

Claimants who may be treated as available and/or actively seeking employment

Summary

Claimants may not always be able to satisfy the availability or Actively Seeking Employment (ASE) requirements. In some circumstances they can be treated as available and/or actively seeking employment.

A claimant that has been treated as available may, in some circumstances, also be excused attendance, and they do not need to take any steps to look for work in any week in which they have been treated as ASE.

Do not treat a claimant as available or ASE in any week in which they do satisfy the availability and ASE conditions.

In some circumstances there is a maximum period for which they can be treated as available for and/or ASE in any year.

In most cases the 12 month period starts from the first date on which the circumstances to be considered arise. The exception to this is for temporary periods of sickness.

For any day that a claimant can be treated as available for employment they are treated as available for the number of hours they have agreed to be available in their Claimant Commitment. If they do not have a fixed pattern of availability on their Claimant Commitment, they are treated as available for 8 hours on each day that the circumstances arise for the purposes of determining whether they were available for 40 hours in a week.

See Example 1.

For the purposes of section 1(2)(b) of the Jobseeker's Act 1995, the Claimant Commitment is the Jobseeker's Agreement.

Temporary periods of sickness and Extended Periods of Sickness - JSA Claims

What is a temporary period of sickness?

Jobseekers can have two short periods of sickness without it affecting their JSA. During this time they will be treated as capable of work, available for work and actively seeking employment. This is called a temporary period of sickness.

Two temporary periods of sickness can be declared without entitlement to JSA being affected during any jobseeking period or within each successive 12 month period if the jobseeking period lasts for longer than 12 months. Each temporary period of sickness must not exceed 14 days.

Action to take

The action to take when a claimant declares a temporary period of sickness depends upon whether or not they provide a Statement of Fitness for Work (medical statement), which is also called a medical certificate, doctor's statement, a fit note or a sick note:

Claimant does not provide a Statement of Fitness for Work

Claimant provides a Statement of Fitness for Work

What is an Extended Period of Sickness (EPS)?

If the jobseeker declares a third or longer period of sickness they may be able to stay on JSA for up to 13 weeks. During this time they will be treated as capable of work and available for work and may be treated as actively seeking work depending on their circumstances. This is called an extended period of sickness.

A third or extended period of sickness can only be declared for one continuous period of sickness of 13 weeks or less in any 12 month period calculated from the start of the period of sickness. Claimants must have medical evidence to support an extended period of sickness.

Form JSA28 must be issued to the customer and they must return it promptly within 14 days from the 1st day of sickness or their benefit payments will be affected. Payments will not be issued until the form is returned and considered.

Claimants who may be entitled to an extended period of sickness must have a discussion about their eligibility.

For more information about the actions to take, see Appendix 1 of this guidance.

Claimant does not provide a Statement of Fitness for Work

Claimants can be treated as available and Actively Seeking Employment (ASE) for short/temporary periods of sickness once they have become entitled to JSA. If the claimant is not entitled to JSA and is claiming credits only they may be entitled to ESA.

A claimant can declare two short/temporary periods of sickness, without their entitlement to JSA being affected, in:

- any Jobseeking Period (JSP)
- within each successive 12 month period if the JSP lasts for longer than 12 months

You may also need to consider Extended Period of Sickness (EPS), see below

Note: The first 12 month period commences on the first day of the jobseeking period.

Example 1

Claimant makes a claim which begins a JSP 01/01/2012. The end of the first 12 months JSP will therefore be 31/12/2012

The start of 2nd JSP will be 01/01/2013, end of 2nd JSP will be 31/12/2013

Example 2

Claimant declares sickness periods April 2012, October 2012 & February 2013

In this example even though the three periods of sickness are within 12 months of each other, the 3rd period falls into the 2nd 12 month JSP and therefore their JSA is unaffected.

Each short term temporary period of sickness must not exceed 14 days and must not fall within eight weeks of an earlier claim to Statutory Sickness Pay (SSP), beginning with the day that the person ceased to be entitled to SSP. EPS should also be considered.

Unless they are a member of a joint claim and can be granted an exemption, a claimant cannot remain on JSA, if:

- they have already had a period of temporary sickness on two occasions in any JSP or within each successive 12 month period if the JSP lasts for longer than 12 months
- have had a period of EPS and have exhausted the 13 week period allowed, see Extended Period of Sickness (EPS) below
- the period of sickness exceeds 13 weeks
- they ceased to be entitled to SSP within the previous eight weeks.

