



Maternity Rights

This factsheet covers maternity rights at work and benefits you are entitled to if you are not working. It also looks at legal issues for unmarried parents. Maternity rights are complicated, and this factsheet gives only a brief outline. Please contact the Lone Parent Helpline for further information.

Income you will have as a lone mother who is not working

When a woman becomes pregnant for the first time and knows that she will be on her own with her baby, she may be very concerned about how she can afford to live if she is out of work or wants to stay at home to care for her baby. Lone parents with a new baby are entitled to claim Income Support (IS) Child Benefit (CB) and Child Tax Credit (CTC). (See Factsheet 1 for details about these benefits.)

If you are over 16 when you become pregnant you can claim IS from 11 weeks before your baby is due and may, depending on circumstances, continue to receive it until your child is 7. You can claim CB and CTC for your baby. As with IS, CB can be claimed 11 weeks before your baby is due and CTC can be claimed once your baby is born.

16 year olds still in full-time non-advanced education cannot claim IS or CTC until their baby is born but can claim CB from 29 weeks of pregnancy. They may also be entitled to the Educational Maintenance Allowance of £30 per week. (See the Further Education Factsheet for more details.)

If you are under 16 years old and are expecting or have a baby you are not entitled to claim some benefits in your own right, as you are not legally an adult. You will be able to claim Healthy Start Vouchers (see below) and CB from the 29th week of pregnancy. If your parents receive CTC for you they can claim extra CTC for your baby. Once you are 16 you can claim IS and CTC for your baby yourself.

NB: Once you start claiming benefits for yourself and your baby, benefits paid to anyone else for you will stop and can affect the financial circumstances of the whole family. Seek advice.

Healthy Start

Healthy Start is a new scheme that has replaced the old system of free milk and vitamins for children and pregnant women. Vouchers worth £3.10 each are issued depending on your circumstances. They can be used for formula milk, cow's milk, fresh fruit and vegetables at participating shops. If you get vouchers you automatically qualify for free vitamins available from health centres.

To qualify for vouchers you must fit into one of the following groups:

- Women under 18 years of age who are at least 10 weeks pregnant
- Women over 18 years of age who receive a qualifying benefit.
- Women with a baby under 1 year old. (**NB.** The year starts from the expected date of delivery and not the date of birth so vouchers may be received for more or less than 1 year.)
- A child who is under 4 years old whose family is in receipt of a qualifying benefit.

Qualifying benefits are: income-based JSA, income-related Employment & Support Allowance (irESA) or CTC where income is below £16,190 and no Working Tax Credit (WTC) is received.

For example, a mother who has a baby under a year old will get 2 vouchers, one for herself and one for her baby. If she also has another child aged 2 she will get another voucher, bringing her total to three.

Application forms are available from Health Centres or can be downloaded from www.healthystart.nhs.uk/howtoapply/applicationform.pdf

Vouchers are posted out monthly. For further information call 0845 607 6823 or visit www.healthystart.nhs.uk

Health in Pregnancy Grant

The Health in Pregnancy Grant is a one-off payment of £190 for each pregnancy. It is only made to expectant mothers. You can get the grant if you are 25 weeks pregnant. You must also have been given health advice from a midwife or a doctor. The payment does not affect your tax credits or any other benefit and it is not affected by your income.

To claim, get a form from your midwife or doctor who must fill in their part of the form and sign it. The form must be returned to Her Majesty's Revenue & Customs (HMRC) within 31 days or you may miss out on the grant. HMRC will pay the grant directly into your bank account or building society account. The Health in Pregnancy Grant Helpline is 0845 366 7885.

Sure Start Maternity Grants - £500

Available if you get one of the following qualifying benefits: IS; income-based Jobseeker's

Allowance (ibJSA); irESA, CTC at a rate that is more than the family element of £545 (or £1090 if you have a baby under one); or WTC that includes a disability element.

Claim between 11 weeks before to 3 months after the birth as long as you are in receipt of one of the above benefits at the time of claiming. If you are not in receipt of a qualifying benefit when you need to claim the Maternity Grant (because you are waiting to be awarded it) you can still apply. In this case you will be turned down but can apply again once you receive a qualifying benefit even if you are outwith the time allowed as the new claim will be backdated to the date of the original claim. Claims are made on form SF100 which must be signed by a midwife, health visitor or doctor. Forms are available from your local Jobcentre Plus.

Child Trust Fund

Children born on or after 1st September 2002 now have a Child Trust Fund set up for them. Parents who have legal Parental Responsibilities and Rights will be sent a voucher of £250 to start the account and families with household income at or below £16,190 will get an additional £250. All children will receive another £250 once they reach 7 years old, with low-income families receiving an additional £250.

From April 2010 children in receipt of Disability Living Allowance will have an additional £100 (£200 for children receiving high rate care) per year paid into the account.

