

JSA – GPOW – EXTENDED PERIODS OF SICKNESS

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INTRODUCTION

- 1 From 30.3.15, specified legislation¹ was amended to allow JSA claimants to remain entitled to JSA despite being unable to work due to illness, for a period of up to 13 weeks. This means that claimants can elect to remain in receipt of JSA, rather than making a claim to ESA. This memo provides guidance on the effect that such a situation has on the calculation of an EEA national's GPoW assessment interview date.

1 JSA Regs, reg 55ZA

EXTENDED PERIOD OF SICKNESS

- 2 In addition to the existing short periods of sickness consisting of a period of no more than two weeks, no more than twice in a JSP/12 month period (see DMG 20961), an extended period of sickness (EPS) of up to 13 weeks is introduced. This means that a claimant, who is treated as having met the entitlement conditions for both the short

periods of sickness and the EPS, can have two periods of up to two weeks and one period of up to 13 weeks in any JSP/12 month period. However, a claimant cannot start a short (2 week) period of sickness immediately after the last day of a 13 week EPS¹.

Note: For full guidance about EPS, please see Memo DMG 9/15.

1 JSA Regs, reg 55(6)(b)

CAN A GPOW ASSESSMENT INTERVIEW BE CONDUCTED DURING AN EXTENDED PERIOD OF SICKNESS

- 3 Guidance within Memo DMG 9/15, paragraph 15, advises that for JSA claimants who, notwithstanding their illness, could be reasonably expected to take steps to seek employment, their ASE should be determined with regard to the steps that they take to seek employment.
- 4 However, where a claimant is treated as available for and ASE ("treated as") during an EPS, that claimant would not be expected to undertake a GPoW assessment interview to establish whether they had a genuine prospect of work until their EPS had ceased.

INTERRUPTIONS THAT AFFECT WHEN THE RELEVANT PERIOD ENDS

- 5 Guidance at DMG 073108 **3.** advises that periods of sickness during the relevant period (see DMG 073093) (where the claimant has been treated as available for and actively seeking work), are treated as interruptions in jobseeking and those periods are added to the relevant period.

Note: DMs are reminded that the period that the claimant was treated as available for and actively seeking work must have been previously accepted by the employment office and must have been noted on the system.

Extended period of sickness occurs during relevant period, but ends before GPoW assessment date

- 6 If a claimant experiences an EPS during their relevant period, but the EPS ends before their GPoW assessment due date is reached, the GPoW assessment date should be extended by the total allowable periods of sickness within their relevant period. However, please see paragraph 8 below with regard to the maximum extension period and the note to paragraph 5 above.

Example

Carl, a German national, will have been in receipt of JSA(IB) as a jobseeker for 91 days on 3.11.15. On 8.9.15, Carl submits a fit note to the department to say that he is unable to work as a result of pneumonia, for a period of 6 weeks. Carl's EPS is set from 8.9.15 to 19.10.15.

Carl recovers from the pneumonia as expected and returns to his normal jobseeking activities on 20.10.15. The DM calculates that Carl's GPoW assessment should be extended by 6 weeks, from 4.11.15 to 16.12.15.

Claimant within an extended period of sickness at GPoW assessment date

- 7 The maximum that a claimant can be treated as being available for and ASE due to EPS is 13 weeks from the EPS start date. Where the claimant is within an EPS at their GPoW assessment date, an extension can be granted for a period that either

1. equals the "treated as" period that has already been exercised by the end of their relevant period **or**
2. equals the balance of the EPS outstanding at their GPoW assessment date

whichever is the longer.

Example 1

Helmut, an Austrian national, will have been in receipt of JSA(IB) as a retained worker for 6 months on 28.10.15. On 1.10.15, Helmut suffers an injury and submits a fit note to the Department to say that he sustained a serious fracture to his left leg whilst playing football and has to have extensive surgery to this leg during the following 10 weeks. His EPS is set for the period 1.10.15 to 9.12.15. During his relevant period, Helmut had also sustained a hamstring injury which required bed rest for 2 weeks from 19.8.15 to 1.9.15, and had a separate injury to his collar bone requiring a further 2 week period of sickness from 16.9.15 to 29.9.15. For both these periods, Helmut was treated as available for and ASE for each of these 2 week periods.

The DM calculates that, by the end of his relevant period on 28.10.15, Helmut has had periods of sickness totalling 8 weeks:

19.8.15 to 1.9.15	= 2 weeks
16.9.15 to 29.9.15	= 2 weeks
1.10.15 to 28.10.15	= 4 weeks (of his 10 weeks EPS)

Total = 8 weeks

As Helmut's EPS was set for a 10 week period to 9.12.15, he has a balance of 6 weeks EPS outstanding (29.10.15 – 9.12.15) at the original GPoW due date (29.10.15).

