

Chapter A2: Claims

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Chapter A2: Claims

Introduction

A2001 This chapter is about decision making on claims for

1. Universal Credit
2. Personal Independence Payment
3. new style Jobseeker's Allowance (hereafter referred to as Jobseeker's Allowance)
4. new style Employment and Support Allowance (hereafter referred to as Employment and Support Allowance).

Note 1: ADM Chapter M1 contains guidance on the meaning of new style Jobseeker's Allowance and new style Employment and Support Allowance.

Note 2: Guidance on claims for benefits not listed above is in DMG Chapter 02.

Note 3: The guidance comes into effect¹ from 20.6.16 for Personal Independence Payment and from 27.9.17 for Universal Credit, Jobseeker's Allowance and Employment and Support Allowance.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 1(2)

National insurance credits

A2002 The Department is responsible for making decisions on national insurance credits. Because the method of claiming or applying for them is not the same as it is for benefits, information about them is contained in the relevant operational guides.

Definitions used in this chapter

A2003 "Appropriate Office" means¹

1. an office of the Department **or**
2. any other place designated by the Department in relation to any case or class of case as a place to, or at which, any claim, notice, document, evidence or other information may be sent, delivered or received, including a postal address specified for that purpose **or**

3. in the case of a person who is authorised or required to use an electronic communication for any purpose, an address to which such communications may be sent in accordance with prescribed regulations².

Note: Where an individual office or address has been specified e.g. for Personal Independence Payment then this is where correspondence must be sent.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 2; 2 Sch 1

A2004 “Assessment Period” means a period as defined in prescribed legislation¹ see ADM Chapter C1.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 2; UC Regs (NI) 16, reg 2(1)

A2005 “Benefit” means Universal Credit, Personal Independence Payment, Employment and Support Allowance or Jobseeker’s Allowance¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 2(1)

A2006 – A2007

A2008 “Claimant” means for

1. Universal Credit¹, a single claimant or each of joint claimants
2. Personal Independence Payment², a person who has made a claim or is entitled to Personal Independence Payment
3. Jobseeker’s Allowance³, a person who claims Jobseeker’s Allowance
4. Employment and Support Allowance⁴, a person who has claimed Employment and Support Allowance.

*1 WR (NI) Order 15, art 46; 2 Part 1, PIP Regs (NI) 16, reg 2;
3 JS (NI) Order 95, art 2; 4 WR (NI) Order 15, art 46*

A2009 “Couple” means¹

1. two people who are married to, or civil partners of, each other and are members of the same household **or**
2. two people who are not married to, or civil partners of, each other but are living together as a married couple

Note: For guidance on “living together” see ADM Chapter E4.

1 WR (NI) Order 15, art 45

A2010 “Earned income” means¹ remuneration or profits derived from

1. employment under a contract of service or in an office, including elective office **or**
2. a trade, profession or vocation **or**

3. any other paid work **or**
4. any income treated as earned income under prescribed legislation².

1 UC Regs (NI) 16, reg 52 & 2 Chapter 2

A2011 “Electronic communications” means¹ a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa) by

1. means of an electronic communications network **or**
2. other means but while in an electronic form.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 2; Electronic Communications Act (NI) 2001, sec 4(1)

A2012

A2013 “Partner” means one of a couple¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 2

A2014 – A2016

A2017 “Writing” includes writing produced by means of an electronic communication¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 2 & Sch 1

A2018

Making a claim

General requirement to make a claim

A2019 **[See ADM Memo 2/25]** In general, it is a condition of entitlement to benefit that a claim is made, or is treated as made, in the time and manner specified for that benefit in the regulations¹. If this condition is not satisfied there is no entitlement to benefit. It is not necessary for the other conditions of entitlement to be considered. There are some instances when a claim is not required for Employment and Support Allowance², see A2027.

1 SS A (NI) Act 92, sec 1(1); 2 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 6, 7 & 8(6) & (7)

A2020 A claim ceases to exist once it has been decided by the decision maker¹. If a claim is disallowed the decision disallowing it cannot be superseded because of a change in circumstances which occurred after the decision. A further claim may be made as a result of the change of circumstances². Further details about the finality of decisions are in ADM Chapter A1. Further details about supersession are in ADM Chapter A4.

1 SS (NI) Order 98, art 9(2)(a); 2 art 9(2)(b)

Considering the claimant's entitlement down to the date of decision

A2021 A claim for a future period continues to run until it is decided by the decision maker¹. When giving a decision on the claim, the decision maker must consider the claimant's entitlement for each day in the period starting with the first day claimed for and ending with the date of the decision maker's decision. This may mean that further information should be obtained from the claimant to ensure that there has been no further change of circumstances since the claim was made.

1 SS (NI) Order 98, art 9(2)(a)

A2022 If the claimant is entitled to benefit for any day in that period, benefit should be awarded. This is so even if the claimant later ceased to be entitled. If the claimant is entitled to benefit on the date of the decision maker's decision, a definite or indefinite period award for the future should be made, as appropriate. For Personal Independence Payment awards are made for a fixed term unless it is considered that a fixed term award is inappropriate.

A2023

Staying a decision

A2024 The decision maker has no power to leave a valid claim undecided but in some circumstances the decision maker may stay making a decision. Staying means that the decision maker does not have to make a decision (or may make a restricted decision) in cases which may be affected by the outcome of an appeal to the courts in another case which has yet to be decided¹. Further details about staying are in ADM Chapter A5.

1 SS (NI) Order 98, art 25

A2025 – A2026

Circumstances where a claim for Employment and Support Allowance is not required

A2027 A person may be entitled to Employment and Support Allowance without having to make a claim¹ where

1. the claimant has made and is pursuing an appeal against a decision that embodies a determination that they do not have limited capability for work **and**
2. the appeal relates to a decision to terminate or not to award Employment and Support Allowance for which a claim was made.

Note: If a pending appeal award made without a claim is terminated a claim is required in order to establish further entitlement to Employment and Support Allowance.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 6

Making a claim for Universal Credit

A2028 A claim may be made for Universal Credit by a single person or members of a couple jointly¹. Unless A2030 applies, a claim for Universal Credit must be made by means of an electronic communication as set out in Appendix 1 to this Chapter².

1 WR (NI) Order 15, art 7; 2 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 7(1)

A2029 A claim for Universal Credit made electronically is defective if it is not completed in accordance with any instructions of the Department¹.

Note: Notification to the claimant that a claim is defective will be in writing. This includes electronic notification.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 7(3)

A2030 A claim to Universal Credit may be made by telephone call to a telephone number specified by the Department

1. if the claim falls within a class of case for which the Department accepts telephone claims **or**
2. where in any other case the Department is willing to do so¹.

A claim so made is properly completed if all the information required to determine the award is provided during the call and defective if not².

Note: Telephone claims will be accepted from claimants who do not have access to or cannot use a computer.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 7(2); 2 reg 7(4)

A2031 If a defective claim to Universal Credit is made then the claimant must be informed of the defect(s) and the effect on the date of claim¹. The claim is treated as properly made in the first instance if in the case of

1. a telephone claim, the person corrects the defect **or**
2. an electronic claim, a claim completed in accordance with any instruction of the Department is received in an appropriate office

within one month or such longer period as the Department may consider reasonable from the date on which the claimant is first informed of the defect².

