Benefits Series

Universal Credit, Employment & Support Allowance & the Work Capability Assessment (WCA)

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Please see our website for up-to-date information: www.downs-syndrome.org.uk
If you have concerns, please ring the DSA’s Benefits Adviser Helen Wild
Monday & Thursday 10am-4pm Tues & Weds 10am-12.30pm | Telephone: 0333 1212 300

You are no longer able to claim Income related ESA as it has been replaced by Universal Credit.

Employment and support Allowance (ESA) is a benefit paid to people whose ability to work is limited by disability or ill health.

Universal Credit has replaced

- Child tax credit and working tax credit
- Housing benefit
- Income related ESA
- Income based JSA
- Income support

New Style ESA can still be claimed as it is not means tested and can be awarded if you have paid sufficient National Insurance Contributions.

Many of our members will already be in receipt of ESA and this will continue as normal. You will be contacted by DWP regarding the ‘managed migration’ on to Universal credit, you do not have to contact DWP about it.

You should also have ‘transitional protection’ if DWP move you over to UC which means that you will not be worse off on UC.

Prior to the introduction of Universal credit, there were 2 types of ESA:
• **Contributory ESA** for people who had paid National Insurance contributions.
   Savings do not affect contribution-based ESA.
   It was restricted to 12 months payment if you were placed in the *work-related activity group (having limited capability for work)*
   It was *not* restricted if you were placed in the *support group (having limited capability for work related activity)*.
   It is not as generous as Income related ESA because it does not have the extra premium payments that income related ESA does, such as the *enhanced disability premium* and the *severe disability premium*.
   You **do not** automatically qualify for free prescriptions and help toward dental/optical care if you receive contribution-based benefit (because it isn't means tested) and therefore you would need to complete a HC1 form from NHS direct. Call 0300 330 1343 to speak to an adviser. They can also fill in the form over the phone which will be sent to you to sign and send back.

• **Income Related ESA** - means tested benefit.
   Savings affect income related ESA.
   There is no limit to the length of time it is paid.
   It includes extra premiums which contribution-based ESA does not have.
   You are entitled to free prescriptions, dental and eyesight tests if you receive income related ESA.

**Those who were moved to ESA from Incapacity benefit**

Some of our members were placed onto contribution-based ESA when they were moved by DWP from Incapacity Benefit (IB). As the ESA benefit amount was the same as IB, many people were unaware of the extra premiums potentially available to them under *Income related ESA* which would have increased their income (as long as savings were under 16k).

DWP have since set up a section for those people who *should* have been asked by DWP about savings at the time of moving over to ESA from IB and been given the opportunity to apply for income related ESA and the premiums. Contact your local job centre if you think you should have been contacted and haven’t.

To qualify for the *enhanced disability premium* you had to be

- in receipt of Higher rate care DLA or enhanced rate PIP care **or**
  have limited capability for work related activity.

To qualify for the *severe disability premium* you had to be

- in receipt of middle or higher rate DLA care or PIP care **and**
  have no one receiving carers allowance for you and you count as living alone.

As stated, eventually income related ESA will be taken over by Universal Credit. With regard to the benefits cap, this will only apply to those who have *limited capability for work* rather than *limited capability for work related activity* so those currently in the ‘support group’ of income related ESA will not be subject to having their benefit capped.
Tax Credits and Child Benefit, UC or ESA?

If you are still in receipt of Tax Credits for your family and considering whether to make an independent benefit claim for your son or daughter because they have reached age 16, please note you are no longer able to claim income related ESA.

It would be a claim for Universal Credit. The rules for UC are more stringent (than ESA it replaced) so please get advice before making this decision. You may yourself already be in receipt of Universal credit rather than the tax credits which it has replaced.

Universal Credit whilst at school/college

Universal Credit is more problematic to claim for those still in education. Please call the benefit adviser for help.

For a student making a claim at 16, they would have to show that they do not have full parental support. As this would be an exceptional situation for most 16-year olds, in order to proceed, they would then have to prove that they have limited capability for work i.e. satisfy the work capability assessment (WCA).

As there is no obligation for UC to instigate a WCA, most young people will be turned down at this point (unless of course they are not a student).

A possible solution?

For those who wish to claim Universal credit, the key is to see whether the course that your young person is on, can be classed as something other than ‘receiving education’ in regulation 12 of the UC Regs 2013.

