

Freedom of Information request 1885/2013

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Information request

I recently read the following comments;

We have confirmation that the DWP is actively considering axeing employment and support allowance (ESA) payments for claimants who challenge a decision that they are fit for work. Instead, claimants will have to try to sign on for jobseeker's allowance, where they will face a harsh new regime which, from later this month, will include potential benefit sanctions of up to three years.

Please clarify if any of these assertions are true?

DWP response

The payment of assessment phase rate Employment Support Allowance (ESA) to claimants who are appealing a decision that they do not have limited capability for work following a work capability assessment is not changing. However, the process for disputing a decision is changing for decisions made on or after 28 October 2013. From this date claimants who wish to dispute a decision will need to request that the decision maker looks at it again, a process known as mandatory reconsideration. Claimants will only be able to appeal a decision after a decision maker has considered whether the decision can be changed.

Following the introduction of mandatory reconsideration, payment of ESA will cease once a decision is made that the claimant does not have limited capability for work. If the claimant wishes to dispute this decision they must request that the decision maker looks at it again (mandatory reconsideration). Whilst the decision maker is reconsidering the decision, ESA cannot be paid as there is no legal basis to do so. If, however, following completion of mandatory reconsideration the claimant appeals to the first-tier Tribunal, ESA may be paid at the assessment phase rate provided the claimant sends medical evidence to the Department.

During the mandatory reconsideration process, whilst ESA cannot be paid, claimants have the option of applying for alternative benefits, such as Jobseekers Allowance, however they must meet the conditions of entitlement. From 22 October 2012 a revised JSA sanctions regime was introduced, the regime is designed to provide greater clarity about the consequences of not meeting requirements and more robust sanctions for repeated non engagement. The requirements placed on claimants will not change but the duration of sanctions have changed. The revised sanctions regime has three

tiers. High level sanctions will apply for non compliance with requirements directly linked to employment such as leaving a job voluntarily.

For these failures the sanction periods will be:

13 weeks for the first failure;

26 weeks for a second failure within a year of the previous one; and

156 weeks (3 years) for a third (or further) failure within a year of a previous failure which resulted in a 26 (or 156) week sanction.

Intermediate level sanctions will apply for up to 4 or 13 weeks when a claimant reapplies for benefit following disentanglement for failing to be available or actively seek work.

- Low level sanctions will apply when a claimant fails to comply with a requirement that is designed to improve their chances of finding work or preparing for work such as failing to attend an adviser interview at the Jobcentre or to take part in a training scheme.

The sanction for not meeting these requirements will be set at a period of 4 weeks for a first failure, and 13 weeks for a second or subsequent failure within a year of the previous one.

From 3rd December 2012 a new ESA sanctions regime was introduced as a first step to aligning with the Universal Credit sanctions model. ESA claimants in the Work Related Activity Group (WRAG) who fail to meet Work-Focused Interview and work related activity conditionality requirements will be subject to a new two part sanction. This sanction is made up of an open ended period which is lifted when the claimant meets requirements - followed by a short fixed period of 1, 2 or 4 weeks. Claimants who re-comply within the same week of the failure will receive the relevant fixed period sanction only. The sanction amount will be 100 per cent of the prescribed amount for a single claimant, this is currently £71.00. The work-related activity component and any other additional elements to which they are entitled, such as premiums or payments for mortgage interest, will not be affected.