

Working when you have limited capability for work

Universal Credit / Employment and Support Allowance

Background

If you have a health condition or disability which affects your ability to work, you may be able to claim Universal Credit (UC) or Employment and Support Allowance (ESA). Your ability to work will be determined under the work capability assessment. This assessment can have three different outcomes:

- you are fit for work,
- you have limited capability for work *or*
- you have limited capability for work and limited capability for work-related activity.

If you are accepted as having limited capability for work and work-related activity, then the DWP accept that you are unfit for work and will not expect you to undertake work of any kind. If you are found to have limited capability for work but not limited capability for work-related activity, you may be required to do work-related activities.

This assessment does not prevent you from working if you wish to. The number of hours that you can work, the amount that you can earn and the impact that this work has on your benefit entitlement depends on whether you are claiming UC or ESA.

Universal Credit

Universal Credit is available to claimants who are in or out of work. If you have been assessed as having limited capability for work by the DWP, working may affect whether you are still accepted as being 'unfit for work' and the amount of benefit that you receive.

1. Are you still 'unfit for work' if you do some work?

You can still be accepted as having limited capability for work or limited capability for work-related activity regardless of the number of hours you work or how much you earn if:

- you have already been assessed as having limited capability for work or limited capability for work-related activity; *or*
- you are entitled to Personal Independence Payment, Disability Living Allowance, Attendance Allowance or Armed Forces Independence Payment; *or*
- you are automatically treated as having limited capability for work or limited capability for work related activity (e.g. you are terminally ill).

If none of the above conditions apply, you will be automatically treated as being fit for work if your earnings are more than £658.66 per month (2022/2023 rates).

Be aware: the DWP will not automatically reassess you under the work capability assessment if you are working, however they will consider any work you do when your capability for work is reviewed. It is not yet clear in practice whether, or how quickly, working above the earnings threshold could trigger a review of your claim. If the DWP reassess you and decide that you do not have limited capability to work, you are likely to have to actively look for work and undertake other work-related activities. The amount of benefit you receive may also reduce.

Limited capability for work assessment if you are working: if the DWP treat you as not having limited capability for work because your earnings exceed the earnings threshold, they will not be able to refer you for a work capability assessment and the work-related requirements that you must fulfil will be at the discretion of your work coach.

2. Will work affect the amount of Universal Credit that I receive?

Your earnings are not ignored and may reduce the amount of UC you receive. If you have been assessed as having limited capability for work or limited capability for work-related activity you will be entitled to a work allowance – this means some of your net earnings are ignored. After the work allowance has been applied, 55% of any remaining earnings are taken into account as income and will reduce the amount of UC you receive

Work Allowances

There are two levels of work allowance, with a higher amount for people who do not have housing costs included in their maximum Universal Credit calculation.

Work Allowances for 2022/2023

If you have limited capability for work or dependent children:

Lower (with housing costs): £344 per month

Higher (without housing costs): £573 per month

Example: earning £100 per week

Rosa is 40 and has limited capability for work and work-related activity. She lives in a one-bedroom flat and has an eligible rent of £400 per month. Her Universal Credit award is calculated as follows:

Single Allowance	£334.91
Limited capability for work-related activity element	£354.28
Housing costs	<u>£400.00</u>
Maximum UC per month	£1089.19

Her monthly UC award would be £1089.19 (approximately £251.35 per week).

Rosa takes on a job and starts to earn £100 net per week. Her Universal Credit award would be affected in the following way.

Earnings per month: £433.33 earnings minus a work allowance of £344 = £89.33 x 55% = £49.13

Maximum UC award of £1089.19 minus earnings of £49.13 = UC award of £1040.06.

Rosa's total monthly income is her earnings of £433.33 and her UC award of £1040.06 = £1473.39 (approximately £340.01 per week).

Rosa is earning £100 per week and she is better off by approximately £88.66 per week.

Note: this example is for illustration purposes and the outcome may differ depending on circumstances. In particular, if Rosa had no housing costs her work allowance would have been £573 per month and most of her earnings would have been ignored. There would also be some monthly assessment periods where Rosa would receive 5 weeks' worth of wages which would alter her UC award.

Employment and Support Allowance

If you are receiving ESA, the DWP have accepted that you have limited capability for work or limited capability for work-related activity. There are some circumstances where you can work and your entitlement to ESA will not be affected. This is called permitted work.

- **Permitted work higher limit:** you can earn up to £152.00 per week, working less than 16 hours, without it affecting your Employment and Support entitlement.
- **Supported permitted work:** you can earn £152.00 per week doing work which is either carried out as part of your treatment programme or done under the supervision of a local authority or voluntary organisation that arranges work opportunities for disabled people. There is no limit on the number of hours that you can work.
- **As part of a treatment programme:** you can work as part of a treatment programme done under medical supervision whilst in hospital or as an outpatient if your earnings are no more than £152.00 per week.

Your permitted work earnings will **not** affect the amount of ESA that you receive. Permitted work earnings are also fully disregarded as income for Housing Benefit and local councils may disregard some or all under their Council Tax Support scheme. You should inform the DWP about your permitted work, preferably in advance. They will ask you to fill in form PW1: you can download it here <https://www.gov.uk/government/publications/employment-and-support-allowance-permitted-work-form> or call Jobcentre Plus on 0800 169 0310 to ask for a copy.

Be aware: your work activities may be taken into consideration when the DWP next assess whether you have limited capability for work

Example: earning £100 per week

If Rosa from the example above was an ESA claimant in the support group, then her benefit entitlement would be calculated as follows:

Income-related ESA	£135.35 per week
Housing Benefit	£92.31 per week
Total income	£227.66 per week / £986.53 per month

If she were to start earning £100 per week, her entitlement would be as follows:

Income-related ESA	£135.35 per week
Permitted work earnings	£100.00 per week
Housing Benefit	£92.31 per week
Total income	£327.66 per week / £1,419.86 per month

Rosa is earning £100 per week and she is better off by £100 per week.

***Note:** this example is for illustration purposes and the outcome may differ depending on circumstances.*

Moving onto Universal Credit from Employment and Support Allowance

The effect that work has on your benefit entitlement varies significantly depending on whether you are receiving UC or ESA.

The difference depends on several factors – hours of work, hourly rate, whether you are in the support group or work-related activity group and whether you are entitled to a disability benefit.

If you are on income-related ESA and your work goes over the permitted work limit, you may have to claim UC instead. Take care to check your entitlement before this happens as some people can be better off on UC but some are worse off.

Universal Credit is replacing 6 'legacy benefits', one of which is income-related Employment and Support Allowance. Claimants either move to Universal Credit when they have to make a new claim for benefit because of a relevant change of circumstances (called natural migration), or they will be moved across as part of a national process (called managed migration). Eventually, every claimant of income-related ESA will be moved across to UC. The potential financial impact of this change can be seen from the examples above.

Under transitional protection rules you should not be initially worse off if you are moved onto UC under managed migration, however there is no protection for people who have to claim Universal Credit under natural migration, unless you received the severe disability premium and certain conditions are met.



www.welfare-benefits-unit.org.uk

Guidance for Advisers