Mistakes with WCA should not be repeated with PIP, caution MPs

MPs have cautioned that mistakes with the employment and support allowance (ESA) work capability assessment (WCA) should not be repeated with the personal independence payment (PIP).

In a new report, Government support towards the additional living costs of working-age disabled people, the Work and Pensions Committee acknowledges that more reassessment of claimants is needed than has been the case under disability living allowance (DLA) but urges caution in moving from dealing with new claims to reassessing existing DLA claimants –

‘As has been shown in the move from incapacity benefit to ESA, reassessment of existing claimants is even more complex than assessing new claims.

Reassessment of existing DLA claimants should only proceed once DWP is confident that the assessment process produces accurate results and is working properly for new claimants.’

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Extension of restrictions on rights of A2 nationals

The DWP has issued new guidance on the extension of restrictions on the right to enter and work in the UK of nationals of A2 countries.

DMG Memo 2/12 advises that when the A2 countries (Romania and Bulgaria) joined the European Union on 1 January 2007, transitional provisions in the Treaty of Accession allowed Member States to take measures restricting the right of A2 nationals to enter and reside as workers for an initial period of five years starting on 1 January 2007, with the option for Member States to continue these restrictions for a further two years.

The DWP says that the UK government has decided to exercise this option, and that the Accession (Immigration and Worker Authorisation) (Amendment) Regulations 2011 (S.I.No.2816/2011), which give effect to this decision, came into force from 30 December 2011.

DMG Memo 2/12 is available at www.dwp.gov.uk/docs/m-02-12.pdf
Welfare reform concessions

The government has announced a number of concessions during recent parliamentary debates on the Welfare Reform Bill 2011, including the following –

Personal independence payment concessions

During the House of Lords report stage of the Welfare Reform Bill 2011, on 17 January 2012, Lord Freud announced a number of significant concessions on the implementation of the personal independence payment (PIP), which is to replace disability living allowance (DLA) from 2013, including –

- the government has backed an amendment to the Bill reducing the qualifying period from six months to three months (although the forward qualifying period will increase from six to nine months);
- the government will continue to work with disabled people and their representative groups through its implementation development group;
- the government will test its operational processes in a model office environment, allowing it to see how they work without affecting individuals’ benefit entitlement;
- it will be a clear requirement in contracts to supply PIP assessments that organisations must work with disability organisations on the design of their processes, to improve the claimant experience, before, during and post-implementation;
- the government will limit the number of new claims for PIP to a few thousand per month for the first few months of implementation to allow it to trial all the processes in a live environment, and, only when it is satisfied that the new processes are working, will allow new claims for PIP to enter the process;
- reassessment of existing DLA claimants will be staggered – the process will start in the autumn of 2013, beginning with individuals on a DLA fixed award who will need to renew their claim and those claimants who report a change of circumstance;
- at the same time, the government will conduct a pathfinder trial reassessing individuals with existing DLA claims who would not, in the ordinary course of events, come up for reassessment;
- the government will legislate for two biennial independent reviews within the first four years of the implementation of PIP – the first to report within two years, beginning with the date on which the first assessment regulations come into force, and the second within four years of that date; and
- the government will undertake a third review if the second review demonstrates ongoing issues with the operation of the assessment which need to be addressed in this manner.

ESA concessions

During the 11 January 2012 House of Lords report stage of the Welfare Reform Bill 2011, Lords voted in favour of an amendment, tabled by Lord Freud concerning people whose employment and support allowance (ESA), while in the work related activity group, has ceased as a result of time limiting. The new amendment will allow those people to requalify for an award of ESA if, after their award ends, they continue to have, or are treated as having, limited capability for work, and at any time thereafter they become eligible for the support group.

In addition, during the 14 February 2012 Welfare Reform Bill 2011 debate in the House of Lords Lord Freud announced concessions in relation to ESA and people receiving treatment for cancer, including a presumption that those people should be in the support group of ESA for the first six months, unless medical evidence suggested otherwise, and a review of guidance relating to the period of recovery from treatment to “ensure that individuals can remain in the support group for as long as appropriate”. As a result of these concessions, Lord Freud said that it “could easily be up to a year” before the clock started to run in relation to the proposed time-limiting of contributory ESA to one year.

