

Factsheet



Maternity Benefits & Rights

The information and benefit rates in this leaflet are correct at April 2008

Maternity Benefits and Rights

This factsheet tells you about your rights at work and rights to benefits as you go through your pregnancy. Don't forget - your rights at work may be better, but not worse, than the legal minimum described here.

STATUTORY MATERNITY PAY (SMP)

This is a weekly payment paid by an employer to women who stop work to have a baby. SMP will be paid for up to 39 weeks while you are on maternity leave. It is taxable.

To get SMP you must:

- have worked for the same employer for at least 26 weeks by the 15th week before your baby is due; and
- earn an average of £90.00 (gross) or more a week (ie pay national insurance contributions); and
- still be employed in this job in the 15th week before the baby is due (it doesn't matter if you are off sick or on holiday).

You can get SMP even if you aren't going back to work after your baby is born. If you change your mind about returning to work, you will not have to repay any SMP.

How much SMP will I get?

SMP is paid at one of 2 rates:

- for the first 6 weeks, you will get 90% of your average weekly pay
- for the next 33 weeks, you'll get £117.18 (or 90% of average weekly pay, whichever is lower).

When working out your average weekly pay, your employer will use the *8 weeks immediately before the 'qualifying week'. The 'qualifying week' is the 15th week before the week in which your baby is due.

* If you already have children and are purchasing childcare vouchers via your employer to help pay for childcare, you should seek further advice before you purchase vouchers during this 8 week period.

You can choose to work right up until the week your baby is due and still get 39 weeks SMP. The earliest you can get SMP is the 11th week before the week in which your baby is due.

How do I claim statutory maternity pay?

You must notify your employer of your pregnancy and the date you intend to start your maternity leave in the 15th week before the week the baby is due. Your employer should reply within 4 weeks giving you information on your maternity entitlement.

You must also give your employer 28 days notice of the date you wish your SMP to start.

If you do not qualify for SMP, for example because you do not earn enough or you have not worked for your employer for long enough, you may be able to claim maternity allowance instead (see below). Your partner may also be able to claim paid time off (see below).

MATERNITY ALLOWANCE (MA)

Entitlement to maternity allowance is based on your average earnings.

You will get maternity allowance if you:-

- have been employed or self-employed for at least 26 weeks of the 66 weeks before the week the baby is due; *and*
- earn at least £30 a week on average. Payments from all your jobs if you have more than one will count towards the average.

You may get maternity allowance if you meet the above conditions but are no longer working, or have recently changed jobs, and you cannot get SMP.

How much maternity allowance will I get?

The amount of maternity allowance is either 90% of your average weekly earnings or £117.18 per week, whichever is less.

You can get maternity allowance from the 11th week before the week the baby is due. MA is paid for 39 weeks.

How do I claim maternity allowance?

Claim on form MA1 available from jobcentre plus on 0845 6088 595. You can download a claim form from www.jobcentreplus.gov.uk or forms may be available from your antenatal clinic, or by returning the coupon in leaflet 'babies and benefits'.

Send the form back with a maternity certificate (MAT B1) and wage slips, when you are about 26 weeks pregnant.

STATUTORY PATERNITY PAY (SPP)

Statutory paternity pay (SPP) can be paid to a member of both heterosexual and same-sex couples for a child born to a spouse /partner (SPP – birth) or for a child who is adopted (SPP - adoption). SPP is paid for a maximum of two consecutive weeks at a flat rate of £117.18 per week (or 90% of average weekly earnings if this is less)

How do I qualify for SPP?

To qualify for SPP, your partner/spouse will need to have worked for their employer continuously for 26 weeks by the 15th week before the baby is due (birth) or continuously for 26 weeks by the week in which you are notified that you have been matched with a child for adoption. They must earn on average more than £90.00 per week and must also give their employer written notice at least 28 days before they want the SPP to start.

NB: Both parents have a right to take up to 13 weeks unpaid parental leave per child. (see page 12 of this factsheet for the rules).

