

## Policy Briefing - Counting the Costs 2014

### Universal Credit, implications for families with disabled children

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#### Summary

- Under Universal Credit extra payments for a disabled child are to be cut by more than 50 per cent for the majority of disabled children.
- Consequently many families with a disabled child will be worse off. In particular, families whose caring responsibilities prevent them from working, and who qualify for the lower disability addition, appear certain to be worse off. This is because there is no prospect of them seeing the reduced disability addition offset by other features of the Universal Credit designed to make work pay.
- Whilst many working families with a disabled child will be better off under Universal Credit, some will be worse off. This will depend on individual family circumstances.
- Families who have a disabled child with 'looked after' status, or lone parent carers who are themselves disabled are also at particular risk of losing out under Universal Credit.
- Disabled children are already disproportionately likely to live in poverty and the introduction of Universal Credit is likely to increase the financial hardship faced by many families.
- No assessment into Universal Credit's impact on families with a disabled child as a specific group has been published.

## Contact a Family recommendations

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- Widen the criteria for the higher child disability addition to include children on the middle rate of the Disability Living Allowance (DLA) care component and children on the high rate mobility component (and the equivalent rates of Personal Independence Payment (PIP)).
- Increase the cap on the maximum help towards childcare for families who pay for childcare for a disabled child, to ensure they do not lose out as a result of having higher childcare costs.
- Increase the percentage of childcare costs met where a family has a disabled child to 90 per cent.
- Amend the size criteria rules to allow for the costs of an extra bedroom where this is required as a result of a disabled child's condition.
- Allow parents to continue to receive Universal Credit payments in respect of a disabled child who is living away from home solely due to their disability. Parents should be entitled to continue to receive Universal Credit payments in respect of that child regardless of whether they have looked after status.
- Automatically place a parent in the 'no conditionality' group if they provide at least 35 hours a week care to a severely disabled child and the only reason they are not eligible for Carer's Allowance is because their partner already claims it.
- Automatically place a full-time carer looking after someone waiting for a Disability Living Allowance (DLA) or Personal Independence Payment (PIP) decision in the 'no conditionality' group for up to 26 weeks (or until a decision has been made on the claim).
- Allow claimants aged under 25 to receive the standard adult allowance if they are claiming Universal Credit as a disabled person.
- Allow a parent carer who is disabled to receive both the carer addition and an adult disability addition in their Universal Credit award.

## About Contact a Family

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Contact a Family is the only UK-wide charity providing practical and emotional support and information to families with disabled children – regardless of disability or health condition. We deliver this through local, regional and nation offices plus family workers, volunteer parent representatives and a UK-wide helpline.

In one of the biggest surveys of its kind, with over 3,500 UK families with disabled children responding, *Counting the Costs 2014*<sup>1</sup> finds:

- the number of families with disabled children going without food has almost doubled to nearly a third (31 per cent) – **up** from 16 per cent in 2012
- a third (33 per cent) are going without heating (**up** from 21 per cent in 2012).

Families responding to the survey also say:

- 36 per cent have taken out a loan for basics (**up** from 29 per cent in 2012)
- A third are worse off as a result of benefit changes – nearly half by £1,560 a year
- 60 per cent see their financial situation worsening in the next year (**up** from 43 per cent in 2010).

The impact is stress, ill health and for some, marriage breakdown.

Contact a Family welcomes the government's determination to create a benefit system that is simpler, easier to understand, and with greater incentives for those who are able to work.

However, we are also conscious that for some parents with a disabled child, work is not a realistic option.

With this in mind we were initially encouraged by assurances that the government's reforms did not intend to reduce the levels of support 'for people in the most vulnerable circumstances'<sup>2</sup>. Against this background, Contact a Family had hoped that the government would endeavour to ensure that the introduction of the Universal Credit would not disadvantage families caring for a disabled child.

Unfortunately, the reality is that under Universal Credit many families with a disabled child will be left worse off.