Family and friends can add to the child's account by up to £1,200 per annum. The money belongs to the child alone and can only be removed from the account when the child is 18. Parents do not have to apply for the Child Trust Fund - a voucher is sent automatically to the parent and it is the parent's responsibility to invest the voucher in the account. If the voucher is not invested within 1 year of receipt, HMRC will invest it on the child's behalf.

NB: On 24th May 2010, the government announced that it intends to reduce and then stop government payments into Child Trust Fund accounts. Legislation must be passed by Parliament for this to happen and until such time, the current Child Trust Fund rules will continue to apply. From 1st August 2010, contributions for

children born from August 2010 will be reduced from £250 to £50 for better off families and from £500 to £100 for those on low incomes (household income less than £16,190). Contributions for children who turn 7 on or after 1st August will be stopped. The additional contributions for disabled children will continue to be paid this year. From January 2011, no new Child Trust Fund vouchers will be issued."

For more information on the trust fund see www.childtrustfund.gov.uk

Maintenance

Regardless of your marital status, the father of your child is liable to pay Child Maintenance. (See Factsheet 11 Child Maintenance.)

Health Benefits

(See Factsheet 1 Money: Free prescriptions, dental costs, glasses and refunds of fares for attending hospital.)

Rights at Work

If you are an employee (ie you have a contract of employment) you may be entitled to Statutory Maternity Pay (SMP) and leave but your contract may give you more generous rights than the government says you are entitled to. It is worth checking what your contract says.

If you are a supply, bank or agency worker and have a contract, or are self-employed, you are not entitled to SMP or leave but you may be entitled to Maternity Allowance, Income Support or Employment & Support Allowance. Contact the Lone Parent Helpline for more information or see 'Time Off Work' Factsheet.

Health and Safety

Your employer should offer you an alternative job or suspend you on full pay if there is a health and safety risk because you are pregnant. You are entitled to paid time off to attend antenatal classes. If your employer dismisses you because you are pregnant this is automatically unfair dismissal.

Statutory Maternity Pay (SMP)

SMP is paid for 39 weeks. You will receive 90% of average weekly earnings for 6 weeks followed by 33 weeks at £124.88 or 90% of earnings if this is less. To qualify you must have been employed continuously by the same employer for at least 26 weeks by the end of the 15th week before your baby is due and have earned at least £97 per week (before tax) over the last 8 weeks.

If your employer is not sure how to work out your SMP or how to claim it back, they can ring the HMRC Employers' Helpline 08457 143 143 or visit their website: www.hmrc.gov.uk

Maternity Allowance (MA)

If you do not qualify for SMP, you may be entitled to Maternity Allowance. This could be the case if you are self-employed, changed your job during pregnancy or have only just become employed and are on a low income. You must meet the

employment test; you must have been employed for any 26 weeks out of the 66 weeks ending immediately before your baby is due. The 26 weeks do not have to be in a row or with the same employer. You must also meet an earnings condition; your earnings must be £30 per week or more. Your earnings are averaged over any 13 weeks in the employment test period. You can choose the weeks with the highest earnings to maximise your MA. Add all your earnings from the 13 weeks and divide by 13 to obtain the average. There are different rules for calculating earnings if you are self-employed. Seek specialist advice.

MA is paid for 39 weeks and you will receive 90% of your earnings or £124.88 per week, whichever is less. Claim on form MA1 from Jobcentre Plus.

Tax Credits

(For tax credit rates and how to calculate tax credits see Factsheet 3 Back to Work Benefits.) You are considered to be in employment (i.e. working 16 hours a week or more) while on maternity leave and receiving SMP or MA. As long as you were working 16 hours or more before your leave, you can make a claim for WTC when your child is born.

Mothers on paid maternity leave during a WTC claim will be able to receive extra help with childcare costs for a new baby prior to returning to work. You will also be eligible for CTC whether you work or not.

HMRC initially assess your claim for Tax Credits on last year's income. However, as your income will probably drop once you are on maternity leave, you should ask HMRC to calculate your Tax Credits on the current year's expected income. If you are not intending to return to work or will be reducing your hours after maternity leave, this will be especially relevant. This should give you a higher rate of Tax Credits when you most need it. Claiming in this way may help you qualify for the Sure Start Maternity Grant.

NB: When a Tax Credit award is based on previous year's income, increases in income of up to £25,000 between one tax year and the next are ignored. However, you should be aware that if your Tax Credit award is based on current year's income (rather than the previous year) you will not be entitled to the £25,000 earnings disregard. If your earnings rise higher than the estimated earnings figure for 2010-2011 used to calculate your Tax Credits you should inform HMRC to avoid an overpayment that you would need to pay back.