A qualifying young person is treated as receiving education unless the person is participating in a traineeship or relevant training scheme.

The definition of relevant training scheme is a traineeship or a course or scheme which is comprised of education or training designed to assist a clamant to gain skills needed in order to obtain paid work.

Explain that for your son or daughter to progress in life, these life skills are an essential part of their independence and future employment prospects, then they may be able to allow the claim.

If DWP still refuse to proceed with the UC claim, you can apply for contributory ‘new style’ ESA to have the work capability assessment carried out ready for when they can claim UC. The work capability assessment amount would be included from the start of claim (rather than waiting 12 weeks for this amount). A claim can be made even if the national insurance contributions are not met (no payment will be made but the claim will process) and the student can have their limited capability for work assessed through a work capability assessment. You should provide a note from the GP at this point.

Is it right for a young person with Down’s syndrome to claim UC at 16?

If your child claims benefits in their own right at 16, you will lose Child Benefit and Child Tax Credit or any child amounts for them if you receive Universal Credit yourself. This is
because they no longer count as your dependent, or a member of your household for benefit purposes.

If the whole family is on means-tested benefits CHECK BEFORE YOUR CHILD CLAIMS. Means-tested benefits include Universal credit, Income Support, income-based Jobseeker’s Allowance, income-related ESA, Housing Benefit, Council Tax Support, Pension Credit and Working Tax Credit. You may lose out overall if your child claims benefit in their own right. Claiming separately for your son or daughter may mean that the family’s income as a whole is reduced.

The benefits system is complicated, and the most basic advice is always – if in doubt, CHECK YOUR OWN SITUATION.

**Making a Claim for New style ESA**

The quickest way to apply for *New Style* Employment and Support Allowance is by phone.

Contact centre numbers:

- Telephone: 0800 328 5644 option 2 then option 6
- Textphone: 0800 328 1233
- Northern Ireland Tel:0800 085 6318
- Textphone: 0800 328 3419

You can find details here

[https://www.gov.uk/employment-support-allowance](https://www.gov.uk/employment-support-allowance)


**Savings**

Savings over £6,000 in your son or daughters name will affect their claim to income-based benefit. Savings below £6,000 will not affect means tested benefit.

Savings do not affect contribution-based benefit (New style ESA) or PIP/DLA.

Any savings of £16,000 or more will stop income-based benefit altogether.

Savings of between £6,000 to £16,000 will result in a reduction of benefit. This is called assumed tariff income and will deduct £1 for each £250 or part thereof over the £6,000.

It is important to get independent financial advice if your child has savings.

You may want to consider setting up a Discretionary Trust Fund.

It is advisable to have this Trust Fund in place a few years before claiming means tested benefit. This is because suddenly moving money from their bank account to the trust fund could be viewed as deprivation of capital in order to claim benefit.

**The Work capability assessment for UC and ESA**
A DWP decision maker looks at the provided information for ESA or UC to see if you have evidence of having limited capability for work and for work related activity. You should provide a letter from your GP or a note saying that you are unable to work. From this you should be sent the capability for work questionnaire.

There are two groups and this assessment determines which one you will be placed in. These groups are:

- limited capability for work
- limited capability for work related activity

**Completing the work capability questionnaire**

Before you complete this, please have a look at the descriptors online:


For Universal Credit: [https://www.legislation.gov.uk/uksi/2013/376/schedule/6/made](https://www.legislation.gov.uk/uksi/2013/376/schedule/6/made)

**Scoring for limited capability for work related activity**

Activities 1-10 cover physical impairment and 11-17 cover cognitive impairment.

You need to score 15 points or more.

If you score 15 points in activity 1a,b, 2a, 3a, 4a, 6a, 7a, 8a,b 9a, 10a,b, 11a or 12a you will be classed as having limited capability for work related activity.

**About you**

Remember you are putting your son or daughter’s details here. If you are filling the form in for them, you will need to put your details on the declaration at page 18 ‘Filling the form in for someone else’.

**About your GP and other professionals**

GPs name and any other healthcare professional that cares for you.

**About your health condition, illnesses or disabilities**

As well as writing about Downs Syndrome, it is important to let them know if you are having treatment for any other reason be it related or unrelated to Downs Syndrome. Examples could be heart condition, diabetes or thyroid disorder.

