



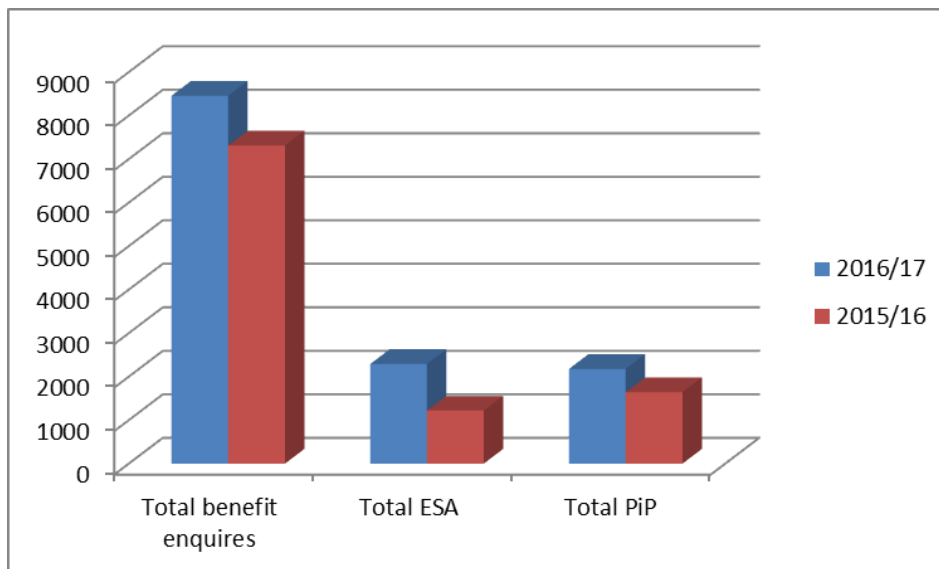
**EXPERIENCE OF CLAIMS FOR PERSONAL  
INDEPENDENCE PAYMENTS AND EMPLOYMENT  
SUPPORT ALLOWANCE AT CITIZENS ADVICE  
WESTMINSTER 2016/17**

**JUNE 2017**

## Part 1 Background and statistics

The purpose of this report is to highlight what is happening on the ground with regard to Employment Support Allowance (ESA) and Personal Independence Payments (PiP) at Citizens Advice Westminster. The decision to look into this was prompted by a significant increase in clients seeking our services on these 2 topics.

Between April 2016 and April 2017 Citizens Advice Westminster (CAW) saw 8453 clients who came to us with benefit enquiries, of those 2289 (27%) had queries relating to ESA and 2178 (26%) relating to PiP. The previous year's figures are: benefit enquiries totalled 7310 of which ESA accounted for 1217 (17%) and PiP 1641 (22%).



To access benefits, ESA claimants are required to undergo a work capability assessment, new applicants for PiP have to undergo assessments and more recently former recipients of Disability Living Allowance are being moved onto PiP so they also have to attend an assessment. Claimants have to be reassessed on a regular basis so have to embark on the same process again, when the outcome could be losing the benefit they were receiving previously. Many claimants have real difficulties navigating the systems and the number of claimants wishing to have decisions reassessed and then appealed has increased and therefore people's need for Citizens Advice support has increased.

How do the assessment systems work? A claimant fills in a lengthy and detailed form which is submitted to the Department for Work and Pensions (DWP). The claimant will be invited to a Work Capability Assessment for ESA and an Assessment for PiP. These are carried out by private companies contracted by DWP and a Health Care Professional will see each client with a check list of questions. Points are awarded against a series of criteria and a minimum of 15 points are required for ESA or PiP to be awarded. This recommendation goes to a DWP decision maker who then confirms the awarding or not of the benefit. Claimants can ask for a Mandatory Reconsideration, carried out by the Decision Maker and if the decision is not changed they can then appeal to a Tribunal who have the final say.

Statistics nationally and locally show that appeals where claimant have been awarded less than 15 points (and in many cases zero points) have a high success rate. Nationally in the period April-June 2017 this was 60% for ESA appeals and 65% for PiP appeals. At Citizens Advice Westminster we have supported clients in 122 ESA cases where the appeal and mandatory reconsiderations have

been successful and 112 clients for PiP appeals in the year June 2016-2017. The comparable figures for the previous year were 100 clients regarding ESA and 26 regarding PiP.

Mental health is an important issue which many feel is not being properly addressed through PiP and ESA and many clients have come to us with low assessment scores where their mental health issues have not been taken sufficiently into account. The issue of PiP claims for those with mental health issues is frequently in the news as court rulings on PiP appeals are published.