STATUTORY ADOPTION PAY (SAP)

Both men and women can qualify for SAP. However, if you are one of a couple jointly adopting a child, only one of you can claim SAP (your partner may be able to claim SPP).

SAP is paid for up to 39 weeks at the flat rate of £117.18 per week (or 90% of average weekly earnings if this is less) to parents adopting a child aged under 18 years. To qualify, you must have worked for your employer continuously for 26 weeks ending in the week in which you are notified that you have been matched with a child for adoption. You must earn at least £90.00 per week on average and give your employer at least 28 days notice, before the date you want your SAP period to start. If this is not possible you should give your employer notice as soon as is practicable.

NB if you are the claimant you cannot receive both SAP and statutory paternity pay (SPP) but your partner may qualify for SPP as detailed above.

The table below should help you decide what you may be entitled to.

Adoption	If you are the sole adopter	SAP
	If you and spouse/partner jointly adopt a child	SAP or SPP (adoption)
	If partner or spouse is the adopter	SPP (adoption)
Birth	If you are the mother of the baby	SMP or MA
	If you are the father of the baby or partner of the mother	SPP (birth)

INCAPACITY BENEFIT DURING PREGNANCY

If you are not entitled to either SMP or maternity allowance, you may qualify for incapacity benefit if you have been working and paid enough national insurance contributions. You will be treated as incapable of work from 6 weeks before the expected week of childbirth until two weeks after the actual date of childbirth, and on any other date when working would cause a serious risk to your health or to the health of the baby.

You do not need to provide medical evidence of incapacity during the period from six weeks before the expected week of childbirth to 2 weeks after the actual week of childbirth. You do need to submit a maternity certificate (MAT B1). Claim incapacity benefit by calling the jobcentre plus contact centre on 0800 055 6688.

CHILD TAX CREDIT

Child tax credit replaced the amounts paid for children in most benefits but does **not** replace child benefit.

Child tax credit is for families with children aged under 16 or aged under 20 and still in full-time non-advanced education or approved training. It is means-tested. The amount depends on the age of the children and whether any children are disabled. The maximum amount tapers off as income increases above a set threshold.

Child tax credit is made up of a family element and elements for each child. A higher family element (known as the baby element) is paid to families with a child under one. Extra amounts are paid for children with a disability.

Who can claim?

Child tax credit can be claimed by anyone aged 16 or over who is responsible for a child:

- under 16 years of age; or
- aged 16 (if they leave school at 16, CTC is paid until the beginning of September following their 16th birthday); or
- aged under 20 years of age and in full-time non-advanced education (still at school or college) or unwaged work-based training

It will be paid direct to the main carer for the children in the family. For more information see our factsheet 3 '**families and benefits**'.

Claim child tax credit by phoning the tax credit helpline on 0845 300 3900.

INCOME SUPPORT

Income support is a means-tested benefit paid to people aged under 60 who do not have enough money to live on. It can **top up** other benefits such as SMP or maternity allowance, or your part-time wages. It can be paid on its own if you have no other money coming in.

You can only get income support if you do not have to sign on as available for work. Pregnant women do not have to be available for work from the 11th week before the week the baby is due and for 7 weeks after the baby is born. Before the 11th week you can still get income support if your doctor says you are unfit for work. If you are fit for work, you can claim jobseeker's allowance.

You cannot normally get income support if you are working 16 hours or more a week, or your partner (if you have one) is working 24 hours or more a week. Even if your partner works less than 24 hours, earnings are taken into account when working out how much income support you get.

You cannot get income support if you and your partner have savings of more than £16,000. If you have savings between £6,000 and £16,000 your income support is reduced.

How much income support will I get?

The amount of income support you get depends on your age, whether you are caring for anyone and whether anyone is ill or disabled. You may get extra if you have a mortgage.

NB: If you are currently being paid any personal allowances and premiums for children in your income support or jobseeker's allowance these will continue up until the time they are transferred over to child tax credit - this migration is expected towards the end of 2008.

Most types of income are taken into account when working out your income support. Both statutory maternity pay and maternity allowance count in full.

Claim income support by phoning the jobcentre plus contact centre on 0800 055 6688.