Mention any health issues and if they cause more of an issue because your son or daughter has learning difficulties. For example, if your child is diabetic - do you have to manage their medication and treatment? Are they able to recognise when they need to take medication?

**About other treatment**

You can write about any hospital, clinic or special treatment you are having here. If this section is relevant to you, you could also say that your son or daughter needs extra supervision and help because they have a learning difficulty - maybe if they are at an
Hence a person would be able to attend appointments or treatment without being accompanied

**How your conditions affect you**

**Part 1: Physical functions**

*These functions need to be carried out safely, to an acceptable standard, as often as you need to and in a reasonable length of time. They will not necessarily apply to all our members but you could mention issues around concentration span and safety awareness.*

1. **Moving around and using steps**

   The descriptor here will consider how you move even with the use of an aid such as a walking stick or a wheelchair. This is **without** help from another person.

   The question asks about the distance you can move **before** being in significant discomfort. Do not count the distance if you are walking in pain.

   If you have dizzy spells or are unsteady on your feet, write about this and if you have fallen.

   If you use a wheelchair but are unable to operate it unless someone is helping you, then explain that you are unable to use the wheelchair unaided. Do **not** count how far you can move **with** someone’s help. This is for distance covered without help from another person.

2. **Standing and sitting**

   If you need help moving from one seat to another or if you cannot stand for more than 30 – 60 minutes, you will score points on this section.

   This section is looking at your ability to sit behind a desk and get up at intervals. Again it is looking at the physical act of doing this.

   If you have problems with standing or sitting you should explain how moving between these activities would be difficult and why.

3. **Reaching**

   If you have problems with raising your arms above your head or with putting on a hat or a coat then you need to explain about this. You need to be able to do this repeatedly and so if you tire or if you would be in pain you need to mention it.

4. **Picking up and moving things**

   This question is judging your ability to move light bulky items and whether you can do this repeatedly. If you have any problems with grip or weakness you should put this here.

   It asks if you can lift a 1 pint or 2 pint carton of liquid.
Would they be able to judge what was safe to lift? Although this isn’t strictly what they are looking for, it will give insight into potential judgement difficulties.

5. **Manual Dexterity**

If you cannot operate a keyboard, use a push button telephone or turn the pages of a book without difficulty then you should score points. Mention also if you have difficulty using a pen.

If someone can do all these things but they are unable to write or read the keys on a keyboard you could mention this here. Again it isn’t strictly what they are looking for but it will build a picture for the cognitive section.

6. **Communicating with people**

This question deals with the ability to communicate through speech, typing and writing. It asks if you would be able to warn someone of a dangerous situation.

Is poor safety awareness an issue? write about this here. If their speech is not clear or if it is limited -tell them.

7. **Other people communicating with you**

This is about a person’s ability to understand simple spoken or written communication from other people.

If they have problems with comprehension you must mention this. They may give the impression that they understand what the other person is saying to avoid being embarrassed. If they are able to read, can they understand what is written down? The example given is the location of a fire escape. If difficulties with communication are an issue, then you need to say what they are and how it affects them.

8. **Getting around safely**

This section addresses visual problems a person may have and their ability to move around in familiar and unfamiliar surroundings.

Is poor eyesight an issue and do they need someone with them to keep them safe?

You could of course also write that although they have no visual problems, they need someone with them for vulnerability and safety issues.

9. **Controlling your bowels and bladder and using a collecting device.**

If there are any continence issues then you need to write it down, even if these are just occasional accidents. Tell them what would happen, would they be able to deal with washing and changing themselves or do you help them?

10. **Staying conscious when awake**

This would apply to people who lose concentration, maybe if they have epilepsy or if they have diabetes.

Explain about what happens and how often.
Part 2: Mental, cognitive and intellectual functions

11. Learning how to do tasks

The example given is setting an alarm clock. You will need to tell them about difficulty telling the time, let alone set an alarm clock if this is the case.

The washing machine example does not mean the parent setting the programme and the person pressing the start button. If they would be unable to work the machine and set the appropriate programme, then tick No.

If you have to repeatedly show how to do things, even simple tasks, after explaining before, then explain this to them. It is very common for people who have Down’s syndrome to forget a task even after being shown or taught, maybe not immediately, but they may need showing again the next day or time.

