

April 2009

Maternity rights and benefits: asylum seekers

This is one of a series of information sheets which provide a guide to maternity rights and benefits for pregnant women and new mothers according to their immigration status. This information sheet covers:

- Employment-related maternity rights
- Benefits and tax credits
- Healthcare

Other information sheets cover rights and benefits for refused (failed) asylum seekers, refugees, undocumented migrants, EU and EEA nationals (including A8 and A2), UK citizens and permanent residents and women with no recourse to public funds.

Immigration status

An asylum seeker is a person who has submitted an application for asylum and is awaiting the result. It includes someone who has submitted an appeal and is awaiting the outcome. An asylum seeker whose claim or appeal has been refused is described as a 'refused' or 'failed' asylum seeker. An asylum seeker whose claim or appeal has been accepted will be given refugee status or some other form of leave to remain. This information sheet is only for asylum seekers with a current claim or appeal. We have a separate information sheet for 'refused' or 'failed' asylum seekers and another information sheet for refugees.

An asylum seeker may have an IS96 temporary admission form, an application registration card (ARC) or a standard acknowledgement letter (SAL) showing that they have made an application for asylum.

It is important for an asylum seeker to check their status from time to time.

Correspondence may have gone astray and they may not be aware that their claim or appeal has been accepted or refused.

Employment rights

Asylum seekers are not normally entitled to work while their application is being considered.

Asylum seekers who have been waiting for more than 12 months for a decision and where the delay in the decision is not the applicant's fault can ask the UK Border Agency (UKBA), for permission to work. An asylum seeker who wishes to ask for permission to work should seek advice from one of the organisations below.

Asylum seekers who have permission to work can claim Statutory Maternity Pay, Maternity Allowance and Statutory Sick Pay if they meet the eligibility requirements. For more information on these rights see our information sheet on UK citizens and permanent residents.

Benefits and tax credits

Most asylum seekers are not entitled to benefits and must claim asylum support from the UK Border Agency (UKBA), formerly the National Asylum Support Service (NASS). Asylum seekers who have transitional protection are an exception and this is discussed below.

Asylum seekers are entitled to claim support from the UKBA. This is currently £42.16 per week for a person aged 25 and over, £33.39 per week for a person aged 18 to 24 and £66.13 per week for couples. A pregnant woman and children under three can claim an extra £3 a week. A baby under one year can claim an extra £5 a week.

Asylum seekers who have no accommodation can apply for housing support from the UKBA. They will usually be provided with a room in a hotel, hostel, bed and breakfast, shared house or flat. This will usually be outside London and the South East and the asylum seeker does not have any choice as to where they will be accommodated, however, the UKBA should take account of any physical needs and personal circumstances. An asylum seeker should remain in the accommodation unless they are given permission to move, otherwise they could lose entitlement to asylum support and accommodation. Asylum seekers are entitled to remain in the accommodation until they receive a decision on their application. Asylum seekers who are granted refugee status, humanitarian protection or discretionary leave can remain in their accommodation for 28 days. Asylum seekers whose application is refused can remain in their accommodation during the appeal process, providing the appeal is made on time and must leave the accommodation within 21 days once a final decision to refuse asylum has been made.

If they are not eligible for asylum support or benefits, their local authority may provide assistance. If they have children, support can be provided by social services departments under the Children Act 1989.



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A mother or father who qualify for UKBA support can apply to the UKBA for a £300 maternity payment to help buy things for a new baby. The maternity payment must be applied for less than a month before the baby is due to be born, or within two weeks after the birth. A claim can also be made if the baby was born outside the UK to a person who qualifies for UKBA support and the baby is less than three months old or in exceptional cases. The maternity payment can only be claimed once but is available for each baby. Therefore, twins are entitled to £600. If the mother or father is eligible for benefits or has received a Sure Start Maternity Grant, he/she is not eligible for a UKBA maternity payment.

Asylum seekers must complete an application form from the UKBA to apply for asylum support or a maternity payment. The organisations listed below can provide help with completing the forms.

Asylum seekers are not entitled to claim tax credits. If the asylum seeker has a spouse or partner who is entitled to claim tax credits, the spouse or partner can apply as a couple.

Asylum seekers with transitional protection

Transitional protection applies to those who were entitled to benefit on 4 February 1996 or 6 October 1996 for Child Benefit and those who applied for asylum on or before 2 April 2000.

An asylum seeker with transitional protection can claim Income Support, income-based Jobseekers Allowance (JSA), Housing Benefit (HB), Council Tax Benefit (CTB), Child Benefit and social fund payments, including the Sure Start Maternity Grant. An asylum seeker can only claim urgent cases payments of income support and income-based JSA. More information on these benefits can be found in the information sheet for UK citizens and permanent residents.

Family members who are not asylum seekers

Where a couple have different immigration status, a spouse or partner who is **not** subject to immigration control can claim Income Support and JSA for themselves, Child Benefit (regardless of the child's immigration status) and tax credits. JSA can be claimed jointly by a couple. If one of the couple is subject to immigration control a claim can still be made but JSA will be paid at the single rate not the couple rate. A 'person subject to immigration control' is a person who is not an EEA national or who requires leave to enter or remain, or has leave to enter or remain with a public funds restriction or is subject to a formal undertaking or is appealing an immigration decision.

Child Tax Credits (CTC) can be claimed by families with children regardless of whether or not they are working. The claimant must be present and ordinarily resident and have a right to reside here. Where a spouse or partner of an asylum seeker is entitled to claim CTC the claim is made as a couple and treated as if the couple are not subject to immigration control. The claimant can also claim for any children, regardless of their immigration status.

Couples with different immigration status will both need an NI number in order to claim benefits. It is not necessary to have the right to reside in the UK to obtain an NI number but a person who does not have the right to reside will be excluded from qualifying for most benefits.

Maternity care and other healthcare

Asylum seekers are entitled to obtain NHS care free of charge. They are entitled to maternity care free of charge. They are entitled to apply for registration with a GP and attend GP appointment free of charge.

Useful contacts

Acas

www.acas.org.uk

Information on rights at work - 08457 474747

Asylum Support Appeals Project

www.asaproject.org.uk

Advice on asylum support appeals – 0845 603 3884 - Monday, Wednesday, Friday

UK Border Agency

www.bia.homeoffice.gov.uk

Immigration enquiry bureau - 0870 606 7766

Asylum support customer contact centre - 0845 602 1739

Child Poverty Action Group

www.cpag.org.uk

Advice on benefits and tax credits.

For advisors only - 020 7833 4627, any weekday from 2-4pm.

Refugee Legal Centre

www.refugee-legal-centre.org.uk

Legal advice and representation for refugees and asylum seekers - 020 7780 3200

Detention Line - 0800 592 398

Emergency Line - 07831 598057

Refugee Council

www.refugeecouncil.org.uk

Information and assistance for refugees and asylum seekers.

Head Office - 020 7346 6700

London Advice Line - 020 7346 6777

East of England – 01473 297 900

West Midlands – 0121 234 1950

Yorkshire and Humber – 0113 386 2210

Working Families

www.workingfamilies.org.uk

Advice on maternity rights and benefits.

Helpline 0800 013 0313.

Maternity Action and Medact are unable to provide advice on individual cases. This information sheet was produced in April 2009. It is important to get up-to-date advice.

For email updates on this information sheet, send a message to maternityrights-subscribe@yahoogroups.com