

## Welfare benefits: mandatory reconsideration

---

This factsheet explains what you can do if you disagree with a decision about your benefits. It explains the mandatory reconsideration process. This is the first step you need to take in appealing a benefit decision.

 KEY POINTS

- If you disagree with a decision the Department for Work and Pensions (DWP) make about your benefits, you can ask them to look at it again.
- You must ask the DWP to reconsider their decision before you can appeal to a tribunal. This is called a “mandatory reconsideration”.
- There are strict time limits for asking for a mandatory reconsideration. Ask within 1 month of the date on your decision letter.
- If the DWP change their decision, your benefit is backdated to the date of the original decision.
- If the DWP doesn’t change their decision, you can appeal to an independent tribunal.

### This factsheet covers:

1. [What is mandatory reconsideration?](#)
2. [I’m out of time, is there anything I can do?](#)
3. [What happens to my benefits during Mandatory Reconsideration?](#)
4. [Sample letters](#)

This factsheet explains how to challenge decisions made by the Department for Work and Pensions (DWP). If you want to challenge a decision made by the Local Authority then you can find more information in our **'Welfare benefits: appeals'** factsheet. You can find this at [www.rethink.org](http://www.rethink.org) or contact our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

[Top](#)

## 1. What is mandatory reconsideration?

When the Department for Work and Pensions (DWP) make a decision about your benefit, they will write to you. If you don't agree with their decision you have 1 month to ask them to reconsider it. You have to ask the DWP to reconsider their decision before you can appeal. This is called a 'mandatory reconsideration'.

You can ask for a mandatory reconsideration for decisions about these benefits:

- Personal Independence Payments (PIP),
- Universal Credit (UC),
- Disability Living Allowance (DLA),
- Employment and Support Allowance (ESA), and
- Job Seekers Allowance (JSA).<sup>1</sup>

### How do I ask for a mandatory reconsideration?

To ask for a mandatory reconsideration you can call or write to the DWP office that made your decision. The details should be on the letter they sent you. If you write to them, keep a copy and send it recorded delivery or get proof of postage. This can help you make sure they get it in the 1 month time limit.

In your letter, or over the phone, you can explain why you think the DWP have made the wrong decision. You can send more medical evidence to back up your argument.

### Can I ask the DWP for written reasons for their decision?

You can ask the DWP for written reasons for their decision, but you do not have to. If you would like reasons, ask as soon as possible. The DWP should send them to you in 14 days.<sup>2</sup> Asking for their reasons may help you put forward your argument.

If you ask for reasons, you will have an extra 14 days to ask for a mandatory reconsideration.<sup>3</sup> If the DWP don't send the written reasons within a month after their decision, you have 14 days from the date you get them to ask for mandatory reconsideration.<sup>4</sup>

## **What happens during Mandatory Reconsideration?**

Someone from the DWP will look at your claim again to see if the decision was right. This person is called the “decision maker”. They will not have seen your claim before. They may phone you to ask why you disagree with the decision. You should explain why and give them more information and evidence. If you don't feel you can talk to them you could ask them if your carer could talk to them for you. You might be able to arrange another time when they can talk to you and your carer together.

## **Can I send more evidence?**

Yes you can send more evidence. If you want to send any evidence make sure it gets to the DWP within the 1 month deadline. Ask someone at the DWP where to send it. You can also ask them not to make any new decision until they have seen your evidence.

If the decision maker calls you they may ask you if you have any other medical evidence to support your claim. If you have more evidence they will tell you where you should send it. They will give you 1 month to send them the evidence. They should agree not make a decision until they have seen the evidence.

If they don't get the evidence in 1 month, they will make a decision based on the information they have. The DWP do not have to make their decision in a certain time. This can take a few weeks or a few months.

## **What happens when they make a decision?**

The decision maker will send you two copies of a Mandatory Reconsideration Notice. This explains what their decision is. You need to keep these safe. You will need them if you want to appeal to a tribunal.

If the DWP change their decision in your favour, they will pay you the benefits you should have been paid from the date of your claim. This is called “backdating”.

The DWP may not change their decision. If you still disagree with them you can appeal the decision to the Social Security Tribunal.

You can read more information about **Welfare benefits: appeals** at [www.rethink.org](http://www.rethink.org). Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

[Top](#)

## **2. I'm out of time - is there anything I can do?**

Sometimes the Department for Work and Pensions (DWP) will let you ask for a mandatory reconsideration if you've missed the one month deadline.

