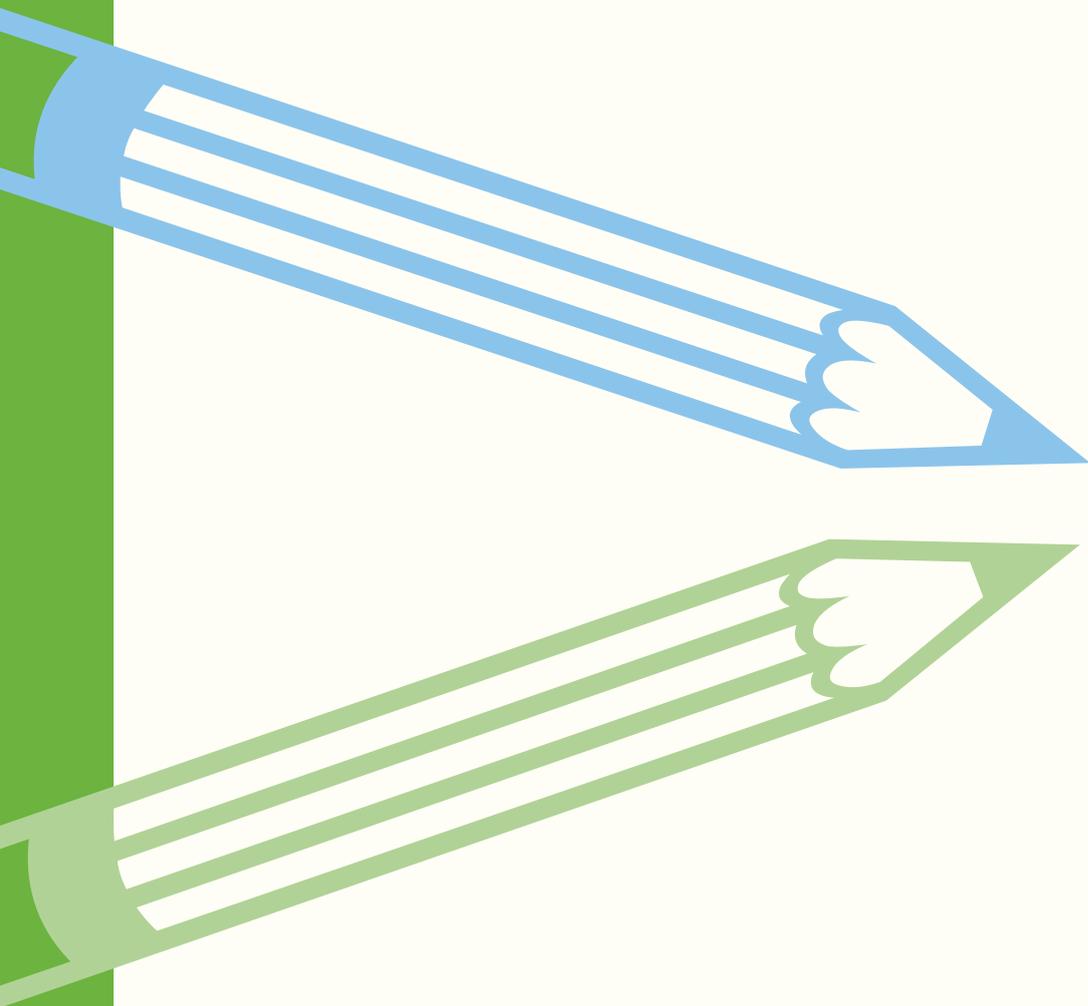


Date revised: November 2017

# Migraine: Help with welfare benefit rights



Date revised February 2018

the  
**migraine**  
trust



# Contents

This document provides you with information and guidance on welfare benefits that you or someone you are an advocate for may be entitled to as a result of migraine. The information in this document is not a substitute for individual, detailed advice as to an individual's particular rights and circumstances from medical or legal professionals.

