



Improving access to maternity pay for migrant women: Maternity Allowance

Women in the UK on a spouse visa, work visa, student visa or any other form of definite leave to remain are entitled to Statutory Maternity Pay and Maternity Allowance if they meet the eligibility requirements. While entitlement to Statutory Maternity Pay is widely known, the entitlement to Maternity Allowance is not well understood. The information provided by Government on migrant women's entitlement to Maternity Allowance is incomplete or misleading.

We are calling on the Home Office and Department of Work and Pensions to include information on migrant women's entitlement to Maternity Allowance in their published literature, to improve the knowledge base of Jobcentre Plus advisors on this issue and to raise awareness within migrant communities.

'No recourse to public funds'

Women who have definite leave to remain in the UK have 'no recourse to public funds' as a condition of their visa. Women with definite leave to remain are those whose entitlement to remain in the UK is for a fixed period of time. It includes women on a spouse visa, work visa, student visa and many other types of visa. Once women obtain indefinite leave to remain or UK citizenship, they are not subject to this requirement.

Women who have 'no recourse to public funds' are entitled to receive Statutory Maternity Pay and Maternity Allowance if they meet the eligibility requirements. These payments are often termed 'contributory benefits' as they are dependent on participation in employment.

Women who have 'no recourse to public funds' are not entitled to receive any of the universal or income-based benefits available to women with indefinite leave to remain or UK citizenship. These include Jobseekers Allowance, Housing Assistance, Social

Fund, tax credits, Health in Pregnancy Grant, Sure Start Maternity Grant and Healthy Start vouchers.

When applying for an extension of their visa, a new visa, indefinite leave to remain or UK citizenship, an individual with 'no recourse to public funds' is asked to disclose if they or their dependants have received any public funds while living in the UK. The answer is taken into account in assessing the application. Statutory Maternity Pay and Maternity Allowance do not constitute public funds so are not taken into account in assessing the applications.

Statutory Maternity Pay and Maternity Allowance

A woman is entitled to Statutory Maternity Pay if she commenced work with her current employer before she became pregnant, she is still working for that employer in the 15th week before her baby is due, and she earns an average of £95 per week during the qualifying period. She is entitled to 90% of her average earnings for the first six weeks then a fixed amount, currently £123.06, for the subsequent 33 weeks.

A woman who does not meet these requirements but has been in the workforce may be entitled to Maternity Allowance. Maternity Allowance is paid to women who have been self-employed, who changed employers during their pregnancy, or whose earnings are not high enough to qualify for Statutory Maternity Pay. To be eligible for Maternity Allowance, a woman must have done some work for 26 weeks (not necessarily consecutively) out of the past 66 weeks, have average earnings of at least £30 per week on average in 13 of those weeks, and not be eligible for Statutory Maternity Pay. Maternity Allowance is paid at a fixed amount, currently £123.06, for 39 weeks.

Compared to those who receive Statutory Maternity Pay and Occupational Maternity Pay (contractual pay

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in excess of the statutory minimum), women who receive Maternity Allowance are more likely to be in low paid jobs and on low weekly incomes. In 2005, 44% of women in receipt of Maternity Allowance earned less than £82 per week, compared to less than 1% of those in receipt of Statutory Maternity Pay or Occupation Maternity Pay. 52% of women in receipt of Maternity Allowance earned less than £5 per hour, compared to 2% of those in receipt of Statutory Maternity Pay or Occupational Maternity Pay.¹

To obtain Statutory Maternity Pay, women apply through their employer and receive payment from their employer. Applications for Maternity Allowance are made directly to the woman's local Jobcentre Plus and the benefit is paid by the Department of Work and Pensions. The application and payment process for Maternity Allowance follows the same model as non-contributory benefits.

Awareness of entitlement

We have encountered numerous individual women and advisers within community organisations who were not aware of this entitlement. We were interested to explore this further so in June 2009 we surveyed eight voluntary organisations working with migrant women about their knowledge of women's entitlement to Maternity Allowance. We recognise that this is a small sample.

Of the eight organisations we spoke to, only one was aware that women with no recourse are entitled to Maternity Allowance. They had obtained this information from a Maternity Action/Medact information sheet and commented that they had spent a long time researching this issue as there was not very much information available.

The other seven organisations were not aware that women were entitled to Maternity Allowance. Two organisations rarely encountered working women so had little reason to investigate employment-related maternity rights. Three organisations expressed surprise and concern that they were not informed on this question:

"I wouldn't even think they could get anything. I have been working here for 7 years and not heard about this. It's interesting to know."

"Maternity Allowance is news to us".

"We think this is a serious matter."

CASE STUDY

Lorraine is a Nigerian woman who has a spouse visa. She moved jobs during her pregnancy and, consequently, was not eligible for Statutory Maternity Pay. She did not know that she was eligible for Maternity Allowance and did not apply. She returned to work when her child was five months old because of financial pressures. If she had received Maternity Allowance, she would have spent more time with her new baby and returned to work after nine months leave.

It is apparent to us that awareness of this entitlement within migrant community organisations is very limited.