If you or your partner are aged 60 or over you should claim pension credit instead. For more information on pension credit see factsheet 6 – **'benefits for older people'**.

JOBSEEKER'S ALLOWANCE

There are 2 types of jobseeker's allowance:

- **contribution-based jobseeker's allowance** - you must have paid enough national insurance contributions. You can get it for 6 months. The amount you get depends on your age;

- **income-based jobseeker's allowance** - this is means-tested and worked out like income support.

For both types of jobseeker's allowance, you must be capable of, available for, and actively seeking work.

If you are pregnant, you do not have to be available for work from the 11th week before the week that the baby is due and for 7 weeks after the birth. During this time, you can claim income support or incapacity benefit (see above). Outside this time, you should claim jobseeker's allowance if you are fit for work. If you are too ill to work, claim income support or incapacity benefit with a medical certificate from your doctor.

Claim jobseekers allowance by phoning the jobcentre plus contact centre on 0800 055 6688.

Work Focused Interviews (WFI)

You and your partner, if you have one, may also be required to attend a 'work focused interview' as a condition for getting *some* benefits. The requirement to attend an interview may be 'waived' or 'deferred' if it is considered that it would not be of assistance or appropriate to you. Seek advice if this applies to you.'

NB if you are claiming maternity allowance you will not be required to attend a work focused interview.

HEALTHY START VOUCHERS

If you are getting income support, income-based jobseeker's allowance, or income related employment and support allowance, or child tax credit and your annual family income is below, £15,575 you can receive vouchers from the 'Healthy Start scheme' during your pregnancy and afterwards. The vouchers, worth £3.00, are available to women who are over 10 weeks pregnant or those with children under the age of 4. For babies under 1, the vouchers are worth £6.00 each week. The vouchers can be used for fresh fruit and vegetables as well as fresh milk or formula milk for babies. In addition, the scheme also supplies free vitamin supplements.

Claims for healthy start vouchers can be made on form HS01 available from antenatal clinics, GP surgeries, children's centres or on <http://www.healthystart.nhs.uk> or by calling 0845 607 6823.

SURE START MATERNITY GRANT

You may be able to get a sure start maternity grant of £500 if you or your partner is getting one of the following:

- income support
- income related employment and support allowance
- income-based jobseeker's allowance
- pension credit (if you or your partner are aged 60 or over)
- working tax credit (with a disability element or severe disability element) or
- child tax credit (at a rate greater than the family element) on the day that you claim

To qualify for a grant you will have to show that you have received advice from a health professional (doctor, midwife or health visitor) on the health and welfare needs of the new baby, and on maternal health if you apply before the baby is born. The health professional should sign the detachable part of the claim form.

You can claim a sure start maternity grant at any time from the 11th week before the week in which the baby is due until 3 months after the baby is born, or 3 months after the adoption order.

Claim a sure start maternity grant on form SF100 from your local jobcentre plus.

CHILD BENEFIT

After your child is born, you can claim child benefit regardless of earnings. This is usually paid 4 weekly but can be paid weekly in some circumstances. You can get £18.80 for the first or eldest child and £12.55 for each other child.

Claim child benefit from HM Revenue & Customs (HMRC) on form **CH2** if you are claiming for the first time or form **CH497** if you are already getting child benefit and want to claim for another child. Completed forms should be sent to the Child Benefit Centre (Washington), PO Box 1, Newcastle –Upon-Tyne, NE88 1AA. Tel: 0845 302 1444 or Textphone 0845 302 1474.

If you have access to a computer, claim forms can be found at www.hmrc.gov.uk You can claim and report any changes on line.

Claims can be backdated for a maximum of 3 months. You may receive a claim form with your bounty pack from the hospital.

HOUSING AND COUNCIL TAX BENEFIT

If you have a low income whilst pregnant or after giving birth, ask your local council about help with your rent and council tax. You might get help even if your income is too high for income support, or if your partner is working.

From 7 April 2008 there is a new way of working out new claims for housing benefit for tenants renting accommodation from a private landlord. This is called Local Housing Allowance. However, if you live in council accommodation or other social housing these changes should not affect you.