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For further information, visit The Migraine Trust website [www.migrainetrust.org](http://www.migrainetrust.org) or email [advocacy@migrainetrust.org](mailto:advocacy@migrainetrust.org)



# What is migraine?

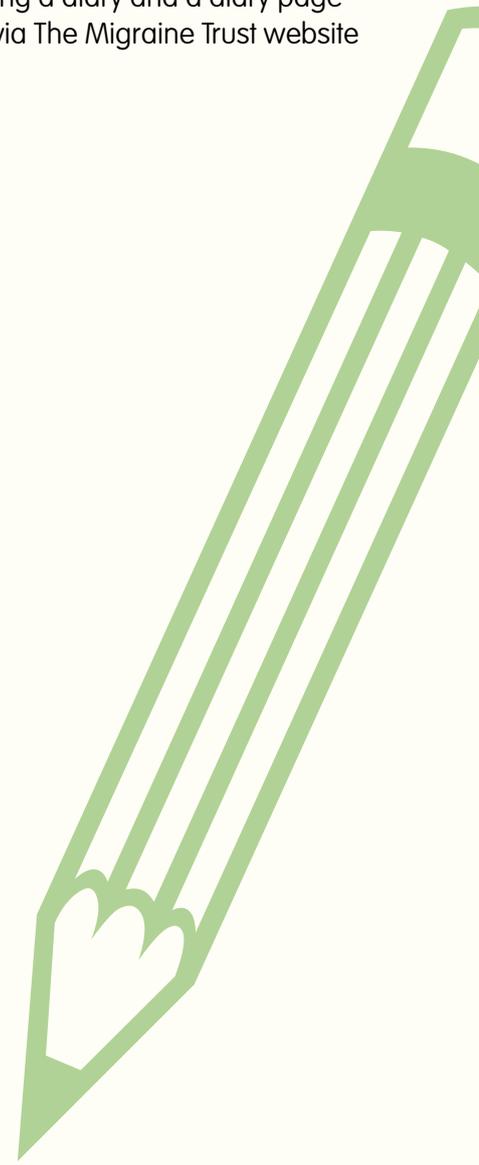
**Migraine is a complex neurological condition with a wide variety of symptoms. For many people the main feature is a severe throbbing headache which can last from four to 72 hours. Other symptoms may include disturbed vision, sensitivity to light, sound and smells, feeling nauseous and vomiting.**

The symptoms will vary from person to person and individuals may have different symptoms during different attacks. Migraine attacks may differ in length and frequency and most people are free from symptoms between attacks. Migraine can have an enormous impact on work, family and social lives.

The complex nature of migraine means that the treatments available are varied and differ from person to person. There is currently no cure for migraine.

## Keeping a migraine diary

Keeping a migraine diary can help to get a diagnosis, identify trigger factors and attack warning signs, and monitor the effectiveness of treatments. More information about keeping a diary and a diary page template can be found via The Migraine Trust website [www.migrainetrust.org](http://www.migrainetrust.org)



### Additional support

See our other resources:

**Help in work**

**Help in further and higher education**

at [www.migrainetrust.org](http://www.migrainetrust.org)



# Claiming welfare benefits due to issues arising from migraine

**Claiming welfare benefits will depend on your individual circumstance and how your migraine affects you, which may vary at times. We look at what benefits you may be entitled to in different circumstances below.**

## What benefits are available to me if I am unemployed?

If you feel able to work, but do not currently have a job (or just have a part time job of less than 16 hours a week) you may be able to apply for Jobseeker's Allowance (JSA). There are two types of JSA:

- **Contribution-based JSA:** can only be paid for up to six months. To be entitled to it, you need to have paid enough National Insurance contributions in recent years.
- **Income-based JSA:** can be paid indefinitely. It is a means-tested benefit. Your needs (and those of your partner, if applicable) are compared with your resources, such as your and your partner's income and savings, and income-based JSA worked out from the result. In some areas of the country, income-based JSA is being replaced by a new benefit: Universal Credit. To find out if you are eligible to claim Universal Credit in your area (based on your postcode and circumstances), go to: [www.gov.uk/universal-credit/eligibility](http://www.gov.uk/universal-credit/eligibility)

To be entitled to either type of JSA, you need to be available for and actively seeking work. Your benefit can be sanctioned, or reduced, if you do not meet these conditions. You can limit your availability for work if that is reasonable given your migraine. For example, if you suffered dizzy spells, you would not be expected to look for jobs where these would clearly be dangerous. You can ask to discuss these matters with a work coach at your Jobcentre.

