

Benefit assessments – exemption to protect vulnerable patients

There is a great deal of evidence about the profound distress which face-to-face assessments for disability benefits can cause, especially for women and men with mental health conditions. The prospect of interview can induce overwhelming anxiety, panic and dissociative states, levels of stress and distress that can precipitate serious relapses, leading to psychiatric admissions and even suicides. Consultant psychiatrist Dr Jed Boardman said: “You see people relapsing as a consequence of getting distressed about being assessed.” ([Fit-for-work tests linked to relapses in those with mental health problems](#) *Guardian* 24 November 2015.)

Therefore it is vital that professionals know about the benefit system regulations on **exemption from the face-to-face interview** and for **assessment on paper evidence**.

They can quote these to protect vulnerable patients from harmful distress and deterioration, and/or enable them to stay out of hospital. **Professionals who can state their opinion include: GP, care co-ordinator, psychologist, psychiatrist, key worker, support worker, therapist, counsellor, Independent Domestic Violence Advocate...** Opinions from non-medical staff are relevant to describe people’s problems functioning.

It is important to recommend exemption from the face-to-face interview very clearly. Don’t recommend a home visit: this can be worse than an assessment centre interview, as for women rape survivors or others, their home is their safe space which would be violated by an official visit. You may be rung by the assessor as a follow-up, so make sure you are up-to-date with your patient’s situation.

Employment and Support Allowance (ESA) and Personal Independence Payment (PIP) are different benefits with different reasons for exemption:

- **ESA** is an out-of-work benefit based on limited capability for work where complete exemption from back-to-work conditions is possible. In places where ESA is replaced by Universal Credit (UC), this exemption is in UC regulations 2013 [Schedule 8](#) and also applies to the compulsory “Health and Work Conversation”. Widespread opposition to the brutal UC regime has delayed national rollout.
- **PIP** is widely claimed by both unwaged and waged people for daily living/care and mobility needs, and is not part of UC.

Companies hold DWP contracts to open mail, scan and distribute it and to carry out assessments, but confidentiality is used to exclude evidence. If a support letter marked “Confidential” goes to the assessor company, the DWP says under confidentiality, it won’t then be disclosed to a DWP Case Manager (*PIP Assessment Guide Part One*, 1.4.13). As proper consideration often depends on DWP review, don’t mark your report confidential.

ESA

Under “**Exceptional Circumstances**”, you can say that there would be **substantial risk** to the patient’s health if they were put under work conditions for benefit, so they should be exempted from these and the exam. This regulation means the person is already accepted as satisfying the test for ESA (limited capability for work) so doesn’t have to be seen. Substantial risk to health can be mental health, or physical health e.g. risk of heart

attack from stress. Risk to mental health covers not only suicide risk, but also sudden deterioration in mental state: PTSD flashbacks, panic attacks, hearing voices, or similar.

Substantial risk regulations: <https://wcainfo.net/issues/substantial-risk-lcw>

1. *A claimant who does not have limited capability for work as determined in accordance with the limited capability for work assessment is to be treated as having limited capability for work if paragraph (2) applies to the claimant.*
2. *Subject to paragraph (3) this paragraph applies if ... (b) the claimant suffers from some specific disease or bodily or mental disablement and, by reasons of such disease or disablement, there would be a substantial risk to the mental or physical health of any person if the claimant were found not to have limited capability for work.*
3. *Paragraph (2)(b) does not apply where the risk could be reduced by a significant amount by - (a) reasonable adjustments being made in the claimant's workplace; or (b) the claimant taking medication to manage the claimant's condition where such medication has been prescribed for the claimant by a registered medical practitioner treating the claimant.*

Regulation 25 (2013) (4)

(4) *In this regulation "medical evidence" means—*

(a) evidence from a health care professional approved by the Secretary of State; and

(b) evidence (if any) from any health care professional or a hospital or similar institution, or such part of such evidence as constitutes the most reliable evidence available in the circumstances.