See our online factsheet E5 '**housing costs**' available at: www.hertsdirect.org/benefits for more information about housing benefit.

WORKING TAX CREDIT (WTC)

Working tax credit can be claimed by low paid families with children, and by disabled people with or without children, who are working at least 16 hours a week. WTC can also be paid to people aged over 25 without children, who are working at least 30 hours a week. There are increased amounts for those working 30 hours or more and for disabled workers. WTC can include an amount for childcare costs.

You are able to claim working tax credit during any period when you are getting SMP, SPP, SAP or MA (or are absent from work during your paternity leave or the first 39 weeks of ordinary and additional maternity or adoption leave) as long as you were in full time work immediately before the period began. However, you should inform the tax credit office if you are still off work at the end of this period.

Claim working tax credit by phoning the tax credit helpline on 0845 300 3900. For more information about tax credits, see our factsheet 3 '**families and benefits**'.

HEALTH BENEFITS

Whatever your income, you can get free prescriptions and free NHS dental treatment while you are pregnant and for a year after your baby is born.

If you or your partner are getting income support, the guarantee credit part of pension credit, income-based JSA, income-related employment and support allowance or you are on a low income you may also get free sight tests, help with glasses or contact lenses and help with fares to hospital. You will also get full help with these if you receive one of the following:

- working tax credit **and** child tax credit, or
- working tax credit with a disability addition, or
- child tax credit (but are not eligible for working tax credit) **and** have an annual gross income of less than £15050 per year.

See leaflet 7 in our '**ill and disabled pack**' for more about health benefits.

CHILD TRUST FUND ('baby bonds')

The CTF is a savings plan for all children born after 1st September 2002.

Each child will receive an initial payment of £250 at birth – rising to £500 for children from low-income families (households whose income is at or below £15,575).

The government will top the fund up on the child's seventh birthday, with a further payment of £250 or £500 for children who are part of a lower income household. Parents, grandparents and friends will be able to pay extra money into the account – up to a maximum of £1200 a year.

The account will be in the child's name, but cannot be spent until they reach 18, by which time the fund will have grown. There will be no restrictions on how the money is spent.

CHALLENGING DECISIONS

If you are unhappy with a decision about your benefits or tax credits you can ask for it to be looked at again (**revision**) or you can formally **appeal** against the decision to an independent tribunal. If you are successful, any change is normally backdated to the time of the original wrong decision. The rules for benefits and tax credits are slightly different.

There are strict time limits if you want to challenge a decision. If you miss the time limit, **which is usually one month from the date of the decision letter**, you can only put in a late challenge in exceptional circumstances.

For more information see leaflet 9 '**challenging decisions**' in our '**ill and disabled**' pack on www.hertsdirect.org/benefits

RIGHTS AT WORK

Pregnant women have a variety of rights at work. The following are your minimum rights under the law - your contract of employment may give you extra protection.

Can I have maternity leave?

You are entitled to a maximum of 52 weeks maternity leave regardless of how long you have worked for your employer or the number of hours that you work. The leave is made up of 26 weeks ordinary maternity leave (OML) and a further 26 weeks additional maternity leave (AML)

You are also entitled to paid time off for antenatal appointments and classes, health and safety protection from potential risks to your unborn child and the right not to be sacked because of pregnancy.

To be able to get 52 weeks maternity leave, you must tell your employer of your pregnancy and the date you want your maternity leave to start, in the 15th week before your baby is due. Your employer must reply within 4 weeks of notification giving you information on your entitlement.

You must also give your employer 28 days notice of the date you wish your employer to start paying your SMP. SMP is paid from the day after the pregnant woman stops work and starts maternity leave.

The earliest that you can start your maternity leave is 11 weeks before your baby is due. If you want to, you can work right up to the week you give birth and have the 26 weeks after the baby is born. The only exception to this is if you have a pregnancy-related illness in the last 4 weeks of your pregnancy. If you are sick for just one day, this could count as the first day of your maternity leave.

What about returning to work?

