

VOICES FROM THE FRONTLINE

Medical evidence for benefit claims



Citizens Advice Scotland (CAS), our 61 member bureaux and the Citizen Advice Consumer Service helpline form Scotland's largest independent advice network. Advice provided by the Scottish CAB Service is free, independent, confidential, impartial and available to everyone. Our website, Adviceguide, also provides the public with up-to-date information on a range of topics. We are champions for both citizens and consumers and in 2012/13 we helped over 314,000 people deal with over a million issues.

Our series of briefings '**Voices from the Frontline**' show the reality of the impact of current welfare changes on the people of Scotland. We highlight the experiences of the thousands of clients advised by CAB in Scotland and make recommendations for change.

Summary

The biggest single area of advice provided by Citizens Advice Bureaux in Scotland is supporting clients with disabilities and health problems through the process of getting sickness and disability benefits. Since the Government introduced Employment and Support Allowance (ESA) in 2008, the need for advice in this area has grown hugely, and continues to increase rapidly. By 2011/12 ESA had risen to 16% of all bureau issues. In the first half of 2013/14 this rose even further to make up over a quarter (26%) of all bureau work.

There has been much media attention on the controversial Work Capability Assessment (WCA) carried out by Atos Healthcare, the seemingly arbitrary nature of some decisions about whether disabled claimants are fit to undertake work or work preparation activity, and the very high rates of successful appeals against these decisions.

Getting evidence from medical experts and other professionals working with the claimants can be a significant factor in whether a correct decision is made. However, Scottish bureaux see many clients who have problems when trying to provide medical evidence to support their benefit claim, whether this is for Employment and Support Allowance, other disability benefits or general benefits applications which consider disability, such as Housing Benefit. As a result of these problems, claimants can experience delays in payment or lose benefit payments to which they should be entitled.

In the last few weeks it has been announced that Atos are withdrawing from the contract to provide WCAs, and the Government has said it may suspend WCAs. We

do not yet know what the implications of this are but this could mean that evidence from medical professionals becomes even more important.

Poor administration

Bureaux regularly deal with cases where medical forms and sick notes from doctors are lost by the DWP or got delayed in the system. If claimants have to request further copies of evidence from doctors, this puts pressure on both claimants and medical services.

- ▶ A North of Scotland CAB reports of a client who has sent in GP medical certificates, but Jobcentre Plus say they have not received them. This has happened to this client before. The client feels bad enough without having to go back to see his GP again for a duplicate medical certificate. The CAB called Jobcentre Plus who said there is no medical certificate on file and the client will have to get a duplicate one to send on.
- ▶ A North of Scotland CAB reports of a client who returned to the bureau to say that he was successful with his appeal for ESA, but had not received his benefit. He had handed in a sick note to the jobcentre in Aberdeen over a month ago but still had not received any money. He had been told by the people at ESA that the medical certificate had been lost and that he needed a duplicate to receive any benefit. The client has requested a duplicate from his doctor. He asked if the CAB could contact them to see when payments would start as he has had no money for several weeks and no gas or electricity since last Wednesday. The CAB adviser called the ESA department. They advised that the client could not receive benefit as he did not have a valid sick note. After numerous calls to DWP it appeared that the sick note had been received but not been transferred to ESA as they still thought that he was on Jobseekers Allowance which they had put him on by mistake.
- ▶ An East of Scotland CAB reports of a client who came to the bureau because she had still not received a payment of ESA. The CAB called the ESA department who said there was no record of receipt of the ESA claim form sent by the CAB two months previously, nor of the medical certificate. The adviser explained that the Jobcentre had previously confirmed receipt of these papers in a different department. Following two more phone calls with DWP denying they had received the forms, the CAB used their escalation contacts at DWP. They confirmed that the claim form had been received, but there is no sign of the medical certificate.

The cost of medical evidence

In parts of Scotland some GP practices are charging clients significant sums of up to £100 for the provision of supplementary evidence. From doctors' perspectives, they are not paid to provide this evidence as part of their NHS work, and the time spent preparing it is time away from seeing patients. But for benefit claimants who may only receive £71 a week, these are very significant sums of money.

- ▶ A North of Scotland CAB reports of a client who telephoned the welfare benefits officer to advise that her local Medical Group had informed her that it would cost £75 to provide her with a medical report to substantiate her Employment Support Allowance Appeal (ESA).

- ▶ An East of Scotland CAB reports of a client who successfully appealed her ESA assessment decision last year, but has now had her next annual assessment and been placed in the Work Related Activity Group, which she will once again appeal. Jobcentre Plus believes she should be in the Support Group, which has a higher level of support. She suffers from post-traumatic stress disorder, anxiety and depression. The client requires evidence to support her appeal and her doctor wants her to attend a 30 minute assessment and will charge £109.50 to provide a statement. The client is unwilling to pay for this service and has therefore decided not to pursue this avenue. This now leaves her with no supporting evidence for her appeal.

Some doctors now refuse to provide medical evidence to patients, particularly since the introduction of the “bedroom tax” in April 2013, and the additional demands for evidence that generated.

- ▶ A West of Scotland CAB reports of a client appealing his ESA decision. The client had contacted the DWP after his ESA was stopped and they advised him to appeal and get a letter from his doctor to support his appeal. He went to his doctor who said his hands were tied and he could not write him a letter. Instead he gave him a letter explaining why doctors should not involve themselves in benefit appeals evidence. The client was very confused as the DWP had directed him to ask his doctor for supporting evidence, and his doctor had supplied a sick line to say he was not fit to work yet is unable or unwilling to evidence this further.
- ▶ A West of Scotland CAB reports of a client with mental health problems who has a sick note for the next two months. He has been refused ESA and wishes to appeal the decision. His GP has refused medical evidence based on medical guidelines. He has been advised that under legal aid advice and assistance he may get a lawyer to gain independent medical evidence for him.