To claim JSA online go to [www.gov.uk/jobseekers-allowance/how-to-claim](http://www.gov.uk/jobseekers-allowance/how-to-claim), or ring the national claim number: 0800 055 6688; textphone 0800 023 4888.

If you need help to pay your rent, you could claim Housing Benefit. Contact your local authority for details.

If you have children to support, you could claim Child Tax Credit. To claim, call the Tax Credit Helpline: 0345 300 3900; textphone 0345 300 3909.

## My employer has dismissed me from work due to my migraine, can I apply for benefit?

If you have been dismissed by your employer due to issues arising from your migraine condition, you may be able to apply for benefit. If the reason for the dismissal is because your ability to work is limited, you may be able to apply for Employment and Support Allowance (ESA) (see below). If you are dismissed by your employer due to your migraine but you are able to return to work, you may be able to claim JSA instead (see above).

## Off sick due to my migraine, is there help?

If you are an employee and you are off sick from work because of your migraine condition, you may be able to claim Statutory Sick Pay (SSP). You can qualify for SSP if you are unable to work due to your migraine and have been absent from work for four or more days. You can get SSP whether you are working full-time, part-time, an agency worker or on a fixed-term contract. However, you must be earning at least £113 a week. You cannot get SSP if you are self-employed. After being off sick for a week, you need to provide your employer with a doctor's certificate (or fit note).

SSP can be paid for up to 28 weeks, either in one period, or several separate periods (each no more than eight weeks apart). If your employer fails to pay you SSP, you should ask them to reconsider the decision and for a written explanation. You can ask the HMRC statutory payments disputes team to help if you are unable to sort things out with your employer (Tel: 0300 056 0630).

If your migraine condition prevents you from working and you are not entitled to SSP (usually because you have already received 28 weeks payment). You may be able to claim ESA.

There are two types of ESA and you may receive either of these elements or both together, depending on your circumstances:

## Claiming welfare benefits due to issues arising from migraine

- **Contributory ESA:** to be entitled to contributory ESA, you need to be available for and actively seeking work. Your benefit can be sanctioned, or reduced if you do not meet these conditions. You can limit your availability for work if that is reasonable given your migraine. For example, if you suffered dizzy spells, you would not be expected to look for jobs where these would clearly be dangerous. You can ask to discuss these matters with a work coach at your Jobcentre. Payment of contributory ESA will be limited to 12 months if you are considered to be capable of work-related activity. This is tested under the Work Capability Assessment (WCA) (see below).
- **Income-related ESA:** income-related ESA is a means-tested benefit. Your needs (and those of your partner, if applicable) are compared with your resources, such as your and your partner's income and savings, and income-related ESA worked out from the result. Income-related ESA can be paid indefinitely. In some areas of the country, income-related ESA is being replaced by a new benefit: Universal Credit. To find out if you are eligible to claim Universal Credit in your area (based on your postcode and circumstances), go to: [www.gov.uk/universal-credit/eligibility](http://www.gov.uk/universal-credit/eligibility)

To claim ESA, call the Jobcentre Plus claim-line (0800 055 6688; textphone 0800 023 4888; Northern Ireland 0800 085 6318; textphone 0800 328 3419). Alternatively, you can download a claim-form from: [www.gov.uk/employment-support-allowance/how-to-claim](http://www.gov.uk/employment-support-allowance/how-to-claim)

For the first 13 weeks of your ESA claim, you will usually receive a lower rate of ESA. This is called the assessment phase. This can sometimes be extended beyond 13 weeks if there are any delays. During the assessment phase, you will undergo the WCA. This will decide whether or not you can stay on ESA, and which of two groups you are placed in:

- In the work-related activity group, you will receive a lower rate of ESA than if placed in the support group. Any contributory ESA that you get will be limited to just 12 months, and you will have to take part in work-related activity (such as attending

work-focused interviews) to keep getting the benefit in full.

