Department
for Work &
Pensions

7 July 2020

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Contract Management and Partner Delivery
Level 3, Hartshead Square, Sheffield
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Dear (REDACTED)

Following the introduction of PIP telephone assessments in response to Covid-19, we would like to set out some recent decisions and supporting information relating to their delivery and implementation.

The Policy decisions are:

- Further Medical Evidence (FME) should continue to be requested as it has emerged that many NHS GPs may have the capacity to complete these.

- The introduction of the 18-month minimum award review period is to be postponed while we focus on the COVID measures. In the meantime, Health Professionals (HPs) and DWP Case Managers (CMs) can use their discretion to award shorter awards (e.g. minimum of 9 or 12 months) where decisions are based on very limited evidence, as with the current criteria for BAU cases these should be 'exceptional'.

- Where the claimant is unable to undertake a telephone assessment and the existing processes have been considered, two further measures can be used to support a PIP recommendation, these are:

  - HPs can carry out the assessment with the claimant's representative (family member or other third party) where prior consent is given then, if that is not possible;
  - A "best endeavour" decision can be made on PIP entitlement.

The further measures, described above, for when a claimant is unable to undertake a telephone assessment should apply with immediate effect. For more information on how to implement these please see Annex A, which will enable HPs to make recommendations in these cases.

Please note this action is without prejudice to any Authority rights under the Contract and is not intended to, and does not nor shall be deemed in any manner to waive,

limit, impair, or restrict the Authorities rights, remedies, and interests under the contract or otherwise.

Yours sincerely

(REDACTED)

Annex A

Claimant unable to undertake a Telephone Assessment (TA)

1. Introduction

1.1 Some claimants are not able to undertake a telephone assessment because of their health condition/disability, having no access to a phone or because they encounter persistent phone connection issues which makes completing a telephone assessment impossible.

1.2 Identification that a claimant is unable to undertake a telephone assessment may happen at various points in the assessment process, and it may only be identified when they fail to complete or attend a telephone assessment. HPs will need to be aware of this and be able to adjust their approach accordingly.

1.3 Initially, HPs will undertake a PBR, PBR+ and consider FME then, where a telephone assessment is needed but cannot be undertaken, even by a 3 way call with an Appointee/representative or with an Appointee acting on the claimant's behalf, Assessment Providers will need to:

- Check with DWP if there is evidence from any ESA/UC claims – the process and contact details to follow

- Take steps to gain a claimant's phone number or establish an alternative telephone contact where the claimant does not have access to a phone or has persistent phone connection issues – see section 2 **if that is not successful;**

- Establish if the claimant has a representative who can undertake the assessment on their behalf with the claimant's consent – see section 3 **then, if that is not possible;**

- Make a best endeavours recommendation – see section 4

2. Claimants with no access to a phone or have persistent phone connection issues

2.1 Where there is no phone number held for a claimant, Providers should:

- Supply DWP CMPD with a list of claimants with no phone number so that DWP can search to obtain an alternative usable phone number. Please send requests by PGP to (REDACTED); and (REDACTED)

Then if a phone number cannot be obtained;

- Write to the claimant requesting them to supply a phone number or identify a representative to undertake the telephone assessment on the claimant's behalf, within two weeks.
  If there is no response to the letter within 2 weeks;

- Ensure all steps to carry out a telephone assessment or PBR have been exhausted before completion of a Best Endeavours report.

2.2 It is recognised there may be a small group of claimants with persistent phone signal issues that mean the successful completion of an assessment is not possible. In these cases, providers should:

- Evidence that it is the claimant's persistent signal issues and not the HPs. (Evidence could include full signal displayed on the mobile phone and no other appointments were impacted for that HP that day)

- Make at least two attempts (on different days) to carry out the assessment

- Consider if there are any alternative phone numbers available to complete the assessment.
  Then if a telephone assessment still cannot be completed;

- Check if the claimant has a representative available to complete the assessment on their behalf.
  If that is not possible;

- Ensure all steps to carry out a telephone assessment or PBR have been exhausted before completion of a Best Endeavours report. Any evidence gained from the abandoned telephone assessment should help with this.

3. Representative undertaking the telephone assessment on behalf of the claimant

3.1 Where a claimant cannot undertake a telephone assessment and other options for gathering evidence have been explored i.e. PBR, PBR+, FME, 3 way calls, telephone assessment with an Appointee, then Assessment Providers should establish if the claimant has a representative (family member or 3rd party) who can undertake the assessment on their behalf.

3.2 Consent will be needed from the claimant and the representative for the specific purpose of representation for the telephone assessment and the DWP PIP decision only.

3.3 If, however, the claimant needs ongoing support and representation, consideration should be given as to whether they need an Appointee which can be arranged through DWP.

3.4 HPs can gather consent from the claimant verbally over the phone prior to, or during the assessment following the process set out below.

3.5 Once the telephone assessment is completed with the representative the HP should annotate the top of the PA3 or PA4 to highlight to the Case Manager (CM) that the telephone assessment was undertaken with the representative, rather than with the claimant. The following wording should be used: 'Claimant and representative consent provided and TA undertaken by representative [representatives name] date [with/without] the claimant being present'.

3.6 Sometimes, it may prove difficult to fully complete the assessment with the representative acting on the claimant's behalf, as the representative may not be able to provide all the information required, but the additional information gained should still be considered alongside all the other evidence gathered to help a more robust recommendation to be made.

Withdrawal of consent

3.7 Claimants should be made aware that they can withdraw this consent at any time. Where the AP is notified of this they should alter any records accordingly.