Notice and Maternity Leave

All employees are entitled to Ordinary Maternity Leave of 26 weeks and Additional Maternity Leave of 26 weeks (52 weeks in total) regardless of length of service. SMP and MA are only paid for 39 weeks, therefore if you take your entire Additional Maternity Leave, the remaining 13

weeks are unpaid and you are no longer entitled to Working Tax Credit. The earliest you can start Maternity Leave is 11 weeks before your baby is due. However, you may prefer to work for longer and have more leave left to take after your baby is born. Employers must be given notification that you are taking maternity leave, and when, before the end of the 15th week before the week the baby is due. If you are off work sick with a related problem in the last four weeks of pregnancy, this can trigger maternity leave.

Optional Keeping in Touch Days

You and your employer can opt for you to come into work for up to 10 days during your maternity leave (except during the first 2 weeks after your baby is born). It is up to you and your employer what type of work you do during these days. You may, for example, want to go in for conferences or training days. Your employer cannot compel you to do this. You will receive your day's pay at the normal rate less the proportionate day's SMP or MA.

For information on parental leave, paternity leave, flexible working hours or time off for dependents see Time Off Work Factsheet.

Returning to Work

Your employer must assume that you will take all your maternity leave, including Additional Maternity Leave. If you decide not to take all your leave, you must give your employer at least 8 weeks notice that you're returning to work early. Your employer can insist that you don't return until 8 weeks are past. Your entitlement to paid leave is not affected if you decide not to return to work and your SMP/MA does not have to be repaid. You should give notice to your employer in the normal way.

Important Dates:

23rd - 15th Week Before the Baby is Due: Your average earnings in these weeks are used to work out your SMP.

From 11 Weeks Before: Qualifying week for entitlement to SMP and MA.

11th Week Before: You can claim IS from this week. If you are working, this is the earliest you can start your maternity leave.

From 4 Weeks Before: If you are ill in these weeks it could trigger your maternity leave automatically.

Notice You Must Give Your Employer:

- **15 weeks before taking maternity leave.** You must give this notice in order to receive SMP or MA. The birth date is the latest you can start maternity leave.
- **28 days before returning from Ordinary Maternity Leave**
- **8 weeks before returning from Additional Maternity Leave**

Education and Training

If you are considering starting or continuing an educational or training course while pregnant,

support is available. The amount of help you receive will depend on the course you want to study. It is a complex area and you should seek information before committing yourself to a course of study. A New Deal for Lone Parents Adviser, student services at your college or a Rights Worker from One Parent Families Scotland can give you more information.

Parental Responsibilities and Rights

If You Are Unmarried:

Only the mother may determine the child's name. She may give the child any forename and surname of her choice. If you want the father's name included on the birth certificate as the father, then he must agree and accompany you to register the birth or provide a statutory declaration confirming his paternity. The statutory declaration must be signed in front of a Justice of the Peace or Notary Public.

Any unmarried father whose name appears on the birth certificate after 4th May 2006 will have automatic Parental Responsibilities and Rights (PRRs). If his name does not appear on the birth certificate he does not have PRRs but still has a duty to financially maintain his child.

Registering the father's name on the birth certificate could have the following effects:

- The Child Support Agency or the courts may use the certificate as evidence of paternity for maintenance proceedings.
- There is an assumption that the person named on the birth certificate is the father.
- The child will have information about who both parents are.
- Because the father will have PRRs, he will have a say in the major decisions affecting the child's life (residency, education, health treatment and religious upbringing).

If you do not put the father's name on the birth certificate but at a later date decide you would like the father to have PRRs, you may both sign a Parental Responsibilities and Rights Agreement form. These forms are available from CABx or OPFS and cost £19.40 to register. If you do not agree, the father may go to the court to request PRRs. Once acquired, the father obtains equal rights, which can only be changed by a court order.

If You Are Married:

See Factsheet 9: Arrangements for Children.

If you marry at any time between the child's conception and birth, your husband is presumed to be the father. If married, you have joint responsibility in deciding the name of the child, and the father's name and occupation must be entered on the birth certificate. A married father has equal PRRs with the mother.

Useful Contacts

Sleep Scotland

8 Hope Park Square
Edinburgh, EH8 9NW
Helpline: 0131 651 1392
Monday-Friday: 9.30am to 5.00pm
Web: www.sleepscotland.org
Email: via their website

Sleep Scotland is for parents of children with special needs who have severe sleep problems.

Directgov

www.direct.gov.uk
Official government website for citizens. Also a list of government forms.

National Childbirth Trust (NCT)

Alexandra House
Oldham Terrace
London
W3 6NH
Web: www.nct.org.uk

The NCT offers information and support in pregnancy, childbirth and early parenthood.

Enquiry Line: 0300 330 0770

Email: enquiries@nct.org.uk

Pregnancy & Birth Line

Tel: 0300 330 0772

Breastfeeding Line

Tel: 0300 330 0771

Postnatal Line

Tel: 0300 330 0773

Shared Experience Line

Tel: 0300 330 0774

Become a Member

Tel: 0844 243 7000