Benefit cap concessions

During a House of Commons debate on the Welfare Reform Bill 2011 on 1 February 2012, Minister for Employment Chris Grayling announced the following concessions on the proposed benefit cap –

- an exemption from the cap for people receiving the ESA support component;
- access to Jobcentre Plus support and the Work Programme from April 2012 for families who will be affected by the cap when it is implemented in 2013;
- a grace period of nine months for people who have been in work for at least 12 months and then lose their job ‘through no fault of their own’; and
- transitional support through discretionary housing payments, with a fund of £80m for 2013/2014 and £50m for 2014/2015.

Statutory maintenance services concession

During a House of Commons debate on the Welfare Reform Bill 2011 on 1 February 2012, Minister for Disabled People Maria Miller announced a reduction in the proposed fee for statutory maintenance services to £20.

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Almost 25,000 referred for mandatory work activity up to November 2011

The DWP has issued new statistics showing that 24,010 claimants were referred for mandatory work activity between May and November 2011.

In addition, a separate statistical release shows that 34,200 claimants were referred for non-mandatory work experience between January and November 2011.

The figures also show differences in the gender and racial background of claimants referred to the two schemes –

● 75 per cent of claimants referred to mandatory work activity were male, as opposed to 66 per cent of those referred to work experience; and
● 24 per cent of claimants referred to mandatory work activity were from an ethnic minority, as opposed to 13 per cent of those referred for work experience.


Stop Press – following the recent suggestion by supermarket chain Tesco that the government remove sanctions from the work experience scheme, Employment Minister Chris Grayling has defended the scheme, saying that ‘the idea that people are being press-ganged for long periods of time to work for nothing to provide cheap labour for big companies is totally untrue.’

Mandatory consideration of revision before appeal

The DWP has launched a consultation on the mandatory consideration of revision before appeal. In a new consultation document, Mandatory consideration of revision before appeal, which also contains draft regulations, the DWP sets out its proposals for the implementation of powers contained in the Welfare Reform Bill 2011 which will mean that a claimant must request a revision of a decision before being able to lodge an appeal.

The DWP says that it plans to reform the appeals process so that, in future, claimants disputing a decision on their benefit claim or child support case will follow an escalating process of mandatory reconsideration and formal appeal which will allow it to carry out a ‘robust review’ of the disputed decision, with claimants given an opportunity to provide supporting information.

To support the ‘robust review’, the DWP says it plans to make improvements to the decision making process to make the reconsideration more independent. These will involve a different officer taking a fresh look at the decision and re-examining the evidence provided, and the outcome being communicated more effectively, by phone whenever possible for the main benefits and child support, to provide the claimant with a clear explanation of the benefit decision.

The DWP also says that the changes are necessary to deliver ‘timely, proportionate and effective justice for claimants’, and to make the process for disputing a decision ‘fairer and more efficient.’

The consultation document goes on to set out details of the DWP’s proposals as to how the new process will work, including that it will start in April 2013, that it will exclude housing benefit and council tax benefit, and that appeals will be made directly to Her Majesty’s Courts and Tribunals Service.

NB – the deadline for responding to the consultation is 4 May 2012.

The DWP consultation on mandatory consideration of revision before appeal is available from www.dwp.gov.uk/docs/mandatory-consideration-consultation.pdf

DWP begins postal review of appointees

The DWP has begun a postal review of appointees managing the affairs of claimants.

In the latest edition of its Touchbase magazine, the DWP advises that the new process – which involves a postal review of any appointee looking after an adult, or child aged under 16, who receives a benefit delivered by DWP – will initially apply to cases where a new appointee is agreed, but measures are in place to begin to review existing appointees during 2012.

Lynne Wood, DWP Appointee Review Project Manager, said –

‘Importantly, it will make sure that our customers’ well-being and financial affairs are being properly looked after. It will help minimise risk of financial abuse of adults and children, making sure that benefit entitlements are being used in the customer’s best interest.’

