

# Disabled young people

*Disabled young people* is one of a series of Child Poverty Action Group in Scotland leaflets giving guidance to advisers working with disabled children and their families. Child Poverty Action Group promotes action for the prevention and relief of poverty among children and families with children.

## Introduction

When a child turns 16 s/he may be able to claim benefits and tax credits in her/his own right for the first time. Up until then, a parent or another adult who they live with will usually have claimed benefits or tax credits that include an amount for that child. (Note: in this factsheet whenever we say 'parent' we mean whoever is responsible for the child).

At 16, a young person with health problems or a disability may have a choice of whether they claim for themselves or continue to let an adult claim for them.

This factsheet looks at the options open to disabled young people under 20 who are living at home.

## Claiming for a child below 16

Before a child reaches 16 a parent will have been claiming child benefit (CB) for them. In addition a parent may be receiving disability living allowance (DLA) if the child is disabled and carer's allowance (CA) if the award of DLA is paid at the middle or highest rate care component.

They may also have been receiving some of the benefits below because they are responsible for that child and these may also have included additional amounts because the child is disabled.

- Child tax credit (CTC)
- Working tax credit (WTC)
- Housing benefit (HB)
- Council tax benefit (CTB)
- Income support (IS)

## Disability living allowance at 16

Sometimes a DLA award stops at age 16 so that entitlement can be reassessed to see if the young person still has the level of care needs or mobility difficulties needed to pass the disability tests. From 16 there is an extra way to qualify for the lowest rate of the care component- a hypothetical test of whether someone can carry out the tasks needed to prepare a cooked main meal without any help.

At 16, if a child can manage her/his own affairs, DLA will be paid directly to the child and the child will need a bank or Post Office card account for this. Otherwise a parent will continue to be the 'appointee' and manage the claim.

## Choices at 16

What benefits a young person at 16 can claim, whether their parents can continue to claim for them and whether there is a choice depends on what the young person does.

### 1. You stay on at school

If you are a young person who stays on at school after 16 a parent can continue to get all of the benefits s/he was getting for you. However if you have a health problem or disability it may be possible instead for you to claim employment and support allowance (ESA) while still at school. If you do, CB and amounts for you included in any other benefits or tax credits that your parent receives will stop.

#### Employment and support allowance

ESA is a benefit for people of 16 and over who are not able to work because of illness or disability. There are two types of ESA that a disabled child at school might be able to claim: **contributory ESA in youth** and **income-related ESA**. Depending on circumstances it might be possible to get one or both.

#### Limited capability for work

To get ESA you must have **limited capability for work**. This test can apply to a young person in education, even if you intend to stay on at school for some time.

Demonstrating limited capability for work begins by submitting a medical certificate from a G.P. but most people within 13 weeks of claiming have to attend a medical examination known as the work capability assessment. Most young people will also have to attend regular interviews at the jobcentre- if this applies to you and you do not, your ESA may be reduced by up to the amount of the work-related activity component (see below). Some of the most disabled young people are not required to attend these interviews though they may still have to attend for medical examinations. They are in the 'support group' and instead of a work-related activity component they get an extra amount of ESA known as the support component.

## Contributory ESA in youth at school

To qualify a young person must have had a health problem or disability for 196 days (28 weeks) before they claim. This can be confirmed by a backdated medical certificate and can cover a period from before age 16 so that benefit can start from the 16th birthday.

If you are under 19 and still at school, entitlement depends on the type and hours of education. You cannot qualify if you attend classes or periods of supervised study of 21 hours or more per week. In adding up the hours, lunch breaks, breaks between lessons, free periods and unsupervised study or homework do not count.

Secondary education ordinarily involves more than 21 hours attendance. However, for ESA in youth any hours unsuitable for a child of the same age who does not have a disability are not counted. So if you attend a school exclusively for children with additional needs you will be able to satisfy this requirement as much of the course would be regarded as unsuitable for a non-disabled child of the same age.

If your education is integrated into mainstream schooling you will have to look closely at the number of hours you do that would be regarded as not suitable for a non-disabled child. Both the way a child is taught as well as the course content is important. So you should look at any extra time spent with a teacher or assistant and any special teaching methods used such as signing or Braille as well as whether you are set different coursework or given more time to complete it. In calculating the hours it may be useful to consult any written statement of the support you should get at school such as an Individualised Education Plan (IEP) or Co-ordinated Support Plan (CSP) if you have one.

If you satisfy the limited capability for work test, have confirmation from a doctor that you have done for the past 28 weeks and are not regarded as being in education for 21 hours or more then you can get ESA in youth. You do not have to be in receipt of DLA. The amount you get will depend on whether you are in the support group or not but will not be affected by any other money you have coming in, any savings you have or any aspect of your parent's income.

## How much is ESA?

### Contributory ESA, weekly rates (from April 2009)

Assessment phase ( first 13 weeks of claim)	£50.95
Main phase + support component	£95.15
Main phase + work-related activity component	£89.80

## Income-related ESA at school

If you satisfy the test for limited capability for work and qualify for DLA at any rate of either component then you may be entitled to income-related ESA while at school. Neither the type of tuition you receive nor the number of hours are important. Equally you do not have to show that you have been sick for more than 196 days when you apply. As a result if you cannot qualify for contributory ESA while at school - perhaps because your education is regarded as being too mainstream - then you may be able to qualify for income-related ESA instead. The amount of income-related ESA you receive will again depend on whether you are in the support group or not but as income-related ESA is means tested it may be reduced by any other income you have coming in or savings of £6,000 or over that you have. However it is not affected by any aspect of your parent's income. The maximum amount of income-related ESA is higher than that of contributory ESA so it may be possible to receive contributory ESA topped up with some income-related ESA.

Income-related ESA, weekly rates (from April 2009)		Young person receives highest rate DLA care
Assessment phase ( first 13 weeks of claim)	£50.95	£64.35
Main phase + support component	£108.55	£108.55
Main phase + work-related activity component	£89.80	£103.20

### Example

*Jane is deafblind, an only child and lives with her mother. She is 16 and goes to a school specifically for sensorily impaired children. She is entitled to DLA highest rate care component. She attends school for more than 21 hours per week but because of the specialist teaching methods used this does not stop her getting contributory ESA. If she submits a medical certificate going back for 28 weeks she should qualify for ESA. She will receive £50.95 contributory ESA for the first 13 weeks of her claim. This will be topped up by £13.40 income-related ESA because she is entitled to the highest rate of DLA care component assuming she has no other income or savings of above £6,000. After 13 weeks the amount of ESA will rise either to £103.20 or £108.55 per week depending on which of the support or work-related activity groups she is placed in by the medical assessment she will have had by then. Jane's mother gets CB for her. She will no longer be entitled if Jane claims ESA nor will she be entitled to any tax credits though she will still be entitled to CA .*

## Choosing between ESA and benefits for children

If you would qualify for either type of ESA while at school you will have a choice of whether you claim that benefit or your parent continues to receive CB and any other means-tested benefit or tax credit that depends upon having a dependent child or contains an amount within it for having a child. What choice you make may depend on the financial implications. Whether your household is better off overall will depend on how the amount of ESA received compares to the amount of CB plus any means-tested help that would be received by your parent.

ESA will be paid at a reduced rate for the first 13 weeks of any claim and after that point a young person could receive a variety of levels of ESA ranging from £89.80 to £108.55 so it can be difficult to determine in advance exactly whether the overall income of the household would change. Some examples are given below.

