



Welfare Writes

April 2020

Don't call us, we'll ring you

It's not just Universal Credit that is needing to use this phrase, since 18 March we have been operating the service remotely following advice issued by the Department of Health. We are still taking enquiries of course, Monday to Friday, 10am to 4pm. Organisations who subscribe can either email their enquiry or request a call back from a SWRU adviser. The address for both options is advice@swru.org

We are unable to deal with any phone messages left at the office on or after 18 March. If you have a non-benefit query then please email bureau@swru.org

We hope to be back in the office as soon as possible, but until then we are still here to help you and your clients during the coming weeks.

No one making a new claim for Universal Credit needs to call the DWP

Since 9 April 2020 those making a new claim for UC are advised that they do not need to make a call to the UC helpline as DWP staff will proactively phone and/or message them if there is a need to check any of the information that has been given once their claim has been received.

For more information see <https://www.gov.uk/government/news/don-t-call-us-we-ll-call-you>
Existing UC claimants may still need to contact the helpline in certain circumstances, for example to make a new NSESA claim, to request help with an advance payment or to request a hardship payment. This is not a definitive list as to when existing UC claimants may need to phone the helpline number: 0800 328 5644



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SWRU's Top 5 Tips for Benefits Advice during Coronavirus Lockdown

1. Email us at advice@swru.org
We can ring you back or send you an email
2. Contact us if you need access to resources that you may not have at home:
Quick Benefits Calculator
Handbooks including CPAG, Disability Rights Handbook, Migrants Handbook
Online resources including caselaw
3. Use Rightsnet
Some information is open access at the moment so you don't have to be a subscriber.
There are daily updates on changes and lots of useful discussion forums
www.rightsnet.org.uk
4. Everything is changing – all the time!
Don't assume the advice you gave yesterday is the same advice to give today! Have a look at the new information links on our website:
<https://www.swru.org/covid-19-updates/>
5. Campaign!
Now, unlike any other time, the government is changing welfare benefit legislation at a rapid pace and responding to public pressure.
Contact your MP/Local Councillors.
Watch and respond to the Select Committee for Work and Pensions
<https://committees.parliament.uk/committee/164/work-and-pensions-committee/>

DWP to suspend benefit debt recovery

The DWP is stopping the recovery of benefit debts from benefits as soon as possible. This includes all benefit-related overpayments, Social Fund loans and Tax Credit debts. Much debt recovery activity will cease immediately but others may take longer to implement as they require IT changes. The suspension of recovery action is in place until further notice.

This means that:

- Deductions from Universal Credit and legacy benefits for benefit overpayments, Social Fund loans and Tax Credit debts managed by the DWP Debt Management Service will be suspended.
- Local Authorities will suspend referral of Housing Benefit overpayments.
- The transfer of Tax Credit debts from HMRC has been suspended (as at 2 April 2020)
- Recovery of benefit debts from the estates of deceased individuals will cease temporarily.
- For people who are not currently on benefits and are having benefit debts recovered through private sector debt collection agencies, voluntary arrangements or Direct Earnings Attachments, the DWP is taking action to suspend debt collection. If clients are making payments through a bank, for example by standing order, these can now be suspended.

NB: The recovery of UC advance payments by deduction from on-going Universal Credit payments will continue.

EEA nationals claiming UC

Many EEA nationals will have obtained settled status and will be able to claim any benefit available. Many will, however, only have pre-settled status that is not a right to reside that gives entitlement to Universal Credit. If this is the case they will need to rely on an EU right to reside for entitlement. For EEA nationals who have been working or self-employed and their work has ended it is important to make a claim for Universal Credit as soon as possible and state that they are looking for work in order to retain their right to reside as a worker or a self-employed person. The right to reside can be retained for more than 6 months if they have previously been working for more than 12 months.

