

UNIVERSAL CREDIT - WAITING DAYS

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INTRODUCTION

- 1 This memo gives guidance on changes introduced by the Universal Credit (Waiting days) (Amendment) Regulations 2015 (SI 2015 No. 1362). The changes come into force on 3.8.15.

BACKGROUND

- 2 Primary legislation allows for a period of up to 7 days at the beginning of a claim for UC (during which the UC entitlement conditions are met) to be treated as days when entitlement to UC does not arise¹. These regulations have now introduced a period of 7 waiting days at the start of certain claims of UC.

1 WR Act 12, s. 6.

WAITING DAYS

- 3 From 3.8.15, entitlement to UC will not arise for the first 7 days in respect of which a claim for that benefit is made if

1. on the first day of that period (known as “the relevant date”), the claimant or either of joint claimants is in the all work-related requirements group **and**
2. none of the exceptions in paragraph 5 below apply¹.

1 UC Regs, reg 19A(1)

- 4 Where the claimant may not fall within the to all work-related requirements group only because they have LCW they will nevertheless be taken to be in that group for the purposes of waiting days¹.

1 UC Regs, reg 19A(2)

Exceptions

- 5 A person will not have to serve 7 waiting days where¹
 1. a new award of UC is made²
 - 1.1 to a single claimant where a previous award has ended when the claimant ceased to be a member of a couple **or**
 - 1.2 to joint claimants where two previous awards ended as the result of the claimants becoming a couple **or**
 - 1.3 in any other circumstances where the assessment periods for the new award begin on the same day of each month as the assessment periods for a previous award (see ADM E2120 et seq)³ **or**
 2. on the relevant date, the claimant or either of the joint claimants⁴
 - 2.1 is terminally ill **or**
 - 2.2 has recently become a victim of domestic violence⁵ (see ADM J3180) **or**
 - 2.3 is a care leaver **or**
 - 2.4 is aged 16 or 17 and has no parental support⁶ (see ADM E1037) **or**
 - 2.5 has been a prisoner within the month ending on the relevant date **or**
 - 2.6 has been entitled to new-style JSA or new-style ESA within the 3 months ending on the relevant date **or**

- 2.7** was entitled to old-style JSA, old-style ESA or IS at any time during the period of 3 months ending on the relevant date and ceased to be entitled to that benefit on starting paid work **or**
- 2.8** does not fall within paragraph 5 **2.7** above and was entitled to one of the following benefits at any time during the period of one month ending on the relevant date
- 2.8.a** old-style JSA **or**
- 2.8.b** old-style ESA **or**
- 2.8.c** IS **or**
- 2.8.d** HB **or**
- 2.8.e** child tax credit **or**
- 2.8.f** working tax credit⁷.

1 UC Regs, reg 19A(3); 2 reg 19A(3)(a); 3 reg 21; 4 reg 19A(3)(b); 5 reg 98(2); 6 reg 8(3); 7 Universal Credit (Transitional Provisions) Regs 2014, reg 16A; UC Regs, reg 19A(3)(b)

When is a claimant subject to the all work-related requirements

- 6 When determining whether a single claimant or either of joint claimants is in the all work-related requirements group¹ for the purposes of waiting days, in the definition of weekly earnings in ADM J2092 1., the reference to “the current assessment period” should be read as “the month that would be the first assessment period of the award if paragraph 3 of this memo did not apply”².

1 WR Act 12, s 22; 2 UC Regs, reg 19A(4)

Notional assessment period for earnings

- 7 In order to decide whether waiting days will apply for an employed single claimant or joint claimant the DM will determine whether the work-related requirements apply. To do this the DM fixes a notional assessment period and determines a weekly average of their earnings as per guidance in ADM J2091.
- 8 The DM will use the expected earnings in this notional assessment period, which is set as the first month after the date of claim as if waiting days were not applied, to

determine whether the work-related requirements apply. If it is then determined that waiting days apply, the actual assessment period will start from the first day of entitlement (the 8th day from the date of claim) and this assessment period will be used to take into account any earnings that are received during that assessment period.

Note 1: See further guidance at paragraph 10 of this memo regarding assessment periods.

Note 2: Earnings that are received during the waiting days period are not taken into account.

Example

George claims UC from 10 August. He is a single claimant with part time earnings of £120 paid on the last day of each month. The notional assessment period is 10 August to 9 September. His average weekly earnings in the notional assessment period fall below his individual threshold for UC, George is therefore in the work-related requirements group and waiting days apply. His actual assessment period will be 17 August to 16 September (waiting days are 10 August to 16 August). Any earnings received in the period 17 August to 18 September are taken into account.

AWARDS

- 9 Where a person may be entitled to any benefit or advantage under any legislation by virtue of having an award of UC, unless that legislation expresses the contrary intention, that person is not treated as being awarded UC on any of the waiting days whilst they are not entitled to UC¹.

1 UC Regs, reg 20A

ASSESSMENT PERIODS

- 10 ADM E2110 describes an assessment period as a period of one month beginning with the first date of entitlement to UC. From 3.8.15 regulations¹ are introduced which confirm that for those cases subject to waiting days (as described above), the first day of entitlement to UC (and the start of the assessment period) is the day after the first 7 days of the period in respect of which the claim is made.

1 UC Regs, reg 21(1A)

Example

Bill claims UC from 4 September. He is subject to waiting days and so his entitlement and first assessment period do not begin until 11 September (4 September to 10 September are waiting days in which Bill has no entitlement to UC). As his assessment period is a period of one month Bill's next assessment period begins on 11 October and the assessment period after that begins on the 11th November.

ANNOTATIONS

Please annotate the number of this memo (Memo ADM16/15) against ADM paragraphs:

E1016; E1037; E2110; J2092; J3180

CONTACTS

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, 1S25, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in [Memo DMG 03/13](#) - Obtaining legal advice and guidance on the Law.

DMA Leeds: July 2015