

DWP Central Freedom of Information Team
e-mail: freedom-of-information-request@dwp.gsi.gov.uk

Our Ref: Fol 2463

Date: 19th June 2018

Dear Trudy Baddams,

Thank you for your Freedom of Information request received on 21st May 2018. You asked:

For example:

A claimant has a long term illness and is signed off work by GP, Assessment report finds him fit to work, DWP contact GP to stop giving sick notes despite his illness, please forward a copy of legislation or guidelines setting this out.

A claimant asks his GP for evidence of illness, GP refuses because DWP have told him not to provide evidence, where in the guidelines or legislation is this set out?

Please forward copies of each of these guidelines/legislation

DWP Response

When a claim for Employment and Support Allowance (ESA) is made the claimant is required in most cases to provide evidence of their incapacity for work until they have undertaken a Work Capability Assessment (WCA). This evidence will usually be provided by the claimant's GP on an approved form, i.e. a statement of fitness for work (also referred to as a fit note).

Where an ESA claimant has been found capable of some work following a WCA, a form known as the ESA65B is sent to the claimant's GP to advise them that their patient is no longer entitled to ESA and that there is no need for the GP to provide any further fit notes relating to their disability or health condition.

An individual can request that their GP provide a fit note on their behalf at any time, for example when making a new claim. The GP may then consider whether issuing a fit note is clinically appropriate.

Guidance on the benefits system for GPs can be found here:

<https://www.gov.uk/government/publications/a-short-guide-to-the-benefit-system-for-general-practitioners>.

The process for DWP staff to follow in this situation is contained in operational guidance – the relevant extract is here:

“Recording a no LCW decision

86. The claimant usually needs to score a minimum of 15 points to be considered to have LCW, unless the claimant can be ‘treated as having LCW’ or the DM decides exceptional circumstances can be applied.

87. When a DM decides that a claimant does not have LCW the ESA claim is disallowed.

ESA65B

88. In clerical claims that are maintained wholly offline, you must send an ESA65B to the claimant's GP at the same time that one is sent to the claimant.

89. Do not send an ESA65B to either the claimant or their GP if the claim is maintained on JSAPS."

It may be helpful if I explain that:

- A 'DM' is a Departmental Decision Maker.
- 'JSAPS' is the computer payment system for ESA.
- Where a claim is administered by JSAPS, the ESA65B will be automatically issued to the GP by the computer system once the decision is input that a claimant does not have Limited Capability for Work (LCW).
- Where a claim is not administered by JSAPS it is treated as a clerical claim and the ESA65B will be sent to the GP via a clerical process.

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

Yours sincerely,

DWP Strategy Fol 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@dwp.gsi.gov.uk or by writing to DWP, Central Fol 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, Wycliff House, Water Lane, Wilmslow Cheshire SK9 5AF www.ico.gov.uk