In these circumstances the claimant must be advised to consider making a claim to ESA.

Extended Period of sickness (EPS)

From 30/03/15 Claimants who suffer a third or longer period of sickness they can choose to stay on JSA for up to 13 weeks in a rolling 12 month period on an EPS. The EPS is one continuous period of 13 weeks or less and cannot be split into separate periods. The 12 month rolling period is calculated from the start of the period of sickness. Claimants must have medical evidence to cover their period of sickness.

If the period of sickness is expected to last longer than two weeks supporting medical evidence is required from the eighth day of sickness. If the claimant expected to recover within two weeks but find they are still sick they will need to provide supporting medical evidence as soon as they can, and dated no later than day fifteen of their sickness period.

Claimants with medical evidence of a health condition may choose to claim ESA.

Claimants wishing to stay on JSA on an EPS will need to have a flexible intervention booked in order to ensure they are making an informed choice and to also tailor their conditionality while on EPS.

For full details of the action to be undertaken, please see appendix 1 of this guide.

Claimant notifies sickness

Claimants may:

- notify, on or before their day of attendance, that they are ill and cannot attend
- ask someone else to notify their sickness, on or before their day of attendance
- attend their Work Search review and state they have been ill and unable to actively seek employment
- fail to attend and declare sickness as the reason for their failure

Claimant notifies sickness on or before their attendance day

If the claimant makes contact on or before their day of attendance and states that they will not be able to attend due to sickness, ask them how long the sickness is likely to last.

If it is their first period of sickness then issue a form JSA28 and warn the claimant that payment for the period which, includes the days of sickness, cannot be made until the form has been returned and considered. The return by date on the JSA28 should be the 14th day after the period of sickness began. If they have already had a period of sickness within the current Jobseeking Period (JSP) consider if EPS is appropriate.

Third party notifies claimant is sick and unable to attend

There may be times when the claimant cannot tell anyone about their sickness in person, and may ask someone to do it on their behalf either in person or by telephone.

If a third party makes contact on or before the claimants' normal day of attendance and states that they will not be able to attend due to sickness, check if it is their first period of sickness. If it is issue form JSA28 for completion by the claimant. The return by date on the JSA28 should be the 14th day after the period of sickness began.

If they have already had a period of sickness consider if EPS is applicable.

Claimant attends at their usual time and declares sickness

A claimant may attend at their usual time but say they have not been Actively Seeking Employment (ASE) because they were sick.

If it is their first period of sickness they should be asked to complete form JSA28, and consideration should be given as to whether the period of sickness would reduce the steps needed to satisfy the ASE condition. If they have already declared a period of sickness in this JSP then consider if EPS is appropriate.

Claimant declares sickness as the reason for Failing to attend

If the claimant states that they Fail To Attend (FTA) due to sickness, check whether it is their first period declared within the current JSP. If it is issue form JSA28. If they have already declared a period of sickness then consider if EPS is appropriate.

A decision from the Labour Market Decision Maker (LMDM) on whether the claimant had good cause will not be necessary for the day that they FTA providing that the claimant can be treated as available.

In all cases the claimant must be warned that payment for the period which includes the days of sickness cannot be made until the completed JSA28 form or appropriate fit note has returned and the reasons for FTA have been considered.

See the Fail to Attend Interviews and Work Search Reviews chapter for further information.

Action to take on receipt of the completed JSA28 or Fit Note

Once form JSA28 has been issued to the claimant it should be completed and returned as soon as possible to avoid delay in payment.

On receipt of the completed JSA28 or Fit Note:

1. Check:
 - the dates of sickness
 - whether the claimant has had a prior claim to SSP within eight weeks of the first date of sickness declared
 - whether the period of sickness is for 14 days or less
 - whether the claimant has declared any previous periods of sickness in the JSP or last 12 months
 - if there has been a period of EPS in the last 12 months
 - that the claimant has given specific information about their illness, saying 'not well' or 'ill' is not sufficient
2. Record the following in LMS Conversations:

- the start date of the sickness
- the end date of the sickness if known
- any details given about the sickness

Note: All medical evidence needs to be checked to ensure doctors signature and date of issue, medical condition and period of sickness. The medical evidence must not have been tampered with.

