Briefing paper **April 2012**

The Work Capability Assessment and people with mental health problems: the case for better use of medical evidence

Introduction

The value of additional medical evidence to the Employment and Support Allowance (ESA) assessment process is well documented.[1] The provision of this additional information can result in fewer unnecessary face to face assessments and aids assessors in complex cases, which in turn would prevent appeals needing to take place.[2]

Medical evidence can be particularly beneficial in cases where the claimant may have problems reporting their own capability, including claimants affected by mental illness. However the system is currently not working for this vulnerable group. Despite improvements in other areas of the assessment process, this problem has been consistently overlooked. Professor Harrington's first review of the Work Capability Assessment (WCA) acknowledged the burden the provision of medical information places on individual claimants.[3] We are disappointed that there have not been recommendations to mitigate this impact on people too unwell to coordinate their own evidence or who are unable to afford any charges for provision.

The issue of medical evidence provision is one that goes wider than mental health claimants. The latest figures show that 38% of ESA appeals decide in favour of the appellant.[4] Between October 2008 and February 2010, 60% of people who had their ESA decision overturned had been awarded zero points at their face-to-face assessment.[5] If comprehensive evidence was available to healthcare professionals and Decision Makers earlier in the process, these rates could be reduced.

Mental illness presents particular challenges in engaging with the application and assessment process. This means that some of the most vulnerable claimants are potentially being excluded from the support they are entitled to.

This briefing addresses some of these challenges and also outlines possible solutions. While the focus is on medical evidence and the WCA, many of these points are relevant to other assessments and processes. These include issues around debt and mental health and will also be pertinent as the Personal Independence Payment assessment is developed.

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[1] See Work and Pensions Select Committee: *Inquiry into IB migration 18 May 2011;* Barnes et al. (2010) *Employment and Support Allowance: Customer and staff experience of the face-to-face Work Capability Assessment and Work-Focused Health-Related Assessment – DWP report 719;* Work and Pensions Select Committee (July 2011) *The role of incapacity benefit reassessment in the helping claimants into employment*

[2] Barnes et al. (2010) *Employment and Support Allowance: Customer and staff experience of the face-to-face Work Capability Assessment and Work-Focused Health-Related Assessment – DWP report 719*

[3] Professor Harrington *An Independent Review of the Work Capability Assessment – year two* (November 2011)

[4] HM Courts and Tribunal Service *Quarterly Tribunals Statistics: 1 July to 30 September 2011*(January 2012)

[5] Hansard HC vol 530 col 661 (28 June 2011)

Challenges

Ability to engage with the process

If someone is severely unwell, they may be unable to coordinate their own medical evidence. The process of organising forms to be sent or making phone calls can be unmanageable at certain times in a person's illness. There appears to be little support in place from Department for Work and Pensions (DWP) for people who do not have access to other support or advocacy.

This inability to cope with the claim and assessment system was highlighted in a recent study commissioned by DWP. The study found that the majority of those who drop an ESA claim have been misinformed about the benefit, or would be unlikely to be eligible. However, the study identified a minority who simply cannot manage the claim process. These claimants are often the most vulnerable and isolated of disabled people, and are likely to have mental health problems.[6]

It is also common for people with mental health problems to under-report the severity or impact of their condition on the ESA50 claim form[7], and indeed in a face to face assessment.[8] This may be due to a lack of awareness ('insight') into their own condition, or because they are too ill.

Without the relevant expertise, it is often more difficult to assess disability through mental ill health than through a physical condition. Claimants can often struggle to clearly explain themselves to a person with whom they are unfamiliar. Many people with a psychotic illness may have difficulty communicating due to 'disorganised thinking', or due to being unable to concentrate for sufficient time to complete a conversation. Others may wish to give a favourable impression to the interviewer, possibly owing to feelings of shame.

For these reasons, it is vital for additional medical evidence to be easily accessible for assessors to understand the full extent of these conditions.

ESA 50 questionnaire

The ESA50 questionnaire is a form the claimant fills in as part of the Work Capability Assessment process giving details of their health condition. Currently, it is not explicit about whose responsibility it is to seek medical evidence. In the introductory text it states that if the claimant has medical reports they wish DWP to consider, these should be submitted with the form. However, there is no explanation of how providing medical evidence could be beneficial to the claim or how the claimant could proactively source this information.

The form also asks for the name and address of a health professional who knows the claimant. Along with unclear wording, this gives the impression that DWP will seek additional information from the named professional. In our experience, this is the assumption that many people make, especially if they are unable to engage further with the process. The reduction in the time limit for returning the ESA50 form is also problematic. From October 2011, claimants have been given four weeks, rather than six, to return the form before their case is considered closed. Given the barriers to coordinating medical evidence outlined above, reducing the time limit in which to do this makes it even more challenging.

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[6] DWP (2011) Unsuccessful Employment and Support Allowance Claims – qualitative research (http://research.dwp.gov.uk/asd/asd5/rports2011-2012/rrep762.pdf)

[7] The ESA50 claim form is a questionnaire which people are required to complete early on in the application process

[8] Slade, M., Phelan, M., Thornicroft, G. Parkman, S (1996)The Camberwell Assessment of Need (CAN): comparison of assessments by staff and patients of the needs of the severely mentally ill. *Social Psychiatry and Psychiatric Epidemiology*31, 109-113

Costs and quality of medical evidence

In some cases claimants are required to pay for medical evidence. We are concerned this is a further barrier to people being able to collate their own information. There is a danger this creates a two-tier system which excludes vulnerable clients with no means of paying for evidence.

It is not uncommon for claimants to be told that a report from their GP will cost them up to £35. One claimant was told recently by a psychiatrist that the charge would be £200 per hour for writing a report. Those living on the basic rate of ESA of £67 a week cannot afford to pay for medical evidence.