## **Part 2. Examples of problems with making PiP and ESA claims.**

Four CAW advisors with a wealth of benefits experience gave a long list of examples of problems their clients have experienced when faced with making an ESA or PiP claim and the challenges they met while helping them navigate through their claims:

1. Despite the advisors' best efforts to ensure that clients met strict eligibility requirements when making new ESA and PiP claims, clients were still scored low or nil points by health care professionals during the assessment stage
2. Health care professionals, many of whom are nurses or physiotherapists, are not always assessing the total impact of complex medical or psychological conditions on the clients they see. Vulnerable claimants' ability to carry out physical activities is ruled far more important than other compelling evidence provided by them or their healthcare team, particularly regarding mental health issues. The DWP rarely rejects healthcare professionals' reports even where there is a dearth of relevant evidence. We have concerns that DWP does not seek clarification or further information, especially at Mandatory Reconsideration level;
3. Some health care professionals over-rely on cutting and pasting standard text from a pro-forma report to detail a client's condition, resulting in inaccurate or misleading assessment reports;
4. Many health care professionals do not ensure they have full medical records on a claimant which are especially important when claimants are not able to easily explain their problems.
5. Many clients belonging to the ESA support group (those who are not expected to be able to work) are judged ineligible by health care professionals, who fail to apply a crucial regulation when assessing them. This complex regulation (35 (2) (b)) defines people in this category as not being covered by the support group descriptors, but for whom there would be a substantial risk to their or someone else's health if they were found to be capable of work-related activities. Many CAW clients awarded very few points have had their original decision overturned at appeal, with Reg. 35 granted by the tribunal.
6. Clients who are unable to communicate on their own have been scored zero points, even when carers present at the assessment have offered to speak on their behalf. The reason given by health care professionals is that no verbal or written consent has been given by the client.
7. Many negative decisions are overturned on appeal which could have been reversed at Mandatory Reconsideration phase, sparing claimants much distress, further illness and financial hardship.
8. The DWP needs to do more to safeguard vulnerable claimants as required by the Care Act 2014. Those who fall through the net due to a lack of support from social services or access and support from a GP are further penalised when disability benefits are withdrawn.
9. Cash-strapped clients, facing sanctions or already subject to sanctions, can be required to pay up to £150 for GP letters or other medical reports for the assessment.
10. Despite Government pledges to end regular face to face assessments for the chronically ill, many still have annual work capability assessments and fail them, having to undergo the appeal process all over again. The stress and loss of income caused by this is significant.
11. It can take on average 3-6 months for a decision to be reversed on appeal, during which claimants receive no money and suffer financial hardship. In extreme situations, a case can take up to two years to be resolved.

12. Even when a tribunal rules in the client's favour, overturning DWP's decision, clients can still face considerable difficulties in getting the cash as they are referred around different departments within the organisation and it proves difficult to find out how to cut through and release the payment.

### **Part 3 Case studies**

This section offers 3 case studies from our advisers which illustrate actual problems experienced by our clients when claiming ESA and PiP

#### **1. Personal Independence Payment – original decision overturned at appeal**

The client is single and lives in a two-bedroom flat. She was diagnosed with a mental illness, causing her to neglect herself and sometimes forgetting to eat. She received a number of benefits, including PiP, but after a recent assessment to assess her eligibility and how much to pay her, it was ruled she no longer qualified and payments were stopped in the middle of last year.

The client came to CAW after being referred by her local mental health trust. By then, she was struggling to make ends meet. With the help of a CAW caseworker, she asked DWP for a Mandatory Reconsideration which was not successful. The client then went on to appeal, attending the hearing with a support worker.

The DWP decision was set aside and her PiP restored. In the tribunal's decision notice, particular mention was made of the poor quality of the assessment by the DWP case, showing a lack of understanding of the client's complex mental health issues.

#### **2. Employment Support Allowance – benefits not paid despite successful appeal**

The client, who has a range of complicated medical issues and claimed disability benefits, came to CAW for help to get her ESA reinstated. She was entitled to it as her health condition was severe enough to prevent her from working, and she had not claimed Jobseekers Allowance as she could not meet the conditions to be awarded it ie being fit for work.

Despite numerous calls to the DWP she got no response either by phone or letter, leaving her with no money for over three months.

When CAW got involved, we supported the client in an appeal, which was successful. She had her benefit reinstated in the support group category, exempting her from further health assessments.

Despite this, 21 months later, the client still has issues regarding benefit payments. Two years on, this client is the longest on CAW record not to have received any money from the DWP, having to rely on food vouchers and the support of her family.

#### **3. Personal Independence Payment – health care professional's conduct causes client distress**

The client was diagnosed with a range of health issues including bulimia, hearing loss and depression, leaving her unable to deal with mundane day-to-day tasks or to concentrate. She received PiP until late last year, when a health assessment ruled her fit for work and her disability benefit was stopped.

Due to the complexity of the case and a very tight deadline, the CAW advisor helped the client draft a Mandatory Reconsideration letter during the interview. She was told to send it off together with medical evidence; to keep a copy for own records, and to obtain proof of postage by special delivery. She was told to make another appointment if she needed to appeal.

The client also told the advisor that she had felt degraded during her health assessment. She had asked the assessor to let her record the interview on her phone, but the assessor refused and took her phone away. The client felt forced to comply as she wanted the test over and done with straight away. She said she found the entire practice 'degrading' and 'inhuman'.

Having done her own research into how to complain about the healthcare assessor's actions, the client will book further appointments should she need help to make a formal complaint to the DWP.

### **Conclusion**

Vulnerable clients face an uphill struggle in claiming disability benefits and suffer real hardship while challenging negative benefit decisions, often over a period of many months. Government statistics, as well as CAW experience, prove that many decisions are overturned after a Mandatory Reconsideration or at appeal to Tribunal. This trend, which shows no signs of abating, creates additional burden to public finances, as well as increasing pressure and expenditure for the advocacy agencies which support them, and considerable stress for these vulnerable clients.