Claimant can be treated as capable of work

If the claimant is declaring their first or second period of sickness, and the Jobcentre can treat the period as straightforward, they should input dialogue JA470 into JSAPS to pay the claimant, and then send the completed JSA28 to the Benefit Centre (BC).

Form ES673 should be completed and attached to the LMU, if this has not already been done, to show the claimant has been treated as available and ASE.

The claimant can be excused attendance if they notify sickness on or before their attendance day.

Benefit Centre record that claimant can be treated as capable of work

When it has been established that there are no reasons to prevent the claimant from being treated as capable, the BC will input details of the temporary period of sickness to JSAPS using dialogue JA091: Maintain Claim Details.

Claimant cannot be treated as capable of work

A claimant will not be able to remain on JSA if:

- they have already had a period of temporary sickness on two occasions in the current jobseeking period or within each successive 12 months if the JSP lasts for longer than 12 months and they have already had and exhausted a period of EPS

Note: an EPS can be used as a third period of sickness.

- their period of sickness exceeds 13 weeks
- they have already had and exhausted a period of EPS of 13 weeks or less
- they ceased to be entitled to SSP within the previous eight weeks

In these circumstances the claimant must be advised to consider making a claim to ESA.

If the claimant insists on continuing to claim JSA even when it is clear that they cannot do so, details must be passed to the BC who will consider disallowing the award on capability and terminate the claim.

No end date of sickness on JSA28

If the JSA28 shows the date from which the claimant became ill, but does not include an end date, send it to the BC in the usual way.

The BC will set a case control for the end of the 14 day period and will check if the claimant is still sick or establish an end date after this time.

Sickness in a backdated claim period

If a claimant makes a backdated claim and gives the reason for the delay in claiming as sickness, a JSA28 can only be issued in certain circumstances. Temporary period of sickness procedures can only be used once an award of JSA has been made. Only issue a JSA28 with the JSA5, if the period of sickness is for the latter part of the backdated claim period and refer for consideration of capability.

If sickness is given as the only reason for backdating the claim do not issue form JSA28, as there cannot be an award of JSA made before the period of sickness.

See example 8 and example 9.

Availability and Actively Seeking Employment

When a period of sickness is declared and it is clear that JSA28 procedures apply, the claimant can be treated as available for the period of sickness.

The claimant can also be treated as ASE where the period of sickness is for 3 days or more in the week. However, where a claimant reports a period of sickness of less than 3 days, consideration will need to be given to whether or not they satisfied the conditions for the remainder of that benefit week.

If an availability doubt has already been referred to the LMDM or is identified and subsequently the claimant declares that they are sick, the underlying doubt still needs to be considered. The LMDM will need to be notified of the temporary period of sickness dates.

The period of sickness should be taken into account when considering ASE. The claimant may have taken fewer steps to seek work if they have been ill for part of the fortnight.

See example 10.

Advance use of JSA28 procedures

JSA28 procedures should not be used in circumstances where a claimant states they are going to be unable to work at a future time, for example when a claimant declares that they have a date to go into hospital for a few days and will not be looking for work.

They should be told to wait until they know the exact dates they will be in hospital. This is because it is possible the period of incapacity may last longer than anticipated.

Claimant provides a Statement of Fitness for Work

An electronic version of the Statement of Fitness for Work (SoFFW) may be received in offices. Both the handwritten and electronic versions of the form are acceptable.

Claimant provides a Statement of Fitness for Work but they are not fit for work

If a claimant provides a SoFFW (medical certificate) and their doctor has ticked "you are not fit for work", they can be treated as capable, available and Actively Seeking Employment (ASE).

The claimant can declare two short periods of sickness, without their entitlement to JSA being affected, in exactly the same way as a claimant that does not provide a SoFFW.

Each period of sickness must not exceed 14 days and must not fall within eight weeks of an earlier claim to Statutory Sickness Pay (SSP), beginning with the day that the person ceased to be entitled to SSP.

Extended Period of Sickness (EPS) should also be considered if sickness exceeds 14 days or if it is a 3rd period of sickness being declared.

See claimant does not provide a Statement of Fitness for Work for further information.

Claimant provides a Statement of Fitness for Work and they may be fit for work

If a claimant provides a SoFFW (medical certificate) and their doctor has ticked 'you may be fit for work taking into account the following advice', they do not need to be treated as available and ASE or claim an alternative benefit.