12. Awareness of hazards or danger

In this section you can explain about any lack of safety awareness and vulnerability issues. For example, you could use cooking hazards - what has happened or could happen without supervision.

Examples could be answering the door to a stranger, running a hot bath, putting metal implements in a microwave, using knives, locking doors etc.

13. Starting and finishing tasks

This is to see how you plan and organise yourself. It is about the ability to plan and so if someone has to do this for them, then you should tick never.

If you need to prompt someone frequently so they get themselves up and dressed. Then prompting again so they have their breakfast and they also need prompting to keep them on task all day, then you need to write this. If they cannot execute two actions in a row and you find that you have to break instructions down step by step, please let them know about this.

If they are easily distracted and become bored then write about this also.

14. Coping with changes

Many people who have Down’s syndrome like to have a routine and a change can upset them. This can be worse if your son or daughter also has autistic traits. If you know that they cannot cope with change, even small expected change then tick No.

Explain what would happen if they missed their bus, who would they ring, are they able to ask someone else? Can they understand the bus timetable? These are just some examples.

If anxiety is an issue, mention this here.
15. Going Out

The majority of people who have Down’s syndrome would not be able to go out on their own and you should tick that they would need someone with them in both familiar and unfamiliar places.

Explain about vulnerability issues here and the potential for becoming lost etc.

16. Coping with social situations

You need to think about whether being anxious meeting unfamiliar people is an issue.

Would they be able to cope in a noisy environment or would they be scared or distressed? If they become overwhelmed and unable to cope, you should write about it.

You could write about any potential communication difficulties here too.

17. Behaving appropriately

If there is any history of aggressive or unusual behaviour then you need to put this down.

Examples could include hitting or, conversely, hugging if it were deemed inappropriate.

Part 3. Eating and drinking

18. Eating and drinking

This section deals with feeding yourself and the ability to chew and swallow your food.

If someone needs help to cut up their food then put this here. Are they able to judge if something is too big to put into their mouth?

Are they able to cut their food into pieces small or safe enough to chew?

Face to face assessment

This page asks for phone details so an appointment can be made for you to see an assessor.

In the current climate, these assessments have been carried out via the phone.

They may ring to arrange the assessment. They can ring anytime between 9.00-8.30 Monday to Friday and between 9-5pm on a Saturday. It doesn’t give you an option for the best time to call and so if there is a best time to ring, there is no harm in mentioning this time here.

You may be asked to attend an assessment and you will be asked the same questions as on the capability for work questionnaire although you may be asked to demonstrate – such as raising your arms up etc.

Do not worry if speech is unclear, that is for the assessors to realise so don’t be too quick to jump in with answers.
If they say they are able to do things which you know they cannot, then you need to let the assessors know. Also explain that you have to supervise them etc. in these tasks. This can be awkward as it does little for the confidence of the person in question.

If your son or daughter is in supported living or lives away from home, make sure that the person that goes with them knows to speak up when appropriate if the answers given are not a true picture.

**Tell us about any help you would need if you have to go for a face to face assessment**

Here you can write about the difficulties that would occur. Do they understand the implications of the assessment and need help to get up and dressed in time. Do they need someone with them to get to the assessment, can they use public transport without help, could they read the map or understand directions of where they need to go. Is their speech clear, will they say ‘yes’ - just so that they can do things just to get out of the interview as soon as possible? Mention this here.

**Other Information**

Anything that you think hasn’t been fully explained, please put here. You can attach additional sheets but please remember to put your National Insurance number and name on each sheet in case it becomes detached. You may want to enclose supporting letters from your GP or other healthcare professional, again make sure they have your name and reference number on them.

**Supporting Evidence**

It may be helpful to provide medical evidence from your GP or other health care professional. You can also send a letter from someone who knows your situation well.

First check that the letter is relevant to the claim. It needs to be a letter stating what they have difficulties with rather than one stating what they are capable of.

**What happens next**

A decision maker will look at the assessors report and also your completed questionnaire. They will make a decision about whether you have limited capability for work (you can do some form of work or limited capability for work related activity (you are unable to work)

You can appeal if you are placed in the limited capability for work group and you think you have limited capability for work related activity. You have one month to do this.

**Contact us**

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