



Supporting medical evidence for people with M.E./CFS

Updated December 2013

A guide for healthcare professionals who are asked to provide reports for welfare benefit claims and appeals

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Employment and Support Allowance (ESA) for M.E./CFS

People with M.E./CFS may be eligible for a number of benefits. This will depend on how affected they are by their condition and whether they meet certain criteria under which they are assessed.

As you will probably know, when someone makes a claim for benefit the Department of Work and Pensions (DWP) can sometimes contact their healthcare professional (most usually their GP) to obtain further information. However, in many cases they do not do this and rely instead on the patient gathering their own supporting evidence.

At Action for M.E. we encourage people to try to obtain supporting medical evidence. However, we are aware that this puts pressure on healthcare professionals like you who already have many demands on your time, so we have produced this factsheet to support you in this.

This factsheet is concerned with Employment and Support Allowance (ESA), a benefit that is paid to people who are unable to work due to illness or disability. When someone is awarded ESA, they can either be placed in the Work-Related Activity Group (WRAG) or the Support Group.

If someone is in the WRAG they will be required to attend work-focused interviews and perhaps take part in other work-related activity: this could include training, work placements or work experience. When someone is placed in the Support Group, there are no conditions attached to getting their benefit and they would not be expected to participate in work-related activity.

Your patient may ask you for a supporting letter when they are

- making an initial claim for ESA or
- appealing against the decision that they have been turned down completely or
- appealing because they have been placed in the WRAG when they think they should be in the Support Group.

Why supporting medical evidence is so important

Supporting medical evidence can make a crucial difference to the success of an ESA claim or appeal.

The DWP does not automatically contact a claimant's GP or any other healthcare professional. More and more people claiming benefits are expected to obtain their own supporting evidence.

Decision makers at the DWP and assessors who carry out face-to-face assessments may have little knowledge of M.E./CFS and are very unlikely to have any specialist knowledge. Face-to-face assessments may be very short – an assessor might see your patient for as little as 20 minutes. In some cases, decisions are made without your patient being assessed in person at all. So your evidence is vital in helping assessors understand how your patient is affected by M.E./CFS.

Qualifying for ESA

Your patient will be assessed against a number of descriptors covering activities like mobilising, standing and sitting, reaching, manual dexterity, coping with change, initiating and completing personal actions, awareness of hazards, leaning tasks and many more. You may wish to check with your patient which activities are particularly relevant to them.

One of the ways in which people with M.E./CFS may qualify for ESA is through what are known as the exceptional circumstance rules.

The regulation that may apply to some people with M.E./CFS is Reg 29 (2)(b) of the ESA regulations. This refers to someone who is: *“suffering from some specific disease or bodily or mental disablement and consequently there would be a substantial risk to the mental or physical health of any person if they were found not to have a limited capability for work.”*

The grounds for using the exceptional circumstances rule are that the person with M.E./CFS is unable to sustain physical or mental activity without experiencing serious consequences. This could include increased fatigue with progressive deterioration and a worsening of symptoms if s/he continues to be active above his/her own sustainable level. This could lead to a serious decline in health or a relapse.

There is a very similar rule (Reg 35)(2)(b) that allows entry to the Support Group for someone who is: *“suffering from some specific disease or bodily or mental disablement and consequently there would be a substantial risk to the mental or physical health of any person if they were found not to have a limited capability for work related activity.”*

It would be useful to comment on what the implications would be of your patient being found fit for work or of having to attend interviews and possibly participate in work-related activity.

Providing your evidence

Supporting medical evidence usually takes the form of a letter. Key points you might include are as follows.

- There is no cure for M.E./CFS and prognosis can be very difficult.
- M.E./CFS is a fluctuating condition that affects people in many different ways; perhaps you could outline the main disabling symptoms that your patient experiences in addition to debilitating exhaustion.
- How M.E./CFS specifically affects your patient's ability to manage day to day tasks, and carry out activities such as mobilising/walking, concentrating and remembering, standing and sitting, reaching and using a computer.
- People with M.E./CFS who over-exert themselves one day often experience a deterioration in their condition later that day or in the days following.
- Your patient with M.E./CFS is unable to sustain activity and cannot do things repeatedly and reliably. DWP guidance states that when assessing claimants under the Work Capability Assessment (WCA), the healthcare professional must take account of factors such as pain, fatigue, stress and possible variability of the condition. It has been established that it must be possible for someone to be able to carry out the activities reliably, repeatedly and safely.*

*This guidance is on page 64-65 of the WCA handbook used by ATOS assessors which can be accessed at www.dwp.gov.uk/docs/wca-handbook.pdf

Case law relating to Incapacity Benefit can also be relevant when considering these matters and Disability Rights UK highlight several cases dealing with reasonable regularity at www.disabilityrightsuk.org/how-we-can-help/benefits-information/law-pages/case-law-summaries/incapacity-benefit-case-law#Reasonable

More generally, it states on p 7 of the ESA50 claim form that to answer yes to any of the questions, you must be able to do the activity:

- safely
- to an acceptable standard
- as often as you need to and
- in a reasonable length of time.

Useful contacts

Action for M.E.

Information and support for people with M.E. and their carers
General enquiries: 0117 927 9551 (Mon-Fri 9am-5pm)
Enquiries email: admin@actionforme.org.uk
Welfare Rights Line: 0845 122 8648 (times vary)
Online M.E. Centre: www.actionforme.org.uk

Citizens Advice Bureau

Offers advice on a range of issues and may complete a benefits check
www.citizensadvice.org.uk

Civil Legal Advice

Help with some benefit appeals for eligible people.
www.gov.uk/civil-legal-advice

Disability Law Service

Offers information and advice on a range of issues including Welfare rights
Tel: 020 7791 9800
www.dls.org.uk

Disability Information and Advice Line (DIAL)

To find your local DIAL office, contact Scope, 6 Market Road, London N7 9PW
Tel: 0808 800 3333
www.scope.org.uk/help-and-information/dial-groups

Disability Rights UK

Factsheets on benefits, tax credits and independent living
www.disabilityrightsuk.org

Local councils

Some local councils employ welfare rights workers. The council may also have information about other services that offer welfare rights advice in your area.
www.gov.uk/find-your-local-council



If you have found the information in this factsheet helpful, please consider making a donation to Action for M.E. at www.actionforme.org.uk or by calling 0117 927 9551. Thank you.

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been taken to ensure accuracy at the time of writing, this fact sheet can only be a general guide as
the process will vary depending on the severity of the claimant's condition. Action for M.E. cannot
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