

If you call or write to us, please use this reference:

[REDACTED]



Department
for Work &
Pensions

[REDACTED]

www.gov.uk

Telephone: 0800 328 5644

Textphone: 0800 328 1344

This is your Mandatory Reconsideration Notice

14 July 2020

We've looked again at our decision on your Universal Credit

Dear [REDACTED]

On 04 June 2019 you asked us to look again at the decision we made on 13 May 2019 about your Universal Credit.

We have looked at the evidence used to make the decision and any new information you may have given us.

We have decided we cannot change our original decision.

Our decision

The decision maker has looked at the evidence again and their decision is set out below.

We have made a decision about your Universal Credit.

This is your Mandatory Reconsideration Notice. It explains the decision we have made.

If you still disagree, you can appeal to an independent tribunal - see details at the end of this letter.

Please keep this letter safe as you will need it if you want to appeal.

If you have any questions about this letter, or you need it in large print, Braille or audio, please contact us on the number at the top of this letter.

Mandatory Reconsideration of Universal Credit Claim Closure - Entitlement

On 13th May 2019 a decision was made that you were not entitled Universal Credit (UC) from 5th April 2019 because your earnings exceeded the allowed amount for UC for the assessment period (AP) 5th April to 4th May 2019.

I have looked again at the decision dated 13th May 2019 and decided that it should not be

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revised.

Details of Original Decision

Your claim was closed on 13th May 2019 as your earnings exceeded the allowed amount for UC.

Details of the Mandatory Reconsideration

On 4th June 2019 you requested a mandatory reconsideration of the decision dated 13th May 2019. In your request for reconsideration you stated the following:

"FAO Case Manager/Decision Maker - : Mandatory Reconsideration application Re: closed previous UC claim 13/05/2019.

Skeleton grounds for my Mandatory Reconsideration against the payment decision 11/05/2019 : Failure to apply the law i.e failure to apportion my earnings for the two separate periods they were paid for. I am paid 4 weekly.

*1. On 11/01/2019 the Court in R (Johnson & Ors) v SSWP [2019] EWHC 23 (Admin) concluded that:
On a proper interpretation of regulation 54 of the 2013 Regulations...the amount of the earned income of a claimant in respect of an assessment period is to be based on, but will not necessarily be the same as, the amount of earned income actually received in that assessment period. There will need to be an adjustment where... the claimants actually received two months' salary in one assessment period but the combined salaries do not, in fact, constitute earned income in respect of the period of time included in that assessment period.*

However in my case, there has been no 'adjustment' regarding my earnings so I have been treated as receiving my wages for the dates 05/04/2019 and 03/05/2019 (paid always 28 days in arrears). Twice in a single assessment period i.e. 05/04/2019 - 04/05/2019 and has as a consequence suffered a significant financial loss.

3. The failure to apportion my earnings over the period which they were earned is unlawful as it falls to take into account the clear decision in R (Johnson & Ors) v SSWP [2019]. We are aware that the SSWP is seeking permission to appeal the decision of the High Court of the Court of Appeal. However, she has not requested any stay of execution of the High Court decision pending any appeal. As such, regulation 54 is to be interpreted in line with the judgment of the High Court.

(<https://www.bailii.org/ew/cases/EWHC/Admin/2019/23.html>)

The above was written on my behalf by Bridport & District CA on my behalf with my full agreement."

Outcome of Reconsideration

On 13th May 2019 the decision maker decided that you were not entitled to UC from 5th April 2019 as your earnings exceeded the allowed amount for the AP 5th April to 4th May 2019. The earned income amount was based on a Real Time Information (RTI) feed notified to UC's computer systems by HMRC, notifying that the earned income was paid to you.

Having checked the available evidence on UC computer systems I am satisfied that the earnings we have taken into account in the above calculation are likely to be correct, and that there is no evidence to contradict this.

The policy for Universal Credit with regard to earnings is very clear: earnings information is used when it is received by DWP, not when the earnings were paid to the claimant. This means that the assessment period in which the earnings information is received by DWP is the one impacted, not the assessment period when they were earned.

No evidence has been provided from your employer or accountant to indicate that the earnings reported were done so in error.

Although you have quoted a court of appeal decision this is relevant to the case you quoted only and to date there has been no change in UC policy.

I am satisfied that the decision made on 13th May 2019 is correct as the RTI feed notified is likely to be accurate, and there is no evidence to the contrary.

Law

The Universal Credit Regulations 2013 Regulation 15, 61 (1) to 61 (7)
Social Security Act 1998 Regulation 8(1)(a)
Universal Credit, PIP, JSA and ESA (Decision and Appeals) Regulations 2013, Regulation 5, 7, 8, 9(a) and 14(1)(c)
UC, PIP, JSA & ESA (Claims and Payments) Regulation 2013, Regulations 26(2) and 26(3)
Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment Support Allowance (Decisions and Appeals) Regulations 2013 regs 5, 8 & 14(1)(c)
Welfare Reform Act 2012
Social Security Act 1998 Sections 8 – 10

More information

If you need more information about this decision contact us using your journal or the phone number at the top of this letter.

If you disagree with this decision you have the right to appeal which means this decision will be looked at again. The next page will give you more information on how to do this.

Yours sincerely,

Office manager

If you still disagree with our decision

You can appeal to the Social Security and Child Support Tribunal.

This tribunal is independent from DWP. It will make an impartial decision on your entitlement to Universal Credit. You need to appeal within **one month** of the date of this letter.

How to appeal

Go to www.gov.uk/appeal-benefit-decision This website explains how to appeal, and if you can appeal online. If you need to appeal by post, you will also be able to download an appeal form.

If you appeal by post, make sure you include a copy of this letter. The address to post it to will be on the appeal form

If you need help to appeal

If you can't go online, or need other help and support, you can call the following telephone numbers depending on where you live.

England and Wales

Telephone: **0300 123 1142**

Monday to Friday, 8:30am to 5pm

Scotland

Telephone: **0300 790 6234**

Monday to Friday, 8:30am to 5pm

Other benefits

To find out what you may be able to claim, go to www.gov.uk/benefits-calculators

Support and advice

If you need help or advice to decide what to do, you can talk to your carer, family or friends.

You could also contact a local support organisation who can provide independent help and support - for example, the Citizens Advice Bureau. You can find details online, at your local library or in the telephone directory.

If you need help managing your money please contact the Money Advice Service as soon as you can. It offers free, independent advice about how to make the best of your money, including budgeting, savings and dealing with debt. To find out more, go to www.moneyadviceservice.org.uk

Equality and Diversity

We are committed to treating people fairly, regardless of their disability, ethnicity, gender, sexual orientation, transgender status, marital or civil partnership status, age, religion or beliefs. Please contact us if you have any concerns.

Find out how we collect and use information

Visit www.gov.uk/dwp/personal-information-charter

Call charges

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