A claim for Universal Credit is made as a couple for those who live together. For couples where one has settled status and the other has only pre-settled status the partner with settled status will only be able to claim as a single person, unless the partner can rely on an EU right to reside. For married couples both have the same most beneficial right to reside. So, if one partner has retained worker status so does the other. Unmarried couples need to be in a durable relationship and have been issued with an EEA family permit, a registration certificate or a residence card that remains in force for one to benefit from the right to reside of the other. The documents required can still be applied for until the end of the transition period. If it is not possible to find a suitable right to reside for one of the partners then the claim will need to be made by the other partner as a single person.

Other EU rights to reside exist and EEA nationals should seek advice if they encounter problems with establishing a right to reside. SWRU are available to help with queries of this type.

Changes to the rules on “fit notes”

If you are affected by symptoms of Covid-19 or are self-isolating because someone in your household has symptoms, the rules on when and what sort of evidence you have to provide in order to claim sickness benefits has changed.

If you are employed:

You may be entitled to Statutory Sick Pay which is paid by your employer. SSP is £95.85 per week for full time workers. It will be paid from the first day that you are sick or self-isolating in accordance with government guidance. You no longer have to provide a medical certificate or “fit note” from your GP. Instead, go online to <https://111.nhs.uk/isolation-note> and get an “isolation note” which will serve as evidence for your employer.

If you are self-employed or are otherwise not entitled to SSP:

You may be able to claim New Style ESA (if you have an adequate National Insurance record) or Universal Credit. If you make a claim for New-Style ESA you will be treated as having limited capability for work without the need for medical evidence such as a “fit note” or undergoing a work capability assessment. Payment of NSESA will be from day 1 of your sickness with Covid-19 or your need to self-isolate.

There is the usual 5 week wait for payment of UC, but it is possible to get an advance payment which is then paid back over the course of the next 12 months.

Personal Independence Payment awards ending

As a temporary measure the government has announced that there will be no new PIP reviews or reassessments for the next 3 months. The government has said they will be regularly reviewing the position in line with Public Health advice. Where awards are due to expire, they 'will be extending end-dates so that claimants continue to receive financial support at their current rate during this period'. There is no further detail at the moment and this appears to be causing difficulties for claimants.

The issue

We have been hearing of awards still ending despite the government statement of intent. In practically all cases PIP is a benefit that is awarded at a level for a set duration. All PIP renewals are in fact new claims for PIP that if awarded run from the end of the previous award. The lack of detail or implementing legislation appears to be creating problems for claimants, at least for the time being. As a PIP award automatically ends at its end date, to extend a PIP award it is necessary to supersede the existing PIP decision. The current PIP legislation provides for circumstances in which decisions can be superseded. These include:

Change of circumstance

- ◆ Which will not be relevant in all renewal situations

Additional medical evidence has been received from a healthcare professional

- ◆ Which may not be the case if a renewal form has been completed with no inclusion of medical evidence
- ◆ Usually a medical assessment will provide this but could be triggered from additional evidence from a GP, a registered nurse, and in some cases from suitably registered occupational therapists or physiotherapists

There does not appear to be any existing legislative basis to extend an award of PIP in the current crisis circumstances.

The loss of a PIP award will have a significant financial impact on a household through the loss of the PIP income. There may also be knock-on effects that could include:

Loss of entitlement to Carer's Allowance for Carer

- ◆ Additional financial impact
- ◆ Change of UC commitment group

Loss of entitlement to Income Support

- ◆ That may lead to natural migration onto Universal Credit
- ◆ Loss of protection from the benefit cap

Claimants with awards of longer than 2 years will be sent a renewal form about a year in advance of the PIP award ending. Those with awards of less than 2 years may not be notified until 14 weeks before the end of award when an end of award notification is sent out.

Personal Independence Payment awards ending— cont'd

What can we do to help?

Most PIP claimants with awards that are longer than one year will be sent a new PIP claim form about 12 months before the award is due to end. For those claimants with short awards a new claim form can be requested 6 months before the end of an award. If the opportunity arises it would be useful to remind claimants with short awards to reclaim as early as possible.

