also paragraphs 10 - 11 for guidance on reduction and termination of the transitional SDP element.

1 UC (TP) Regs, Sch 2 paras 1 - 4



The first condition

6. The first condition is that the award of UC is not made because the claimant formed a couple where the other member of the couple was already entitled to UC¹.

1 UC (TP) Regs, Sch 2 para 2

Example 1

Gary is entitled to IS as a lone parent. His award includes the SDP. He moves in with his partner Lexi who is entitled to UC as a single claimant. Gary and Lexi are treated as claiming UC as joint claimants. As the couple do not meet the first condition, they are not entitled to the transitional SDP element.

Example 2

Caroline is entitled to ESA(IR) which includes the SDP. She is joined by her partner Miguel who is entitled to UC as a single claimant. His award includes the transitional SDP amount. Caroline and Miguel are treated as claiming UC as joint claimants. As Miguel's entitlement to the transitional SDP amount terminated with his UC award, and the couple do not meet the first condition, their UC award as joint claimants cannot include the transitional SDP element.

The second condition

7. The second condition is that

1. the claimant was

1.1 entitled **or**

1.2 a member of a couple, the other member of which was entitled

to an award of IS, JSA(IB) or ESA(IR) which included the SDP within one month immediately before the first day of the UC award **and**

2. the conditions for eligibility for the SDP continued to be satisfied up to and including the first day of the UC award¹.

Note: This does not apply to awards of HB where the SDP is included in the calculation of the award.

1 UC (TP) Regs, Sch 2 para 3



Example 1

Raphael is entitled to ESA(IR) which includes the SDP, as well as PIP and HB. On 5.2.21 he moves to a different LA area so that his daughter Gina can care for him, and claims and is awarded UC from 5.2.21. Raphael's awards of ESA(IR) and HB terminate on 19.2.21. Gina moves to his new accommodation on 5.2.21. As Gina is a non-dependant, Raphael does not meet the SDP conditions from that date, so is not entitled to the transitional SDP element.

Example 2

Chisa is entitled to IS as a lone parent. She is also entitled to CTC and PIP, and her IS award includes the SDP. Chisa's youngest child reaches age 5, and as she does not satisfy any other IS condition of entitlement, the award terminates on 9.2.21. Chisa claims and is awarded UC from 10.2.21. Her award includes the transitional SDP element.

Example 3

Ashley is entitled to ESA(IR) including the SDP. On 23.2.21 she moves in with her partner Chad, who is entitled to ESA(IR) also including the SDP, as well as HB and CTC for his two children. Ashley and Chad claim UC as joint claimants, and as they meet both the first and second conditions, their UC award includes the transitional SDP element.

Example 4

Igor is entitled to ESA(IR) for himself and his partner Magdalena. His award includes the higher rate SDP, as both members of the couple are entitled to PIP daily living component. On 15.2.21 the couple separates, and they both claim UC as single claimants. They both satisfy the first and second conditions, so both UC awards may include the transitional SDP element.

Amount of transitional SDP element

8. Where the first and second conditions are satisfied, the UC award calculation includes the transitional SDP element, which is treated as an additional amount included in the maximum amount before the deduction of income¹. See E2170 for guidance on the maximum amount.

¹ UC (TP) Regs, Sch 2 para 4; WR Act 12, s 8(2) & (3)



First assessment period

9. In the first assessment period of the UC award, the transitional SDP element is

1. for a single claimant¹

1.1 £120 if the LCWRA element is included **or**

1.2 £285 if the LCWRA element is not included **or**

2. for joint claimants²

2.1 £405 if the higher SDP rate³ was payable **or**

2.2 £120 if 2.1 does not apply and the LCWRA element is included for either of the claimants **or**

2.3 £285 if 2.1 does not apply and the LCWRA element is not included for either of the claimants.

Note: See M6715 and DMG Chapters 23 and 44 for the meaning of higher SDP rate.

1 UC (TP) Regs, Sch 2 para 5(a); 2 para 5(b); 3 IS (Gen) Regs, Sch 2 para 15(5)(b); JSA Regs 96, Sch 1 para 20(6)(b); ESA Regs 08, Sch 4 para 11(2)(b)

Second and subsequent assessment periods

10. For subsequent assessment periods, the transitional SDP element is treated as if it were a transitional element included in the UC award as part of the managed migration process¹. The amount of the transitional SDP element awarded in the first assessment period is therefore subject to reduction and termination in the same way as the transitional element². It can also be included in subsequent UC awards where the conditions are satisfied³.

1 UC (TP) Regs, Sch 2 para 6; 2 reg 55(2) & 56; 3 reg 57

11. Detailed guidance on

1. reduction of the transitional element is at M7500 – M7511

2. termination of the transitional element is at M7530 – M7541

3. subsequent awards of the transitional element is at M7560 – M7562.



When is the transitional SDP element not included

12. A transitional SDP element cannot be included in an award of UC made on a qualifying claim where the award includes a transitional element¹. See Chapter M7 (Managed migration pilot and Transitional protection) for detailed guidance on the managed migration process, qualifying claims and the transitional element.

1 UC (TP) Regs, Sch 2 para 7; reg 48 & 52 - 55

Example

Floyd is entitled to ESA(IR) including the higher rate SDP for himself and his partner Errol. Both members of the couple are entitled to the standard daily living component of PIP, and both have LCW. Floyd and Errol are issued with a migration notice requiring them to claim UC by 4.9.21. On 21.6.21 Errol has a stroke and is admitted to hospital before being moved to a residential care home in August where he is expected to remain for at least six months. Both Floyd and Errol claim UC before 4.9.21, but as they are not treated as a couple for the purposes of UC, neither of them is entitled to a transitional element. However, both Floyd and Errol are entitled to the transitional SDP element as both satisfy the first and second conditions at paragraphs 6 – 7.

SAVING

13. Where the first day of entitlement to an award of UC begins before 27.1.21, the provisions for the transitional SDP amount as set out in M6710 et seq continue to apply if appropriate¹. This includes awards made where the time for claiming is extended back to a date before 27.1.21.

1 UC (TP) (SDP) Amdt Regs, reg 3

Example

Andreas is entitled to ESA(IR) including the higher rate SDP for himself and his partner Mykaela. Both are entitled to the daily living component of PIP. On 20.1.21 the couple separates, and both claim UC as single claimants. The DM determines that Andreas's claim made on 8.2.21 is in time for claiming from 20.1.21. As he satisfies and continues to satisfy the SDP conditions, his award of UC includes the transitional SDP amount. Mykaela claims UC on 28.1.21. She meets the first and second conditions, so her award of UC includes the transitional SDP element.



ANNOTATIONS

Please annotate the the number of this memo (Memo ADM 01/21) against the following ADM paragraphs and memo:

E2170, M5210 heading, M6710 heading, M7400 heading, Memo ADM 15/20

CONTACTS

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, 3E zone E, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in – Memo [7/19](#) Requesting case guidance from DMA Leeds for all benefits.

DMA Leeds: January 2021

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