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## Example

*Kate lives with her parents who because of their income receive only CB and the family element of CTC for her. This is £30.50 per week. Regardless of what amount of ESA Kate receives the overall household income will increase as ESA will be higher than the CTC and CB.*

## Example

*Ali lives with his younger sister and mother who is a lone parent on IS receiving CB of £33.20 and maximum CTC of just over £147 per week which includes two child elements and the disability element for Ali. If Ali claims ESA there will be a drop in the overall income of the family of over £56 for the first 13 weeks of his claim as his mother will receive less CB and CTC. At the end of the assessment phase if Ali receives the work-related activity component the overall loss will reduce to just over £17. If he is placed in the support group the family will be very slightly better off as his ESA award will be higher than the amount of CTC and CB his mother received for him by £1.20.*

## Example

*Kirsty lives with her father. He works 16 hours per week earning around £150. He gets WTC and CTC of just over £160 per week plus CB of £20. If Kirsty claims ESA her dad will lose all entitlement to WTC, CTC and CB so the move to ESA may lose the family as much as £90 per week.*

In general terms if the child who is considering claiming ESA is the only child that a parent currently receive benefits or tax credits for then it may be the case that the total household income will go down unless the parent only receives a comparatively small amount of tax credits. In particular, if the child who could claim ESA is the only child that a parent receives benefit for, removing them from the claim may mean that the parent stops being entitled altogether to WTC, CTC, IS, HB or CTB. No longer qualifying for these benefits may mean that s/he is not entitled to other help such as free prescriptions, housing costs towards a mortgage paid through IS and social fund payments. You should seek advice from one of the agencies mentioned below (see *Help with claiming and checking you are entitled*) to check how household income will be affected by an ESA claim, including the effect on any housing and council tax benefit your parent gets.

If you opt to claim ESA, you can choose to end your claim and revert to having your parent claiming CB and other benefits for having a child if s/he would still be entitled to claim for you.

## How to claim ESA

You start a claim by phoning 0800 055 6688 (textphone 0800 023 4888) (although paper claim forms should also be available if it is not suitable for you to use the telephone). A young person will usually be interviewed within 8 weeks of making a claim. If your child is incapable of managing an ESA claim you can apply to be an appointee.

## 2. You leave school and go into further education

If you are disabled and under 19, have left school and go into further education or training then the situation will be essentially the same as if you were at school providing the course you are on is classed as full-time '**non- advanced education**' or '**approved training**'. This means that either your parent can continue to claim for you or you can apply for ESA. You should read the section above on how the rules apply if you stay on at school.

Non-advanced education is study below degree and HND level, and includes

- Standard grades;
- Highers and advanced Highers;
- SVQ up to level 3; *and*
- National Certificates.

In order to be full time, the course must be more than 12 hours a week during term time. In counting the 12 hours, include classes and supervised study, but do not include meal breaks or unsupervised study at home or at college.

A young person on an approved training course is treated in the same way as if they were in full-time non-advanced education. In Scotland this applies if they are on a

- Skillseeker;
- Modern Apprenticeship; *or*
- Get Ready for Work course;

but only if the training is not provided by a contract of employment such that the young person receives a wage.

Your parent can continue to receive CB and any other means-tested help as long as you are in the types of education or training listed above and are under 19 or if you are already 19, you were accepted on, enrolled on or started the course when under 19. A young person in this situation is described as a 'qualifying young person' for benefit purposes.

A young person is still regarded as being a qualifying young person during college/school holidays, as long as they are registered or enrolled on another course. Certain temporary interruptions are allowed, such as where someone is ill.

## **Contributory ESA in youth**

All of the same rules apply as they do when the young person is at school. When the young person reaches 19 the requirement that the hours of education be less than 21 hours is relaxed so if you are applying for ESA for the first time at 19 you will only have to show that you have limited capability for work and have done so for 28 weeks.

## **Income-related ESA**

The same rules apply for a young person in further education as they do for a child at school. However as income-based ESA is means- tested, the amount paid may be reduced by any further education bursary allowance received (though grants for travel, books and equipment and any additional support needs for learning allowance for disability costs will be ignored).

## **Part-time education**

If the course is 12 hours or less then a parent cannot claim CB or any means tested benefits or tax credits for you. In this situation you can claim ESA in your own right. There is no requirement that the course involve any element of tuition that would not be suitable for a non-disabled person for contributory ESA, nor do you have to be on DLA for income-related ESA if the course you are on is for less than 12 hours.