Consent for a representative to undertake a PIP telephone assessment on behalf of the claimant

3.8 A representative is different to an appointee – it is not an appointment underpinned by legislation.

The claimant must give their permission to allow a representative to act for them in the telephone assessment. This permission is called **explicit consent**. The claimant must provide explicit consent before a representative can act on their behalf and any information relating to the assessment can be disclosed to a representative.

3.9 Explicit consent can be provided by the claimant in writing or on the telephone. The claimant can do this at any time before or during a telephone assessment. Explicit consent does not last forever, it will only last in order for the representative to undertake the telephone assessment and answer any

questions arising from the DWP Case Manager when making the PIP decision.

3.10 It is essential that the person chosen by the claimant to act as their representative is someone who knows the claimant well, knows about their disability and/or medical condition(s) and knows how the disability and/or medical condition affects the claimant's mobility and their ability to carry a range of daily living activities. Without this knowledge the representative will not be able to answer relevant questions in the telephone assessment.

3.11 The Assessment Provider must ensure the claimant gives them verbally or in writing:

- the name of the representative (who is over the age of 18)
- the representative's relationship to claimant, where the representative is a family member or friend
- consent for the representative to conduct a telephone assessment on the claimant's behalf
- consent for the claimant's personal information relating to that assessment only to be shared with the representative
- Assurance that the representative has agreed to be a representative and knows their role
- Assurance that the representative knows about their disability and/or medical condition(s) and how this impacts on their mobility and their ability to complete daily living activities.

Information that should never be disclosed to the representative

3.12 The following information should never be given to a representative, even if the claimant has given explicit consent:

- the claimant's address
- the claimant's date of birth
- the claimant's National Insurance number
- the claimant's bank details
- the claimants telephone numbers

The claimant can withdraw the consent for a representative at any time:

- by telephone by contacting the DWP PIP enquiries number
- by telephone by contacting the Assessment Provider
- in writing to either DWP or the Assessment Provider

The Assessment Provider's contact with the Representative

3.13 Once the claimant has given explicit consent, the representative will need to confirm the following details when they are contacted by the Health Professional (HP) in order to undertake the telephone assessment:

- the claimant's full name
- the claimant's address or date of birth
- the purpose for which they are being required to act as representative
- their name and relationship to the claimant
- that they know the claimant well, have knowledge of the claimant's disability and/or medical condition(s) and how this impacts on the claimant's mobility and daily living activities

3.14 If there is any doubt as to the identity of the representative the HP should terminate the telephone call and the telephone assessment will not go ahead.

3.15 Where the representative is unable to confirm that they have knowledge of the claimant's disability and/or medical condition(s) and how this impacts on the claimant's mobility and their ability to complete daily living activities, the HP should terminate the telephone call.

3.16 If the contact is to be with the representative only (not as part of a three-way phone call) the claimant should make their representative aware that the Provider will be contacting them and that they will be asked for this information.

Gaining the consent of the representative

3.17 The person who has been nominated to act as a representative by the claimant must give their explicit consent to act in this role. The representative can give their consent verbally or in writing to the Assessment Provider. The representative must provide consent before the telephone assessment goes ahead. The representative should be made aware that they can withdraw their consent.

Withdrawal of consent by the representative

3.18 If the representative no longer wishes to act as a representative for a claimant, they can withdraw their consent at any time. Consent can be withdrawn by:

- telephone by contacting the DWP PIP enquiries number
- telephone by contacting the Assessment Provider conducting the telephone assessment
- in writing to either the DWP or the Assessment Provider.

The collection and use of information (Data Protection and GDPR)

3.19 The representative needs to be informed how the information collected about them will be used, managed and stored. The representative should be informed by the HP that their name, telephone number and relationship with the claimant will be noted on the PA3/PA4 (and any provider systems if applicable) as representing the claimant at that telephone assessment and decision. The representative should also be informed of how long the information will be retained, the PA3/PA4 will be retained for 24 months after the case is closed.

4. Best Endeavours (BE) recommendations

4.1 Once all other options for completing an assessment have been exhausted a best endeavours recommendation can be made for those claimants who are unable to undertake a telephone assessment.

4.2 The Assessment Provider's HP should follow the BAU Best Endeavours process to make a recommendation to inform the DWP decision using the evidence available. Where evidence is very limited, cases should have shorter award review periods (e.g. minimum of 9 or 12 months). DWP Case Managers retain the discretion to make nil awards where, despite all attempts to gather evidence, there is insufficient evidence of entitlement to PIP.

Recording BE recommendations and decisions

4.3 Where a BE recommendation is made, HPs should annotate the top of the PA3 or PA4 'The report has been written as a PBR due to exceptional/extenuating circumstances'

4.4 CMs should note PIPCS decision assist – 'Covid19 Best Endeavours decision and the date'.

MI for Best Endeavour cases

4.5 APs will need to provide daily MI to DWP:

- NI numbers of BE cases
- The reason for the BE decision which can be: health condition/disability, no access to a phone and phone connection issues
- The type of claim e.g. New Claim / Change of Circumstance
- Date of the case is being closed and returned to DWP.

4.6 To ensure the information is provided in a suitable format to use, please complete the template below and return it to: (REDACTED).

Audit for Best Endeavours decisions

4.7 As the number of best endeavours cases is expected to be low, audit for these cases is suspended, provided these cases are appropriately marked and the correct process has been followed. CMPD will review a sample to ensure the process is being applied correctly and carry out an extra check on cases which score nil/nil. This approach could be subject to change if the number of BE recommendations increase.