You should write to the DWP to ask for the reconsideration. In your letter, explain why you could not ask in the one month time limit and ask them to extend the deadline. You can only ask for a late reconsideration up to 13

months after the original decision. The later you ask, the stronger your reasons need to be.

The DWP will accept a late reconsideration if:<sup>5</sup>

- it is reasonable,
- you couldn't ask earlier because of special circumstances.

For example, if you were unwell or in hospital at the time you could ask the DWP for a late reconsideration. But it is their choice whether to accept this or not. The DWP will not accept a late reconsideration because you did not know about the law or time limits.

[Top](#)

### **3. What happens to my benefits during mandatory reconsideration?**

#### **Will I get Employment and Support Allowance?**

If the Department for Work and Pensions (DWP) put you in the Work Related Activity Group (WRAG) or the Support Group

You will get Employment and Support Allowance (ESA) during mandatory reconsideration.

If the DWP say you are fit for work

You will not get any ESA while you are going through mandatory reconsideration. You can claim JSA during the mandatory reconsideration process. JSA will be paid at the same rate as the ESA assessment rate which is £73.10.<sup>6</sup>

If you are asking the DWP to reconsider a sanction

If you have been sanctioned, your benefit will be reduced or not paid during mandatory reconsideration. You can apply for a hardship payment if you are need money to avoid a crisis or suffering.

I have been through mandatory reconsideration before, will I get ESA?

You will not get ESA during mandatory reconsideration unless the DWP feel your health has deteriorated significantly.

#### **What can I do if my ESA stops during mandatory reconsideration?**

You can apply for other benefits depending on where you live. You may be able to claim Universal Credit (UC). This benefit is being rolled out in stages and only some areas of the country have it. Your local Jobcentre Plus will be able to tell you if you are in an UC area.

If you live in an area where you can claim Universal Credit (UC)

If you made a claim for income-related ESA you can make a claim for Universal Credit (UC). You should get the standard UC allowance and any other amounts you are entitled to. Jobcentre Plus can set conditions for your benefit, which you have to meet.

If you have made a claim for contribution-based ESA, you can make a claim for UC if you are on a low income.

If your income is too high to claim UC, you will need to live off your savings or other income. You could also claim contribution-based Jobseekers Allowance (JSA).

If you do not live in an area where you can claim Universal Credit (UC)

If you made a claim for income-related ESA, you can make a claim for income-based JSA.

If you made a claim for contribution-based ESA you can make a claim for contribution-based JSA. To get JSA you need to meet the conditions that Jobcentre Plus set you.

### **What if I am finding it difficult to meet the conditions of UC or JSA?**

If you claim UC or JSA, Jobcentre Plus will say that you need to:

- actively look for work, and
- be available to take a job if you are offered one.

If you feel that you cannot meet these conditions, you could ask Jobcentre Plus to change them. They call this 'easing conditionality'. To persuade Jobcentre Plus to do this, tell them how your mental health condition affects how you can look for work. It is important that you keep getting notes from your GP that say you are not able to work. Send these to the DWP while you are going through mandatory reconsideration.

#### ***Jim's Story***

*Jim applied for ESA but the DWP found him fit for work. He did not agree with this decision so he decided to go through mandatory reconsideration. He applied for JSA because he could not claim ESA during mandatory reconsideration.*

*Jim took medication for his mental health problems. His medication made him drowsy and feel sick in the mornings. Jim continued to get notes from his GP saying that he was not able to work. The note also explained the effect his medication had on him in the mornings.*

*JobCentre Plus looked at this information when setting his conditions for JSA. They agreed that the side effects of Jim's medication would make looking for work difficult. As a result they changed the conditions for his JSA so that he would only have to look for part-time work where the job started in the afternoon.*

### **Will I get PIP or JSA during my reconsideration and appeal?**

You will not get any payments during a reconsideration and appeal of a PIP or JSA decision. This is also the case if you are moving from DLA to PIP.

### **Will I get UC payments during my reconsideration?**

This depends on which element of UC you are challenging. If you are challenging a decision about having limited capability for work, you can make a claim for the standard allowance of UC. You should ask for easements of the conditions about looking for work.