Advisers may be able to encourage claimants whose awards are due to end to provide as much evidence of their continuing need as possible. GPs may be able to provide medical evidence in support of a claim even if they are not seeing people face-to-face. This could be as simple as a statement to say the claimant's condition has not improved and is not expected to improve for a stated period. The claimant may be able to book a telephone appointment and ask for appropriate evidence. This could allow an existing PIP award to be superseded under the existing rules.

If the claimant has already attended a face-to-face assessment, then the decision-making process can continue as usual. Remember if there is additional evidence available this can still be sent in to the DWP at any time before the decision is made. The challenge process is the same if the client disagrees with the decision. A mandatory reconsideration can be requested, and an appeal filed in the normal way. There are new rules allowing appeals to be conducted on paper and for a judge to sit alone. It may be possible to request a set-aside of a tribunal decision if there has been a procedural irregularity and it is in the interests of justice to do so.

Face-to-face assessments that have already been arranged are suspended, initially for a period of 3 months. The government has said there is no need for claimants to do anything if they have been given a medical appointment. Someone will contact them to discuss next steps and alternative arrangements, which could involve either telephone or paper-based assessments. They will be contacted to discuss how to proceed. If the option agreed upon is a decision on the paper evidence, it is important to provide as much evidence as possible from medical professionals, family and other carers who know the claimant's needs well, social services assessments if relevant, and anything else that shows the difficulties the claimant experiences. Without evidence it will be difficult for the DWP to make a decision on the papers in the claimant's favour. Remember that the form itself is the claimant's own evidence. A telephone assessment will give the claimant more opportunity to explain how their condition affects their ability to complete the PIP activities. Even if the claimant has a telephone assessment it will still be important to provide as much paper evidence as possible on how the criteria are met.

The government has also said that if the review process has already been completed i.e. you have already attended a medical, the reviews will continue to be processed. This appears to mean that a decision will be made on the review of your PIP award. If you are not happy with the decision the usual process of Mandatory Reconsideration and subsequent appeal is still available to you.

Voucher scheme for children unable to access free school meals in England due to the COVID-19 outbreak

Children eligible for free school meals will benefit from a national voucher scheme allowing them to continue to access meals whilst they stay at home.

Schools can continue to provide meals for collection or delivery themselves, but where this is not possible, they can now provide every eligible child with a weekly shopping voucher worth £15 to spend at supermarkets while schools are closed due to coronavirus.

Schools will be able to provide vouchers to families electronically, or as a gift card for those without internet access. The vouchers can be spent on food at a range of shops including Sainsbury's, Tesco, Asda, Morrisons, Waitrose and M&S, with the Department of Education working to get more shops to join the scheme as soon as possible.

<https://www.gov.uk/government/news/voucher-scheme-launches-for-schools-providing-free-school-meals>

Increase in Funeral Expenses Payment

For deaths from the 8 April 2020, there is an increase in the upper limit for other funeral expenses to £1000 it was previously £700.

This amount is in addition to the necessary costs for burial and cremation and reasonable costs for transport.

Free school meals for some families subject to no recourse to public funds restriction

The government has confirmed that thousands more children will receive free school meals during the COVID-19 pandemic. Some families with no recourse to public funds, or who rely on Home Office support under section 4 Immigration & Asylum Act 1999, were excluded from accessing free school meals despite having even less money than those who qualified.

This was challenged and in response it has been confirmed that free school meal provision will be extended to families:

- Reliant on section 4 support
- Granted leave to remain as 'Zambrano carers'
- Granted leave to remain under Article 8 ECHR
- Supported under section 17 Children Act 1989 and who have 'no recourse to public funds'.

The mechanism under which this will be done is currently unclear. Further information will be published as soon as it is available, but families in the above categories should not wait to apply to their local authority for free school meals.