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<sup>1</sup> [www.cafamily.org.uk](http://www.cafamily.org.uk)

<sup>2</sup> "21<sup>st</sup> Century Welfare" Department of Work and Pensions 2010; para 6 Executive Summary

## Detailed explanation and case studies

### Disability additions under Universal Credit

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#### Halving disability additions for disabled children under the Universal Credit

Under the present system, tax credit claimants with a child on Disability Living Allowance (DLA) or Personal Independence Payment (PIP) can receive an additional disability element for that child. This is £59.50 per week for 2014/15.

Children on DLA care component at the highest rate (or the PIP equivalent) qualify for a further additional payment called the severe disability element – bringing additional disability payments for a child on high rate DLA care component up to £83.58 per week.

For out-of-work families who have not yet claimed tax credits, there are equivalent additional payments within Income Support, and certain other means-tested benefits.

#### Child disability additions under Universal Credit

Like the benefits it is replacing, Universal Credit will also include an additional disability payment for children. This is known as a child disability addition and it will be paid at either a higher or a lower rate. Those children on the highest rate of DLA care component (or PIP equivalent) or with a severe visual impairment will qualify for the higher addition. This will be at a rate equivalent to that paid under the existing benefit system.

However, all other children on DLA/PIP will only qualify for the lower disability addition. This will be paid at a rate of £28.81 per week (£124.86 per month). This amounts to a cut of £30.69 per week, or almost £1600 per year. Since the addition is paid per child, families with two disabled children could see a cut of twice that amount.

Even under the current benefits system many families with a disabled child struggle financially. A recent survey carried out by Contact a Family<sup>3</sup> found a sharp rise in the numbers going without the basics like food and heating. Against this backdrop cuts to benefit payments under Universal Credit are likely to lead to significant financial hardship.

	Tax Credit rates 2013/14	Universal Credit rates 2013/14	Difference per week £	Difference per year £
Lower disability addition	£59.50	£28.81	- £30.69	- £1595.88
Higher disability addition	£83.58	£83.58	nil	Nil

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<sup>3</sup> Counting the Cost 2014

### **Case study A – lone parent who is out of work with lower disability addition**

Anita is a lone parent with one child aged four. Her daughter has a chromosome disorder and qualifies for DLA at the middle rate for personal care and the highest rate for mobility. Anita doesn't work due to her caring responsibilities and the lack of suitable childcare in her area. She receives Carer's Allowance, Income Support and Child Tax Credit. She also gets Housing Benefit of £100 per week towards the rent on her two-bedroom flat.

Under the existing benefits system Anita gets the following payments in addition to her DLA:

Carer's Allowance	£ 61.35
Child Benefit	£ 20.50
Income Support	£ 45.25
Child Tax Credit	£122.98
Housing Benefit	£100.00
<b>TOTAL</b>	<b>£350.08</b>

Under Universal Credit she would be entitled to:

Carer's Allowance	£ 61.35
Child Benefit	£ 20.50
Universal Credit	£237.54
<b>TOTAL</b>	<b>£319.39</b>

#### **Reduction of £30.69 per week**

As an existing claimant Anita would receive transitional protection to ensure her payments did not drop. However, a new claimant in Anita's circumstances would receive £30.69 per week less under Universal Credit than under the current benefit system.

### **Aligning payment rates does not mean equality of treatment**

The government has justified cutting the lower disability addition on the grounds that this aligns payments with additions for disabled adults. Presumably this is seen as ensuring that all disabled people receive similar levels of financial support regardless of their age.

In reality the Universal Credit system will not result in equality of treatment. This is due to differences that will exist in the eligibility criteria for the higher disability addition.

Disabled adults will qualify for the higher addition if they are assessed as having a limited capability for work-related activity. That is, the same test currently used to decide whether an adult falls into the support group for Employment and Support Allowance.

However, the test that will apply to children is significantly harder to satisfy. A child will only qualify for the higher addition if they have a severe visual impairment or if they are so severely disabled that they qualify for the highest rate of the DLA care component (or PIP equivalent).

In practice this means that the child must require not only substantial amounts of care throughout the day but also care during the night. A child without any visual impairment who doesn't require help during the night will only ever be eligible for the low rate disability addition – this will remain the case even if he or she has very severe and complex disabilities requiring continual care for the whole time that they are awake.

The only exception to this will be where a child has a terminal illness and their death is expected within six months.

As a result many severely disabled children whose needs are such that they will qualify for the higher disability addition once they start claiming Universal Credit as an adult will be restricted to the lower rate addition whilst they are treated as a dependent child.

### **The numbers of disabled children affected by cuts in the disability addition**

Analysis of tax credits and DWP statistics from 2011 suggest that around 289,000 parents qualify for disability additions under the existing system. Of these, around 170,000<sup>4</sup> will qualify for the lower rather than higher child disability addition and are consequently at risk of having their disability addition halved.

However, not all of these parents will necessarily be worse off under Universal Credit. Some working families with a disabled child will be better off overall, if gains arising from Universal Credit work incentives outweigh the cut to their disability addition.

The government estimates that 800,000 households with a disabled member will be worse off under Universal Credit, with a similar number being better off. However, these figures include disabled adults as well as children. The lack of any impact assessment for disabled children as a distinct group means it is not currently possible to predict the number of families with a disabled child who will be worse or better off.

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<sup>4</sup> According to HMRC figures from April 2011 there were 146,400 in-work families receiving an additional disability payment via Child Tax Credit. Of these 87,600 receive the basic (that is, lower) disability element. There were also 118,300 out-of-work families receiving a disability payment via Child Tax Credit. Of these, 67,500 qualify for the basic disability element. It is estimated that a further 15,000 families in receipt of DWP administered benefits receive a disabled child premium, which is an equivalent payment to the basic disability addition.

## Out-of-work families with a disabled child

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What seems certain is that families whose caring responsibilities prevent them from working at all will be worse off if their son or daughter qualifies for the lower disability addition. Since out-of-work families will not benefit from any of the features of the Universal Credit designed to make work pay, they will inevitably face a cut of almost £1600 per year, once any transitional protection is eroded.

These families are not out-of-work as a result of a life style choice. Substantial caring responsibilities, scarcity of suitable and affordable childcare and inflexible employment practices can all combine to make it extremely difficult for many parents with a disabled child to move into or sustain employment. This is particularly likely where the disabled child's parent is a lone parent<sup>5</sup> or where there is more than one disabled child in a household.

### Case study B – out-of-work couple with two lower disability additions

Mr and Mrs Singh have three children, all of whom have severe learning disabilities. One of their children receives DLA at the highest rate for personal care whilst his siblings both get the middle rate. Neither parent is able to work due to their childrens' care needs and they each receive Carer's Allowance. This is topped up with Income Support. They also receive Child Tax Credit and Housing Benefit of £140 per week on their three bedroom property. Under the existing benefits system, Mr and Mrs Singh get the following payments in addition to their DLA:

Carer's Allowance	£ 61.35
Carer's Allowance	£ 61.35
Child Benefit	£ 47.60
Income Support	£ 59.40
Child Tax Credit	£372.12
Housing Benefit	£140.00
<b>TOTAL</b>	<b>£741.82</b>

Under Universal Credit they would be entitled to:

Carer's Allowance	£ 61.35
Carer's Allowance	£ 61.35
Child Benefit	£ 47.60
Universal Credit	£510.14
<b>TOTAL</b>	<b>£680.44</b>

### Reduction of £61.38 per week

As existing claimants Mr and Mrs Singh would receive transitional protection to ensure their income did not drop when transferred to Universal Credit. However any new claimants in their circumstances would receive £61.38 per week less under Universal Credit than under the current benefit system.

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<sup>5</sup> Holes in the safety net: the impact of Universal Credit on families with disabled children. The Children's Society 2012

It is difficult to source reliable figures for the numbers of out-of-work families who will be worse off in this way. The number of children in out-of-work families claiming tax credits who qualify for the basic disability element (and who are therefore likely to see a cut in their disability addition under Universal Credit) was confirmed by HMRC in 2011 as 67,500<sup>6</sup>.

However, a further 25,000 out-of-work families do not receive tax credits and instead receive a disabled child premium via Income Support or income-based Jobseeker's Allowance. If we assume that the percentage of families who will qualify for the lower rather than higher addition is consistent with tax credits (around 60 per cent), this would suggest another 15,000 children in out-of-work families (that is, around 83,500 in total) are likely to be adversely affected.

