

04 July 2018

Dear 

Your Mandatory Reconsideration Notice

You or someone who has the authority to act for you, asked us to look at the decision we made on 12-Mar-18.

We have taken into account all the information available and the decision has been changed.

An explanation of our Mandatory Reconsideration decision is set out below.

Mandatory Reconsideration

I am able to revise the decision dated 12-Mar-18 which determined that you did not meet the threshold to be assessed as having limited capability for work or work related activity.

You made a claim for Universal Credit on 17-Nov-17.

On 17-Apr-18 you attended a work capability assessment.

On 12-Mar-18 a Decision maker considered all of the evidence and determined that as you did not meet the threshold you would remain in the All Work Related Requirements Group.

On 29-May-18 a request was made for a mandatory reconsideration of the decision and the following grounds were recorded:

Claimant is disputing that their decision form ESA should have been carried over to their universal credit claim. ESA work capability assessment was originally that claimant could work however was since overturned. Claimant is also disputing that

capability assessment on UC was necessitated and then the outcome of this assessment as well.

In reviewing Departmental records I can see that you appealed against a decision on your ESA claim on 20-Feb-18.

On 05-Mar-18 all the available information and your grounds for appeal was reconsidered and a decision maker determined that you did have limited capability for work, but not for work related activity, prior to your ESA appeal going to appeal hearing.

Although not binding, the Decision Maker recommended that you were not to be reassessed within 12 months from their decision on 05-Mar-18.

You may have claimed another Benefit whilst waiting for the tribunal to make a decision. The Law does not allow a claimant to be paid twice for the same period. Please make any adjustments accordingly.

As you are in receipt of Universal Credit then ESA will not be paid.

Following the initial ESA capability for work decision made on 17-Oct-17 your ESA claim was closed and you were paid ESA up to and including 16-Nov-17, subsequently making a claim to UC on 17-Nov-17.

I have carefully considered all of the evidence including the decision made for your ESA claim following your appeal to HM Courts & Tribunal Service on 05-Mar-18.

I have also looked at the Law in relation to The Universal Credit (Transitional Provisions) Regulations 2014. I find that Regulation 19 (1) (a) (b) will apply to you as the Tribunal appeal you submitted led to a decision dated 05-Mar-18 that you are entitled to limited capability for work from 17-Oct-17 (the date of the original decision), and as this is prior to you making a claim to Universal Credit then this will be a transitional claim.

In order to award the limited capability for work element I have considered the Law in The Universal Credit (Transitional Provisions) Regulations 2014, regulation 19 (3) (a) (b). I have determined that the assessment phase did not apply to you when you were receiving ESA, therefore the limited capability for work element is to be included in your Universal Credit award with effect from the beginning of your first assessment period.

The ESA decision on 05-Mar-18 supersedes the decision on Universal Credit dated 09-May-18 because the period of award for Limited Capability for Work covers you for 12 months from 05-Mar-18.

You do have limited capability for work for your Universal Credit claim from 17-Nov-17.

Your claimant commitment is to be amended as you should be placed in the No Work Related Requirements Group.