

April 2009

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



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Immigration status

A 'refused' or 'failed' asylum seeker is someone whose claim for asylum has been refused and any subsequent appeals have been unsuccessful. The UK Government expects refused asylum seekers to leave the country.

Employment rights

Refused asylum seekers are not entitled to work.

Benefits and tax credits

Refused asylum seekers are not entitled to benefits but may qualify for some support from the UK Border Agency (UKBA).

Asylum support from the UKBA ends 21 days after an application for asylum has been refused. If an appeal is made on time the UKBA will continue support until a final decision is made. UKBA support will end 10 days after a decision is made or 21 days after the final appeal decision. If the asylum seeker has dependent children under the age of 18, asylum support should continue until the child reaches 18 or the asylum seeker leaves the country.

Refused asylum seekers may be able to receive support under section 4 of the Immigration and Asylum Act 1999. Section 4 support consists of accommodation and vouchers and is provided by the UKBA to asylum seekers who have exhausted all their appeal rights and are destitute.

Women in receipt of section 4 support are entitled to claim an additional £3 per week during pregnancy and can claim £250 in vouchers shortly before or after the birth. Parents can claim an additional £5 per week for children under one year, £3 per week for children over one year and under three years, and £5 in clothing vouchers for each child. Section 4 recipients can claim travel costs, telephone costs, stationery and

postage in relation to healthcare appointments.

To apply for section 4 support claimants must show that they are destitute and that they have taken reasonable steps to leave the country; or that they are destitute and have been unable to leave the country because of physical or medical reasons. Women in 'the late stages of pregnancy' or who have some pregnancy-related complication which would render them unfit for travel are accepted as having a physical or medical reason for being unable to leave the country.

To claim section 4 support based on medical reasons, pregnant women must provide evidence that they are destitute, such as a letter from a solicitor, midwife or friend. In addition, they must provide a MAT B1 certificate or, if they are claiming pregnancy-related complications, a letter from a health practitioner stating that they are unfit to travel. For women with an uncomplicated pregnancy, UKBA will ordinarily provide section 4 support for the six weeks before the expected date of delivery until six weeks after the birth. This claim should be submitted several weeks before the section 4 support is expected to commence to allow time for the UKBA to process the claim.

Refused asylum seekers who have special needs, are pregnant or who have children can apply to their local authority for support. Refused asylum seekers who have been certified by the Secretary of State as having failed to leave voluntarily, failed to comply with removal directions or who applied for asylum in-country rather than at port of entry are excluded from local authority support but may be able to obtain accommodation and support where there would be a breach of their human rights. In some circumstances, local authorities can provide funds for travel to the asylum seeker's country of origin. Refused asylum seekers should seek help from the organisations listed below to apply for local authority support. Local authorities are obliged to inform the UKBA if a refused asylum seeker applies for support.

Travel expenses

Support is available to enable refused asylum seekers who receive section 4 support to travel to meet reporting requirements where a person has to travel more than three miles. An asylum seeker who is unable to travel that distance, for example, in the later stages of pregnancy, can apply to the UKBA to reduce the frequency of reporting or to report to a local police station. A person receiving section 4 accommodation can ask to be moved nearer to the reporting centre by writing to their reporting centre.

Maternity care and other healthcare

Maternity care

Refused asylum seekers are entitled to access NHS maternity care but may be asked to pay for care. NHS guidance states that maternity care is 'immediately necessary' care and must not be withheld because the woman is unable to pay in advance. Maternity care includes antenatal care, birth and postnatal care and includes HIV treatment during pregnancy. This is not widely understood and the woman may need to insist that the maternity service follows the NHS guidelines.

When attending for maternity care (or for other forms of healthcare), a woman may be asked whether she has a legal right to be in the country and how long she has lived in the UK. Some maternity services ask women to show their passport however this is not universal.

Secondary care

Secondary care includes care provided in hospitals and by specialists. Refused asylum seekers may be asked to pay for secondary care. Care which is considered to be 'immediately necessary' treatment or 'urgent' treatment must be provided without delay whether or not the woman is able to pay. Care which is considered 'non-urgent' can be refused if the woman is unable to pay in advance. Only clinicians can decide on the urgency of treatment.

GP and other primary care

Department of Health guidance states that GPs have the discretion to register refused asylum seekers, but are not required to do so.

Exceptions

Refused asylum seekers are entitled to free NHS care for: compulsory mental health treatment, testing (but not treatment) for HIV/AIDS, treatment for communicable disease including TB and sexually transmitted infections (except for HIV/AIDS), emergency care provided in Accident and Emergency.

Family members who are not asylum seekers

In some circumstances, where a couple have different immigration status, a spouse or partner of an asylum seeker, who is not subject to immigration control, may be able to continue to claim benefits to which they are entitled, see the asylum seeker information sheet.

If the asylum seeker's application has failed, the refused asylum seeker is subject to immigration control and should have no recourse to public funds. Benefits considered to be public funds include, amongst others, Child Benefit, Child Tax Credit, Working Tax Credit, Council Tax Benefit, Health in Pregnancy Grant, Housing Benefit, Income Support, Income-based JSA and Social Fund payments including the Sure Start Maternity Grant. Their spouse or partner should seek advice about claiming benefits from the organisations listed below.

Useful contacts

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.

Citizen's Advice Bureau

www.adviceguide.org.uk

General help and advice. You can find your nearest CAB in the phone book.

Community Legal Advice

www.communitylegaladvice.org.uk

Immigration advice and access to a legal adviser in your area 0845 345 4345

Family Rights Group

www.frg.org.uk

Advice on local authority support for families – 0800 731 1696 10 -12 and 1.30 – 3.30 pm weekdays.

Project London

www.medecinsdumonde.org.uk/projectlondon

Free and confidential help to access healthcare – 020 8123 6614, 020 7613 4106 Monday/Wednesday/Friday 1.00-6.00pm

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

Maternity Action and Medact are unable to provide advice on individual cases.

This information sheet was produced in January-April 2009. It is important to get up-to-date advice.

For email updates on this information sheet,
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