Providing evidence as part of the claim procedure

As part of their contract, GPs are required to provide evidence to Atos and the DWP through the ESA113, and there is financial provision for this work within the contractual agreement. CAS believes that if better evidence were gained through more effective and timely use of the ESA113 form, this could reduce the need for supplementary evidence at later stages of the process, including at appeal.

The Scottish Parliament Welfare Reform Committee took evidence on the issues around medical evidence in the benefits system earlier this year. Georgina Brown, representing BMA Scotland, suggested there were a number of issues that needed to be addressed in regard to the forms and requests for medical evidence from Atos from their perspective. These included unclear or unrealistic timescales for returning forms, and sometimes unrealistically short timescales for them to respond, as well as difficulties with pulling information from their systems into the format required on the form. She noted that she regularly receives requests for information about people who are not her patients.¹

¹ Scottish Parliament official report Welfare Reform Committee 22 January 2013 Col497-498 <http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=7978&mode=pdf>

- ▶ A North of Scotland CAB reports of a client who came to the bureau: her doctor's surgery had confirmed that they had received the form ESA113 six days ago, but her GP was on holiday for another 11 days. The client's medical assessment is two days after that. The CAB suggested the client contacts the Practice Manager and asks that they consider communicating this to Atos if the Practice Manager believes that the GP will not be able to return this information in time. The client was worried that the Practice Manager may refuse as previously it has been stated by the practice that they will only respond to Atos and should not be contacted otherwise.

Stuck in the middle

There is a danger that clients get caught in the middle between DWP requirements for medical evidence and medical professionals' inability to provide it, as the following case suggests:

- ▶ A North of Scotland CAB reports that the bureau received a phone call from a decision maker at the DWP benefits centre regarding a client's ESA. The decision maker advised that they would need a letter from the client's GP to allow them to reassess her case early and that they would not request this so the client had to provide it. The CAB adviser pointed out that it can be difficult to obtain GP letters in the current climate and the GP is more likely to respond to a request from DWP but she said that it is not the DWP's responsibility to request this.

Anecdotal feedback from bureau advisers suggests that, despite recommendations by the Government's independent reviewer of the Work Capability Assessment², evidence from non-medical practitioners, such as social workers, is still given a lower priority than evidence from the medical professional. This may put further pressure on doctors

Not sick enough for one benefit, too sick for the other

Another problem some clients face is that if they have a current sick note lasting more than two weeks from their doctor they are not able to apply for Jobseekers Allowance until that runs out. Some of these clients have applied for ESA and, despite being signed off by the doctor, have been assessed through the WCA as being fit to work. These people fall through the gap and can end up without any income.

- ▶ An East of Scotland CAB reports of a client who had been told by ESA that he was fit for work. He was told that he was not entitled to JSA because his sick line ran for more than 2 weeks. As a result he has no money.
- ▶ A North of Scotland CAB reports of a client who had appealed a decision finding him fit for work. On the date of the tribunal he was unable to attend as he was in hospital and the hearing took place in his absence. His ESA payments are due to stop tomorrow. He suffers from depression, pancreatitis and back problems

² See Harrington Independent Reviews of the Work Capability Assessment
<https://www.gov.uk/government/policies/simplifying-the-welfare-system-and-making-sure-work-pays/supporting-pages/improving-the-work-capability-assessment>

and is in receipt of a sick note from his GP. The client is currently living with friends and is homeless. The client has no income now that ESA will stop. I explained that he could apply for JSA but this means making himself available for work, and he is still in receipt of a sick note.

One bureau even reports that the DWP have asked GPs not to issue sick notes to patients following a decision that they are fit for work.

- ▶ An East of Scotland CAB reports of a client who is a single parent with one child aged seven. She has been on ESA but has failed the medical and is now on JSA. Her GP was lettered that she had failed her medical and asked not to issue any further medical certificates, but her GP still agrees that she requires this and is issuing her with one. This is the second client in two weeks where their GP has received a letter from DWP asking that he/she should no longer issue medical certificates as the medical on the client has declared her fit for work.

Conclusion

With high levels of appeals and questions about the effectiveness of the Work Capability Assessments carried out by Atos Healthcare Professionals, many clients feel that additional medical evidence is necessary to support their benefit claims. Yet clients are finding that it is very difficult to get the evidence they need to the right people. Poor administration, a lack of flexibility and breakdowns in communication mean that clients' medical conditions are not properly considered as they apply for benefits.

The process of claiming disability benefits is stressful, and these problems compound that stress. In some cases the difficulties of trying to sort out these problems can exacerbate clients' health problems.

Improving administration processes and better use of the ESA113 official medical evidence form could lead to a significant improvement in the experiences of bureaux clients, as well as relieving pressure on medical practitioners.

Recommendation: The ESA113 form should be reviewed in discussion with the DWP and medical practitioners to make it more fit for purpose. Consideration should be given to the guidance and training needed to support a revised form.

Recommendation: The timescales given to doctors for returning the form should be clarified and lengthened.

Recommendation: The DWP should urgently review its processes and timescales for processing medical evidence to ensure evidence is processed in a timely manner.

Recommendation: A review should be undertaken of the use Atos healthcare practitioners and DWP decision makers make of medical and non-medical evidence and the relative weight ascribed to each.

Recommendation: The DWP reviews the handling of JSA applications where the claimant has applied for ESA and been turned down, yet still has a current sick note.

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