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 7(5) & reg 9; 2 reg 7(6)

Claims to Universal Credit by members of a couple

A2032 Where a claimant is a member of a couple and may make a claim to Universal Credit as a single person under prescribed legislation¹ but instead makes a claim for

Universal Credit jointly then that claim is to be treated as a claim made by that person as a single claimant².

1 UC Regs (NI) 16, reg 3(2); 2 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 8(1)

A2033 A claim to Universal Credit made jointly by a member of a polygamous marriage who is not a party to the earliest marriage in the polygamous marriage is to be treated as a claim made by that member as a single person¹. This applies where the other party to the polygamous marriage lives in the same household. A polygamous marriage is a marriage where a party to it is married to more than one person and took place in a country which permits polygamy².

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 8(2); 2 reg 8(3)

Example 1

Abdul and Fatima make a joint claim to Universal Credit. Fatima is Abdul's second wife. Abdul's first wife, Abida also lives in the same house. The claim to Universal Credit is treated as a claim to Universal Credit by Fatima as a single person. In order to become entitled to Universal Credit Abdul has to make a fresh claim to Universal Credit.

Example 2

Abdul and Fatima make a joint claim to Universal Credit. Fatima is Abdul's second wife. Abdul's first wife, Abida lives in Pakistan. The claim to Universal Credit is a joint claim to Universal Credit for Abdul and Fatima.

A2034 A claim made by members of a couple as single persons may be treated as a claim made jointly by the couple where it is determined that they are a couple¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 8(4)

Example

Jackie and Colin both make claims to Universal Credit as single claimants. However, the decision maker determines that they are a couple and treats the claims as a joint claim made to Universal Credit.

A2035 Where a decision maker considers that one member of a couple is unable to make a joint claim with the other member of that couple, the other member of the couple may claim jointly for both of them¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 8(5)

Example

David and Jane are members of a couple. Jane is currently undergoing a short spell in hospital following surgery. The decision maker determines that Jane cannot make a joint claim with David and so David claims jointly for both of them.

A2036

A2037 Where awards of Universal Credit to single claimants are terminated because they form a couple who are joint claimants, an award of Universal Credit may be made without the need for a claim¹.

1 UC, PIP, JSA & ESA (C&P) Regs, (NI) 16, reg 8(7)

Example

Dave, a single claimant, is in receipt of Universal Credit. His first assessment period started on 7 June. He becomes a member of a couple when he moves in with Poppy on 28 August. Poppy is also in receipt of Universal Credit. Her assessment period runs from the 14th of the month. Dave's award of Universal Credit is terminated from 7 August. Poppy's award of Universal Credit is terminated from 14 August. An award of Universal Credit is made to Dave and Poppy without the need for a claim.

A2038 A couple who are joint claimants are to be treated as making a claim for Universal Credit where

1. one of them ceased to be entitled to an award of Universal Credit (whether as a single person or as a member of a different couple) on the formation of that couple **and**
2. the other member of the couple did not have an award for Universal Credit as a single person before formation of the couple¹.

In these cases the claim is to be treated as made on the day after the member of the couple mentioned at paragraph 1. ceased to be entitled to Universal Credit.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 8(8)

A2039 Where a claim is not required as described in A2036 and A2037 a claimant and every person by whom or on whose behalf Universal Credit is receivable must furnish in such manner and at such times as may be determined such information or evidence in connection with the formation or dissolution of the couple¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 8(9)

A2040 A claim to Universal Credit does not have to be made¹ by a single person in circumstances where a joint award has ended because of the death of the other member of the couple. In these cases the award of Universal Credit will continue as if the person had not died for the assessment period in which the death occurs and the following two assessment periods. An award of Universal Credit can be made to the single person at the end of this period without the need for a claim.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 8(10); UC Regs (NI) 16, reg 39

Example

Patrick and Ann are awarded Universal Credit jointly. The first assessment period runs from 21 January. On 12 March Ann dies. Patrick continues to receive Universal Credit at the joint claimant rate for the assessment periods starting 21 February, 21 March and 21 April. An award of Universal Credit to Patrick at the single claimant rate is made from 21 May without the need for a claim.

Date of claim for Universal Credit

A2041 The date on which a claim for Universal Credit is made is

1. for a claim made electronically, the date on which the claim is received in an appropriate office¹ **or**
2. for claims made electronically where the claimant receives assistance at home or at an appropriate office (either from the Department or a person providing services to the Department), the date of first notification of a need for assistance² **or**
3. for a claim made by telephone, the date on which the claim is properly completed³ **or**
4. where the Department is unable to accept a telephone claim on the date of first notification of intention to claim, the date of first notification, provided a properly completed claim is made by telephone within one month of that date⁴ **or**
5. the first day in respect of which the claim is made, if later than **1, 2, 3 or 4**

Note: A claim for Universal Credit can **only** be made by telephone if it falls within a class of case for which the Department accepts claims made in this way

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 9(1)(a); 2 reg 9(1)(b); 3 reg 9(1)(c); 4 reg 9(1)(d)

Example 1

Sanjay contacts his local office on 1 June to say that because of difficulties speaking English he requires assistance with making a claim to Universal Credit on-line. Sanjay is invited into the office where he will receive assistance with making a claim by a member of staff who speaks his language. Sanjay attends on the 10 June and successfully makes his claim. The date of claim to Universal Credit is 1 June.

Example 2

James makes a claim to Universal Credit electronically on 1 March but does not provide sufficient information about his capital to enable an award of Universal Credit to be made. The claim is therefore defective. James is informed of the defect on 4

March and is told that he must provide the missing information by 3 April. He provides the information on the 16 March. The date of claim to Universal Credit is 1 March.

Example 3

Mick makes a claim to Universal Credit electronically on 1 April. The claim is defective because he does not provide details of the number of shares he has in Barclays Bank. The decision maker informs Mick of the defect on 5 April and gives him until 4 May to respond. Mick contacts the Department to say that he will not be able to provide the information by that date because Barclays cannot provide the information by then. The decision maker considers this reasonable and allows Mick a further 3 weeks to provide the information. Mick provides the information on 16 May. The date of claim for Universal Credit is 1 April.

A2042 In the case of a defective claim, the date of claim is the first date on which the defective claim is received or made but is treated as properly made in the first instance¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 9(2)

Time limit for claiming Universal Credit [See ADM Memo 4/23]

A2043 The prescribed time for claiming Universal Credit is the first day of the period in respect of which the claim is made¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 25(1)

A2044 [See ADM Memo 10/23] Where the claim to Universal Credit is not made within the time specified above then the time limit for claiming it is to be extended, subject to a maximum of one month to the date on which the claim is made, but only where

1. any one or more of the circumstances in A2045 below apply or has applied to the claimant **and**
2. as a result of that circumstance or those circumstances the claimant could not reasonably have been expected to claim earlier¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 25(2)

A2045 The circumstances referred to in A2044 are that¹

1. the claimant was previously in receipt of Jobseeker's Allowance or Employment and Support Allowance or an existing benefit² and notification of expiry of entitlement to that benefit was not sent to the claimant before the date that entitlement expired **or**
2. the claimant has a disability **or**

3. the claimant has supplied the Department with medical evidence that satisfies the Department that the claimant had an illness that prevented the claimant from making a claim **or**
4. the claimant was unable to make a claim electronically because the official computer system was inoperative **or**
5. an award of Universal Credit is not made to members of a couple jointly because one of the couple has not accepted a claimant commitment **and**
 - 5.1 they cease to be a couple **and**
 - 5.2 the person who did accept a claimant commitment makes a further claim as a single person
6. an award of Universal Credit to joint claimants is terminated because one of the couple has not accepted a claimant commitment **and**
 - 6.1 they cease to be a couple **and**
 - 6.2 the person who did accept a claimant commitment makes a further claim as a single person

Note: A2045 4. applies where the Department's system fails and not the failure of the claimant's system.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 25(3); 2 UC (TP) Regs (NI) 16, reg 2

Example 1

Jason makes a claim electronically to Universal Credit on 2 May. He indicates that he wishes to claim from 6 April. He says that he delayed claiming Universal Credit as he was in receipt of Employment and Support Allowance until 5 April but was not informed that this was stopping until the 28 April. The decision maker decides that the time limit for claiming Universal Credit can be extended as Jason could not have been expected to claim earlier as he was not informed that his Employment and Support Allowance had been disallowed until 28 April. The date of claim for Universal Credit is 6 April.