### **What happens to my benefits after mandatory reconsideration?**

If you are found fit for work after mandatory reconsideration, you can appeal to the tribunal. You will get a tribunal confirmation letter once your appeal request has been received. You can apply for JSA until you get the tribunal confirmation letter. Once you get the confirmation letter, you can get ESA at the assessment rate again. This will continue until your appeal has been heard.

You will not get any ESA if you have made another claim after a failed claim. You can only do so if your health gets worse.

If you were claiming UC during the mandatory reconsideration, you may stay on this benefit. If you want to go back onto ESA, you need to make sure you write this on your appeal form. If you do not write this on your form, they may keep you on UC.

You can find more information in the following factsheets:

- Universal Credit (UC)
- Employment and Support Allowance (ESA)
- Welfare benefits and mental illness
- Welfare benefits: appeals

at [www.rethink.org](http://www.rethink.org). Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.



#### 4. Sample letters

##### **Example letter to ask a health care professional for evidence to challenge a Limited Capability for Work or Limited Capability for Work Related Activity decision**

To: *(add name of professional)*

Address: *(add address of professional)*

Date: *(add date)*

Dear Sir/Madam *(delete as applicable)*

##### **Request for medical evidence**

Name: *(add your name)*

Address: *(add your address)*

D.o.B: *(add your date of birth)*

I am appealing a decision about my entitlement to Employment Support Allowance (ESA) / Universal Credit *(delete as appropriate)* and I am writing to ask if you would offer some evidence which may help my case. Evidence from medical professionals can be extremely useful in helping decision makers at the Department for Work and Pensions (DWP) make correct decisions. .

I would be very grateful if you could answer the questions that you think are relevant to my condition from the list below and return them to me in the envelope provided. (Please be aware that I am not in a position to pay for any report or information) *(Insert if applicable)*.

The appeal is about a decision made in *(add date mm/yy)* so I would be grateful if you could provide information based on how my condition affected me at that time.

The questions focus on my mental health rather than my physical health. But if you have information regarding my physical health, please include this at the end of the form.

Yours sincerely

*(add your name)*

Please state what condition(s) I suffer from and what medication(s) and treatment(s) have been prescribed.

Can you look at the questions below and add some information for the ones you think are relevant for me.

1. How is my ability to learn simple tasks (e.g. setting an alarm clock or operating a washing machine) affected by my medical condition(s)?
2. How is my awareness of everyday hazards, (e.g. Boiling water or sharp objects), affected by my medical condition(s)? Does this pose a significant risk to my safety or others?
3. How is my ability to initiate and complete personal tasks affected by my medical condition(s)?
4. How is my ability to initiate and cope with change affected by my medical condition(s)? Does this affect my ability to manage my day to day life?
5. How is my ability to get to places affected by my medical condition(s)? Do I need supervision to get to familiar or unfamiliar places?
6. How is my ability to cope with social engagement affected by my medical condition(s)? Am I caused distress by social engagement and does this preclude social engagement?

7. How is my behaviour affected by my medical condition(s)? Do I show signs of aggressive, uncontrolled or disinhibited behaviour? And could this be considered unreasonable in a workplace?
  
8. If I am required to attend work focused interviews or job programmes. Would this have a detrimental affect on my health? If yes, how would I be affected?
  
9. Is there any other information that you think is relevant?

Signature

Date

Hospital/Surgery Stamp

Thank you very much, in advance for any help you can provide towards my appeal

**Example letter to ask a health care professional for evidence to challenge a decision about Personal Independence Payment (PIP).**

To: *(add name of professional)*

Address: *(add address of professional)*

Date: *(add date)*

Dear Sir/Madam *(delete as applicable)*

**Request for medical evidence**

Name: *(add your name)*

Address: *(add your address)*

D.o.B: *(add your date of birth)*

I am appealing a decision about my entitlement to Personal Independence Payment and I am writing to ask if you would offer some evidence which may help my case. Evidence from medical professionals can be extremely useful in helping decision makers at the Department for Work and Pensions (DWP) make correct decisions.

I would be very grateful if you could answer the questions that you think are relevant to my condition from the list below and return them to me in the envelope provided. (Please be aware that I am not in a position to pay for any report or information) *(Insert if applicable)*.

The appeal is about a decision made in *(add date mm/yy)* so I would be grateful if you could provide information based on how my condition affected me at that time.

The questions focus on my mental health rather than my physical health. But if you have information regarding my physical health, please include this at the end of the form.