## 3. You leave school or college and go into higher education

A parent cannot continue to receive benefits or tax credits for a child who is in higher or 'advanced' education. Advanced education includes:

- Higher National Diploma (HND) courses;
- SVQ levels 4 or 5;
- Degree and postgraduate courses.

As a result a young disabled person in higher education will only be able to claim ESA in their own right.

### **Contributory ESA**

The rules regarding entitlement to contributory ESA are the same as for those in non-advanced education.

### **Income-related ESA**

You can only claim income-related ESA if you are in full-time higher education if you also receive DLA. In most cases full time in this context means that the course is classed as full time by the university or college. A full-time student on DLA will be exempt from the test of limited capability for work in the work capability assessment but is not exempt from the assessment of whether they have limited capability for work-related activity. A student may satisfy all of the conditions of entitlement to income-related ESA but most available student income will be taken into account and may reduce entitlement other than in the summer holidays.

## 4. You leave school and do not go into further education

If you leave school and do not continue with any form of education then you can claim ESA if you have limited capability for work. However a parent may be able to claim for you for a short while. This will be until the latest of these dates

- **September after age 16:** if you leave a full-time non-advanced course or approved training course, your parent can continue to claim benefit for you until 31 August following your 16th birthday.
- **Extension period:** if a you leave a course aged 16 or 17, and register with the Careers Service, your parent can continue to claim benefit for you for a further 20 weeks (unless you reach your 18th birthday before then)
- **Terminal date:** otherwise, your parent can retain the benefits s/he has been claiming (other than CTC) until the next terminal date that falls after the course ends. This is either the last day in February, May, August or November. Benefit stops if you reach your 20th birthday before then. If you are doing Highers/advanced Highers and finish doing so earlier than a comparable course in England or Wales does, you are treated as being in education until the date that comparable course would end.

If a parent's benefit runs out under the rules above, s/he can reclaim if you start another course of full-time non-advanced education or approved training, and you still count as a qualifying young person.

## 5. You go into work

Normally if you are working you cannot get ESA but it may be possible to combine some limited work with receipt of ESA. This can include:

- any work earning up to £20 per week;
- work earning up to £92 per week which is:
  - part of a treatment programme and done under medical supervision; *or*
  - supervised by someone from an organisation which provides or arranges work for disabled people; *or*
  - for less than 16 hours a week, for up to 1 year or indefinitely if you are in the support group.

If your work does fit into any of these categories and is for 16 hours or more or you are on a training course that is not classed as approved training and for which you get wages then you cannot claim ESA. Instead you may be able to claim WTC if you have a physical or mental disability that puts you at a disadvantage in getting a job. See CPAG's *Tax Credits for Disabled Workers* factsheet for further details (available at <http://www.cpag.org.uk/>). If you do claim WTC then any benefits or tax credits a parent receives for you have to stop.

## Help with claiming and checking you are entitled

A local CAB, welfare rights adviser (usually based in the local social work department) or advice agency will have detailed information about benefits, tax credits and other financial help which may be available and should be able to help with claiming. For help over the telephone, call:

- Contact a Family Helpline 0808 808 3555 (Monday to Friday, 10am - 4pm and Monday evenings 5.30pm -7.30pm)
- CarersLine 0808 808 7777 (Wednesday and Thursday, 10am-12pm and 2pm-4pm)

## Further information and advice

### **Child Poverty Action Group in Scotland**

0141 552 0552 advice line for advisers on benefits and tax credits,  
Monday, Tuesday, Wednesday and Thursday 10am to 12 noon

**Email:** [advice@cpagscotland.org.uk](mailto:advice@cpagscotland.org.uk)  
*email advice for advisers on benefits and tax credits*

**Website:** [www.cpag.org.uk](http://www.cpag.org.uk)  
*for more leaflets from CPAG in Scotland*

CPAG in Scotland's advice line is only for advisers. If you are having problems with your own tax credit or benefit claim and are in need of advice you should contact your citizens advice bureau or other local welfare rights service.

CPAG publishes the *Welfare Benefits and Tax Credits Handbook*, a comprehensive guide to benefits and tax credits for claimants and advisers.

**CHILD  
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in SCOTLAND

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