Example 2

Joanne makes a claim for Universal Credit electronically on 3 July. She wishes to claim Universal Credit from 20 June. She says that she was prevented from making a claim on the 20 June because she could not access her on-line account due to system failure. The system was restored on the 21 June but Joanne did not attempt to make a claim the next day due to negligence. The date of claim to Universal Credit is 3 July.

A2046 Where a claim to Universal Credit is made by each of joint claimants then the prescribed time limit for claiming as above cannot be extended unless both claimants satisfy the criteria¹ as in A2044.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 25(4)

A2047 In cases where a claimant makes a new claim to Universal Credit within 6 months of a previous claim and the new award is to have the same assessment period as the previous award as a result of prescribed legislation¹, then the new claim must be made before the end of the assessment period².

1 UC Regs (NI) 16, reg 22(7); 2 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 25(5)

Advance claims to Universal Credit

A2048 A claim to Universal Credit may be treated as made in advance where

1. the claimant does not satisfy the conditions of entitlement on the date on which a claim is treated **and**
2. unless there is a change of circumstances, the claimant will satisfy the conditions of entitlement on a future date **and**
3. the future date is not more than a month after the date on which the claim is made **and**
4. either
 - 4.1 the claimant falls within a class of case for which the Department is willing to accept advance claims (but see A2049) **or**
 - 4.2 the case is one in which the Department is otherwise willing to accept an advanced claim¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 31

A2049 If A2048 applies, Universal Credit can be awarded from the future date of first entitlement, subject to the condition that the person satisfies the Universal Credit conditions of entitlement on that date¹. However, at this time there are no classes of case for which the Department is willing to accept an advance claim for the purposes of A2048 4.1.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 31(3)

Making a claim for Personal Independence Payment

- A2050 A claim¹ for Personal Independence Payment must be made either
1. in writing on a form authorised by the Department for that purpose and completed in accordance with the instructions on the form (this includes by means of an electronic communication) **or**
 2. by telephone call to the telephone number specified by the Department **or**
 3. by receipt by the claimant of a telephone call from the Department made for the purpose of enabling a claim to be made.

Note: The decision maker has discretion as to the manner in which a claim can be made.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 10(1)

- A2051 In the case of a claim in writing the claim must be sent to or received at an appropriate office¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 10(2)

- A2052 A claim for Personal Independence Payment in writing is defective if it is not completed in accordance with any instructions of the Department¹. A telephone claim is properly completed if all the information is provided during the call to determine the award and is defective if not so completed².

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 10(3); 2 reg 10(4)

- A2053 If the claim is defective the Department must
1. inform the claimant of the defect and of the effect on the date of claim¹ **and**
 2. treat the claim as properly made in the first instance if a claim completed in accordance with any instructions of the Department is received within one month, or such longer period as the Department considers reasonable, from the date on which the claimant is first informed of the defect².

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 10(5); 2 reg 10(6)

- A2054 Where
1. a claim for Personal Independence Payment is made¹ on behalf of a person who is said to be a person unable for the time being to act **and**
 2. the Department has decided not to appoint that person² to act on their behalf
- then that claim must be treated as properly made in the first instance if a further claim is made. That further claim must be received within one month, or such longer period

as may be considered reasonable, from the date of notification of the decision not to appoint someone as an appointee.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 10(7) & (8); 2 reg 52

Example

A claim for Personal Independence Payment is made by Chris for his wife Rosie on 21 August by telephone. Chris alleges that Rosie is unable to make the claim on her own behalf. Following a home visit on 28 August the visiting officer decides not to appoint Chris to act on Rosie's behalf as she is capable of managing her own affairs. The visiting officer tells Rosie that if she makes a further claim by 27 September then the claim made on 21 August will be treated as properly made.

Date of claim for Personal Independence Payment

A2055 The date on which a claim for Personal Independence Payment is made is

1. for claims¹ made in writing by means of an electronic communication, the date on which the claim is received at an appropriate office **or**
2. for claims² made by telephone, the date on which a claim made by telephone is properly completed **or**
3. where a person first notifies an intention to make a claim³ and provided that a claim made by writing (produced by means other than electronic communications) is properly completed and received at an appropriate office within 1 month or such longer period as is considered reasonable of first notification, the date of first notification **or**
4. the first day in respect of which the claim is made if later than **1, 2 or 3**.

Note: If the office is closed, for example at the weekend, and a claim is delivered by hand (or a claim would have been delivered by post if arrangements had not been made that the Post Office would not deliver mail) a different date of claim applies. In such cases the date of claim is the date the claim is delivered by hand or would have been delivered had the office not been closed⁴.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 11(1)(a); 2 reg 11(1)(b); 3 reg 11(1)(c); 4 R(SB) 8/89

A2056 If a telephone claim or claim in writing was defective and is then corrected within one month or such longer period as is considered reasonable then the date of claim is the date the defective claim was received or made¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 11(2)(a)

A2057 The date of claim is the date of first notification of an intention to make a claim where A2055 3. applies where the claim is treated as properly made in the first instance as in A2053 2.¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 11(2)(b)

A2058 Where A2054 applies and the claimant completes a further claim which is defective then if that further claim is treated as properly made in the first instance as in A2053, the date of claim is the date on which the claim was made by the person that was not appointed¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 11(4)

A2059 Where an award of Personal Independence Payment cannot be made on the grounds of terminal illness¹, following a claim made by a third party then the date of claim is the date that the initial claim was made

1. if a further claim is received within one month or such longer time as is considered reasonable from the date of notification of the decision not to award Personal Independence Payment on the grounds of terminal illness¹ **or**
2. where the further claim as in 1. above is defective but is treated as properly made in the first instance².

Note: A third party can make a claim on the grounds that a person is terminally ill, without having to be officially appointed to act on that person's behalf. This does not apply where the claim is being made under the normal rules.

1 WR (NI) Order 15, art 87(4); 2 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 11(5)

Example

David makes a claim for Personal Independence Payment for his mother Eleanor on 20 December. David is not Eleanor's appointee or Power Of Attorney. Eleanor has severe arthritis but is not terminally ill or incapable of managing her own affairs. Eleanor is informed that she must claim Personal Independence Payment on her own behalf. She makes this further claim on 15 January. The date of claim for Personal Independence Payment is 20 December.

