

SCHEDULE 9

Regulation 40(5)

Circumstances in which a claimant is to be treated as  
having limited capability for work and work-related activity

*Terminal illness*

1. The claimant is terminally ill.

*Pregnancy*

2. The claimant is a pregnant woman and there is a serious risk of damage to her health or to the health of her unborn child if she does not refrain from work and work-related activity.

*Receiving treatment for cancer*

3. The claimant is—
  - (a) receiving treatment for cancer by way of chemotherapy or radiotherapy;
  - (b) likely to receive such treatment within 6 months after the date of the determination of capability for work and work-related activity; or
  - (c) recovering from such treatment,

and the Secretary of State is satisfied that the claimant should be treated as having limited capability for work and work-related activity.

*Risk to self or others*

4. The claimant is suffering from a specific illness, disease or disablement by reason of which there would be a substantial risk to the physical or mental health of any person were the claimant found not to have limited capability for work and work-related activity.

*Disabled and over the age for state pension credit*

5. The claimant has reached the qualifying age for state pension credit and is entitled to attendance allowance, the care component of disability living allowance at the highest rate or the daily living component of personal independence payment at the enhanced rate.