Consider the claimant's availability and any restrictions which may be appropriate in light of the doctor's comments. If the Claimant Commitment needs to be reviewed or amended, arrange a interview.

Claimants can restrict their availability because of a physical or mental condition; see Restrictions because of physical or mental condition for further information.

Examples

Example 1

A claimant with no pattern of availability has a domestic emergency that lasts three days.

They are treated as available for 3x8 hours = 24 hours and would be required to be available for a balance of 40-24= 16 hours in the week.

Example 2

The claimant makes a claim on Friday and is given a week ending Tuesday. The Claimant Commitment is agreed and signed by the claimant.

The claimant has agreed to apply for at least three jobs and read two local papers each week.

As the week in question is only 5 days it would be reasonable to expect the claimant to do most but not all of the agreed steps.

Example 3

The claimant makes a claim on Friday 19 July and asks to backdate it to 15 July.

They are given a week ending of Wednesday.

They are treated as available/Actively Seeking Employment (ASE) for the first week of their claim to Wednesday 24 July.

The period in doubt to be referred to the Labour Market Decision Maker is Monday 15 July to Thursday 18 July.

Example 4

A claimant is released from prison on Tuesday 11 June and makes a claim from the same date

They are allocated a week ending Friday.

They can be treated as available for 7 days from their date of discharge, which will be from Tuesday 11 June to Monday 17 June.

They can also be treated as actively seeking employment until 21 June because they have been treated as available for at least one day in the benefit week ending 21 June.

Example 5

A claimant who usually works as a builders labourer decides to take part in a health and safety training course for one week.

While it is not essential to have any health and safety qualifications to work as a labourer, it would enhance his employability and open up new opportunities.

Example 6

A claimant telephones the Jobcentre on the day before they are due to attend a review.

They say they will not be able to attend because they have flu.

They have not declared a previous period of sickness and say they will be well again in a couple of days.

Form JSA28 can be issued by post and must be returned as soon as possible.

Form ES673 is completed and attached to the LMU until the claimant next attends

Failed to attend action is not taken if attendance is excused.

Example 7

The claimant's partner phones because the claimant has a sore throat and has lost his voice.

She says he will not be able to attend his interview that afternoon.

He has not declared any previous periods of sickness and will be able to attend within 5 days.

A new appointment for his interview is arranged as usual on his next attendance day.

Form JSA28 can be sent by post.

Example 8

The claimant attends a Initial Work Search Interview.;

He wishes to backdate his claim because he was ill the week before.

When questioned he states that he was only ill for the last three days of the week in the backdated period and for the other days he was attending interviews.

Form JSA5 is issued with a form JSA28 and both are referred for decisions.

Example 9

The claimant completes JSA5 to backdate their claim.

The reason given for the delay is that they were in hospital for the whole period
JSA28 action is not appropriate, and a JSA5 is sent to the Benefit Centre as usual.

Example 10

A claimant attends on their usual day but states that they have been sick for four days in the last fortnight.

Form JSA28 is issued for that period and the claimant is treated as available and ASE.

The claimant is asked what steps they have taken to find work on the remaining days in the period.

The claimant states that they have not been able to visit the Jobcentre but have read the newspapers and applied for two jobs.

Apart from visiting the Jobcentre the steps taken are in accordance with their Claimant Commitment.

Taking the period of sickness into account no availability or ASEdoubt needs to be raised.

Example 11

The claimant attends the Jobcentre at their usual time but because they have sprained their wrist they have not been able to apply for jobs for the last four days.

They have been told that the injury will heal within the next week.

They have no previous record of sickness and because the incapacity will last only 11 days JSA28 procedures can be used.

This will mean that the claimant can be treated as available and ASE for the period of the injury when they have been unable to look for work.

Example 12

Liam, who has a six year old son Lennon, attends his Work Search Review appointment and expresses concerns as the school holidays are approaching. Liam has made enquiries about childcare for the school holidays but has been unsuccessful. As a result, he is unable to come into the office during the school holidays for his Work Search Reviews.

Form ES673JP is completed and an appointment is booked for Liam to attend so a decision can be made.

Using knowledge of local childcare arrangements, Liam is treated as available for work for the duration of the school holiday period and a work flow is set to mature towards the end of the school holidays to contact Liam to remind him to start coming into the office again.