Time limit for claiming Personal Independence Payment

A2060 The prescribed time for claiming Personal Independence Payment is the first day of the period in respect of which the claim is made¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 26

Advance awards of Personal Independence Payment

A2061 An advance award of Personal Independence Payment may be made if the claimant does not satisfy the conditions of entitlement on the date on which the claim is made but will satisfy them for a future period, providing that there are no anticipated change of circumstances. This future period must begin on a day which is not more than 3 months after the date of the decision on the claim¹. This enables claims to be made during the Qualifying Period for Personal Independence Payment.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 32(1)

Advance claims to Personal Independence Payment

A2062 A person already entitled to an award of Personal Independence Payment may make a further claim during the period of 6 months immediately before the current award ends¹. This claim is an **advance claim to Personal Independence Payment**. Where such a claim is made the Department may²

1. treat the claim as if made on the first day after the expiry of the existing award **and**
2. award benefit accordingly, subject to the condition that the person satisfies the requirement for entitlement on the date in A2062 1..

Note: If the advance claim indicates that the claimant's circumstances are such that the current award can be changed then it may be revised or superseded as appropriate.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 32(2); 2 reg 32(3)

A2063 Where a claim is decided in advance it must be decided on circumstances obtaining at the date of the decision. This excludes any prediction of what a person's circumstances might be at the date of entitlement¹. However, the decision maker can take account of any change that will inevitably occur. A change of circumstances occurring after the claim is decided but before the date of entitlement should be dealt with by means of revision or supersession.

1 R(DLA) 4/05

A2064 Where an advance claim which is made during existing entitlement is disallowed the disallowance does not subsist after the date of decision. A further claim may therefore be made between the date of the decision and the start date of further entitlement on the basis of changes that have occurred since the decision was given. Any award of benefit will be effective from the renewal date¹.

1 R(DLA) 4/05

Making a claim for Employment and Support Allowance

Claims to Employment and Support Allowance by telephone

A2065 A claim to Employment and Support Allowance may be made by telephone call to a telephone number specified by the Department¹. Where the Department directs that the person approves a written statement of their circumstances then the claim is not valid until the person complies with the direction².

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 12(1); 2 reg 12(2)

A2066 In most cases it is expected that all the information necessary to determine a claim will be provided during the initial telephone conversation. If the information is not provided during that telephone call (for example, if the conversation is cut short unexpectedly) the claim will be defective¹. In these circumstances the Department must give the claimant the opportunity to provide the missing information and also tell them what the deadline is if the date of the initial phone call is to be the date on which the claim is treated as made². Information can be sent by the most suitable means i.e. by phone or in writing. A claim will also be defective until full information is provided where, following an initial telephone conversation, the claimant asks for a call back to be arranged at a later date.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 12(3); 2 reg 12(4)

A2067 If the missing information is provided within one month of a defect being drawn to the claimant's attention (or within such longer period as the Department considers reasonable) the claim will be treated as having been properly made in the first instance¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 12(5)

A2068 The date¹ on which the claim is made or treated as made is the first date on which

1. a claim made by telephone is properly completed **or**
2. a person first notifies the Department of an intention to make a claim where a claim made by telephone is properly completed within one month or such longer period as the Department considers reasonable of first notification **or**
3. a defective claim is received but is treated as properly made in the first instance

or the first day in respect of which the claim is made if later than **1. - 3.**

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 13

Claims to Employment and Support Allowance in writing

A2069 A claim for Employment and Support Allowance may be made in writing and must be made on an approved form and in accordance with the instructions on the form¹. If the claim form is not completed in accordance with the instructions on the form then the claim is defective².

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 14(1); 2 reg 14(2)

A2070 If the claim is defective the Department must advise the person making it of the defect and the provisions relating to the date of claim¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 14(3)

A2071 If the defects are corrected and are done so within one month, or such longer period as the Department considers reasonable, of the date the defects were first drawn to their attention then the claim must be treated as if properly made in the first instance¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 14(4)

A2072 The date¹ on which the claim is made or treated as made is the first date on which

1. a properly completed claim is received in an appropriate office **or**
 2. a person first notifies an intention to make a claim, where a properly completed claim form is received within one month or such longer period as the Department considers reasonable of first notification **or**
 3. a defective claim is received but is treated as properly made in the first instance
- or the first day in respect of which the claim is made if later than **1. - 3.** above.

Note: If the office is closed, for example at the weekend, and a claim is delivered by hand (or a claim would have been delivered by post if arrangements had not been made that the Post Office would not deliver mail) a different date of claim applies. In such cases the date of claim is the date the claim is delivered by hand or would have been delivered had the office not been closed².

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 15; 2 R(SB) 8//89

Claims to Employment and Support Allowance where there is no entitlement to Statutory Sick Pay

A2073 A claim for Employment and Support Allowance is treated as made on an earlier date where a person

1. has previously given notice of incapacity to an employer **and**

2. has been notified in writing by the employer that there is no entitlement to Statutory Sick Pay¹.

1 SSP (Gen) Regs (NI), reg 7

A2074 The claim is treated as made¹ on the date that the employer accepts as the first day of incapacity provided that the claim is made within 3 months beginning with the day on which the claimant is notified in writing that there is no entitlement to Statutory Sick Pay².

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 16(1); 2 reg 16(2)

Maternity Allowance claimed before confinement

A2075 Where

1. it has been certified¹ that a woman is expected to be confined **and**
2. she makes a claim for Maternity Allowance before the confinement

that claim may, unless the decision maker decides otherwise, be treated as a claim for Employment and Support Allowance².

1 SS (Med Ev) Regs (NI), reg 2(3)(a); 2 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 17(1)

A2076 The claim for Maternity Allowance can be treated as a claim to Employment and Support Allowance¹ for the period

1. from the earlier of
 - 1.1 the beginning of the 6th week before the Expected Week of Confinement
 - or**
 - 1.2 the Actual Date of Confinement
2. to the 14th day after the Actual Date of Confinement.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 17(1)

Maternity Allowance claimed after confinement

A2077 Where

1. it has been certified¹ that a woman has been confined **and**
2. she makes a claim for Maternity Allowance within three months of the date of confinement

that claim may be treated as a claim instead of or also for Employment and Support Allowance².

1 SS (Med Ev) Regs (NI); 2 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 17(2)

A2078 The claim to Maternity Allowance can be treated as a claim instead of or also for Employment and Support Allowance for the period¹

1. beginning with the actual date of confinement **and**
2. ending 14 days after that date.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 17(2)

Time limit for claiming Employment and Support Allowance

A2079 The prescribed time for claiming Employment and Support Allowance is the day in respect of which the claim is made and the period of 3 months immediately following it¹. A month means a calendar month².

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 27; 2 Inte Act (NI) 54

Advance claims to Employment and Support Allowance

A2080 An advance award may be possible if a claimant does not satisfy the conditions of entitlement on the date on which a claim is made but will satisfy them for a future period. The future period must begin on a day which is no more than three months after the date of claim. The decision maker treats the claim as made for a period beginning with the date from which entitlement will begin. No disallowance is needed for the period from the date claimed to the date entitlement begins¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 33

Making a claim to Jobseeker's Allowance

Attendance at an appropriate office

A2081 A person wishing to claim Jobseeker's Allowance must¹, unless directed otherwise, attend in person at an appropriate office or such other place, and at such time as may be specified in the claimant's case.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 18

A2082 Where a person is required to attend an appropriate office attends at the time and place specified and, if so requested, provides a properly completed claim form at or before the time they are required to attend then the claim is to be treated as made on whichever is the later of

1. first notification of intention to make that claim **or**
2. the first day in respect of which the claim is made.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 19(1)

A2083 Where a person is required to attend¹ but either

1. fails to do so without good cause at either the place or time **or**
2. does not provide a properly completed claim form at or before the time when they are required to attend

then the claim is to be treated as made on the first day on which the person does attend at the specified time or place or provides a properly completed claim form, or if later, the first day in respect of which the claim is made.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 19(2)

A2084 The time for providing a properly completed claim form may be extended to a date no later than one month after the first notification of intention to make that claim¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 19(3)

Making a claim to Jobseeker's Allowance in writing

A2085 Except where a person is required to attend at an appropriate office¹, a claim to Jobseeker's Allowance may be made in writing on a form authorised for the purpose of the claim and delivered or sent to an appropriate office. Such a claim² must be made in accordance with the instructions on the form.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 20(1); 2 reg 20(2)

A2086 A written claim is properly completed if completed in accordance with the instruction on the form and defective if not so completed¹. If the claim is defective then the claimant must be advised of that defect and the effect on the date of claim².

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 20(3); 2 reg 20(4)

A2087 If the defects are corrected within one month, or such longer period as the Department considers reasonable, of the date the defects were first brought to the attention of the claimant, then the claim must be treated as having been properly made in the first instance¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 20(5)

A2088 The date on which a written claim to Jobseeker's Allowance is made¹, or is treated as made, is the first date on which

1. a properly completed claim form is received in an appropriate office **or**
 2. a claimant first notifies an intention to make a claim where a properly completed form is received in an appropriate office within one month or such longer period as considered reasonable of first notification **or**
 3. a defective claim is received but is treated as properly made in the first instance
- or the first day in respect of which the claim is made is later than at **1 - 3**.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 21

Making a claim for Jobseeker's Allowance by telephone

A2089 Except where

1. a person is required to attend an appropriate office **or**
2. the Department directs that the claim must be made in writing

a claim to Jobseeker's Allowance may be made by telephone to the number specified by the Department if such a claim falls within a class of case for which telephone claims are accepted or in any other case where the Department is willing to do so¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 22(1)

A2090 Claims made by telephone are properly completed if all the information required to determine the claim is provided. A telephone claim is defective if this information is not provided¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 22(2)

A2091 Where a telephone claim is defective the claimant must be advised of the defect and the effect on the date of claim¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 22(3)

A2092 If the defect is corrected within one month, or such longer period that is considered reasonable, of the date that the defect was first drawn to the claimant's attention then the claim must be treated as if it had been properly made in the first instance¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 22(4)

A2093 The date¹ on which the claim is made or treated as made is the first date on which

1. a claim is properly completed **or**
 2. a claimant first notifies an intention to make a claim where the claim is properly completed within one month or such longer time period as is considered reasonable of first notification **or**
 3. a defective claim is received but is treated as properly made in the first instance
- or the first day in respect of which the claim is made if later than at **1 - 3**.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 23

A2094

Advance claims to Jobseeker's Allowance

A2095 An advance award of Jobseeker's Allowance may be possible if a claimant does not satisfy the conditions of entitlement on the date on which a claim is made but will satisfy them for a future period. The future period must begin on a day which is no more than three months after the date of claim. The decision maker treats the claim as made for a period beginning with the date from which entitlement will begin. No disallowance is needed for the period from the date claimed to the date entitlement begins¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 33

Time limits for claiming Jobseeker's Allowance

A2096 The prescribed time for claiming Jobseeker's Allowance is the first day of the period in respect of which the claim is made¹. However, if the claim is not made within the prescribed time then the time for claiming can be extended by either 3 months or 1 month. In cases where the time is extended by 1 or 3 months then the claim is treated as made on the first day of the period of which the claim is made².

1 UC, PIP, JSA & ESA (C&P) Regs, (NI) 16, reg 28(1); 2 reg 28(6)

Extending the time for claiming Jobseeker's Allowance by 3 months

A2097 The prescribed time for claiming Jobseeker's Allowance may be extended by a maximum of 3 months to the date on which the claim is made where

1. the claim is made late **and**
2. one or more of the circumstances specified in A2098 apply **and**
3. as a result of those circumstances the claimant could not reasonably be expected to make the claim earlier¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 28(2)

A2098 The circumstances referred to in A2097 **2.** are¹

1. the claimant has difficulty communicating because of
 - 1.1 learning, language or literacy difficulties **or**
 - 1.2 the claimant is deaf or blindand it was not reasonably practicable for the claimant to obtain assistance from another person to make his claim **or**
2. the claimant was caring for a person who is ill or disabled and it was not reasonably practicable for the claimant to obtain assistance from another person to make his claim **or**
3. the claimant was given information by an officer of the Department which led them to believe that a claim to Jobseeker's Allowance would not succeed **or**
4. the claimant was given written advice by a solicitor or other professional adviser, a medical practitioner, a Health and Social Care Trust or a person working in a Citizens Advice Bureau or similar advice agency, which led the claimant to believe that a claim for Jobseeker's Allowance would not succeed **or**
5. the claimant was required to deal with a domestic emergency affecting them and it was not reasonably practicable for them to obtain assistance from another person to make the claim **or**
6. the claimant was prevented by adverse weather conditions from attending the appropriate office.

1 UC, PIP, JSA & ESA (C&P) Regs.(NI) 16, reg 28(3)

Extending the time limit for claiming Jobseeker's Allowance by 1 month

A2099 The prescribed time for claiming Jobseeker's Allowance may be extended by a maximum of a month to the date on which the claim is made where

1. the claim is made late **and**
2. one or more of the circumstances specified in A2100 apply **and**
3. as a result of those circumstances the claimant could not reasonably be expected to make the claim earlier¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 28(4)

A2100 The circumstances in A2099 2. are¹

1. the appropriate office where the claimant would be expected to claim was closed and alternative arrangements were not available **or**
2. the claimant was unable to attend the appropriate office due to difficulties with their normal mode of transport and there was no reasonable alternative available **or**
3. there were adverse postal conditions **or**
4. the claimant was previously in receipt of Employment and Support Allowance and notification of expiry of entitlement to that benefit was not sent to the claimant before the date that the entitlement expired **or**
5. the claimant had ceased to be a member of a couple within the period of one month before the claim was made **or**
6. during the period of one month before the claim was made a close relative of the claimant had died. Close relative means partner, parent, son, daughter, brother or sister **or**
7. the claimant was unable to make telephone contact with the appropriate office where the claimant would be expected to notify an intention of making a claim because the telephone lines to that office were busy or inoperative **or**
8. the claimant was unable to make contact by means of an electronic communication where the claimant would be expected to notify an intention of making a claim because the official computer system was inoperative.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 28(5)

A2101

Interchange with claims for other benefits

- A2102 A claim to Employment and Support Allowance by a woman may be treated in addition or in the alternative as a claim to Maternity Allowance¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 24(1)

- A2103 A claim to Maternity Allowance may be treated in addition or in the alternative as a claim to Employment and Support Allowance¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 24(2)

- A2104 Where it appears that a person who has made a claim to Personal Independence Payment is not entitled to it but may be entitled to Disability Living Allowance or Attendance Allowance, the Department may treat the claim alternatively or in addition as a claim to either Disability Living Allowance or Attendance Allowance¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 24(3)

- A2105 Where it appears that a person who has made a claim to Disability Living Allowance or Attendance Allowance is not entitled to it but may be entitled to Personal Independence Payment, the Department may treat the claim alternatively or in addition as a claim to Personal Independence Payment¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 24(4)

- A2106 In determining whether the Department should treat a claim alternatively or in addition to another claim (the original claim) then the Department must treat the alternative or additional claim, whenever made, as having been made at the same time as the original claim¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 24(5)

After a claim has been disallowed as defective

A2107 If a claimant seeks to correct the defects in a claim after it has been disallowed as defective the decision maker should

1. decide that the disallowance cannot be revised or superseded because the submission of the new information or evidence is a change of circumstances that occurred after the claim was decided¹ **and**
2. consider whether the new communication can now be taken as the start of an attempt to make a new claim.