The definition of an 'out-of-work' family that is used for tax credits includes not only families who are not working at all but also those who work insufficient hours to be eligible for Working Tax Credit. It is therefore possible that this 83,500 figure includes some families where a parent is engaged in a small amount of part-time work, who may see all or part of the reduced disability addition offset by gains resulting from other aspects of the Universal Credit design (for example, more generous earnings disregards).

Even taking this into account, it seems likely that tens of thousands of disabled children whose parents are unable to work due to their caring responsibilities will be worse off under Universal Credit - simply as a result of the disability addition being halved.

## **In-work families with a disabled child**

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Attempting to quantify the number of 'in-work families' (for example, those working a sufficient number of hours to be eligible for Working Tax Credit) who are likely to lose out is even more problematic. Recent HMRC statistics state that of 157,900 disabled children within 'in-work families', 59,700 qualified for the higher addition<sup>7</sup>. This leaves almost 100,000 children living in in-work families who will see their disability addition cut by £30.69 per week.

Despite a reduction in their disability element, it is likely that some of these working families will still be better off overall as a result of other features of the Universal Credit system such as more generous earnings disregards and a more flexible carer's addition. The chances of a working family being better or worse off will ultimately depend on the individual circumstances of each family.

For example, working families will be at an increased risk of being worse off under Universal Credit if they have more than one disabled child who does not qualify for the higher addition or if they have only a small amount of earnings (and so do not make full use of the higher earnings disregards).

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<sup>6</sup> Contact a Family correspondence with HMRC

<sup>7</sup> Child and Working Tax Credit statistics – tables 5.2 & 5.4; HMRC April 2012

### **Working families in rented accommodation with childcare costs**

Under Universal Credit the percentage of childcare costs met from April 2016 will be 85 per cent. However, families in rented accommodation can currently receive help with up to 89.5 per cent of their childcare costs via a combination of Working Tax Credit and Housing Benefit.

Parents of disabled children can face much higher childcare costs as a result of their child's disability<sup>8</sup>. As such they may be disproportionately likely to be affected by any reduction in help with childcare costs under Universal Credit.

If a reduction in the amount of help with childcare is combined with a cut in the lower child disability addition, some working families in rented accommodation with high childcare costs may end up slightly worse off overall.

#### **Case study C – lone parent in work. Lower disability element and maximum childcare costs**

Caroline is a lone parent with two children aged two and four. Her eldest child has a heart condition and gets DLA at the higher rate for mobility and low rate for care. Caroline works full time earning £25,000 pa and pays £100 per month into a works pension. Both children are in childcare costing £300 per week. She lives in a two bedroom housing association property with a rent of £150 per week.

Under the existing system, she gets the following payments (alongside DLA):

Child Benefit	£ 34.05
Child Tax Credit	£176.04
Working Tax Credit	£ 154.29
Housing Benefit	£ 96.12
<b>TOTAL</b>	<b>£460.50</b>

Under Universal Credit	
Child Benefit	£ 34.05
Universal Credit	£424.76
<b>TOTAL</b>	<b>£458.81</b>

**Loss of £1.69 per week.** As an existing claimant Caroline would receive transitional protection to ensure that her income did not drop. However, any new claimant in her circumstances would receive £1.69 per week less via Universal Credit than under the existing benefit system.

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<sup>8</sup> Parliamentary Inquiry into childcare for disabled children, July 2014

## Families in rented accommodation affected by the size criteria rules

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Universal Credit will replicate the size criteria rules that are currently a feature of Housing Benefit. These rules were amended in 2013 to allow the costs of an additional bedroom to be met where this is needed because a disabled child's condition prevents them from sharing with a sibling. However, despite this amendment, there are still many families who are losing out as a direct result of the fact that they need an extra bedroom because of their child's disability.

Firstly the amendment only applies to disabled children who get Disability Living Allowance (DLA) at certain rates. Contact a Family believes that the amendment should apply to all disabled children unable to share a room, regardless of whether DLA is in payment at a particular rate. There are various reasons why a child may not be getting DLA. For example, their parents may be challenging a refusal, or have returned to the UK from abroad within the last two years, or simply may not wish to claim.

