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Maternity Rights



Maternity rights

If your baby was stillborn after 24 weeks of pregnancy or if your baby was born and died soon after birth (at any stage in your pregnancy), you are entitled to all your maternity rights, just as any mother is. To qualify for maternity leave you must also have told your employer you were pregnant 15 weeks before the baby's due date.

Your maternity leave is 52 weeks regardless of how long you have worked for your employer. This is divided into 26 weeks of Ordinary Maternity Leave (OML) and 26 weeks Additional Maternity Leave (AML). If your baby died while you were already on maternity leave you will not have to take any action but if you were still working, you will have to let your employer know what has happened as soon as possible. Your maternity leave will then start automatically on the day of your baby's delivery.

Statutory Maternity Pay

You qualify for SMP provided you are an employee (ie. Your employer deducts tax and National Insurance from your pay-slip) and have been earning an average of at least £84 a week in the two months up to the 15th week before your baby is due. If you leave your job or are dismissed after the 15th week before your baby is due, you will still be entitled to SMP. You are entitled to SMP even if you do not intend to return to your job after Maternity Leave.

You will be paid SMP for 39 weeks, ie for 26 weeks of your OML and 13 weeks of your AML. SMP is paid at 90% of your average earnings for the first 6 weeks and then at a flat rate of £111 per week (as of April 2007) or 90% of your average earnings if that is less, for the following 33 weeks. SMP payments start the first Sunday after your baby was delivered. If your baby was delivered on a Sunday, SMP payments will begin from then.

Claiming Statutory Maternity Pay

To claim SMP you must let your employer know what has happened as soon as possible. If your baby was stillborn, it is helpful to send a copy of the stillbirth certificate which you should have been given at the hospital along with your MAT B1 form (which you may already have received from your GP or midwife at 20 weeks of pregnancy).

not already covered by the funeral plan. If you plan to apply for this payment, you must claim within three months of your baby's death.

A funeral expenses payment can be claimed using a SF200 form from your local Jobcentre Plus office and can only be claimed if you are already receiving one of the following qualifying benefits:

- Income Support
- Income Based Jobseeker's Allowance
- Child Tax Credit
- Housing Benefit
- Council Tax Benefit
- Pension Credit

You can also apply by filling in an application form on-line on the Department for Work and Pensions website at www.dwp.gov.uk. You will need to print the form in order to sign it. You have to have a funeral director's bill to apply for a funeral payment, and you will need to provide this with your claim.

fax 0845 9000 604 (open every day, except for public holidays, from 8am to 10pm).

By claiming your child's benefit you automatically qualify for the Child Trust Fund Voucher. This money is effectively your child's estate.

Other benefits

Financial help for your family may be available from Income Support, Housing Benefit, Council Tax Benefit, and Tax Credits. If you are entitled to paternity/maternity leave, but not to statutory paternity/maternity pay, you may be able to claim Income Support. Income Support may also be payable if, immediately before your paternity/maternity leave, you are getting Housing Benefit, Council Tax Benefit, Working Tax Credit, or Child Tax Credit of more than the family element, but in this case you can only get Income Support if your maternity pay and other income is low enough.

For more advice on benefits, you can call the Working Families helpline on 020 7253 7243 or find them at <http://www.workingfamilies.org.uk>.

Sure Start Maternity Grant

This is a one-off payment of £500 and you need to be receiving a qualifying benefit already to be entitled to it. Qualifying benefits include:

Income support, Income-based Jobseeker's Allowance, Child Tax Credit at a rate higher than the 'family element', Working Tax Credit including the disability or severe disability element.

You can claim this grant using a SF100 form from your local Jobcentre Plus office. You can claim this from 11 weeks before your baby was due and up to three months after he/she was born.

Funeral Expenses Payment

The purpose of this payment is to help parents with funeral expenses. A funeral payment will not cover all the costs of a funeral. A funeral payment can include the costs of a new burial plot or the costs of cremation, as well as some travel costs. It can also include up to £700 for other expenses, such as a headstone, flowers or extra religious requirements. If there is a private funeral payment plan, there is a limit of £100 for any of these other expenses that are

If you do not qualify for SMP, your employer must give you form SMP1. This is needed to claim Maternity Allowance.

Maternity Allowance

If you do not qualify for SMP, you may still be able to get Maternity Allowance (MA). This is paid by the JobCentre Plus directly to you. To qualify for MA you must have worked for at least 26 weeks in the 15 months before your baby was due. You also have to have earned at least £30 per week in 13 of those 26 weeks. These weeks do not have to be continuous weeks and you don't need to have worked for the same employer; you can add together earnings from more than one job. Pay can include holiday pay, bonuses, overtime, sick pay and any previous periods of SMP but not Maternity Allowance.