1 UC, PIP, JSA & ESA (D&A) Regs (NI) 16, reg 5(2); SS (NI) Order 98, art 9(2)(b)

No trace of claim

- A2108 It may be contended that a claim has been made in writing but there is no trace of it. There may also be situations where other information suggests that a document was received but is no longer available or cannot be found. The decision maker must decide, on the balance of probabilities, whether a claim was made and if so the date of receipt. The normal information and evidence conditions for establishing a properly made claim must be satisfied.
- A2109 A statement that a claim was sent but never received should be considered carefully as there may be many reasons why enquiries were delayed. The decision maker should obtain evidence to support the statement if there are grounds to doubt it¹. Grounds for doubt might exist because, for example, there is a long delay between the date it is said that a claim was sent and the date when enquiries are made. The date which is of relevance is the date on which the claim is made and that is the date on which the claim is received by an appropriate office², not the date of sending the claim.

1 R(I) 2/51; R(SB) 33/85; 2 R(G) 2/06

Amendment of claims

A2110 A person who has made a claim may amend¹ it at any time before a determination has been made on the claim. The amendment may be made

1. in writing received at an appropriate office **or**
2. by telephone call to a number specified by the Department **or**
3. in such other manner as the Department may decide or accept.

Any claim amended as above may be treated as if it had been amended in the first instance.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 29

Withdrawal of claims

A2111 A person who has made a claim may withdraw¹ it at any time before a determination has been made on the claim. The withdrawal may be made

1. in writing received at an appropriate office **or**
2. by telephone call to a number specified by the Department **or**
3. in such other manner as the Department may decide or accept.

Any such notice of withdrawal has effect when it is received.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 30

Evidence and information in connection with a claim

A2112 **[See ADM Memo 2/25]** A person who makes a claim for benefit, or on whose behalf a claim is made (other than Jobseeker's Allowance) may be required to¹

1. supply information and evidence in connection with the claim or any question arising out of it, as is considered appropriate **and**
2. do so in a manner as determined within one month of being required to do so or such longer period as is considered reasonable¹.

Note: There are specific information and evidence requirements for Personal Independence Payment - see ADM Chapter P2 for information and evidence requirements for Personal Independence Payment.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 36(1-3)

A2113 Where a claim for Universal Credit has been made by joint claimants, information relating to that claim may be supplied by the Department to either or both members of the couple for any purpose connected with the claim¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 36(4)

A2114 Where a person is a member of a couple and may make a claim to Universal Credit as a single person¹ and entitlement to Universal Credit or the amount of Universal Credit may be affected by the circumstances of a partner², the Department may require the partner to

1. confirm the information given about the partner's circumstances **or**
2. to supply information or evidence in connection with the claim, or any question arising out of it, as may be required

within one month of being required to do so, or such longer period as is considered reasonable¹.

1 UC Regs (NI) 16, reg 3(2); 2 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 36(5)

A2115 A landlord or rent officer may be required to supply information and evidence in connection with a claim for Universal Credit that may include an amount for housing costs. This must be supplied within one month or such longer period as is considered reasonable¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 36(6)

A2116 Every person providing relevant childcare¹ where the claimant's award of Universal Credit is to include an amount in respect of childcare costs² must supply information and evidence

1. in connection with the claim **or**
2. on any question arising out of it, as may be determined

within one month of being required to do so or such longer period as is considered reasonable³.

1 UC Regs (NI) 16, reg 35; 2 reg 32; 3 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 36(7)

A2117 Guidance at A2112 to A2116 also relate to cases where it is not a condition of entitlement that a claim to benefit be made¹. The guidance also relates to potential awards of benefit².

1 UC, PIP, JSA & ESA (C&P) Regs,(NI) 16, reg 36(8); 2 reg 36(9)

Evidence and Information in connection with an award

A2118 [See ADM Memo 2/25] A2118 to A2123 apply to any person entitled to benefit, other than Jobseeker's Allowance, and any other person by whom or on whose behalf, payments of such benefit are receivable¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 37(1)

A2119 A person must supply in such manner as may be determined within the period applicable under specified legislation¹ such information or evidence as may be required for determining whether an award should be revised or superseded².

1 UC, PIP, JSA & ESA (D&A) Regs (NI) 16, reg 44(4)(a); 2 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 37(2)

Note: See ADM Chapter A4 for the period in which information or evidence should be supplied.

A2120 A person must supply in such manner and at such times as may be determined such information or evidence as the Department may require in connection with payment of the benefit awarded¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 37(3)

A2121 A person must notify any change of circumstances which the person might reasonably be expected to know might affect¹

1. the continuance of entitlement to benefit **or**
2. the amount of benefit awarded **or**
3. the payment of benefit

as soon as reasonably practicable after the change occurs.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 37(4)

A2122 The notification¹ of a change of circumstances must be

1. given in writing or by telephone **and**
2. sent, delivered to or received at the appropriate office

Note: The Department may specify that the change in circumstances must be notified in a particular way. There is also discretion to accept notification by methods other than by in writing (including electronic notification) or by telephone

1 UC, PIP, JSA & ESA (C&P) Regs,(NI) 16, reg 37(5)

A2123 Where Universal Credit has been awarded to joint claimants, information relating to that award may be supplied by the Department to either or both members of the couple for any purpose connected to that award¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 37(6)

A2124 Every person providing relevant childcare¹ where the claimant's award of Universal Credit is to include an amount in respect of childcare costs² must supply information and evidence

1. in connection with the award **or**
2. on any question arising out of it, as may be determined

This must be done within one month of being required to do so or such longer period as is considered reasonable³.

1 UC Regs (NI) 16, reg 37; 2 reg 32; 3 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 37(7)

A2125 Where the award of Universal Credit includes an amount as a result of the claimant regularly and substantially caring for a severely disabled person¹, the Department may require the claimant to furnish a declaration signed by the severely disabled person confirming the particulars of that severely disabled person, which have been given by the claimant². See ADM Chapter F6.

1 UC Regs (NI) 16, reg 30; 2 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 37(8)

Example

Quentin is in receipt of Universal Credit which includes the carer element as he has caring responsibility for his disabled partner Julian. The decision maker asks Quentin to obtain a written statement, signed by Julian to determine whether the details given by Quentin are correct.

A2126 – A2129

Evidence and information required from pension fund holders

- A2130 Where a claimant or their partner is aged not less than 60 and is a
1. member of, or is a person deriving entitlement to a pension under a personal pension scheme **or**
 2. an occupational pension scheme

they must provide information where required to do so¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 38(1)

- A2131 The information¹ required in A2130 is
1. the name and address of the pension fund holder **and**
 2. such other information including any reference or policy number needed to enable the personal pension scheme or occupational pension scheme to be identified.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 38(1)(a-b)

- A2132 Where the pension fund holder receives a request for details of the personal pension scheme or occupational pension scheme then they must provide the Department with information calculated in prescribed legislation¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 38(2)

- A2133 The guidance at A2130 - A2132 does not apply to Personal Independence Payment¹. Any reference to "claimant" also includes a person where it is not a condition of entitlement to benefit that a claim is made.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 38(5)

Attendance in person

A2134 Every person who makes a claim for benefit (apart from Jobseeker's Allowance), or any person entitled to benefit (except Jobseeker's Allowance) and any other person by whom or on whose behalf payments by way of such a benefit are receivable must

1. attend at such place and on such days and at such times as the Department may direct **and**
2. supply information or evidence under prescribed regulations¹.