In addition, many families require an extra bedroom not because their child is unable to share a bedroom but for other reasons connected to their disability. In some cases families will have been allocated a property of a particular size precisely because of the needs of their disabled child. For example a child may require specialist equipment that is difficult to store, or a sensory room or similar therapeutic space. Other families may need an extra room for an overnight carer for their disabled child.

Families in this position face a dilemma. Unless they are lucky enough to get discretionary housing payments, they either have to move to a smaller property that is unsuitable for their disabled child or face a cut in help towards rent of at least 14 per cent. Faced with this choice many feel they have little option but to remain in their existing tenancy and see the help they receive towards rent reduced.

Essentially, families in these circumstances are penalised for requiring an additional room as a consequence of their child's disability.

Whilst it is true that central government has increased the funding for discretionary housing payments, demand for these payments has increased dramatically. Our helpline team has spoken to parents whose local authority have told them that they are unlikely to be given a discretionary housing payment if their need for financial support is likely to be long term. Even in those cases where a family is awarded a discretionary payment initially, uncertainty about the chances of this being renewed causes great stress for those families affected.

Research from Contact a Family published in May 2014 shows that nearly one in ten families with disabled children are still affected by bedroom tax or similar rules in the private rented sector, with 38 per cent experiencing a cut to their Housing Benefit of more than £25 a week. The research also shows that the vast majority (80 per cent) of families with disabled children who applied for discretionary housing payments had been turned down.

Families who need an additional room due to reasons connected to their child's disability should not be penalised. They should receive help with the costs of that additional room as a right and not have to rely on a discretionary form of support.

Contact a Family believes that the size criteria rules applying to both Housing Benefit and Universal Credit should be amended so that if an additional bedroom is required as a direct result of a disabled child's needs, the costs of an additional bedroom are always met.

#### **Case study D – impact of size criteria rules**

Donna is a lone parent with one child aged nine. Her daughter is on the autistic spectrum with challenging behaviour and a sleep disorder. She qualifies for the higher rate of the mobility component. Donna claims Carer's Allowance, Income Support and Child Tax Credit. Because of her child's sleep disorder a care worker stays over at the family home four nights per week. Donna was previously allocated a three bedroom tenancy to facilitate this overnight care. Prior to April 2013 Housing Benefit had met her full rent of £100 per week.

As a result of the introduction of size criteria to social housing, Donna's Housing Benefit was **cut by £14 per week**. She is deemed to only require a two bedroom tenancy for Housing Benefit purposes, despite the fact that an extra room is needed for an overnight carer. Since Universal Credit replicates the Housing Benefit rules, the help she will get towards rent costs under the new benefit will feature the same 14 per cent shortfall.

### **Parents of a disabled child who are themselves disabled**

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Under the current system a parent with disabilities who is caring for a disabled child can receive both an adult disability addition and a carer's addition in their means-tested benefits.

This is in contrast to Universal Credit, where a claimant can either qualify for an adult disability addition or a carer's addition, but not both. This is likely to mean a loss of at least £28.75 per week, in addition to any cut they experience as a result of their child qualifying for the lower disability addition.

This rule is likely to have a particular impact on lone parents. Where a couple includes a carer who is disabled, there may be scope for the non-disabled partner to qualify for a carer addition instead. This will allow that household to retain both a carer and a disability addition in their Universal Credit award. In contrast a lone parent with disabilities who is also a carer seems certain to lose out.

Where a disabled lone parent gets the daily living component of Personal Independence Payment (or its equivalent rates of DLA care component) then the loss could be even more dramatic. This is because that parent may also lose the severe disability premium, another additional payment made under the current benefits system but due to be scrapped under Universal Credit.

### Case study E – lone parent who is both a carer and a disabled adult

Shazia is lone parent with a two year old who has global developmental delay. She receives DLA middle rate care for her child alongside Child Benefit and Child Tax Credit.

Shazia suffers from depression and anxiety problems and receives income- related Employment and Support Allowance (irESA) in the work-related activity group. She has a mortgage of £80,000 and receives help with the interest on her housing costs via her ESA award.