Information resources

We explored the information available to migrant women and their advisers on entitlement to Maternity Allowance. The Home Office has a leaflet entitled 'No recourse to public fund'.² This states that individuals with no recourse to public funds are not entitled to most benefits. It listed some of those which people with no recourse to public funds are entitled to. When we reviewed this leaflet in June 2009, Statutory Maternity Pay was on this list but Maternity Allowance was not. We raised this with the Department of Work and Pensions who agreed to pursue changes to this. We are delighted to see that the leaflet has now been updated to include reference to Maternity Allowance.

We explored the DWP website and DirectGov but did not find any other information on this topic. Information on Maternity Allowance was commonly grouped with information on benefits which are considered public funds. For example, 'Working Age Benefits' on the Jobcentre Plus website at http://www.jobcentreplus.gov.uk/jcp/Customers/WorkingAgeBenefits/Dev_007956.xml.html; and 'Expecting or bringing up children' on the DirectGov website at <http://www.direct.gov.uk/en/MoneyTaxAndBenefits/BenefitsTaxCreditsAndOtherSupport/Expectingorbringingupchildren/index.htm>

We did a survey of Jobcentre Plus phone advice to check what telephone advice was available to women. During July 2009, we contacted two centres in each of the eleven regions, totalling 22 phone calls. We posed as the friend of a woman with no recourse to public funds and asked if she was entitled to Maternity Allowance.

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Three advisers gave the correct answer on initial contact. Another eight said that they didn't know and referred us onto the Maternity Allowance enquiry line, where we received the correct answer. Six advisers gave the wrong answer on initial contact and another four said they didn't know and referred us onto another enquiry line which could not answer our query (NASS, Disability benefits, Social fund). One centre did not answer our call despite repeated contact. In summary, we received correct answers from 11 calls, wrong answers from 10 calls, and no answer from one call.

We are extremely concerned at the high proportion of advisers providing incorrect advice. We are also concerned at the comments made by some Jobcentre Plus advisers before they referred us on to another enquiry line. In several cases, these were incorrect and could have deterred callers from continuing with their investigations.

Yes [Maternity Allowance] is a public fund, the only thing she can do is apply and see.

Yes [Maternity Allowance] is a public fund I'm afraid. It's not based on your NI contributions but I can give you the benefits number anyway.

Yes [Maternity Allowance] is a public fund the same as any benefit like JSA, IS. My advice is for her to make a claim and see what happens.

An important issue for migrant women is the impact of receipt of Maternity Allowance on any immigration applications. Women are unlikely to apply for Maternity Allowance if they believe it could put their and their family's future in the UK at risk. Maternity Allowance application and payment processes are similar to benefits which constitute public funds, so there is likely to be some confusion about this. None of the resources explicitly addressed the concern that women in receipt of Maternity Allowance might understandably have about its impact on any future immigration application.

While we welcome the improvements in the information provided by the Home Office, there is considerable work to be done to ensure that the web-based and phone-based information provided by Government is adequate, accessible and consistently accurate.

Impact of not receiving maternity pay

The vast majority of women who are entitled to Maternity Allowance are on low incomes and in low paid roles. Maternity Allowance is likely to constitute a significant proportion of their household income and may be the only source of income available to them following the birth.

The absence of maternity pay can compel women to leave the UK earlier than they had intended. One migrant organisation we contacted commented that clients who did not receive maternity pay would return to their home country as they were unable to support themselves in the UK.



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Research has shown that the primary factor determining length of maternity leave is financial³ so missing out on Maternity Allowance is likely to have a direct impact on the length of time women take off work following the birth. This is at odds with stated Government policy of giving parents choice and flexibility about providing care for their child in the child's first year.⁴

There is a strong association between return to work and cessation of breastfeeding.⁵ Missing out on Maternity Allowance is likely to impact on duration of breastfeeding, which has long term health effects for mother and child.

Lack of accessible information about entitlement to Maternity Allowance leaves this group of women at risk of marginalisation and poverty. There is the potential for long term negative impacts on the health and wellbeing of mother, baby and other family members.

CONCLUSIONS

Maternity Action is very concerned that there are migrant women who are entitlement to Maternity Allowance who are missing out on this support. We call for swift action to ensure that women who are entitled to Maternity Allowance are made aware of their rights.

We call for:

- 1. Further information about migrant women's entitlement to Maternity Allowance and the implications for immigration applications to be included on the Department of Work and Pensions, Direct Gov and Home Office websites.**
- 2. Jobcentre Plus staff to receive formal training on the maternity entitlements of women with no recourse to public funds.**
- 3. An active programme of awareness raising on this issue to be undertaken amongst migrant communities.**

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Maternity Action produces information sheets on maternity rights and benefits for women with different forms of immigration status. These are available at: www.maternityaction.org.uk/parentmigrant.html

1 D. Smeaton and A. March, 2006, Maternity and Paternity Rights and Benefits: Survey of Parents 2005, Employment Relations Research Series No. 50, London: Department of Trade and Industry

2 Home Office, 2009, 'No recourse to public funds' [Internet] Available at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/residency/publicfunds.pdf> Accessed 15.9.09

3 D. Smeaton and A. March, 2006, Maternity and Paternity Rights and Benefits: Survey of Parents 2005, Employment Relations Research Series No. 50, London: Department of Trade and Industry

4 Department of Trade and Industry, 2005, *Work and families: choices and flexibility*, London: DTI

5 K. Bolling, C. Grant, B. Hamlyn and A. Thornton, 2007, *Infant Feeding Survey 2005*, The Information Centre