Yours sincerely

*(add your name)*. .

Please state what conditions I suffer from, and what medications, treatments and therapies have been prescribed or recommended.

Can you look at the questions below and add some information for the ones you think are relevant for me.

**When answering the relevant questions please think about my ability to perform each activity safely, to an acceptable standard, repeatedly (as necessary) and within a reasonable time. Please indicate where I am unable to perform these activities without either physical help, or someone prompting me to carry out the activities.**

To what extent do my condition(s) affect my ability to prepare food?

To what extent do my condition(s) affect my ability to take appropriate nutrition?

To what extent do my condition(s) affect my ability to manage therapy or monitor my health condition?

To what extent do my condition(s) affect my ability to wash or bathe?

To what extent do my condition(s) affect my ability to manage my toilet needs or incontinence?

To what extent do my condition(s) affect my ability to dress or undress?

To what extent do my condition(s) affect my ability to communicate verbally?

To what extent do my condition(s) affect my ability to read and understand signs symbols and words?

To what extent do my condition(s) affect my ability to engage with other people (who I both know and do not know) face to face?

To what extent do my condition(s) affect my ability to make budgeting decisions?

To what extent do my condition(s) affect my ability to plan and follow journeys (both those that are familiar and unfamiliar to me)?

To what extent do my condition(s) affect my ability to physically move around?

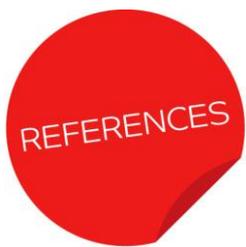
Signature

Date

Hospital/Surgery Stamp

Thank you very much, in advance for any help you can provide towards my claim

[Top](#)



---

<sup>1</sup> Reg 1. *The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Support Allowance (Decisions and Appeals) Regulations 2013*. SI 2013/381. London: TSO; 2013.

<sup>2</sup> As note 1 (SI 2013/381), Reg 7 (4).

<sup>3</sup> As note 1 (SI 2013/381), Reg 5 (1).

<sup>4</sup> As note 1 (SI 2013/381), Reg 5 (1).

<sup>5</sup> As note 1 (SI 2013/381), Reg 6.

<sup>6</sup> House of Commons Written Answers for 25 Nov 2013 (pt 0005) given by Employment Minister Esther McVey to Parliamentary Questions, col 121W of 16 December 2013.

<https://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm131125/text/131125w0005.htm> (accessed 19th May 2017).

© Rethink Mental Illness 2014

Last updated May 2017

Next update May 2020

Version: 4

This factsheet is available  
in large print.

---

## Rethink Mental Illness Advice Service

Phone 0300 5000 927

Monday to Friday, 9:30am to 4pm  
(excluding bank holidays)

Email [advice@rethink.org](mailto:advice@rethink.org)

---

### Did this help?

We'd love to know if this information helped you.

Drop us a line at: [feedback@rethink.org](mailto:feedback@rethink.org)

or write to us at Rethink Mental Illness:

RAIS  
PO Box 17106  
Birmingham B9 9LL

or call us on 0300 5000 927.

We're open 9:30am to 4pm  
Monday to Friday (excluding bank holidays)



Leading the way to a better  
quality of life for everyone  
affected by severe mental illness.

For further information  
on Rethink Mental Illness  
Phone 0121 522 7007  
Email [info@rethink.org](mailto:info@rethink.org)



[facebook.com/rethinkcharity](https://www.facebook.com/rethinkcharity)



[twitter.com/rethink\\_](https://twitter.com/rethink_)



[www.rethink.org](http://www.rethink.org)

### Need more help?

Go to [www.rethink.org](http://www.rethink.org) for information on symptoms, treatments, money and benefits and your rights.

### Don't have access to the web?

Call us on 0121 522 7007. We are open Monday to Friday, 9am to 5pm, and we will send you the information you need in the post.

### Need to talk to an adviser?

If you need practical advice, call us on 0300 5000 927 between 9:30am to 4pm, Monday to Friday. Our specialist advisers can help you with queries like how to apply for benefits, get access to care or make a complaint.

### Can you help us to keep going?

We can only help people because of donations from people like you. If you can donate please go to [www.rethink.org/donate](http://www.rethink.org/donate) or call 0121 522 7007 to make a gift. We are very grateful for all our donors' generous support.



Rethink Mental Illness is a partner in:

