



Victoria Prentis MP
Minister of State
Department for Work and Pensions
Caxton House
Tothill Street
London
SW1H 9NA

28 September 2022

Dear Minister

Re: DWP failure to start the work capability assessment process for universal credit claimants who are ill/disabled leading to ongoing underpayments of more than £350 per month

Welcome to your new post and we very much look forward to working with you in the coming months.

We are writing to highlight an administrative problem within universal credit which is causing some of the most severely disabled claimants to be underpaid by £354.28 per month on an ongoing basis, leaving them with less than half the living costs to which they are entitled. While the government has taken welcome steps to alleviate some of the effects of the cost of living crisis, the solution we are putting forward here is a simple and cost-effective way to ensure that the DWP carries out processes in line with its own guidance¹ enabling long-term sick and disabled people to gain their full entitlement to benefit and helping them get through the difficult months ahead.

The process

When a universal credit claimant is unable to work through ill health or disability (which may be from the start of a claim, or begin mid-claim) they are required to submit a fit note from their doctor confirming this. Either immediately, if the illness is severe or likely to be prolonged, or after 4 weeks, the DWP should send the claimant a UC50 form² - the universal credit capability for work questionnaire. This is the beginning of the work capability assessment (WCA) and is followed typically by an assessment from a health care professional and then a decision by the DWP. If the claimant is found to meet the relevant criteria, a limited capability for work-related activity (LCWRA) element is added to the claimant's maximum award worth £354.28 per month (reflecting the need for extra income to ensure that their health does not deteriorate given their inability to gain work). The element also protects against the benefit cap being applied and entitles them to a work allowance should they or their partner be working – both extremely important protections particularly in the cost of living crisis.

¹ https://data.parliament.uk/DepositedPapers/Files/DEP2022-0452/069-Health_conditions_and_disabilities_days_1-29_V13.0.pdf

² <https://www.gov.uk/government/publications/uc50-form-universal-credit-capability-for-work-questionnaire>

The problem

The UC50 is not reliably sent to claimants and therefore the work capability assessment is not started and no LCWRA element is awarded leading to ongoing underpayments - sometimes for more than a year - until typically it is spotted by an adviser. The claimant generally has no idea they are being underpaid because they are not aware either of the WCA process or the existence of the LCWRA element.

The Strategic Public Law Clinic - a collaboration between Central England Law Centre and Warwick Law School - carried out research³ into what the process was meant to be and what was going wrong. In effect, it transpired that the request to start the WCA and issue the UC50 is a manual process (although the research was unable to clarify exactly how it worked). It appears likely that human error is causing the UC50 not to be sent out.

The proposed solution

NAWRA sent this research into the DWP and requested a meeting with officials. Our key proposal is that, when a claimant submits a fit note, a message should automatically go in their journal advising them of the WCA process - in particular, that they should expect a UC50 form within 4 weeks and, if they do not receive it, they should chase it up with their work coach. While not an infallible solution, it would at least give claimants the knowledge of what to expect, and therefore the opportunity to get things put right.

Unfortunately, while we had one meeting with officials which appeared positive, the written response we have now received says that our proposal will not be actioned and that the Department is instead exploring what might be added to 'published information'. While gov.uk and similar sources of information can be very useful, it is not the place where claimants look to find out what is happening with the claim. It needs to be personalised and in their journal for the message to be effective.

We believe it is imperative that this problem is resolved, particularly as we approach winter in the midst of the cost of living crisis. Receiving that additional £350 per month, to which sick and disabled claimants are entitled, could prevent serious illness or even death.

We would very much like to meet with you, and your officials, to discuss this further and put in place a solution as a matter of urgency.

Yours sincerely,

Daphne Hall
Vice Chair, National Association of Welfare Rights Advisers

Anastasia Berry
Co-Chair, Disability Benefits Consortium

Kamran Malik
CEO, Disability Rights UK

³ https://warwick.ac.uk/fac/soc/law/aboutus/linc/strategic-social-justice-clinic/pastprojects/detailed_report_on_issuing_uc50_updated_04_11_2021_.pdf