Example 13

The claimant is Benefit Week Ending of Tuesday but attends on Thursday. He telephones on Wednesday to say he can't attend because he is ill.

A JSA28 is issued to the claimant, a note is made of the reason they can't attend and an ES673 is completed and attached to the LMU.

The claimant is asked about their availability and actively seeking employment up to the Tuesday BWE.

As there are no doubts, the payment for the period ending Tuesday can be made.

The JSA28 period of sickness will fall in the next fortnight ending Tuesday so it can be returned on the next attendance.

Appendix 1

Extended Period of Sickness (EPS) Intervention

If a claimant reports sickness or would like more information about the extended period of sickness, an Intervention will be booked. This will be for reported periods of sickness of up to 13 weeks, or where a third period of sickness is reported within 12 months of the claimant's Job Seeking Period.

Note: If the period of sickness is two weeks or less then the existing process for short term sickness should be considered first.

The Intervention could be face to face or by telephone depending on individual circumstances, ideally taking place on the same day as the sickness is reported but if not within 24 hours.

Before the Intervention a check must be made to confirm the type of provision. If the claimant is on mandatory or provider based provision a change to attendance and/or participation must be addressed to support provider contracts and the correct Decision Making and Appeals (DMA) activity.

Where provision is contracted providers will act on behalf of Department for Work & Pensions (DWP) in mandating and sanctioning claimants therefore they must be informed of any and all changes as soon as they occur. Failure to report a change may well result in incorrect DMA action being taken.

The following provision, and any similar future provision, will be affected:

- Work Programme(WP)
- Mandatory Work Activity
- Community Work Programme
- English Language Requirement (Scotland & Wales)
- any other JSA provision where attendance may be impacted

At the intervention, the first date of sickness will be confirmed, the fit note checked (where provided) and the likely length of sickness will be confirmed with the claimant in order to establish whether it is likely to exceed 13 weeks.

If it's likely that the 13 week period could be exceeded, the claimant will be advised to consider making a claim to ESA under current procedures.

If the 13 week period is not expected to be exceeded, then the differences between remaining on JSA or making a claim to ESA will be explained including ESA repeat claim rules.

All JSA claimants who report a period of sickness must complete a JSA28.

Claimants whose sickness is expected to last longer than 2 weeks must provide a fit note or medical evidence from the eighth day of the sickness period. If the claimant expected to be better within two weeks but find they are still sick they will need to provide a fit note or medical evidence as soon as possible, and dated no later than day 15 of their period of sickness.

If not already issued, form JSA28 should be sent and claimants told to be advised to return the JSA28 as soon as possible as no payment will be issued until we receive either the JSA28 or the fit note as appropriate.

If there is no original fit note they should still continue with the intervention and ask the claimant to bring it or post it in ASAP. Payments cannot be released before the medical evidence has been received.

All medical evidence should be retained in either the LMU or elsewhere as agreed locally. **This is important** as if the claimant eventually decides to claim ESA, original evidence will need to be provided. The Benefit Centre will also need to be notified that the claimant is on an Extended Period of Sickness.

Claimants are entitled to one continuous period of sickness of up to 13 weeks in a 12 month rolling period calculated from the start of the period of sickness.

Vulnerable Claimants

Refer to existing guidance when dealing with vulnerable group, including Mental Health. More information can be found here:

<http://intralink.link2.gpn.gov.uk/1/jcp/operational-excellence-directorate/deputy-directors/change-and-implementation/social-justice/vulnerability-hub/index.asp>

Note: Work Programme Providers will make any decisions in relation to vulnerable claimants on Work Programme

Explaining the benefits of remaining on JSA or making a claim to ESA

Inform claimant if they decide to remain on JSA:

- they will not suffer a break in benefit payments
- there will be no requirement to attend a work search review during the period of sickness once we have received a JSA28/medical evidence
- there will be no need to close their housing benefit claim and reclaim via ESA
- they will not need to complete a claim form for ESA then reclaim JSA when they are no longer sick
- they will continue to benefit from the help, support and advice with appropriate tailored conditionality to support them to return to work as soon as they are well enough
- there will be no risk of financial loss to the claimant, as a result of staying on JSA using EPS should they subsequently decide to claim ESA. If they are found to have limited capability for work/or work related activity following a work capability assessment, the ESA assessment phase period will take account of the extended period of sickness
- should they need to claim ESA they will still have to wait 13 weeks for their work capability assessment referral

If the claimant has previously claimed ESA for the same condition as they are currently sick with there are some implications that they need to be aware of.