The quality of medical evidence has an impact on the decision making process. The quality of this evidence varies, and incomplete or poor quality evidence might not reflect the full extent of a person's condition. In cases where people struggle to self-report, good quality evidence is even more imperative as it can give the assessor a more accurate picture of a person's condition.

Recommendations: 'flagging' the most vulnerable claimants

In all cases where mental health needs have been identified, medical evidence should be collected before an assessment takes place. Accurate medical evidence from the start of the application process would ensure more people affected by mental illness are awarded the correct level of support. It would also reduce the number of people who have to go through a stressful and drawn out appeals process.

There should be a system in place to 'flag' claimants who have mental health problems. If these claimants have not submitted their own evidence, DWP should proactively contact their named healthcare professional for information. We understand that DWP currently sends out ESA113 forms to healthcare professionals to collect evidence and determine eligibility if they believe a face-to-face assessment might not be necessary. However, given the challenges people affected by mental illness face in self-reporting, the extent of their condition might not be obvious from their application. In addition, clinicians often report that the ESA113 does not allow them to give an accurate picture of the person's condition.

We believe there are a number of opportunities throughout the process where mental illness could be flagged so that responsibility for collating evidence transfers to DWP. These recommendations are not an exhaustive list and we, as a collective, welcome further discussion with the DWP on these proposals.

Recommendation 1: Information-sharing between NHS and DWP

People with the most complex needs are usually eligible for formal care coordination through their Community Mental Health Team, under the Care Programme Approach (CPA). People supported through CPA are likely to be the most vulnerable of those in contact with mental health services.

A formal information sharing arrangement between NHS and DWP could flag people on Care Programme Approach applying for ESA. By identifying this particularly vulnerable claimant group early on in the process, DWP could make sure evidence is collated if not already provided.

Similar information sharing processes are already in place, for example between DWP and local authorities. Here information is shared around an individual's admittance to or discharge from hospital so benefit arrangements can be altered accordingly.

Recommendation 2: Summary of information from the claimant's medical records

When someone claims ESA they give permission for DWP to request evidence from their GP. We would like to see a system in place where DWP requests from the GP a summary of information about the claimant's medical conditions and impairments for any claimant who is due to be assessed.

In most cases there is likely to be a considerable amount of evidence about a patient's health condition in the claimant's medical records, especially if a consultant has been involved in their treatment. We believe processes could be put in place to retrieve this information from surgeries' computer systems and forward it to DWP when requested. This would have minimal resource implications for GPs.

This summary of medical evidence from the GP could be held by DWP and updated when necessary. If medical evidence is needed to support any other claim (e.g. for a discretionary housing payment) the claimant could give permission for the relevant agency to receive a copy of the evidence.

There are likely to be many more decisions which are discretionary in the benefit system following the introduction of measures in the Welfare Reform Act. This is likely to lead to greater calls on GPs for medical evidence. This system would reduce the workload for GPs in these areas.

Recommendation 3: Statement of Fitness for Work

The statement of Fitness to Work is submitted as part of the claim process before the WCA is carried out. This could be an opportunity for GPs to flag up individuals with a mental health condition who may not be able to provide their own evidence. [9]

This could also flag up claimants receiving specialist care or treatment. This would be a timely opportunity to flag this issue. Evidence could then be collected by DWP ahead of the WCA to better inform the assessor or could make the face-to-face assessment unnecessary.

Recommendation 4: ESA 50 questionnaire

The ESA50 questionnaire, part of the claim process, could also be used to alert the DWP to people affected by mental illness who could face difficulty collating their own evidence. Clearer explanations of the benefits of medical evidence and the type of information that would be useful could prompt more people to submit information.

For example, this could be a question asking whether someone is supported through Care Programme Approach or if someone is currently seeing a consultant psychiatrist or mental health team. A similar question could also be part of the application process as above. If either of these questions are answered in the affirmative, this should prompt the DWP or Atos to request medical evidence[10].

[9] DWP *Employment and Support Allowance and Condition Management Programme – Healthcare professionals factsheet* (March 2009)

[10] Atos Healthcare currently holds the contract to deliver the Work Capability Assessment on behalf of the DWP

Citizens Advice Bureau

The Citizens Advice service is a network of nearly 400 independent advice centres that provide free, impartial advice from more than 3,500 locations in England and Wales, including GP's surgeries, courts and prisons. In 2010/11, the Citizens Advice service in England and Wales dealt with over seven million problems including over 2 million enquiries about benefits and tax credits. The service aims to provide advice people need for the problems they face and to improve the policies and practices that affect people's lives.

Mind

Mind is the leading mental health charity in England and Wales. We work to create a better life for everyone with experience of mental distress by:

- Campaigning for people's rights
- Challenging poor practice in mental health
- Informing and supporting thousands of people on a daily basis

A fundamental part of Mind's work is provided though our network of over 180 local Mind associations who last year worked with over 220,000 people running around 1,600 services locally. Services on offer include supported housing, crisis help lines, drop-in centres, counselling, befriending, advocacy, and employment and training schemes. Over 30,000 people are supported by our national telephone help lines. Welfare reform is a key issue for many of the people Mind has contact with.

Rethink Mental Illness

Rethink Mental Illness is a charity that believes a better life is possible for millions of people affected by mental illness. For 40 years we have brought people together to support each other. We run services and support groups that change people's lives and challenge attitudes about mental illness. We directly support almost 60,000 people every year across England to get through crises, to live independently and to realise they are not alone. We give information and advice to 500,000 more and we change policy for millions

Royal College of Psychiatrists

The Royal College of Psychiatrists is the leading medical authority on mental health in the United Kingdom and is the professional and educational organisation for doctors specialising in psychiatry.