This applies to Personal Independence Payment claimants in cases where they are required to attend to provide information or evidence. Prescribed legislation² applies to Personal Independence Payment claimants who may be called for a consultation.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 34, reg 36-38; 2 PIP Regs (NI) 16, reg 9

Duration of awards

A2135 Claims for Universal Credit¹ are to be treated as made for an indefinite period and any award is to be made for an indefinite period.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 35(1)

A2136

Claims to Jobseeker's Allowance made during periods connected with public holidays

A2137 See Appendix 2 of this Chapter in relation to claims for Jobseeker's Allowance made during periods connected with public holidays¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 35(2)

Appointees

A2138 [See ADM Memo 11/21] The Department can appoint a person to act on behalf of someone who is or may be entitled to benefit and is unable to act, for example because of mental health problems. The decision maker should treat any action of an appointee as if it had been taken by the claimant, noting that

1. appointments are not possible if someone has already been legally appointed to act on behalf of the claimant. This may be a deputy, attorney or a receiver¹. In Scotland this might be a judicial factor or any guardian acting or appointed under specific legislation² who has the power to act on behalf of the claimant
2. the person must apply in writing. Individual appointees must be over 18 years old²
3. an appointee can be a body of people such as a firm of solicitors or a health authority³.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 52;

2 Adults with Incapacity (Scotland) Act 2000; 3 R(SB) 2/87; R(A) 2/81

A2139 Where an appointment¹ has been made

1. it may be revoked by the Department at any time
2. the person appointed may resign after giving one months notice to do so
3. any appointment is to be terminated when the Department is notified when a deputy, receiver, attorney or judicial factor/guardian in Scotland is appointed with full powers.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 52(8)

Power of attorney

A2140 A Power of Attorney is a legal document (a deed) by which one person gives another person authority to handle their affairs. The power may be a

1. general power - to handle all the person's affairs
2. specific power - to handle some of the person's affairs
3. power for a limited period - for example, while the person is ill or abroad¹.

1 Power of Attorney Act 71

A2141 – A2142

Controllers/guardians

A2143 Where a person is incapable of managing their own affairs and therefore incapable of authorising someone else to act on their behalf, the Office of Care and Protection may appoint a controller¹ to act for the person. A controller who is appointed to act in all matters may make claims to benefit without further authority from the Department.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 52

A2144 – A2145

Claims at death

A2146 On the death of a person who has made a claim for benefit the Department may appoint such a person as they may think fit to proceed with the claim and any related issue of revision, supersession or appeal¹. See ADM Chapter B1 for further guidance on payments after death.

Note: There are no provisions that enable a posthumous claim to Universal Credit, Jobseeker's Allowance, Employment and Support Allowance or Personal Independence Payment to succeed.

¹ UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 51(1)

Requirement to attend for a consultation

A2147 Before making a decision on a claim for Personal Independence Payment¹ the claimant may be required to attend and participate in a consultation with a person approved by the Department. This also applies where a re-determination of a claimant's ability to carry out activities is required². Decisions on whether a consultation is required are made by the Health Professional. This does not apply to Employment and Support Allowance and Universal Credit which have separate provisions.

1 WR (NI) Order 15, art 85; 2 PIP Regs (NI) 16, reg 8; reg 11

Provision of national insurance numbers

Claimants

A2148 It is a condition of entitlement to the following benefits that the claimant provides evidence of their identity¹:

1. Personal Independence Payment
2. Universal Credit
3. Employment and Support Allowance
4. Jobseeker's Allowance.

1 SSA (NI) Act 92, sec 1(1A) & (1B)

A2149 The identity of a claimant must be approached by way of the statutory condition of entitlement that relates to national insurance numbers¹. This sets out three alternative requirements:

1. The claimant must provide a statement of their national insurance number and information or evidence that shows that that number has been allocated to them. This means that, as well as stating a national insurance number, the claimant must submit evidence that shows that (a) they are who they say they are and (b) who they are is the person to whom the national insurance number was originally allocated.
2. The claimant must provide information or evidence that enables a national insurance number that has been allocated to them to be traced. This means that (a) the Department must be able to trace a national insurance number that was allocated to the person the claimant says they are and (b) the claimant must submit evidence that shows that they are who they say they are.
3. Where 1. and 2. are not satisfied, the claimant must apply for a national insurance number and provide information or evidence that enables one to be allocated to them. This means the claimant must both (a) submit an application for a national insurance number and (b) submit evidence that shows that they are who they say they are to such a degree of confidence that a national insurance number can properly be allocated to them².

1 SSA (NI) Act 92, sec 1(1A) & (1B); 2 CH/2366/2008 & PHC v SSWP (UC) [2024] UKUT 340 (AAC)

A2150 A claim by a person who has failed to prove their identity can only be disallowed when all three conditions are found not to be satisfied¹. If a claimant fails to pass the first test, the second must be considered. If the claimant fails that test as well, then the

third must be applied. However, all three tests require the claimant to prove that they are who they say they are. A claimant who has failed to do this necessarily fails all three tests. Whether or not a national insurance number has been provided, traced or applied for is immaterial. The claimant's failure to prove their identity by evidence is in and of itself fatal to entitlement. For this reason, the Department's operational procedures for identity verification may focus on whether the claimant can provide satisfactory evidence of their identity.

1 PHC v SSWP (UC) [2024] UKUT 340 (AAC)

A2151 Nothing in the three conditions in A2149 restricts the types of evidence of identity the decision maker may take into account. In particular, an application for a national insurance number made for the purposes of A2149 3. is not subject to the list of acceptable forms of evidence that applies to applications for national insurance numbers made by employed earners, self-employed earners, persons who wish to pay voluntary Class 3 contributions, and student loan applicants¹. A Child Benefit Upper Tribunal decision that said that the list applies to a benefit claim made by an employed earner should not be followed². For a benefit claimant, the obligation to apply for a national insurance number is found in the condition of entitlement that relates to national insurance numbers itself. The application is not made under the regulation that imposes the prescriptive list of acceptable evidence³.

1 SS (Crediting and Treatment of Contributions and NI Numbers) Regs (NI) 01, reg 9;

2 OM v H.M. Revenue & Customs [2018] UKUT 50 (AAC); 3 CH/4085/2007

A2152 In relation to each of the conditions in A2149, the decision maker should consider all of the evidence provided by the claimant and decide on the balance of probabilities whether it tends logically to show that they are who they say they are. The decision maker should then decide in the light of that finding whether the particular test the condition imposes is met. The evidence that has been considered, and the reasons why it has or has not been accepted as proof of identity, should be recorded.

A2153 The requirements in A2149 must be satisfied every time a relevant claim to benefit is made. Moreover, a finding about the claimant's identity made in relation to one claim is not decisive for the purposes of any other claim¹. Even in transfer claims to Universal Credit, the decision maker should not accept that the requirements in A2149 are satisfied simply because they were accepted as satisfied in an earlier claim. The particular evidence that has been provided in connection with the claim now in question must be considered carefully and entirely afresh.