PIP

DWP guidance states that assessors should determine if they can assess the claim from the paper evidence they already have, or if they should get further evidence from professionals, before proceeding to arrange a face-to-face exam -- they call it consultation. (*PIP Assessment Guide, Part One – The Assessment Process*, 1.2.2/1.3.6, 2 November 2017)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/655611/pip-assessment-guide-part-1-assessment-process.pdf

The assessor can make a decision from paper evidence where “there is strong evidence on which to advise on the case and a face-to-face consultation is likely to be stressful for the claimant...” (1.5.4)

Assessors “should also consider the needs of vulnerable claimants”, that is “someone who has difficulty dealing with procedural demands” including “a previous suicide attempt, domestic violence, abuse or bereavement.” (1.3.11)

1.5.4 “Cases that should not require a face-to-face consultation”

“Although each case should be determined individually, the following types of case should not normally require a face-to-face consultation:

[...]

- There is strong evidence on which to advise on the case and a face-to-face consultation is likely to be stressful for the claimant (for example, claimants with autism, cognitive impairment or learning disability)*
- The claimant questionnaire indicates a high level of disability, the information is consistent, medically reasonable and there is nothing to suggest over-reporting – (examples may include claimants with severe neurological conditions such as multiple sclerosis, motor neurone disease, dementia, Parkinson’s disease, severely disabling stroke)*
- There is sufficient detailed, consistent and medically reasonable information on function.*

The medical evidence sent on paper has to be “robust” to enable the test for benefit to be met, and should include comments about how functioning is affected. WinVisible won exemption from the PIP exam for a rape survivor who felt suicidal and was at risk of flashbacks, based on “consultation may be stressful to the claimant”. The assessor rang the woman’s GP for his opinion after his letter was sent in. She was granted full rates for both daily living and mobility.

Where should support letters be directed?

ESA

Assessments are carried out by multinational company Maximus (under the name Health Assessment Advisory Service) on behalf of the DWP.

- If your patient is filling in the ESA50 form, attach your support letter to the form and make sure it is listed on the form.
- If your patient can’t cope with the form, or if an interview date has already been sent out, fax it headed FME (Further Medical Evidence) to HAAS London central fax: 0208 795 8647. This is the procedure recommended by HAAS call centre staff. It should have the claimant’s name and NI No. at the top of each numbered page.
- If your patient has an appointment date and HAAS are refusing to postpone this, or are still requiring her to attend despite your request for exemption, email the same correspondence with a cover note raising your complaint to the Centre for Health and Disability Assessments (Maximus head office). Ask them to put the appointment on hold pending the decision on exemption:
email: customer-relations@chdauk.co.uk They usually reply within two days. Always cc the MP and ask them to follow it up on behalf of the claimant.

PIP

Assessments are carried out by Atos (or in some geographical areas by Capita). To send in your medical evidence requesting exemption, you can:

- Email Atos pip-customerservice@atos.net

- Write to the DWP's Disability and Carers Service, address is on the patient's PIP letter. And/or email them at blackpoolbc.customercomplaints@dwp.gsi.gov.uk
- If you are not sure where to send it, call the PIP helpline on 03458 503 322.

Getting support from MPs' caseworkers

Ask if your patient is ready to contact their MP and ask for support for their exemption and paper-based assessment. Google "Find my MP" or search the Parliament website, choosing the constituency contacts. MPs' caseworkers have direct lines to benefit officials and can often quickly resolve distressing situations. Involving the MP gets your concerns taken more seriously. Assessor companies have staff specifically for MPs' enquiries.

Ms A wrote to us:

*"I just wanted to let you know, it is with a happy heart I read the opened letter from the DWP this afternoon with my PIP results. **I am most grateful for the advice that it is OK to ask my psychiatrist specifically for a paper based assessment.** I know not everyone is like this and that particularly with the disabled people's movement, a lot of work and effort goes into asserting good self-image. In mental health, addictions, abuse/domestic violence situations, I think there is something very unseen and unaddressed going on that makes women like me and others, more likely to be unable to meet the demands of the benefits system. More likely to fall between the cracks."*

Compiled by WinVisible (women with visible and invisible disabilities)

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