<https://dpglaw.co.uk/free-school-meals-extended-to-thousands-more-children/>

Job Retention Scheme

The Government has changed the relevant date for its Job Retention Scheme from 28 February to 19 March 2020. See our website for further information on the Scheme.

<https://www.swru.org/covid-19-updates/>

CHILD BENEFIT IF EARNINGS HAVE REDUCED

If you are responsible for one or more children, you may be entitled to claim Child Benefit. If your, or your partner's net income in a tax year is over £50,000 you are liable to pay tax on your "taxable Child Benefit" for that year. This is called the "high income Child Benefit charge". If you have a partner, your income is not combined - the charge is applied to the person whose income is over £50,000, or if both earn over £50,000, the higher earner of the two. If your income is over £60,000, the charge equals the amount of Child Benefit.

If you were in this position before the impact of the Covid-19 virus you may have chosen not to apply for Child Benefit, or you may have applied for it but asked HMRC not to pay it to you. It is always a good idea to claim Child Benefit as it gives National Insurance credits to the claimant, even if it is not paid.

If your income has fallen so that you will have earned less than £60,000 in the tax year ending on 5th April 2020, you can make a claim for Child Benefit if you don't currently have one in place, or if you have an unpaid claim, ask for it to be paid. It is normally possible to backdate a new claim for Child Benefit for three months. If you think that you (or your partner) are unlikely to earn more than £60,000 in the 2020/21 tax year it would be worth making a claim from 6 April 2020.

Child Benefit is currently £21.05 per week for the eldest child and £13.95 per week for every other child.

To make a claim:

- Phone the Child Benefit helpline: 0300 200 3100 and ask them to send a CH2 claim form or
- Complete a form on line which must then be printed, signed and posted to the address on the form

If you want to activate payment on an already existing unpaid claim, call the helpline. If you have chosen not to receive the Child Benefit, but have made a claim, you have up to two years after the end of the tax year to ask for the Child Benefit to be paid for that year, if you realise that your Child Benefit would have been more than the charge.

Statutory Sick Pay extended during Covid-19

New regulations from 16 April 2020 allow an additional category of worker to be able to claim Statutory Sick Pay.

SSP has now been extended to include employees who are defined in public health guidance as extremely vulnerable and at very high risk of severe illness from coronavirus because of an underlying health condition; and have been formerly advised to follow rigorously shielding measures for a specified period.

COVID-19 local information and links

You may have received lots of information, leaflets and messages regarding the COVID-19 crisis but we thought you might find it helpful to have some local and national information in one place. These links may be of use:

1. This is Surrey County Council's homepage on COVID-19

<https://www.surreycc.gov.uk/people-and-community/emergency-planning-and-community-safety/coronavirus>

2. Community Helpline number: 0300 200 1008

Monday to Friday: 8am to 6pm, Saturday and Sunday: 10am to 2pm

This community phone line is for two things:

- To help direct residents who need support, if friends and family are unable to help with such things as picking up shopping, prescription collections or having someone who can be a telephone friend, and other services that can help.

- To provide advice on where to register your offer of help to support your community.

The Community Helpline will not be able to provide any public health advice (please use existing services such as 111) or answer general enquiries relating to council services.

3. NHS coronavirus information <https://www.nhs.uk/conditions/coronavirus-covid-19/>

4. Non-health information including advice on work, school closures, travel and financial support <https://www.gov.uk/coronavirus>

5. Action for Carers have produced focused information for carers;

<https://www.actionforcarers.org.uk/coronavirus-advice-for-carers/>

6. <https://www.citizensadvice.org.uk/>

Advice on most issues. The homepage will tell you how to access phone or webchat advice, as well as how to contact your Local Citizens Advice service.

7. Help to Claim 0800 144 8 444

Textphone: 18001 0800 144 8 444

The Help to Claim service can support you in the early stages of your Universal Credit claim, from the application, through to your first payment.

