
DRAFT STATUTORY INSTRUMENTS

2013 No.

The Employment and Support Allowance Regulations 2013

PART 4

Limited Capability for Work

Exceptional circumstances

25.—(1) A claimant who does not have limited capability for work as determined in accordance with the limited capability for work assessment is to be treated as having limited capability for work if paragraph (2) applies to the claimant.

(2) Subject to paragraph (3), this paragraph applies if—

(a) the claimant is suffering from a life-threatening disease in relation to which—

(i) there is medical evidence that the disease is uncontrollable, or uncontrolled, by a recognised therapeutic procedure; and

(ii) in the case of a disease that is uncontrolled, there is a reasonable cause for it not to be controlled by a recognised therapeutic procedure; or

(b) the claimant suffers from some specific disease or bodily or mental disablement and, by reason of such disease or disablement, there would be a substantial risk to the mental or physical health of any person if the claimant were found not to have limited capability for work.

(3) Paragraph (2)(b) does not apply where the risk could be reduced by a significant amount by—

(a) reasonable adjustments being made in the claimant's workplace; or

(b) the claimant taking medication to manage the claimant's condition where such medication has been prescribed for the claimant by a registered medical practitioner treating the claimant.

(4) In this regulation "medical evidence" means—

(a) evidence from a health care professional approved by the Secretary of State; and

(b) evidence (if any) from any health care professional or a hospital or similar institution,

or such part of such evidence as constitutes the most reliable evidence available in the circumstances.