You do not have to give any notice of return if you are going back to work at the end of your 52 weeks of maternity leave. If your baby is born very late and your maternity leave has run out, you should be able to extend the maternity leave by 2 weeks (or 4 weeks if you work in a factory) from when your baby is actually born.

However, if you wish to return to work before the end of your 52 weeks of maternity leave, you must give your employer at least 56 working days or 8 weeks notice. If you don't give notice your employer can postpone your return by 21 days or until the end of your 26-week leave period, whichever is the sooner.

Your employer may write to you up to 21 days before the end of the 26th week of your leave asking for confirmation of the date of birth and your intention to return to work. This letter should explain how to calculate the date on which your additional maternity period ends. You must respond within 21 days. If you fail to do so you will not lose your right to return, but your employer may decide to take disciplinary action.

You have a right to return to your previous job and employees who are parents of young children have the right to ask their employer for the right to work flexibly which the employer must consider. However, you can't be forced to return to work even if you have told your employer that you intend to do so.

Keeping in touch days

In order to be able to receive either statutory maternity pay, statutory adoption pay or maternity allowance you must have stopped work (this does not mean ending your employment, it can just mean starting your maternity or adoption leave). However new rules introducing 'keeping in touch' days came into force last year as part of the Government's measures to extend maternity rights.

These rules allow a woman to work for up to 10 days during the maternity allowance period, either as an employee or as self employed, without being disqualified from receiving maternity allowance. They also allow an employee to carry out up to 10 days of paid work under their contract while still remaining entitled to statutory maternity pay or statutory adoption pay for those days.

In either case the 10 days do not need to be consecutive and they are optional – an employer does not have to provide such work and cannot insist that an employee works during the maternity or adoption pay period.

Any work done in excess of the 10 ‘keeping in touch’ days will result in disqualification of maternity benefits for each week in which you do some work.

What if I’m dismissed?

If you are dismissed or selected for redundancy, or you are offered an unsuitable job when you return to work, and you believe the reason is pregnancy- related, get further advice from your local Citizens Advice Bureau or trade union.

Parental leave

Most employees are entitled to 13 weeks unpaid leave to care for children born or adopted on or after 15 December 1999.

Both parents can take up to 13 weeks each, and this can be taken at different times from one another. The 13 weeks do not have to be taken all at once.

To qualify for parental leave you must:-

- be employed by the same employer for one year when the leave is taken; *and*
- have responsibility for a child; *and*
- take leave to care for that child.

Leave should usually be taken before the child is 5 years old unless s/he is entitled to disability living allowance, in which case leave can be taken up to his/her 18th birthday.

If you have adopted a child you will be entitled to the 13 weeks leave during 5 years from the date of placement for adoption (or before his/her 18th birthday, whichever is the earlier).

You will be entitled to parental leave for each child, including multiple births or more than one child adopted at the same time.

You should give 21 days notice of your intention to take parental leave, specifying the dates you want the leave to begin or end. If a father wants to take unpaid parental leave straight after the birth he should give 21 days notice of the date the birth is expected.

You may be entitled to income support while taking parental leave if:-

- you are not entitled to any payments from your employers for that period; *and*
- you are entitled to tax credits, housing benefit or council tax benefit on the day before your leave begins.

See page 6 above for more information on income support. See page 15 for a chart that will help you claim what you should at the right time.

Proposed Changes

Government proposals to further extend maternity and paternity rights are expected to come into effect at some point before the end of the current parliament. These will include:

- extending statutory maternity leave to 52 weeks
- introducing new paternity leave for partners, enabling them to share leave and statutory pay if the mother returns to work after six months but before the end of her maternity leave period.

FURTHER HELP AND ADVICE

Your local jobcentre plus office can give you a guide to benefits for expectant and new mothers called 'babies and benefits' (leaflet FB8).

Care to Learn is the name for the new childcare scheme for young parents in learning or training. It is aimed at parents aged under 20 who are in education or training and can pay up to £160.00 per child per week. More information from the Care to Learn helplines:- for providers and advisers 0845 602 2005; for young parents 0845 600 2809.