1 SS (NI) Order 98, art 17(2)

A2154 Where a claim for Jobseeker's Allowance or Universal Credit is made jointly by a couple the national insurance number provisions must be satisfied by both claimants. If the conditions are not satisfied by either claimant, the benefit should be disallowed¹.

This does not apply to cases where two existing Universal Credit recipients form a couple. The conditions in A2149 only apply to a person whose entitlement to any benefit depends on their making a claim². Where two Universal Credit recipients become a couple, no new claim is required³.

1 Secretary of State for Work and Pensions v Wilson [2006] EWCA Civ 882 (R(H) 7/06);

2 SSA (NI) Act 92, sec 1(1B); 3 WR (NI) Order 15, Sch 1, para 3(2)(b);

UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 8(7)

Child or qualifying young person

A2155 The conditions in A2149 do not apply to child or qualifying young person in respect of whom Universal Credit is claimed¹. However, entitlement to the child element depends on the claimant proving the child's existence and identity on the balance of probabilities². The decision maker should record the evidence that has been considered and the reasons why it has or has not been accepted as proof of identity.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 5; 2 PHC v SSWP (UC) [2024] UKUT 340 (AAC)

National insurance number exemptions

A2156 Where a claim to benefit is received a national insurance number is required for both the claimant and any adult jointly entitled to claim. In the majority of cases where a national insurance number cannot be allocated to either the claimant or any adult in the claim there are grounds for deciding that the claimant is not entitled to the benefit.

A2157 In a small number of cases a national insurance number will not be allocated to a partner of the claimant where these individuals have no right to be in the UK and do not already have a national insurance number. These claims should not be disallowed for this reason. However if the partner already possesses a national insurance number they are required to state this on the claim form.

A2158 Where a claimant's partner is ineligible to claim Universal Credit but is part of the assessment unit (e.g. they do not meet the Habitual Residence Test) they will be referred to the national insurance number allocation unit. It is not a condition of entitlement that the ineligible partner must have a national insurance number.

Appendix 1

Use of Electronic Communications

Definition

1 “Official computer system” means¹ a computer system maintained by or on behalf of the Department to

1. send or receive any claim or information **or**
2. process or store any claim or information.

Note: “information” includes evidence and information authorised or required to be given in a notice or certificate.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 2

Use of electronic communications

2 The Department may use an electronic communication in connection with claims for, and awards of any benefit¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 1, para 1

Conditions for the use of electronic communications by other persons

3 A person other than the Department may use an electronic communication in connection with the matters specified in paragraph 2 if the conditions in paragraphs 4 to 8 are met¹.

Note: “Approved” means approved by means of a direction given by the Department.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 1, para 2(1)

4 The first condition is that there is in force an authorisation given by the Department by means of a direction permitting the person concerned to use electronic communication¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 1, para 2(2)

5 The second condition is¹ that the person uses an approved method of

1. authenticating the identity of the sender
2. electronic communication
3. authenticating any claim or information delivered by means of electronic communication

4. submitting any claim or information to the Department.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 1, para 2(3)

- 6 The third condition is that any claim or information sent by electronic communication is in an approved form¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 1, para 2(4)

- 7 The fourth condition is that the person keeps such records in written or electronic form as may be specified by the Department¹ in a direction.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 1, para 2(5)

- 8 Where a person submits a claim or evidence by a method other than that approved by the Department then that claim or evidence **shall be treated as not having been submitted**¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 1, para 2(6)

Use of Intermediaries

- 9 The Department may use, and may require other persons to use, intermediaries in connection with¹

1. the delivery of any claim or evidence by means of an electronic communication **and**
2. the authentication or security of anything transmitted by electronic means.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 1, para 3

Effect of delivering information by electronic means

- 10 Any claim or information which is delivered by electronic means is to be treated as having been delivered on the day the conditions

1. in paragraphs 4 to 7 above **and**
2. under any applicable Act or regulation

are satisfied¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 1, para 4(1)

- 11 The Department may make a direction determining that any claim or information is to be treated as delivered on a different day from that set out in paragraph 10 above¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 1, para 4(2)

- 12 Information shall not be taken to have been delivered to an official computer system by means of an electronic communication unless it is accepted by the system to which it is delivered¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 1, para 4(3)

Proof of delivery

13 The use of an approved method of electronic communications is to be presumed¹, unless the contrary is proved, to have resulted in delivery, in the case of any

1. claim or information falling to be delivered to the Department, if the delivery is recorded on an official computer system **or**
2. information that falls to be delivered by the Department, if the despatch of that information is recorded on an official computer system.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 1, para 5(1)

14 If delivery has not been recorded on an official computer system it will be presumed that it has not taken place¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 1, para 5(2)

15 The time and date of receipt of a claim or information shall be presumed, unless the contrary is proved, to be that recorded on an official computer system¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 1, para 5(3)

Proving the identity of a sender or recipient

16 If it is necessary to prove the identity of

1. a person who sent a claim or information to an official computer by electronic means **or**
2. the recipient of a claim or information from an official computer system

the sender or recipient shall be presumed to be the person recorded as such on the official computer system¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 1, para 6(1)

17 Any claim or information delivered by an approved method of electronic communication on behalf of another person is to be deemed to have been delivered by that person unless they prove that it was delivered without their knowledge or connivance¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 1, para 6(2)

18 If it is necessary to prove the content of a claim or information sent by electronic means, the content will be presumed to be that recorded on an official computer system¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 1, para 7

Appendix 2

Claims for Jobseeker's Allowance during periods connected with public holidays

- 1 Special provisions apply where a claim to Jobseeker's Allowance is made¹
1. in the case of Christmas and New Year holidays, in the period beginning with the start of the 35th day before the first day of the office closure and ending on midnight between the last day of office closure and the following day
 2. in the case of Easter Holidays, a period beginning with the start of the 16th day before the first day of office closure and terminating at the end of the last day of office closure
 3. in the case of any other public holiday, a period beginning with the start of the 14th day before the first day of office closure and terminating at the last day of office closure.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, reg 35(2) & Sch 3, para 3

- 2 A claim for Jobseeker's Allowance may be treated as a claim for that benefit for a period¹ (specified in the decision) not exceeding 35 days after the date of claim where that claim is made during the period specified in paragraph 1.1 above.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 3, para 2(a)

- 3 A claim for Jobseeker's Allowance may be treated as a claim for that benefit for a period¹ (specified in the decision) not exceeding 21 days after the date of claim where that claim is made during the period specified in paragraph 1.2 or 1.3 above.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 3, para 2(b)

- 4 "Public Holiday" means Christmas Day, Good Friday or a bank holiday, or in Scotland a bank holiday or local holidays¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 3

- 5 "Christmas and New Year holidays" means in
1. England and Wales, the period beginning at the start of Christmas Day and terminating on the end of New Years Day. If New Year Day is a Sunday the period ends at the end of 2nd January.
 2. Scotland, the period beginning at the start of Christmas Day and ending on the end of 2nd January. If New Years Day is a Saturday or Sunday the period terminates at the end of 3rd January.

- 6 Easter Holidays means the period beginning at the start of Good Friday and terminating at the end of Easter Monday.
- 7 “Office closure” means a period during which an appropriate office is closed in connection with a public holiday¹.

1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 3, para 3

The content of the examples in this document (including use of imagery) is for illustrative purposes only.