

ESA benefit assessments – exemption from face-to-face interview 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) is an out-of-work benefit with a test of limited capability for work. Full exemption from back-to-work conditions is possible. And for new claimants of Universal Credit (UC), this exemption is in UC regulations 2013 [Schedule 8](#) and also applies to the compulsory “Health and Work Conversation” interview when applying for UC.

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>

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.

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.

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.

Since September 2017, ESA and UC claimants in the Support Group will no longer need to be reassessed if they:

- have a severe, lifelong disability, illness or health condition
- are unlikely to ever be able to move into work

<https://www.gov.uk/government/news/benefit-reassessments-stopped-for-those-most-in-need>

Where should support letters be directed?

Assessments are carried out by the 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 additional information page of 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.

Getting support from MPs' caseworkers

We recommend that your patient 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.

Compiled by WinVisible (women with visible and invisible disabilities)

with warm thanks to: Diane Frazer, psychotherapist; Dr Jay Watts, clinical psychologist; Marcin Brajta, Hackney Community Law Centre. *Version Feb 2019 ESA*

Contact WinVisible:

Crossroads Women's Centre, 25 Wolsey Mews, London NW5 2DX

Email win@winvisible.org Web www.winvisible.org

Tel: 020 7482 2496 

