

## 13-23 UC Miscellaneous Amendments 2023

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[\[See ADM Memo 18-23\]](#)

### INTRODUCTION

1. This memo gives guidance on the SS and UC (Miscellaneous Amendments) Regulations 2023, which come into force on 29.6.23<sup>1</sup>.

1 [SI 2023 No. 543](#)

2. The regulations make changes to

1. when the LCWRA element is included in a UC award (see [paragraphs 3 - 4](#))
2. the time for claiming UC (see [paragraphs 5 - 6](#))
3. the amount of the transitional SDP element included in a UC award for certain joint claimants (see [paragraphs 7 - 10](#)).

### WHEN THE LCWRA ELEMENT IS INCLUDED

3. [ADM F5030 – F5034](#) gives guidance on the relevant period before which the LCWRA element is included in an award of UC<sup>1</sup>, and [F5040 – F5070](#) gives guidance on exceptions to the general rule<sup>2</sup>.

1 [UC Regs, reg 28\(1\)](#); 2 reg 28(2) – (5)

4. From 29.6.23, the guidance at [F5030](#) does not apply where

**1.** the claimant has LCW **and**

**2.** the DM later determines that the claimant has LCWRA<sup>1</sup>.

**Note:** See [ADM Chapter A4](#) (Supersession, suspension and termination) for guidance on the supersession and effective date.

1 UC Regs, reg 28(6)

### **Example 1**

Lucy has been entitled to UC since 12.1.21, and has LCW. Her award does not include the LCW element as it began after 3.4.17. She is sent for a routine WCA, and on 4.7.23 the DM determines that Lucy has LCWRA. Her award of UC includes the LCWRA element from the beginning of the AP in which the determination is made, i.e. 12.6.23.

### **Example 2**

Darren has been entitled to UC since 12.1.21, and has LCW. His award does not include the LCW element as it began after 3.4.17. On 4.7.23 Darren notifies that his condition has deteriorated, and he is referred for the WCA. On 27.11.23 the DM determines that Darren has LCWRA. Darren's award of UC is superseded to include the LCWRA element from the beginning of the AP in which the determination is made, i.e. 12.6.23.

## **TIME FOR CLAIMING**

5. It is generally a condition of entitlement for UC that a claim is made within the time limit specified in regulations<sup>1</sup>. A claim must usually be made on the first day of the period in respect of which the claim is made. However, this time can be extended if certain conditions are satisfied ([ADM A2044](#))<sup>2</sup>. The amending regulations have changed the maximum period over which the time for claiming can be extended in this way. The maximum time for claiming for any given period is now the end of the AP that starts at the beginning of that period.

1 [SS A Act 92, s. 1\(1\)\(a\)](#) 2 [UC, PIP, JSA & ESA \(C&P\) Regs, reg 26\(2\)](#)

6. Put another way, where [ADM A2044](#) is met, the earliest date to which an award of UC on a claim can be backdated is the first day of the AP that ends on the date on which the UC claim was made (or treated as made).

### **Example**

Doris claims UC on 19.8.23. She asks for her claim to be backdated to 2.7.23 because she became too sick to make a claim for UC on that date, and remained so right down to when she managed to submit her

claim. She also provides medical evidence that supports her account. The time for claiming from 2.7.23 cannot be extended down to 19.8.23 because the maximum period allowed for backdating in UC is one month. Instead, the DM looks for the start of the AP that ends on 19.8.23 (the date of claim). This is 20.7.23. Accordingly, the DM extends the time for claiming (from 20.7.23) to 19.8.23. The DM then awards UC from 20.7.23, all the other conditions of entitlement being satisfied. The DM disallows Doris's claim for the period from 2.7.23 to 19.7.23 on the ground that it was made outside the time for claiming for those days.

## AMOUNT OF TRANSITIONAL SDP ELEMENT: JOINT CLAIMANTS

7. [ADM M6761 2.1](#) gives guidance on the amount of the transitional SDP element payable in the first AP for joint claimants who meet the first and second conditions where the higher SDP rate was payable in their existing award<sup>1</sup>. From 29.6.23, the provision is amended to clarify that the highest rate of transitional SDP element is payable if

1. the higher SDP rate is payable on the first day of the UC award (see paragraphs 8 - 9) **and**
2. no person has since become a carer for either of them.

**Note 1:** See [M6730](#) and [M6735](#) for guidance on the first and second conditions.

**Note 2:** See [paragraph 2 of the Appendix](#) to ADM Chapter 6 and DMG [Chapters 23](#) and [44](#) for the meaning of the higher SDP rate.

1 [UC \(TP\) Regs, Sch 2 para 5\(b\)\(i\)](#)

8. When considering whether the higher SDP rate is payable, the guidance at [DMG 23239](#) and [DMG 44149](#) about disregarding backdated payments of CA or the UC carer element does not apply<sup>1</sup>.

1 [UC \(TP\) Regs, Sch 2 para 9](#); [JSA Regs, Sch 1, para 15\(7\) and 20\(6\)](#); [IS \(Gen\) Regs, Sch 2, para 13\(3ZA\)](#); [ESA Regs, Sch 4, para 6\(6\)](#)

9. The UC claimant may not be entitled to the SDP as part of an existing award of IS, JSA(IB) or ESA(IR) on the date the UC award begins. Entitlement may end up to 2 weeks after the UC award begins due to the two week run-on (see [M6124 – M6128](#)) but may have ended within the month immediately before the UC award begins. When determining the amount of the transitional SDP element to be included, the DM should consider whether the conditions for the higher SDP rate were met on the first day of UC entitlement, whether or not it was actually in payment on that date.

### Meaning of carer

10. A carer is a person who

1. is entitled to and in receipt of CA **or**

2. has an award of UC which includes the carer element

in respect of caring for a UC claimant for whom a transitional SDP payment is being considered<sup>1</sup>.

1 UC (TP) Regs, Sch 2 para 8(2)

### **Example 1**

Mykhail is entitled to IS for himself and his partner Yuliya as carer for their disabled child Fedir. Mykhail is entitled to CA. Both Mykhail and Yuliya are entitled to the standard rate of the daily living component of PIP, and Mykhail's award includes the higher couple rate of SDP. Fedir moves into sheltered accommodation and Mykhail stops caring for him. Mykhail and Yuliya claim UC on 11.7.23 after Mykhail's award of IS ends. Mykhail states that he is caring for Yuliya, and the carer element is included in his award from 11.7.23. As neither of the claimants is entitled to the LCWRA element, the couple's UC award includes the transitional SDP element of £313.79 from the first AP.

### **Example 2**

Farukh is entitled to ESA(IR) including the support component for herself and her partner Nabil. Both Farukh and Nabil are entitled to the daily living component of PIP, and Farukh's award of ESA(IR) includes the higher couple rate of SDP. Nabil is entitled to HB. On 26.7.23 the couple claim UC following a change of address. Nabil states that he is caring for Farukh. As Farukh is entitled to the LCWRA element from the first day of UC entitlement, the couple's award of UC includes the transitional SDP element of £132.12 from the first AP.

## **ANNOTATIONS**

Please annotate the number of this memo (Memo ADM 13-23) against the following:

[A2044](#), [F5030](#), [M6761](#), [Memo ADM 08-23 paragraph 5](#)

## **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 ADM [7/19](#).

DMA Leeds: June 2023