If a claimant who was found to be fit for work at the Work Capability Assessment (WCA) stage of their previous ESA claim, then lodges a repeat claim to ESA for the same condition:

- the decision maker may reuse their previous WCA evidence and claim will be disallowed at the start of the claim, or
- if they are unable to demonstrate that their condition is significantly worse, they will not be entitled to any payment of ESA whilst awaiting a new WCA assessment
- claimant will not be entitled to a payment of ESA whilst disputing/appealing these decisions

ESA will remain a more appropriate benefit for claimants who have a long term health condition or disability that may limit their long term work capability. For example, claimants who expect to be sick for longer than 13 weeks, or who are not sure how long they expect their health condition to last should close their JSA claim and claim ESA where they are eligible to do so. It must be explained to claimants that just because they qualify for contribution based JSA, they may not automatically qualify for contribution based ESA.

If the claimant decides not to remain on JSA then the claimant should be recommended to make a claim to ESA under current procedures, and the claimant should be issued with the 0800 055 6688 telephone number. If the claimant is on Work Programme or other contracted provision form WP07B or equivalent change of circumstances form must be issued to inform the provider of claim closure.

Note: If the claimant decides not to take up the option to remain on JSA and they want to claim ESA instead, advise them that when they ring the ESA first contact telephone number, they should inform the agent that they have already discussed JSA Extended Period of Sickness and want to continue with an ESA claim. LMS conversations should be noted with these details.

Jobcentre Activities

If the claimant decides to remain on JSA, there are different activities to undertake depending on claimant circumstances.

Note: For all contracted provider provision, ensure providers are updated on notified illness as a matter of urgency. Failure to update providers may result in incorrect DMA referrals being made

Claimants on mandatory provision

For claimants on mandatory provision within the Jobcentre or delivered via contracted providers (not Work Programme) explain how this impacts the claimant's attendance and DMA, inform the claimant of any requirements this places on them and check if any mandatory notices are required. See operational guidance on the specific provision for more information.

Claimants on other JSA provision

For claimants on other JSA provision within the Jobcentre or delivered via contracted providers consideration should be given how the EPS will impact attendance and if appropriate DMA.

See operational guidance on the specific provision for more information.

Claimants on Work Programme

For claimants on Work Programme (WP) inform the claimant they remain on WP and the provider will consider how their illness impact on what they can

do on the WP. Notify the WP Provider of all changes using form WP07b including any extensions to the sickness period.

All claimants

For all claimants consider tailoring conditionality where this is reasonable, and their attendance at the Jobcentre. This does not require a new Claimant Commitment.

The claimant's original Claimant Commitment must not be amended but the tailored conditionality arrangements must be recorded in LMS conversations. Agree with the claimant how they will keep in touch during their period of sickness.

The LMS marker must be set to 'JSA Extended Sickness' and also the correct stage name for the type of start (or the type of exit) from the list below. The start date suffixes refer to the way the claimant contacted DWP to tell us they were sick. The exit suffixes refers to the reason for the EPS ending. This is really important to allow claimant numbers to be monitored to inform the correct allocation of operational resource.

Note LMS to confirm EPS Fact Sheet/JSA6000 has been issued to claimant

Stage Name

Start
Start-ESA FC
Start-JEL
Start-BEL
Start-F2F
Start-WP

Exit (Other)
Exit (Start Work)
Exit (Claim ESA)
Exit (>13 Weeks)
Set in Error

Tailored Conditionality

If the claimant elects to remain on JSA they will be treated as being available for work during an EPS. However, the claimant can be required to look for work or undertake an activity designed to improve their job prospects or keep them in touch with the labour market.

In deciding whether the claimant should undertake any activity, the following will need to be taken into account:

- the claimant's health condition
- what their Fit Note states that they can or cannot do
- likely duration of sickness period
- their personal circumstances
- current provision

It will then be decided whether to:

- remove remaining conditionality requirements completely for the duration of the sickness period
- remove remaining conditionality requirements completely for part of the sickness period

- require the claimant to undertake some form of work search or work related activity which will be specifically tailored to their personal circumstances for all or part of the sickness period

Tailored conditionality means replacing the conditionality requirements agreed in their Claimant Commitment with a new set of temporary requirements which take into account the change in the claimant's health condition and which are reasonable in light of their current personal circumstances. This does not require a new Claimant Commitment. The original Claimant Commitment must not be amended. Record tailored conditionality arrangements on LMS Conversations along with the EPS period.

