

## **EMPLOYMENT AND SUPPORT ALLOWANCE MANDATORY RECONSIDERATION**

**NAME**

**ADDRESS**

**NINO**

**BENEFIT**

**ESA**

**DATE**

This MR has been prepared on behalf of XXX by

### **Conditions with evidence:**

The history of conditions is both psychological and physical in nature and cause him great distress making his life extremely limiting and frequently intolerable to the extent that he frequently considers and plans ways of taking his life.

**Mental Health.** XXX has a long history of mental health problems starting in 2006 when he had **episodes of low moods**, alcohol abuse in response to both relationship and problems within the workplace. This was eventually diagnosed as having **quite Severe Depression** (see page 2 of the letter dated 04/02/17) by High Intensity Cognitive Behavioural Psychotherapist and again recorded as such as 2013 on the GP records see evidence. He also suffers from **Agoraphobia**, which restricts him on at least 3-4 days per week. also notes that the symptoms of depression, low self-worth and anxiety linked closely to his PTSD symptoms have not reduced over the course of the 17-hourly session. He was referred to BTSS see letter and information below and he attended BTSS assessment on February 18th He has now been accepted on to the programme, his treatment will take approximately 1 year, and he is awaiting his start date.

XXX reports thoughts of ending his life and beliefs of being a burden on his partner and himself, he has thoughts of suicide regularly according to the report by High Intensity Cognitive Behavioural Psychotherapist the CBT Therapist who saw him for 17 weeks in total. (See evidence dated 21/04/16)

He also had been Gatewayed under the Traumatic Stress Service, see letter above.

In 2012 he was initially sentenced to XX months, imprisoned for X months followed by X months supervision by the Probation Service for Arson.

Please note that in XX, he was seen by his GP and diagnosed as having **Post Traumatic Stress Disorder**.

**Physical Health** XX suffers from **Generalised Fatigue, and neck and back problems** which commenced in XX, which limits his mobility resulting in only being able to walk a maximum of 10 minutes before needing to stop and rest to ease the pain in his back and down his legs. He also has Hypertension and Hypercholesterolemia. These conditions are evidenced by his GP summary report enclosed.

### **Facts of the case:**

XXX has been found to have LCW on assessment, but he disputes:

- Schedule 3 descriptor activity 14 - Appropriateness of behaviour with other people due to cognitive impairment or mental disorder.

- Application of Regulation 35 which we would like the decision maker to reconsider.

**Please consider Activity 14 - Appropriateness of behaviour with other people due to cognitive impairment or mental disorder**

We do not consider that the assessor has considered fully XX reactions when he becomes agitated or anxious which happens daily both when at home or when outside.

He regularly becomes agitated over minor incidents with his partner at home, resulting in him becoming verbally aggressive, causing disharmony in the household and raising his anxiety levels.

He can, whilst out easily become verbally abusive and physically aggressive e.g. in the summer he had an altercation with a fellow motorist which would have ended in a physical assault if it had not been for the intervention of his partner over a trivial comment. This type of behaviour was totally out of character for him prior to his illness and he avoided all confrontation before XXXX.

We feel that there is a risk both to XX the staff of the Job centre and that it could further exacerbate his mental health if he is left in the Limited Capability for Work group. He is socially isolated for most of the week.

**We would also like you to consider Regulation 35** owing to the significant cognitive effects of XXXX condition, and the symptoms of PTSD which he must live with.

In XXX he was imprisoned for XX months followed by XX months supervision by the Probation Service for Arson. Here he witnessed one hanging, a hostage situation where the Police stormed the wing he was on and used "Flash bangs" and numerous acts of violence, all of which left him terrified for his own life. Over time he started to relive the situations and started to have the following symptoms; Insomnia, nightmares, irritability, poor concentration, agoraphobic, suicidal thoughts and planning, which occur at least twice per week, feeling distressed and intense sweating when awoken at night.

It is important to note that the work-related activities available to XX may involve environments which would exacerbate his physical mental health symptoms, and it would be extremely difficult for him to maintain work related activity in the face of this. Additionally, this activity would interrupt or potentially negate the therapy that he has had to wait 2 years for to help him manage his condition and return to be a useful productive member of society and family member.

**Conclusion**

We conclude that all these factors indicate that the medical report was not as thorough as it should be, and that due diligence was not applied by the assessor in some areas mainly due to lack of experience with this type of claimant. Despite being a nurse, she failed to consider the unseen effects of XX complex P.T.S.D. diagnosis. condition, which had been confirmed in his medical evidence.

Please also refer to page 14 of the report, where the HCP directly states he was "Well kempt", in truth he was dressed in 3 days worn clothes and hadn't shaved for 2 days due to his depressed state. We would also like to draw your attention to another misrepresentation of the HCP in which she stated that XX (page 15) "Did not require prompting at interview" when in fact his partner had to prompt him with regards to the medication he took and dosages on many occasions. He was hypervigilant during the assessment and is so every time he goes out of the house and is forced into social situations.

XXX is extremely isolated and experiences panic attacks and feeling of anxiety when out of the home.

Please note that assessor observations on pages:18 states The MSE shows that: **he had insight but some difficulty coping with the assessment and poor eye contact**. She also acknowledged that **he would have problems in the areas of getting about and social engagement**. We submit that this should have explored further considering his incarceration, by a trained assessor. He has struggled to maintain a job since his mental health deteriorated despite offers in the past, he has felt that he is unable to mix with others in this way and cope with working life.

We trust that you will peruse the evidence from his specialists, who would be best placed to decide in relation to his mental health in this instance, the diagnosed as having **quite severe depression** (see page 2 of the letter dated 08/08/17) by High Intensity Cognitive Behavioural Psychotherapist XX written after he attended her weekly sessions x 17. This is the final report of her observations following completion of this type of therapy. In light of the fact that he has been referred back to BTSS we submit that XX remains at high risk of self-harm, in a state of heightened anxiety and suffers severe depression which would cause him detriment if he remained in the work related activity group and was asked to attend any face 2 face appointments, group therapy/appointments or any other work based activity which relied on his being punctual and interacting with the public in any way.

It would be advisable if XXX could remain in high intensity therapy for him to improve his mental health conditions as a step in the wrong direction could undermine all the hard work already applied by his therapist.

XXX has a desire to get well, he wishes to do this in his own time and in the future hopefully will be able to do some work-based activity, for now however, we feel that being forced to do this and engage with others against his will, will be far too detrimental to his future working life and therefore would not be in his best interests. There are no reasonable adjustments in the workplace that could be put in place to assist him at present to do any social or work-based activity unless he was placed solely in an isolated environment in his home surroundings. Which would prove difficult for any employer or work coach.

Regards,

Michelle Cardno (LLB) Hons & Gerry Ashworth SBSt.J B.A. (Hons) RGN, NDN cert Cert. Ed.

Prepared on instruction and on behalf of XXX Find enclosed form of authority