As the 8 week total period of Helmut's sickness (which he has already exercised by the end of his relevant period – see paragraph 7 1. above) is longer than the 6 week balance of EPS that is outstanding at the date of Helmut's GPoW assessment due date (see paragraph 7 2. above), the DM extends Helmut's GPoW assessment date to 24.12.15 (by the 8 weeks already used).

However, as the maximum period of EPS that could be awarded is 13 weeks (if further fit notes are provided), the DM allows that the extension could be increased by a further 3 weeks to 14.1.16 (if required) without further referral to the DM. Helmut will be given the opportunity to provide evidence of a genuine prospect of work when his EPS is over.

Example 2

Rosa, a Spanish national, will have been in receipt of JSA(IB) as a retained worker for 6 months on 4.11.15. On 8.10.15, Rosa suffers an injury and submits a fit note to say that she is unfit to work for 13 weeks, as a result of sustaining a torn ligament which requires complete rest, followed by extensive physio treatment. Rosa's EPS is set from 8.10.15 to 6.1.16. During her relevant period, Rosa has previously had a 2 week period (10.6.15 to 23.6.15) of illness due to influenza, and a further 2 week period (5.8.15 to 18.8.15) of illness as a result of a chest infection. Rosa was treated as available for and ASE for each of these 2 week periods.

The DM calculates that by the end of her relevant period on 4.11.15, Rosa will have had periods of sickness totalling 8 weeks:-

10.6.15 to 23.6.15	= 2 weeks
5.8.15 to 18.8.15	= 2 weeks
8.10.15 to 4.11.15	= 4 weeks (of her 13 week EPS)
Total	= 8 weeks

As Rosa's EPS was set for 13 weeks ending on 6.1.16, the DM determines that Rosa will have a balance of 9 weeks (5.11.15 to 6.1.16) outstanding at the date of her original GPoW assessment due date (under paragraph 7 2.). As this 9 week period is longer than the 8 weeks which Rosa would have exercised at the end of her relevant period (under paragraph 7 1.), the DM allows a fixed extension of 9 weeks (under

paragraph 7 2.) and extends Rosa's relevant period to 6.1.16. Rosa will be required to attend a GPoW assessment interview on 7.1.16.

Maximum extension period

8 An extension to the relevant period, in respect of sickness could never be awarded for more than 13 weeks for a jobseeker. This is because, in circumstances where the claimant has

1. been treated as within a period of sickness from the start of their claim (i.e. throughout their 91 day relevant period), the total period of sickness already exercised by the end of the claimant's relevant period (paragraph 7 1.) exceeds any balance of EPS that may be outstanding at their GPoW assessment due date (paragraph 7 2.) **or**
2. provided a 13 week fit note shortly before their GPoW assessment due date, so is within an EPS at their GPoW assessment due date, the balance of the EPS outstanding under paragraph 7 2. would exceed the period already exercised under paragraph 7 1.

but, in neither 1. or 2., would ever exceed 13 weeks.

Note: However, a retained worker could receive an extension of up to 17 weeks, if 13 of those weeks were as a result of an EPS.

Example

Janek, an Estonian national, has been in receipt of JSA(IB) as a retained worker for 6 months on 29.10.15. During his relevant period, Janek has had a 2 week period of sickness (from 21.5.15 to 3.6.15), suffering from vertigo. This was followed by a further 2 week period of sickness (from 18.6.15 to 1.7.15), when Janek experienced lower back pain. Janek was treated as available for and ASE for each of these 2 week periods.

On 16.7.15 Janek was involved in a car accident, where he sustained fractures to his arm and clavicle. He submitted a fit note to say that he was unfit for work for 13 weeks. Janek's EPS was set from 16.7.15 to 14.10.15. On 15.10.15, Janek recovers as expected and resumes his normal jobseeking activities.

The DM calculates that by the end of Janek's relevant period on 29.10.15, he will have had periods of sickness totalling 17 weeks:-

21.5.15 to 3.6.15 = 2 weeks

18.6.15 to 1.7.15	= 2 weeks
16.7.15 to 14.10.15	= 13 weeks (EPS)
Total	= 17 weeks

The DM allows a fixed extension of 17 weeks (see paragraph 6 above) and extends Janek's relevant period to 25.2.16. Janek will be required to attend a GPoW assessment interview on 26.2.16.

ANNOTATIONS

Please annotate the number of this memo (18/15) against the following DMG paragraphs:

073093, 073108

CONTACTS

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, 1S25, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in [Memo DMG 03/13](#) - Obtaining legal advice and guidance on the Law.

DMA Leeds: June 2015