If the claimant is required to undertake any form of activity:

- consider how and when such requirements will be reviewed taking into account that there may no longer be a requirement for the claimant to attend the office for an interview and that other methods and frequency of contact may need to be agreed
- agree tailored conditionality with the claimant and record in LMS conversations
- note LMS notepad with the period of sickness and that the contracted provider has been notified
- decide how often to keep in touch with claimant, this is at the Jobcentres discretion but should be around once a fortnight and can be via phone or face to face
- follow up claimant as agreed and check on their recovery seven days before medical evidence is due to expire

Note: Notify the WP Provider or contracted provider the start and finish dates of the medical evidence and whether 'limited conditionality' or 'no conditionality' has been agreed. Any further change, such as changes to conditionality or further medical evidence provided must be notified via WP07b/equivalent change of circumstances form, including start and end date of new conditionality. If a claimant is on WP, please refer to paragraph 28 (Tailored Conditionality).

Example: Mark has a ten week Fit Note. It is decided that it would not be reasonable for him to undertake any work search activity at all for the first two weeks of his period of sickness, and the conditionality requirements are removed. However, after this time, it is decided that it would be reasonable for Mark to look for work by using the internet and his conditionality requirements are tailored to this for the remainder of his sickness period. Throughout the remainder of his sickness period, the Jobcentre will keep in touch regularly, for example every two week, and this can be face to face or via telephone. This is reviewed when Mark attends the office for his usual work search review once he is fully fit for work.

If the claimant does not meet the tailored conditionality requirements, a referral to the Labour Market Decision Maker (LMDM) would be appropriate as per current procedures. A copy of the revised conditionality requirements as well as the Claimant Commitment must be included as part of the referral. A claimant may be notified of a suitable vacancy during an extended period of sickness. If the claimant refuse or fails to apply, an RE referral to the LMDM should be made. Before notifying the claimant of the vacancy or raising a sanction doubt, it must considered whether it was reasonable for them to apply.

Example: Jo has a six week Fit Note. In the first week of her period of sickness, a suitable vacancy arises. The interviews will be held two weeks later with the successful candidate expected to start work two weeks after that. It is decided that it would not be reasonable for Jo to apply for this vacancy as all of the application activity will take place in the period covered by her Fit Note.

Example: Clive has a six week Fit Note. In the fourth week of his period of sickness a suitable vacancy arises. The vacancy calls for applications to be made by telephone within a week. Interviews will be held two weeks later. It is decided that it would be reasonable for Clive to apply for this vacancy as he is able to make the telephone call and if successful, start work after the expiration of his Fit Note.

For WP Claimants and other mandatory contracted provision, details of the start and finish dates of the medical evidence will be given, and whether it is considered that the claimant can be asked to take some steps to prepare to return to work or whether they should have no conditionality applied to them. It will be recorded either 'limited conditionality' or 'no conditionality' in LMS conversations and this information will be sent on the WP07b to the WPP or equivalent change of circumstances form for other providers in order to tailor the Action Plan during the EPS. Care should be taken to make sure that Jobcentre only share relevant and justifiable information to meet the business needs, it must not include any medical information. A contracted provider needs to know whether the claimant has limited conditionality or no conditionality agreed during any period of EPS. The provider can then work with the claimant and require them to look for work or undertake an activity designed to improve their job prospects or keep them in touch with the labour market where appropriate. Their level of capability is likely to change over the period of sickness and the provider should be kept informed via the WP07b/change of circumstance process to ensure tasks are reviewed and set appropriately throughout the period of sickness.

Note: Where a claimant has been mandated to attend/participate, and there is an overlapping period of sickness, care should be taken to review the mandation letter issued. Where any tailoring of conditionality affects mandation a new letter should be issued to the claimant to confirm the change.

Labour Market System 'conversations' will need to be updated with details of any tailored conditionality. Agree with the claimant how often the tailored conditionality will be measured, whether this will be further face to face or telephone interventions.