- In the support group, you will receive a higher rate of ESA than if placed in the work-related activity group. Any contributory ESA that you get will not be time-limited, and you do not have to take part in work-related activity.

### Work Capability Assessment

The Work Capability Assessment (WCA) looks at your ability to complete a range of activities, both physical and mental. It tests whether you have a limited capability for work. This is a points-related test. You score points when you have difficulties completing an activity. If you get 15 points or more, you can remain on ESA. The activities, and the points awarded, are listed in the Disability Rights UK factsheet on the assessment ([www.disabilityrightsuk.org](http://www.disabilityrightsuk.org)). The WCA also assesses whether or not you have a limited capability for work-related activity. If you do, you will be placed in the support group (see above). Again, this part of the assessment is explained in the Disability Rights UK factsheet.

The WCA is applied by sending you a 'Capability for work' questionnaire to complete. This may be followed up by a face-to-face assessment with a health professional. When completing the questionnaire, consider if, taking into account your migraine condition, you can do each activity safely, to an acceptable standard, as often as you need to and in a reasonable length of time. If you cannot, explain why on the questionnaire. Don't just focus on what you are like on a good day; let them know what you are like on bad days, and how often these occur. If you are unsure about completing the questionnaire, you may wish to contact Citizens Advice, or call Scope on 0808 800 3333 for local disability advice. Or call your local authority welfare rights service (call your town hall for details).

If you need help to pay your rent, you could claim Housing Benefit. Contact your local authority for details. If you have children to support, you could claim Child Tax Credit. To claim, call the Tax Credit Helpline (0345 300 3900; textphone 0345 300 3909).



## Claiming welfare benefits due to issues arising from migraine

### Self employed and affected by migraine

Self-employed people can become unemployed, or unable to work their full hours due to their migraine condition. If this is your situation, you will not be able to claim SSP but could be eligible for ESA. More information is in the previous section.

If you have to work a reduced number of hours, which benefit you can claim will depend on the number of hours you are now working.

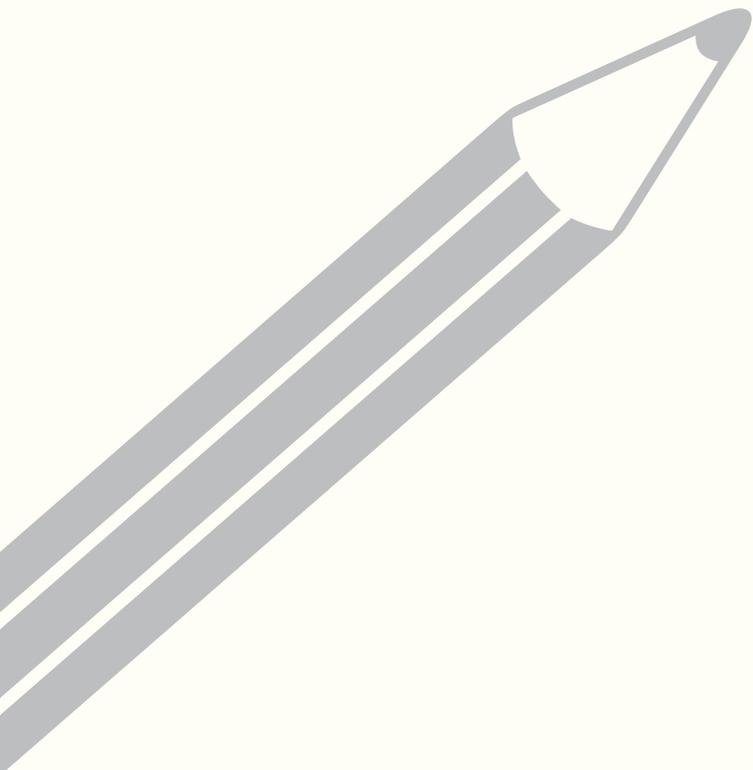
If you are working at least 30 hours a week and are aged 25 or over (or working at least 16 hours a week if you are getting Disability Living Allowance or