Maternity Allowance is paid at a flat rate of £108.85 for the whole period or 90% of your average earnings if that is less. You will receive MA for 39 weeks and it starts in the week your baby was born.

The charity Working Families explains how to claim MA: 'You can claim MA from your local Jobcentre Plus on form MA1. You will need to send your MATB1, 13 weeks' pay slips or written proof of your earnings and, if you are employed in the 15th week before your baby is due, form SMP1 from your employer stating why you are not entitled to SMP. The JobCentre Plus will work out whether you qualify for MA.

'If you do not qualify for MA they should automatically check whether you are entitled to Incapacity Benefit (IB). IB is not means-tested but depends on whether you have paid or been credited with sufficient NI contributions in the previous three years.'

Pregnant Again?

If you become pregnant again when you are on maternity leave this does not change your rights to further periods of maternity leave and pay, although you may not have earned enough to qualify for Statutory Maternity Pay the next time round. This may be something to keep in mind if you are planning to try for another baby shortly after your loss, before you have returned to work.

If you feel any of your questions are not answered here the Working Families website is an extremely helpful resource. You can link to some of their factsheets from here:

http://www.workingfamilies.org.uk/asp/family_zone/f_factsheets.asp.

They will also take calls on their helpline 020 7253 7243.

Paternity rights

If you have been working for your employer for at least 26 weeks up until the 15th week before your baby was due, you are entitled to the same paternity rights as any father is, that is to say two consecutive weeks paternity leave. This must be taken within the first 56 days of your baby's delivery. While you do not have the legal right to take these weeks as individual days or separate weeks, you can always negotiate this with your employer.

Statutory Paternity Pay

You will almost certainly also qualify for Statutory Paternity Pay (SPP). This is paid at a rate of £108.85 per week or 90% of average weekly earnings if this is less. Average weekly earnings are based on your earnings in the two months ending with the 15th week before the baby is due. Average weekly earnings in this period must be no lower than £84 a week. Most employees have given their employer notice for leave and pay by the end of the 15th week before the baby is due. It is a good idea to write to your employer and give him the following information: the date your baby was delivered; whether you want to take one or two weeks leave and when you want your leave to start.

For pay you must also state: whether you want to receive one or two weeks' Statutory Paternity Pay and when you want your pay to start.

Time off for emergencies

If you do not qualify for paternity leave or want to take more time off to be with your wife/partner then you can take unpaid leave. Since there is no legal definition of how much time is reasonable to take off, it is very much up to you to take what you feel you need.

Annual leave

If you want to take more time off or feel that the statutory paternity pay will not be enough to support your family financially, it may be possible to discuss with your employer whether you are able to take some annual leave at this time. This, of course, will be paid.

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Benefits

Aside from the devastating emotional blow of losing a baby, many families find themselves facing an unexpected financial strain as well. If you are working when your baby dies, whether your baby was stillborn or died shortly after birth, the chances are you will still qualify for maternity or paternity leave and maternity/paternity pay from your employer, just as most new working parents do.

There are other benefits too that parents may be are entitled to, including tax credits, the Sure Start Maternity Grant, a Funeral Expenses Payment and Child Benefit.

Child Benefit

If your baby was born alive and died shortly afterwards, at any time during your pregnancy, you are entitled to eight weeks' child benefit, regardless of your financial situation. Most parents are completely unaware of this. Sadly parents of stillborn babies are not yet entitled to child benefit although Sands is supporting [Millie's Campaign](#), a campaign to change this.

It can seem strange, and perhaps upsetting, claiming for a child that you cannot hold or care for, but the eight weeks' benefit can be helpful in terms of paying for a headstone or funeral flowers, or simply with everyday needs if one or both parents are off work in the weeks after their baby's death. If you do not apply for the benefit within three months of your child's birth then you will have to go to appeal in order to secure the payment. The appeal is not a guaranteed process.

You need to fill out a Child Benefit Claim Form. You can download these from the Internet. Go to

<http://www.hmrc.gov.uk/childbenefit/cb-key.htm#b>

and scroll down to the section on 'How to Claim'. From here you will be given details on how to print off a Child Benefit Claim Form. You must send this along with your baby's birth certificate to the Child Benefit Office:

Child Benefit Office, PO Box 1, Newcastle upon Tyne, NE88 1AA.

Tel: 0845 302 1444

You can equally write to the Child Benefit Office and ask them to send you a claim form. You will have to explain your circumstances and it is worth including your full name, daytime telephone number and National Insurance Number.

For the Child Benefit Office's leaflets order line, call 0845 9000 404 or