Claimant decides to end their claim to JSA

If the claimant decides to end their claim to JSA and claim ESA instead, they should make a claim to ESA as soon as possible. They should be provided with the details of any period of JSA EPS if appropriate, for example the start and end dates. They should be further advised to inform the ESA first contact agent of these dates when they call to make their claim to ESA. LMS conversations should be updated with the details of this information.

Complete HOTT handover to ESA new claims processing including a note which states the start and end date of EPS, that claimant intends to claim ESA.

Any fit notes will also need to be scanned and attached to the handover. Original fit notes will need to be sent to ESA New Claims. For claimants on Work Programme send a WP07b to the provider advising that the claimant is making a claim to ESA.

Note: All **medical evidence needs to be checked** to ensure doctors signature and date of issue, medical condition and period of sickness. The medical evidence must not have been tampered with.

Completing the Intervention

To complete the Intervention:

1. Explain automatic payments and the claimant is not required to attend any work search reviews, but that they will need to attend them again when the sickness period ends.
2. Book a further flexible intervention and create a workflow for a week before the fit note expires to act as a reminder.

This flexible intervention will be used to inform the claimant about their conditionality.

3. Confirm their next work search review appointment time.
4. Issue the EPS fact sheet to the claimant before they leave the interview (or post out if the intervention is by phone).
5. Issue a JA6000 clerical letter, posting out if necessary.

Note: This will only be in the short term until the JSAPS solution is implemented, expected 28 September 2015.

6. Ensure they have a JSA28 and post one out if required.

Note: A JSA28 is only required for the first period of sickness reported. If the sickness period extends then medical evidence only will be required. They will also ensure medical evidence has been provided if necessary, and in both cases they will request that it is posted to the Jobcentre ASAP as payment won't be released until it's been received and processed.

Details of the fit note will be sent to BC via HOTT using the following:

- Handover Priority: 3hour non call back
- Handover Type: Sickness
- Handover Reason: JSA EPS

A covering note advising of EPS should also be provided, and JSAPs noted with EPS start date.

If a JSA28/medical evidence is expected to be returned then a workflow must be set for 5 working days to check receipt and take further action if not.

Actions will need to be taken around JSA Mandatory and other provisions, for example notifying providers by completing WP07b.

Note: All medical evidence needs to be checked to ensure doctors signature and date of issue, medical condition and period of sickness. The medical evidence must not have been tampered with.

Failure to return JSA28/Fit Note

Once the workflow matures:

1. Check to establish if the JSA28 or fit note have been returned.
2. If they haven't the claimant should be contacted to remind them of the importance of returning them.
3. Arrange for the details to be sent by HOTT once received.

4. If no contact can be made, a face to face Mandatory work intervention should be booked to establish why the information hasn't been provided. If claimants are not able to provide medical evidence they must attend all appointments and undertake all actions agreed in their Claimant Commitment.

There is discretion to allow a gap in medical evidence of up to 7 calendar days. A longer gap can be accepted if the claimant can demonstrate that they had a good reason for the gap.

Claimant reports sickness has ended

If the claimant reports they are no longer sick:

1. Advise the claimant they must now attend all appointments and undertake all actions agreed in their Claimant Commitment.
2. If the claimant is on Work Programme/contracted provision notify the provider of the date they can expect the claimant to resume normal activities by recording/issuing WP07b or equivalent.

Claimant reports further sickness period

If the claimant reports a further or continuing periods of sickness, check whether the 13 weeks EPS has been/will be exhausted.

EPS exhausted

If claimant wishes to claim ESA, advise to call the first contact telephone number 0800 055 6688 and close their JSA claim by calling the JSA BEL number 0345 608 8545.

Note: Jobcentre will terminate the claim if the claimant is unable to use the phone

In addition the following action will need to be taken:

1. Update LMS conversations & JSAPs with total period of EPS.
2. Complete HOTT handover to ESA new claims processing including a note which states the start and end date of EPS, that claimant intends to claim ESA, any fit notes will also need to be scanned and attached to the handover.
3. Original fit notes need to be sent to ESA New Claims.
4. If claimant is on Work Programme/contracted provision, record and issue a WP07b or equivalent to the provider advising that the claimant is making a claim to ESA.

EPS not exhausted

Take action as listed above in Extended Period of Sickness (EPS) Intervention.