The following benefits are being phased out:

- Incapacity benefit
- Severe disablement allowance (SDA)
- Income support paid on the grounds of incapacity.

If you are in receipt of one of these benefits you will have to make a claim for Employment & Support Allowance (ESA). The Department for Work and Pensions (DWP) will write to let you know that you are to be re-assessed. They will send you a questionnaire to complete: the ESA50.

Note: Shine has produced an information sheet to assist you to fill in the ESA claim called ‘Completing the ESA50 questionnaire’. This will be available online or paper copies are available from our national and regional offices.

Your completed ESA50 will be assessed by a DWP-approved healthcare professional, who may request further medical information, or they may ask you to attend a face-to-face assessment.

If you fail to send back the questionnaire, or do not attend the face-to-face assessment, without good cause, your existing award will be stopped.

If the amount of ESA you are entitled to is lower than your previous benefit, your ESA will be topped up by a transitional addition, to the rate of your previous benefit, and it will be frozen at that level, resulting in you not receiving annual increases in benefit.

You may find that the amount you are paid will not go up for several years (unless there is a change in your circumstances). Your ESA will start to go up again when annual increases in benefits result in ESA payments reaching the same level as your previous benefit.

Anyone in the following groups may find that their ESA amount is lower than their previous benefit, and they will therefore get a transitional addition, which will not be paid after 5 April 2020.

- You were previously paid income support that included a disability premium (unless you are a single claimant placed in the ESA support group).
- You received incapacity benefit that included an age addition.
- You received incapacity benefit or SDA that included an addition for an adult or child dependent.
- You were transferred from invalidity benefit to incapacity benefit in 1995, and your incapacity benefit included an invalidity allowance.
If you have children
ESA does not include extra money for children. If you previously received income support, and were paid extra money for them in your income support, DWP will send your details to HMRC, who will assess you for child tax credit instead.

Tax credits
If you were previously paid SDA, or your incapacity benefit included an invalidity allowance, these will have been disregarded as income in your tax credit calculation. If you are transferred to contributory ESA from one of these benefits, your contributory ESA will now be taken into account in your tax credit calculation. This may result in you receiving less tax credit. You should notify HMRC of the change in your circumstances.

If you are found not to be entitled to ESA following the work capability assessment:
You will receive a telephone call, followed by a decision letter, telling you that your incapacity benefit, income support, or SDA will stop being paid and you will be asked if you want to claim jobseekers allowance (JSA). You may not be able to claim JSA if your partner is in paid employment.

ESA groups
Work-related activity group (WRAG). If you are placed in this group you will have to attend work-focused interviews and possibly undertake work-related activity. If you have previously been in employment, and are paid contributory ESA, the award will only be paid for 12 months. You may be able to claim income-related ESA instead when your contributory ESA comes to an end.

Support group. You do not have to do work-related activity in this group, although you can volunteer to do this. You will receive a higher rate of ESA if placed in this group.

Challenging the decision
You can claim JSA while challenging a decision not to award you ESA. You must ask DWP to reconsider the decision not to award you ESA within one calendar month of the date on the decision letter.

You can also challenge the decision if you are placed in the WRAG group instead of the support group.

• Ask them to send you copies of all of the evidence used to make the decision.
• Ask them not to take any further action until you have had the chance of responding to that evidence.
• Put your request in writing, as soon as possible, send it to the address on the decision letter and keep a copy for yourself.
• If you have not received the evidence after two weeks, contact them again.
• When you receive the evidence, look at where the difference of opinion is and try to get help to set out in writing exactly which scores you disagree with and why. Try and get evidence from a healthcare professional (e.g Occupational Therapist) or Social Worker who knows you, and ask for help to write a report.
What happens next?

The DWP will look at all of the evidence you send in. They will then either change the decision in your favour, or write back to say that they have been unable to change the decision. In this case all is not lost, as you now have one month from the date of the new decision to lodge an appeal. When you have lodged the appeal, you can be paid the basic allowance of ESA, and any appropriate premiums in the case of income related ESA, until the appeal is decided. If you win the appeal you will receive the arrears for the additional component that applies to you. You will need to supply DWP with ‘fit notes’ (a medical certificate from your GP) while you are appealing.

If you apply for a tribunal hearing, it will be held at a venue as close to your home as possible. It is always best to select to attend an oral hearing, where you can put your case forward in person. If you select to have a paper hearing you will not be able to attend the hearing, and a decision will be made without you being able to challenge the decision in person.

November 2014

Disclaimer: Changes in the law after 2014 might affect the accuracy of some of the information. You should always check details regarding your welfare rights with a local advice centre or the Department for Work and Pensions (DWP).