Under the existing benefits system Shazia gets the following payments in addition to her DLA:

Carer's Allowance	£ 61.35
Child Benefit	£ 20.50
irESA	£133.87
Child Tax Credit	£122.98
<b>TOTAL</b>	<b>£338.70</b>

Under Universal Credit she would be entitled to:

Carer's Allowance	£ 61.35
Child Benefit	£ 20.50
Universal Credit	£194.30
<b>TOTAL</b>	<b>£ 276.16</b>

Reduction of £62.54 per week as a result of the cut in child disability addition and loss of adult disability addition.

As an existing claimant Shazia would receive transitional protection to ensure her income did not drop. However, any new claimant in her circumstances would receive £62.55 less per week under Universal Credit than under the current benefit system.

If Shazia was also in receipt of the daily living component of Personal Independence Payment then her irESA would be £194.97 as a result of the inclusion of an additional severe disability premium. The cut faced under Universal Credit would then be correspondingly higher at £123.64 per week.

## Disabled children living away from home

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Contact a Family is also worried that under Universal Credit, financial support will be reduced for many families who have a disabled child living away from home either in a residential setting or elsewhere, such as in hospital.

Under current tax credit regulations a parent can continue to receive payments for a child who is looked after by the local authority in a residential setting, so long as they are in that accommodation solely because of their disability. Unfortunately, no equivalent concession exists under Universal Credit. Instead the Universal Credit regulations prevent a child from continuing to be included in your claim if they are 'looked after' under section 22 of the Children Act or section 17 (6) of the Children Scotland Act.<sup>9</sup> The only exception to this is where the child is looked after as part of a planned short break.

As a result, it appears that Universal Credit payments in respect of disabled children will stop not only where that child is in residential care but also where a child is in a residential school partly because of a need for care or accommodation rather than solely for educational reasons.<sup>10</sup>

The parents of most disabled children with looked after status continue to incur significant costs in meeting their needs, still paying for clothing, personal belongings as well as the costs of leisure or social activities.

In many cases 'looked after' children will be returning home frequently, not only during school holidays but also during term times. Some looked after children return home every weekend. Nevertheless a parent will be unable to receive any Universal Credit payments for that child even during those periods when they have returned home temporarily. These families will be denied payments towards the upkeep of a looked after child despite continuing to incur significant costs linked to meeting their needs.

In addition payments for disabled children who are not looked after but who are temporarily absent from the home can also be restricted.

Under Universal Credit payments for a child will only continue if a temporary absence from home is not expected to exceed six months<sup>11</sup>. Where a child is expected to be absent from home for a longer period, payments will cease.

This will impact on families who have a disabled child who is absent from home for more than six months because they are in hospital – children in respect of whom payments can continue to be paid indefinitely under the existing tax credits system.

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<sup>9</sup> Regulation 4(6) (a) Universal Credit Regulations 2013

<sup>10</sup>R (O) v East Riding of Yorkshire CC [2011] EWCA Civ 196

<sup>11</sup> Regulation 4(7) of the Universal Credit Regulations 2013

## **Knock-on effects of ceasing to be treated as responsible for a child living away from home**

Families with a disabled child living away from home not only face the prospect of all Universal Credit payments for their child stopping. They also run the risk of further subsequent cuts in financial support as a consequence of no longer being treated as 'responsible' for the disabled child that is temporarily away from home.

For instance, where a child has 'looked after' status, then after six months they will cease to be included as part of the household when calculating the number of bedrooms needed under the size criteria rules. This means that some families will see the loss of Universal Credit payments for their looked after child being followed by a cut in the help they receive towards their rent six months later.

Out-of-work families will also face the prospect of losing protection from the benefit cap. This cap does not apply to a household where a child or qualifying young person for whom the claimant is 'responsible' receives Disability Living Allowance<sup>12</sup>. However, since a parent will cease to be responsible for a disabled child if they are looked after by the local authority or temporarily absent from home for more than six months, families in those scenarios also seem destined to lose this protection.