Also on-line at www.dfes.gov.uk/caretolearn/parents

For more information about the range of help available to meet childcare costs see the 'paying childcare fees' leaflet produced jointly by the Money Advice Unit and Young in Herts or go to the relevant sections on the following sites: www.daycaretrust.org.uk or www.hmrc.gov.uk/childcare.

For up to day information on childcare places in Hertfordshire contact the Children's Information Service on 01438 737502 or 01923 471502 also available on-line at: www.hertsdirect.org/younginherts

Leaflet PL958 'maternity rights: a guide for employers and employees' is available from jobcentre plus.

If you need further advice contact your local Citizens Advice Bureau - further details on www.hertfordshirecab.org.uk or contact Customer Services at Hertfordshire County Council (HCC) on 01438 737400 or 01923 471555 if calling from an 01923 or 020 8 number. You can also access further information from the HCC website at www.hertsdirect.org.

For legal help and information and details of other advice agencies in Hertfordshire, contact the Community Legal Advice helpline on 0845 3454345 (mon - fri 9 a.m. - 6.30 p.m.) or visit the website at www.communitylegaladvice.org.uk

Weeks of your pregnancy	Weeks before your baby is due	You can get:
1	39	<ul style="list-style-type: none"> • free prescriptions • free dental treatment <p>If you are getting income support, the guarantee credit part of pension credit, income-based jobseeker's allowance, certain combinations of tax credits, or your income is low enough, you may get:</p> <ul style="list-style-type: none"> • free fares to and from hospital • free sight tests and vouchers for glasses.
10	30	If you get income support/income-based jobseeker's allowance, or are aged under 18, you can get healthy start vouchers and vitamins.
24	16	If a stillbirth occurs after this week, you can still get SMP and sure start maternity grant.
26	14	<p>This week is known as the SMP 'qualifying week'. You must have been employed for the last 6 months and at least one day in this week to get SMP (days off sick or on holiday count towards this period).</p> <p>This is the earliest that you can claim SMP, but it cannot be paid until week 29.</p> <p>By now, if you want to stop work after week 29 and receive SMP/maternity allowance you should have told your employer the week the baby is due and when you intend to stop work.</p>
29	11	<p>Claim the sure start maternity grant if you are getting income support, income-based JSA, tax credits, or pension credit.</p> <p>If you stop work, SMP/maternity allowance can be paid from this week.</p> <p>If your income has dropped you might be able to get income support/pension credit/housing benefit/council tax benefit.</p>
40		Your baby is due this week.

WEEKS AFTER YOUR BABY IS BORN

week 1	<p>Claim child benefit on forms CH2 or CH497 (you are allowed 3 months in which to claim child benefit without losing any of it).</p> <p>Claim CTC and WTC if you or your partner has a low income and one of you is working more than 16 hours a week or getting statutory maternity/adoption pay or maternity allowance. If you are already claiming tax credits let the tax credits office know that you have a new baby</p> <p>If you get income support/income-based JSA which still includes amounts for children let your local social security or jobcentre plus office know you've had a baby as you may now be entitled to extra benefit. If you get housing and council tax benefit let your local authority know as this may also increase the amount you get. A family on pension credit should claim child tax credit.</p> <p>If you're not on income support /housing benefit/council tax benefit/tax credits, having a baby may mean that you can get these benefits. Get further advice about this.</p>
week 8	Last week in which statutory paternity leave and pay can begin.
week 12 (3 months after the birth)	This is the last week you can claim a sure start maternity grant.
week 52	<p>You no longer get free prescriptions or free dental treatment automatically. You will only get them if you:</p> <ul style="list-style-type: none"> - get income support, <i>or</i> - income-based JSA, <i>or</i> <ul style="list-style-type: none"> • working tax credit and child tax credit, <i>or</i> • working tax credit with a disability addition, <i>or</i> • child tax credit (but are not eligible for working tax credit) and have an annual gross income of less than £15,050 per year, <i>or</i> - are on low income <i>or</i> - pension credit <p>Claim on form HC1 jobcentre plus.</p>

This information is for guidance only and is not an authoritative statement of the law