

DWP Central Freedom of Information Team

e-mail: freedom-of-information-request@dwp.gsi.gov.uk

Our Ref: VTR316

11 February 2013

Dear Sarah Conner,

Thank you for your Freedom of Information request of 21 January 2013, you asked for:

Can you inform me what benefits are available to a person who has applied for ESA and the following has happened

- 1. Their appeal was not successful after the HCP & DM said they are fit for work, and subsequently upheld at appeal?*
- 2. They are told by the Jobcentre Plus that they are not fit for work and not entitled to JSA, what benefit should the Jobcentre Plus or DWP advise the claimant to apply for?*
- 3. Does the phrase "The law states this is the minimum amount you need to live on." still hold true and if so why isn't it still included on all income based benefit letters.*
- 4. If the phrase "The law states this is the minimum amount you need to live on" has been legally removed from letter informing the claimant how much they need to live on when claiming income based benefits when has this applied from?*

In response to **question 1 & 2**, if an individual has applied for Employment and Support Allowance and is found fit for work following a work capability assessment, may be entitled to claim Jobseeker's Allowance and, depending on the circumstances of their family, may be entitled to other benefits such as Housing Benefit and Council Tax Benefit.

As part of the conditions of entitlement for Jobseeker's Allowance, they must be available for, and seeking, work. However, it is recognised that some people, including people leaving an incapacity benefit, may need to limit their availability for work on account of their physical or mental condition. Jobseeker's Allowance regulations therefore provide for Jobseekers to

restrict their availability for employment, provided they are reasonable in the light of their condition (regulation 13(3) of the Jobseeker's Allowance Regulations 1996).

Jobseekers must normally be immediately available for full-time employment but can specify a pattern of availability across a week. 'Full-time employment' is classed as a minimum of 40 hours per week (regulation 6 of the Jobseeker's Allowance Regulations 1996). Those with disabilities or caring responsibilities can be available for less than 40 hours per week.

Turning to **Questions 3 and 4**, this phrase only ever referred to the basic applicable amounts Parliament agreed an individual needed to live on per week.

Income-related benefits are paid at a rate set by Parliament each year, and are generally up-rated annually in line with inflation. The amount is intended to cover all normal day to day living expenses. The amount of benefit payable depends on the individual circumstances of the claimant and their family, but the basic personal allowance for working age income related benefits in 2012/13 is:

- £71.00 for single person, 25 and over,
- £56.25 for those under 25
- £111.45 - couple, both 18 and over

There are variants for couples please see attached for further information:

<http://www.dwp.gov.uk/docs/benefitrates2012.pdf>

The schedule of proposed benefits rates from April 2013 can be found below:

<http://data.parliament.uk/DepositedPapers/Files/DEP2012-1830/ScheduleofproposedbenefitratesfromApril2013.pdf>

The levels of benefit needs to take account of the competing demands on public expenditure and work incentives. Benefits are not made up of separate amounts for specific items of expenditure such as food or fuel charges, and beneficiaries are free to spend their benefit as they see fit, in the light of their individual needs and preferences.

The Department still uses similar wording to the phrase that you refer to "*The law states this is the minimum amount you need to live on*" is used in our products such as:

The Income Support form A124 ('How your Income Support was worked out') uses following wording: "*the money the law says you need to live on*". This relates to the applicable amount for that claimant.

The Income Support form A14N ('Income Support - Your benefit'), uses the following wording: "*We have made this decision based on what the law says you are entitled to*". The A14N also include the lines "*Part 10 is the amount of money the law says you need to live on*" and "*If you have less money than the law says you need to live on.....*".

JSA124 states on Page 1: "*By income-based Jobseeker's Allowance we mean the money you can get based on how much the law says you are allowed based on your means*"

If you have any queries about this letter please contact me quoting the reference number above.

Yours sincerely,

DWP Central FoI Team

Your right to complain under the Freedom of Information Act

If you are not happy with this response you may request an internal review by e-mailing freedom-of-information-request@dwpgsi.gov.uk or by writing to DWP, Central FoI Team, Caxton House, Tothill Street, SW1H 9NA. Any review request should be submitted within two months of the date of this letter.

If you are not content with the outcome of the internal review you may apply directly to the Information Commissioner's Office for a decision. Generally the Commissioner cannot make a decision unless you have exhausted our own complaints procedure. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow Cheshire SK9 5AF www.ico.gov.uk