## **Conditionality and two carers providing full-time care to the same disabled child**

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Contact a Family had expected that any parent providing at least 35 hours a week care to a severely disabled child would automatically be exempt from having to look for work as a condition of claiming Universal Credit. However, under the Universal Credit rules it appears that where a child's disability is so complex that each parent provides 35 hours a week care, only one of them will automatically be exempt from all conditionality. This is because you are only automatically placed in the 'no conditionality' group of claimants if you satisfy the conditions of entitlement for Carer's Allowance (other than earnings rule)<sup>13</sup>.

A problem emerges because only one person can be entitled to Carer's Allowance in respect of any one severely disabled person at any one time<sup>14</sup>.

With only one carer automatically exempt from conditionality, the other carer will be reliant on the discretion of DWP staff in deciding whether they will be required to comply with work search conditions or not.<sup>15</sup> The original draft of the guidance on

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<sup>12</sup> Regulations 4 and 83 (f) of the Universal Credit Regulations 2013

<sup>13</sup> Section 19 (2)(b) of the Welfare Reform Act states that any claimant who has 'regular and substantial caring responsibilities for a severely disabled person' falls under the 'no conditionality group'. However, Regulation 30 of the Universal Credit Regulations 2013 defines regular and substantial caring to mean satisfying all of the conditions of entitlement to Carer's Allowance other than the earnings rule.

<sup>14</sup> Section 70 (7) of the Social Security Contributions and Benefits Act 1992

<sup>15</sup> Regulation 89b of the Universal Credit Regulations allows that where a carer looks after a severely disabled person for 35 hours or more but does not meet the qualifying conditions for Carer's Allowance they can be placed into the no conditionality group - but only where 'the secretary of state is satisfied that it would be unreasonable' to require the claimant to comply with job availability and job search.

Universal Credit<sup>16</sup> had stated that claimants who were 'not in the receipt of the carer's element but who do have caring responsibilities of at least 35 hours in a week for a severely disabled person' would be placed in the no conditionality group.

Unfortunately the Universal Credit regulations do not reflect this original aspiration. Instead carers who provide full time care to a severely disabled person but whose entitlement to Carer's Allowance is blocked by another carer's claim will be expected to look for work. The regulations make clear that this will be a condition of their Universal Credit claim, unless DWP staff accept that this would be unreasonable.

In Contact a Family's view it would never be reasonable to expect someone who already provides a minimum of 35 hours a week care to also be available for and looking for work. Those full time carers unable to juggle their caring role to somehow accommodate this will face the possibility of benefit sanctions. Contact a Family believes that this position is unacceptable

Staff on our helpline regularly speak to parents on Income Support who describe being pressurised to look for work by Jobcentre staff, despite the fact that they are actually exempt from any requirement to job seek. Given this track record we have little confidence that Jobcentre staff will be willing to exercise their discretion under Universal Credit and agree it is unreasonable to expect a full-time carer to take part in work search and work availability.

These regulations should be amended so that all carers providing at least 35 hours a week care to a severely disabled person are exempt from any expectation that they job seek.

Alternatively, guidance should make clear that where the only reason a claimant does not meet the conditions of entitlement to Carer's Allowance is because someone else already receives that benefit in respect of the same severely disabled person, they should be placed in the no conditionality group under regulation 89 (b) unless exceptional circumstances apply.

### **Conditionality for full time carers awaiting a decision on a DLA/PIP claim**

Under the current system a person with caring responsibilities can claim Income Support as a carer whilst they are looking after someone who is awaiting a decision on a DLA/PIP claim. They can be treated as a carer on this basis for up to 26 weeks or until a decision is made on the DLA/PIP claim – whichever happens first.

By allowing carers to claim Income Support rather than Jobseeker's Allowance during this temporary period they are effectively made exempt from conditionality. This is a common sense concession that provides an important safety net for low-income carers.

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<sup>16</sup> Paragraph 221, 6<sup>th</sup> bullet point 'Explanatory Memorandum for the Social Security Advisory Committee - Universal Credit Regulations 2012' DWP

Unfortunately there appears to be no similar concession within Universal Credit regulations. A full-time carer awaiting a DLA/PIP decision cannot be treated as entitled to Carer's Allowance since this requires the award of a disability benefit to have been made. Consequently they have no automatic entitlement to be placed in the no conditionality group.