Help to Claim is a dedicated service from Citizens Advice. It's free, independent, confidential and impartial. You can also chat online with a trained adviser:

<https://www.citizensadvice.org.uk/benefits/universal-credit/claiming/helptoclaim/#h-talk-to-us-online>

8. Our website now has lots of benefit information relating to the current situation:

<https://www.swru.org/covid-19-updates/>

Changes to Limited Capability for Work rules during coronavirus crisis

The rules around who can be “treated as” having Limited Capability for Work (LCW) for New-Style Employment Support Allowance have temporarily been amended from 13/3/20 – 12/11/20 for certain claimants affected by Covid-19.

From 13th March 2020, where someone has

- already claimed New-Style ESA (but the Decision Maker has not yet made a decision about limited capability for work via the Work Capability Assessment process) **or**
- is making a new claim for New-Style ESA **AND**
- the claimant is “affected by coronavirus”

they will be automatically “treated as having limited capability for work” where the Decision Maker is satisfied that they should be so treated. (They will continue to also have to satisfy all the other rules of entitlement for ESA)

The rules stipulate that the claimant is “affected by coronavirus” if they are

- infected or contaminated with coronavirus disease **or**
- in isolation (but only if they have been advised to isolate) **or**
- caring for a child or qualifying young person who is a member of the person’s household and who is in isolation or infected or contaminated with coronavirus disease.

Claimants **in these circumstances only**, whether new or existing, will not be required to provide a Fit Note from their GP and will not be required to complete a questionnaire or attend a medical. They will continue to be treated as having limited capability for work until they are no longer infected or contaminated with coronavirus disease, no longer in isolation or no longer caring for a child or qualifying young person (who is infected, contaminated or in isolation). The guidance says this will be checked with them regularly. However, remember that a claimant does have a duty to disclose any relevant changes in their circumstances anyway.

Once these conditions no longer apply, the claimant may either

- have limited capability for work due to other health conditions or disabilities under the usual LCW rules and will be referred for a Work Capability Assessment **or**
- no longer satisfy the requirements for ESA and their award will be terminated

NB Under these changes, ESA claimants also do not have to wait 7 days until payment of their claim commences.

The Government has announced on 20 April 2020 that claims for New-Style ESA can now be made online:

<https://www.apply-new-style-employment-support-allowance.dwp.gov.uk/eligibility-start>

Bereavement Support Payment for unmarried parents

On 7 February 2020, the High Court held that the requirement under the Pensions Act 2014 to be married or in a civil partnership in order to claim bereavement support payment was not compatible with the European Convention on Human Rights.

On 14 February 2020, the Secretary of State made an application for permission to appeal against the decision, which was refused on 2 March 2020. The application for permission to appeal was not renewed to the Court of Appeal.

Although the High Court has made a declaration of incompatibility with the ECHR, there have been no changes to legislation to date. This means that unless the claimant is married to, or in a civil partnership with, the deceased, their claim for BSP will still be refused. A claimant should still submit their BSP claim, even if they were not married or in a civil partnership. When the claim is refused, they should request a Mandatory Reconsideration of the decision, citing this case.

Jackson & Others v SSWP CO/975/2019



Contact us

If you have any comments or complaints about the service you receive from Surrey Welfare Rights Unit you can discuss them with the Manager using bureau@swru.org

Benefit Rates Changes

Due to Covid-19 the Government announced late changes to some benefit rates which took effect from 6 April 2020. These are:

Universal credit - monthly allowance

Single Claimants 25 or over	409.89
Single Claimants under 25	342.72
Couple, one or both 25 or over	594.04
Couple both under 25	488.59

Housing Benefit - per week

Additional earnings disregard	37.10
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Working Tax Credit - annual

Basic element	3040.00
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For subscribers who receive benefit rates posters, the above amendments will have to be added. In addition, you will need to add £24.90 in the Residential Care box under Personal Expenses. This figure had not been confirmed when we went to print

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