Personal Independence Payment (PIP)), you may be able to claim Working Tax Credit. In some areas of the country, Working Tax Credit is being replaced by a new benefit: Universal Credit.

To find out if you are eligible to claim Universal Credit in your area (based on your postcode and circumstances), go to: [www.gov.uk/universal-credit/eligibility](http://www.gov.uk/universal-credit/eligibility)

If you are working for less than 16 hours a week, you may still be eligible for ESA if the work is accepted by the Department of Work and Pensions (DWP) as permitted work.

In both of the above cases, Housing Benefit may also be available towards any rent you are paying. Contact your local authority for details.





# What can I claim if I have mobility problems or care needs?

**If you have either mobility problems or care needs as a result of your condition, you may be able to claim PIP. This is available for people of working age (between the ages of 16-64 inclusive). PIP is not paid simply because you have a condition, but because of the effect that the symptoms have on your everyday life.**

PIP is not means-tested; it is tax free and is not based on National Insurance contributions. You may claim PIP if you are still working. It is paid in addition to any earnings or other income you may have, and is not affected by savings or capital you own. It is almost always paid in addition to other social security benefits and tax credits. PIP can also act as a gateway to other benefits.

PIP has two components:

- **A daily living component:** for help taking part in everyday life.
- **A mobility component:** for help with getting around.

Each component is paid at two different levels: a standard rate and an enhanced rate.

In each case, the rate that you are paid depends on whether your ability to carry out activities related to daily living or mobility is limited or severely limited. This is tested under the PIP assessment (see below). You can be awarded PIP once you have had daily living needs or mobility problems for at least three months and if you expect to continue having these for at least another nine months.

You can start your PIP claim by ringing 0800 917 2222 (textphone 0800 917 7777), or in Northern Ireland 0800 012 1573 (textphone 0800 012 1574). Alternatively, you can ask for a paper claim-form if you are unable to start the claim by phone. To request the form, write to: Personal Independence Payment New Claims, Post Handling Site B, Wolverhampton, WV99 1AH (or in Northern Ireland: Personal Independence Payment Centre, Castle Court, Royal Avenue, Belfast BT1 1HR).

The PIP assessment is a points-related test. It looks at your ability to perform a range of activities, both physical and mental. You score points when you have difficulties performing an activity. The activities, the points awarded and the thresholds for getting each component are listed in the Disability Rights UK factsheet on PIP [www.disabilityrightsuk.org/personal-independence-payment-pip](http://www.disabilityrightsuk.org/personal-independence-payment-pip)

The assessment is applied by sending you a 'How your disability affects you' form to complete. This may be followed up by a face-to-face consultation with a health professional. When completing the form, consider if, taking into account your migraine condition, you can do each activity safely, to an acceptable standard, as often as you need to and in a reasonable length of time. If you cannot, explain why on the form. Don't just focus on what you are like on a good day; let them know what you are like on bad days, and how often these occur.

If you are unsure about completing the form, you may wish to contact Citizens Advice, or call Scope on 0808 800 3333 for details on disability advice in your local area. Your local authority welfare rights service may also have information (call your town hall for details).



# What happens if my application for benefit or payment is unsuccessful?

**If your claim for any benefit administered by the DWP is unsuccessful, and you disagree with the decision, you can appeal. You have one calendar month from the date of the decision in which to do this. This is called a mandatory reconsideration.**

You can ask for a mandatory reconsideration over the phone, but you should confirm your request in writing to the office address on the decision letter and keep a copy of it. Explain why you think the decision is wrong and include a copy of any evidence that may support your case (such as a letter from your consultant addressing the points that are at issue).

