

The image is a header banner for a Shelter publication. It features a photograph of modern urban architecture, including a tall glass skyscraper and a building with a distinctive copper-colored roof. A white rectangular box in the upper left corner contains the text 'Special Debt Advice Service'. The Shelter logo, consisting of the word 'Shelter' in white on a red background, is positioned in the lower right corner of the banner.

Special Debt Advice Service

Spotlight

July 2018 edition

Shelter

Spotlight: DROs and ESA back dates

Since the DRO Update was presented at the IMA Conference this year, we have received further enquiries to clarify how the DRO Team would view the situation where an individual receives back dates of Employment and Support Allowance (ESA) premiums (Severe Disability Premium / Enhanced Disability Premium) before and during the DRO moratorium period.

Where a client receives a back date of ESA premiums during the moratorium

This issue recently arose in the context of backdated ESA payments as the DWP uncovered an error involving many ESA claimants not being paid the correct premiums. Lump sum payments of benefit had been awarded and this raised the question of how these should be treated by the DRO Team where they had been received during the moratorium period. They advised us:

Firstly, in terms of increase in income during the moratorium the DRO Team have said that *“where an increase occurs during the moratorium period and the debtor remains on means tested benefits the DRO Team would not be concerned about any reassessment of income and expenditure”*.

Secondly, in terms of the lump sum, they have indicated that any elements of the lump sum which relate to back dates of the Severe Disability Premium or Enhanced Disability Premium will be ignored when considering whether the backdated award of ESA has taken the client over the property limit. However, this only applies to ESA awards changing during the moratorium period.

As a result of this, it is important that when your client reports her changes in circumstances she is very clear as to how this lump sum arose and the fact that she is simply being backdated certain elements of her ESA claim which relate to disability.

The Citizens Advice DRO Toolkit page on [“Receiving a lump sum during the moratorium”](#) has also been updated to reflect the above.

Where a client receives a back date of ESA premiums pre-DRO

For clients who are already in receipt of ESA which includes the Severe Disability Premium and/ or Enhanced Disability Premium at the time of their application, our understanding is that the premiums would NOT be ignored as income. Any costs related to disability can of course be included in essential expenditure where these are a reasonable domestic need, however these costs should be itemised in the expenditure section. This is different to receipt of PIP, which can simply be listed as 'adult care needs' in expenditure and does not require any specific accounting for how it is spent.

In a response to Citizens Advice Expert Advice team last month, the DRO Team said:

"The treatment of ESA for the purpose of calculating disposable income should continue as it is assessed at the moment. Very rarely do we see cases of individuals on means tested benefits having disposable income."

We can never guarantee what decision the DRO Team would make in a specific case, as each case is based on its merit. If the client's DRO was declined / revoked for whatever reason, the client would lose the £90 fee.

In relation to other scenarios where lump sum payments are received during the moratorium, the lump sum protocol would apply.