The February 2012 edition of Touchbase is available from the DWP website.

2012/2013 benefit rates

We’re now taking orders for our 2012/2013 benefit rates poster – a draft of which is available at www.rightsnet.org.uk/pdfs/draft_rates_poster_2012_2013.pdf – and our pocket-sized, fold-out rates cards.

Cost –

● posters – cost £5.00 each
● rates cards – for a minimum order of 30, the cost is £20 (multiply up for larger orders … e.g. 45 cards for £30; 60 for £40; 75 for £50 etc)

NB – All prices are exclusive of vat, but are free of postage and packing.

Ordering couldn’t be easier … just email us via info@lasa.org.uk with how many you’d like, the cost, and the address(es) for delivery/billing.
Assumptions about feasibility of Work Programme ‘over-optimistic’, says NAO

Government assumptions about the feasibility of the Work Programme are ‘over-optimistic’, according to the National Audit Office (NAO). In a recent report, The introduction of the Work Programme, the NAO says that, whilst the Programme has a number of innovative design features that address weaknesses in previous schemes, it is concerned that providers may struggle to meet targets in light of its estimate that 26 per cent of the largest group of job seekers in the Programme will get jobs, compared to the DWP’s estimate of 40 per cent.

The NAO also says that fewer clients than expected are being referred onto the Programme as part of the ‘harder-to-help’ category; that some have been found to be ‘fit for work’ and switched into other categories; and that it is taking the DWP longer to process assessments and appeals. The NAO says that this has resulted in some sub-contractors being frustrated at the speed with which clients have been referred to them. Sub-contractors are also reported to be dissatisfied with the approach taken by some prime contractors.

In addition, the NAO expresses concern that contractors in areas of high unemployment may struggle to meet nationally set targets and says that it is possible that one or more contractors will get into serious financial difficulty during the term of the contracts.

The NAO says that the speed with which the Work Programme was launched, in just over a year, had some benefits, but also had disadvantages, including –

- it has so far cost £63m to terminate existing welfare to work contracts, including contracts with ten providers that went on to win contracts for the Programme; and
- the IT project to support the Programme was not fully functional when it was launched, with the consequence that the DWP will not be able, until March 2012 at the earliest, to carry out automatic checks to confirm that people who find work have stopped claiming benefits.

The introduction of the Work Programme is available from the NAO website.

£200m scheme to help ‘troubled families’ overcome barriers to employment

(continued from page 1 column 1)

Welcoming the scheme, Minister for Employment Chris Grayling said –

‘This will be a big part of the work we do to tackle the challenge of troubled families. The organisations taking part in this programme are taking their own money on their ability to turn the lives of these people around. This is our second big payment by results project, and demonstrates clearly that there is a real commitment out there to deliver social change and to help people do much better with their lives. We now have a comprehensive programme, built on a partnership between national and local government, that I believe can make a real difference to these troubled families.’

Mistakes with WCA should not be repeated with PIP, caution MPs

(continued from page 1 column 3)

Introducing the report, Committee Chair Dame Anne Begg said –

‘The reform was introduced on the basis of a Treasury assumption that by 2015–2016 it would save 20 per cent of the projected DLA budget by introducing a new assessment.

The government’s own estimates show that 500,000 fewer people will receive support by 2015–2016 compared to the situation if DLA for working-age claimants had continued.

Announcing the change against a background of budget cuts, and the previous negative experience which many people have had with the WCA, has created high levels of anxiety amongst DLA recipients.

The mistakes made with the WCA for ESA, as originally introduced in 2008, should not be repeated with PIP.

The assessment for PIP needs to be empathetic and avoid the mechanistic, box-ticking approach initially used in the WCA.’

The Work and Pensions Committee Report, Government support towards the additional living costs of working-age disabled people, is available from the parliament website.

NB – the DWP consultation on the second draft of the PIP assessment regulations, which is open until 30 April 2012, is available at www.dwp.gov.uk/docs/pip-assessment-thresholds-and-consultation.pdf.