



Frequently Asked Questions:

Work Capability Assessments for Employment Support Allowance (ESA) and Universal Credit (UC)

Over the last few months, our Social Security Advice Line has received a number of queries concerning ESA and UC claimants who are subject to work capability assessment and who receive a UC50 form **and** a ESA50 form to complete. We have also received queries about claimants who receive different outcomes following their work capability assessments for UC and ESA.

In this document, we answer some frequently asked questions to help advisers and claimants navigate through such situations.

What is a Work Capability Assessment (WCA)?

The WCA is an assessment by the Department for Communities to determine to what extent an individual's disability or health condition impacts their ability to work. This is known as determining if someone has 'limited capability for work or work related activity'. The WCA is made up of two parts. The first part of this process is that the claimant is asked to complete a capability for work questionnaire (ESA50 or UC50 form). Secondly, and in most cases, the claimant will be asked to attend a medical assessment. The outcome of the medical assessment will determine if a claimant passes the WCA.

What's the process if a WCA for both ESA and UC is required?

If a claimant claims ESA **and** UC, either the ESA Department or the UC Department will make the initial referral for a WCA and will lead the process.

If a decision is referred by the ESA Department initially, the UC Department will request a JB23 to transfer details of the WCA to the UC claim. When the WCA is due for review, the UC Department requests a JB23 again from ESA.

If a UC referral for WCA is created in error after the ESA referral has already been made, the UC Department should withdraw its referral, as the ESA one precedes it. The benefit that creates the first referral is responsible for a re-referral in future.

If the claimant receives a work capability amount as part of their UC claim, the ESA Department should request a UC23 from the UC Department to record the details on the ESA system. Again, whichever benefit creates the first referral, is the benefit responsible for re-referral in future.

Does a claimant need to complete both UC50 form and ESA50 form as part of the WCA?

No. If a claimant receives forms ESA50 **and** UC50, they should complete the form for the benefit that created the **initial referral**. The claimant should contact the UC and ESA Departments to confirm which Department made the initial referral.

What happens if a claimant completes both forms?

If the claimant completes both forms, **the decision made by the first benefit Department stands**. If the claimant wants to dispute this decision, they may request a Mandatory Reconsideration and, if still not satisfied, appeal.

What happens when a WCA decision is subject to appeal? Can the claimant be referred for another WCA as part of a different benefit claim?

It is unlikely a further referral for WCA would be processed. The current WCA decision would be applied to both claims, until the appeal decision is received. Once

the appeal decision is received, both the UC and ESA systems should be updated accordingly.

What if the claimant's health condition deteriorates or they develop a new condition while waiting for the outcome of their appeal?

If the claimant experiences a deterioration in their health condition or develops a new health condition, a new WCA referral can be requested from the benefit Department which created the initial referral. Regulation 30(5)(a) ESA (NI) Regulations 2016 and Regulation 42(1)(b) UC (NI) Regulations 2016 provide for the Department to undertake a new WCA assessment in such circumstances.

For further advice or assistance on any of the issues covered in this document, contact Law Centre NI's Social Security Hub on (028) 90244401 or benefitsadvice@lawcentreni.org.

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