The DWP will look at the decision again and then send you a mandatory reconsideration notice to let you know the outcome. If you disagree with the outcome, you can appeal to an independent tribunal within one month from the date of this notice. The notice will tell you how to make an appeal.

To get some support to appeal, you may wish to contact a local advice centre, such as Citizens Advice, or call Scope on 0808 800 3333 for local disability advice. Call your local authority welfare rights service (call your town hall for details).

## Can The Migraine Trust support me with my benefits claim?

The Migraine Trust does not have a welfare benefits advisor. The agencies on the following page will be able to support you.

## Is migraine considered to be a disability?

Migraine may be considered a disability under the Equality Act 2010. This depends on the severity and frequency of the attacks and the impact the condition has on the person. The Act defines disability as: a physical or mental impairment which has a substantial and long-term adverse effect on your ability to carry out normal day-to-day activities. To fall within the Act, you need to show that your condition demonstrates this.

- Substantial means more than minor or trivial.
- Long-term means that the impairment has lasted or is likely to last for at least 12 months or the rest of your life.
- Normal day to day activities are activities that people do on a regular or daily basis such as shopping, reading and writing, holding a conversation, using the telephone, watching TV, carrying out household tasks, walking and travelling by various forms of transport and taking part in social activities. This can also include general work-related activities such as interacting with colleagues, following instructions, using a computer, driving, carrying out interviews, preparing written documents, and keeping to a timetable or shift pattern.

A doctor or headache nurse may be able to advise an individual whether their migraine is likely to be covered under the Act.



# Accessing further support

## UK wide

### **The Brain Charity**

Supports people with neurological conditions and provide welfare benefits advice.

[www.thebraincharity.org.uk](http://www.thebraincharity.org.uk)

Tel: 0151 298 2999

### **Citizens Advice**

Provides advice on legal issues.

[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

### **Disability Rights UK**

Led by people with diverse experiences of disability and health conditions, they work to ensure equal participation for all.

[www.disabilityrightsuk.org](http://www.disabilityrightsuk.org)

### **Law Centres Network**

Offer legal advice, casework and representation to individuals and groups.

[www.lawcentres.org.uk](http://www.lawcentres.org.uk)

### **National Association of Welfare Rights Advisers**

Provides online support with completing application forms.

[www.nawra.org.uk](http://www.nawra.org.uk)

### **Scope**

Provides support, advice and information to disabled people and their families.

[www.scope.org.uk](http://www.scope.org.uk)

### **Turn2us**

A national charity helping people in financial hardship gain access to welfare benefits, charitable grants and support services.

[www.turn2us.org.uk](http://www.turn2us.org.uk)

## Northern Ireland

### **Benefits adviser Northern Ireland**

nidirect is the official website for Northern Ireland citizens to access government information and services.

[www.nidirect.gov.uk/articles/benefits-adviser](http://www.nidirect.gov.uk/articles/benefits-adviser)

**Please note that the inclusion of named agencies does not constitute a recommendation or endorsement by The Migraine Trust. We have provided these for informative purposes only and not as recommendations. If in doubt, seek legal advice.**



# About The Migraine Trust

The Migraine Trust is the largest charity dedicated to leading the fight against migraine in the UK. We exist to transform the lives of people who suffer from migraine, by sharing knowledge and preventing and finding a cure for migraine. We will do this by funding and promoting research, providing support and information, and campaigning for people affected by migraine. Visit our website to subscribe to email updates and news, access migraine information and to learn more about The Migraine Trust including our support services, research and events.

**Web:** [www.migrainetrust.org](http://www.migrainetrust.org)

**Tel:** 0203 9510 150

**Twitter:** @MigraineTrust

**Facebook:** themigrainetrust

The Migraine Trust, 4th Floor Mitre House, 44-46 Fleet Street, London, EC4Y 1BN