Furthermore the discretionary power to waive conditionality<sup>17</sup> for those providing 35 hours a week care only applies where someone looks after 'a severely disabled person'. Since someone can only be classed as severely disabled once they qualify for DLA (or PIP) at certain rates, this avenue is also closed to the carers of children still awaiting a DLA or PIP decision.

In the absence of any other specific provisions it appears that these carers would be expected to job seek as a condition of their Universal Credit claim. It is true that they would be able to place some restrictions on their work search in line with their caring responsibilities<sup>18</sup> - but only where these restrictions did not prevent them from having reasonable prospects of obtaining work. This would do nothing to help those carers where the reality of their caring role prevents them from looking for work at all. These carers are at risk of being refused Universal Credit simply as a consequence of the fact that it can take several months for a decision to be made on a DLA/PIP claim.

## **Reduced payments for some young disabled people aged under 25**

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Under Universal Credit all single claimants aged under the age of 25 will receive a reduced rate of the standard allowance. This contrasts with the current Employment and Support Allowance (ESA) rules, where payments for a young disabled person are only reduced in the initial assessment phase and not once they have been accepted as having a limited capability for work.

As a result of these rules young disabled people who are less severely disabled (that is, those who are currently placed in the work-related activity group of ESA) are likely to get £15.05 per week less under Universal Credit than under ESA.

The situation is more complex for those aged under 25 who are more severely disabled (that is, those who would currently fall within the support group of ESA). Some of these claimants may be much worse off, such as those who live independently and who would qualify for an extra severe disability premium under the existing system. This is because the severe disability premium, an extra amount to help buy extra care and support, is not being replicated in Universal Credit.

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<sup>17</sup> Regulation 89(b) Universal Credit Regulations 2013

<sup>18</sup> Regulation 88 Universal Credit Regulations 2013

However, those young disabled claimants who are in the support group and who are not living independently should be slightly better off – this is because increased payments made as part of the higher disability addition will outweigh the cut in the standard allowance. Nevertheless the gains seen by these young adults under Universal Credit will be much more modest than their contemporaries aged 25 or above

### Weekly payments for disabled young people aged under 25

	Income-related Employment and Support Allowance	Universal Credit	Change
Limited capability for work (work-related activity group of claimants)	£101.15	£86.10	-£15.05
Limited capability for work-related activity (support group of claimants)	£123.70	£129.13	+£5.43
Limited capability for work and eligible for the severe disability premium	£184.80	£129.13	-£55.67

### Transitional protection

The government has promised transitional protection to ensure existing claimants do not lose out when they are moved over onto the Universal Credit. However, since these protected payments will be frozen, even those who are transitionally protected will be worse off over time. In addition transitional protection will be lost following certain significant changes of circumstances such as stopping work or a separation from a partner<sup>19</sup>.

Transitional protection will be of no help to those future generations of disabled children who first start to qualify for disability additions after the introduction of the Universal Credit. It is clear that many parents of disabled children who first claim after the introduction of Universal Credit will receive lower payments than under the current system.

<sup>19</sup> Part 6, Universal Credit Briefing Note – Transitional Protection and Universal Credit DWP Dec 2012

## The impact of Universal Credit on families with a disabled child

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Some working families will be better off under Universal Credit. Even where a child's disability addition is halved, other work incentives built into Universal Credit may leave that family better off.

However, other working families, such as those with more than one child who qualifies for the lower disability element, are likely to lose out.

For those parents whose caring responsibilities prevent them working the situation appears more stark.

Unless their disabled child is registered blind or getting DLA care component at the highest rate, an out-of-work family is likely to receive almost £1,600 a year less than under the existing benefits system. Families with more than one disabled child will see much greater losses.

This will apply immediately to out-of-work families who first claim benefit after Universal Credit's introduction. These families could receive up to £25,000 less by the time their disabled child turns 16.

Existing claimants will have transitional protection but they too will be worse off over time as these top-up payments are eroded by inflation.

**Contact a Family is therefore calling on government to make our recommended changes to the rules for claiming Universal Credit.**

Contact a Family  
November 2014