

BIRMINGHAM CLAIMANTS' UNION

UNITED WE ARE STRONGER!

How to Challenge DWP Social Security Benefit Medicals!

The government pay ATOS handsomely: to give you a low score so that you can be refused, or kicked off, ESA; or to decide you can cook and need no help at home or can walk enough so that you can be refused PIP, or kicked off DLA; or have enjoyed a miraculous recovery so that your disablement benefit can be cut. It can only afford to pay ATOS so much, due to the money it saves by cutting your benefit, because most of us take this lying down. But not those of us who instead have joined the Claimants' Union! We help each other to successfully challenge decisions of the Department for Work & Pensions (DWP) to reduce, or withdraw, our benefits. 40% of decisions based on ATOS assessments were overturned following appeal. Here's how:-

There's a two stage procedure to challenge a DWP decision:-

- 1) When you get the DWP decision notification letter, write back stating that you want it **reconsidered**. They MUST get your letter within one month of the date of their letter. You have to give your reason(s) for disagreeing with their decision, eg: for ESA, at least say what's wrong with you and that you should have scored more than 15 points for physical and/or mental, descriptors as appropriate; for DLA or PIP simply contradict all of their decision. Always ask them in your letter to send you copies of all the medical reports they have on you (including the ATOS one). Keep a copy of your letter and get a free certificate of posting from the post office.
- 2) The DWP may ask you for more information, but must eventually send you their written decision, called a *mandatory reconsideration notice*. (They are unlikely to change their decision.) If you disagree with this decision, then you should **appeal** using form SSCS1 available from the Claimants' Union or CAB etc, or complete and/or download and print it from the internet at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/181311/SSCS1.pdf . Your *grounds for appeal* are your reasons, and can be the same as you gave at stage (1), but you can add or substitute new reasons, particularly in light of the medical reports they sent you: eg ATOS said you could do something, so you say you couldn't, and why not. Your appeal MUST reach the Appeals Centre within 1 month of the date of the mandatory reconsideration notice, and you must attach a copy of that notice to your appeal. Indicate on the form that you want to attend a hearing of your appeal (because claimants who attend are more likely to win) and get advice as soon as you can if you've not already. 70% of those, who also have a representative at their appeal hearing, win!

After you've appealed, getting your own medical report to oppose the DWP's ATOS report often helps win your appeal: always show your doctor their report. Paying a private specialist can be a good investment, but if you're under an NHS hospital then NHS staff may give you a free report. Paying a GP is usually a waste of money.

GET ADVICE if you miss the 1 month time limit.

Challenging a decision to reduce your benefit seldom makes things worse, and if your benefit has been stopped then you certainly have nothing to lose!

If you've been refused all ESA then you may need to claim JSA or Income Support, by phone or on-line. But once you've appealed a refusal of ESA, then you can claim, and probably get, the lowest rate of ESA again pending your appeal hearing: although the amount of this ESA is no more than JSA, its less hassle than signing-on. If you loose your appeal then your ESA stops, but you can then make a fresh claim for it and start the process over, except that you can't make a successful fresh claim within 6 months of the original date of refusal of ESA, unless you can send a new sick note stating that your condition has significantly worsened or you've got a new one. And if you can make a fresh claim, don't ask for it to be backdated to a date within 6 months of the original refusal: if you do then you'll be refused all ESA!

If you're challenging a DLA, PIP or disablement benefit decision then little changes unless or until you win the reconsideration or win the appeal.

If your ESA or disablement benefit is reduced or cut: and you get tax credits then don't forget to tell HMRC; and if you get benefits from the Council then don't forget to tell them.

If your income-based ESA is stopped, the computers will stop any housing benefit and council tax support you're getting: you should reclaim these immediately at the Council Neighbourhood Office (they call it a "nil income claim"). If there's a delay in getting your benefit then you might be able to get a meal from a Gurdwara, food from a Food-bank, and/or a Local Welfare Provision grant or Asda card from Birmingham City Council: apply on-line at <http://www.birmingham.gov.uk/LWP> .



The Birmingham Claimants' Union helps its members with all of the above. It is run by and for claimants. We are here: to give support to challenge benefit decisions; to share hints and tips about dealing with the jobcentre and Jobcentre Plus; and to pressure them and government into treating us better. We do this by working together. For more information: ask the claimant who gave you this leaflet; attend our next meeting; email or write us at the addresses below; or check out our pages at:

<http://birminghamclaimantsunion.wordpress.com>
<https://www.facebook.com/BirminghamClaimantsUnion>

**Have your say at our meeting at
1PM on the FIRST & THIRD THURSDAYS OF THE MONTH at**

**TUC Centre for the Unemployed,
448 STRATFORD ROAD, SPARKHILL, BIRMINGHAM, B11 4AE.**

email: brumclaimantsunion@gmail.com