11-26 UC Transitional Element - Changes to Erosion Rules

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INTRODUCTION

1.This Memo provides guidance on the Social Security (Miscellaneous Amendments) Regulations 2026, in so far as they relate the Transitional Element of Universal Credit[1]. The regulations come into force on **30/10/26**[2].

1 Social Security (Miscellaneous Amendments) Regulations 2026, Reg 11: 2 Reg 1

2. The change relates to how the interplay between the LCWRA (and LCW) Element and Carer Element impacts upon the erosion of the Transitional Element.

LCWRA OR LCW ELEMENT AND THE CARER ELEMENT

3. One cannot be in receipt of the LCWRA Element, or the LCW Element, at the same time as the Carer Element. When the claimant is entitled to the LCWRA Element and the Carer Element at the same time the claimant keeps payability of the LCWRA Element only. When the claimant is entitled to the LCW Element and the Carer Element at the same time the claimant keeps payability of the Carer Element only[1].

Note: The LCW Element is only available to those claimants who have been entitled to that element continuously since 03/04/17.

1 UC Regs 2013, Reg 29(4); The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017, Sch 2 Part 2

EROSION OF THE TRANSITIONAL ELEMENT

4. The Transitional Element erodes when there is an increase in any elements of the UC award (except the Childcare Costs Element), including where a new element is introduced. The effect of erosion is that the UC award does not increase until the Transitional Element is eroded to nil[1].

1 UC TP Regs 2014, Reg 55(4)

5. However, due to the automatic loss of

1. the Carer Element, where the LCWRA Element is also awarded or

2. the LCW Element, where the Carer Element is also awarded

the claimant could have their overall UC award decreased. They lose payability of one element entirely, and the increase of the new element could be absorbed through erosion of the Transitional Element.

6. The problem was addressed in the Upper Tribunal judgment in SSWP v MJ 2025 UKUT 035 (AAC), dated 29/01/25. The Judge found this interplay between the elements was discriminatory[1].

1 Secretary of State for Work and Pensions v MJ: [2025] UKUT 35 (AAC)

Note: A similar effect may also occur where the claimant in 5.1 subsequently loses the LCWRA element and regains the underlying Carer Element, or where the claimant in 5.2 subsequently loses the Carer Element and regains the underlying LCW Element. They lose one element but there may be no gain from the new element due to erosion of the Transitional Element.

THE REGULATION CHANGE

7. These regulations solve the problem by eroding the Transitional Element by the amount of the element that is being added in the UC award minus the amount of the element being removed (if that total amount is positive) in these circumstances[1].

1 UC TP Regs, Reg 55(5B)

Example

The claimant has the Carer Element (£209.34 per Assessment Period, AP) and a Transitional Element (£500), these two elements totalling £709.34. They are later awarded the LCWRA Element, at the higher rate (£429.80). Therefore, the claimant loses payability of the Carer Element.

Using the old approach this claimant would have been left with £500 – they lose the Carer Element (minus £209.34), gain the LCWRA Element (plus £429.80), but the Transitional Element is eroded by the amount of the LCWRA Element (leaving a Transitional Element of £70.20). They are £209.34 worse off for gaining the LCWRA Element.

Using the new approach the Transitional Element erodes only by the amount of the added element (£429.80) minus the removed element (£209.34), so only by £220.46 (therefore leaving a Transitional Element of £279.54). The claimant ends up with £709.34. The same amount they started with.

Later, the claimant is found to not have LCW. Therefore, they lose the LCWRA Element (minus £429.80). As they still have underlying entitlement to the Carer Element, payability is reinstated (plus £209.34).

Using the old approach the reinstatement of the Carer Element is an increase that would be eroded from the Transitional Element (leaving a Transitional Element of £70.20). The claimant would have £279.54.

Using the new approach the Transitional Element is eroded only by the amount of the added element (£209.34) minus the removed element (£429.80) if that results in a positive figure. As it does not result in a positive figure here the Transitional Element is not eroded at all. The claimant would have £488.88 (£209.34 Carer Element plus £279.54 Transitional Element).

THE DATE OF APPLICATION

8. These regulations come into force on 30/10/26. However, the MJ judgment referred to in paragraph 6 was given on 29/01/25. The intention of the Secretary of State is to apply the principles of this regulation change to all relevant cases (in due course) where the AP in which the new element was awarded was

one which contained the 29/01/25 (or came after) – i.e. excluding the AP 29/12/24 to 28/01/25 but including the AP 30/12/24 to 29/01/25 and all AP's thereafter.

ANNOTATIONS

The number of this ADM Memo (11/26) should be noted at paragraph: **M7501**

CONTACTS

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, Existing arrangements for such referrals should be followed, as set out in Memo ADM **07/19** - Requesting case guidance from DMA Leeds for all benefits.

DMA LEEDS: October 2026