

Department for Work and Pensions

DECISION MAKING AND APPEALS

Decision Makers Guide

Volume 10

Amendment 51 – October 2019

PLEASE NOTE

THIS WILL BE THE LAST AMENDMENT PACKAGE PROVIDED IN THIS FORMAT. FROM 2020 A “SUMMARY OF CHANGES” DOCUMENT WILL BE PRODUCED THAT WILL COVER ALL THE CHANGES MADE IN A DMG AMENDMENT PACKAGE

1. This letter provides details on Amendment 51; the changes have already been incorporated in to the Intranet and Internet versions of the DMG.
2. PDF amendment packages are also available on the Internet (see link below). These can be printed with the amended pages being reproduced in full. Each page will contain the amendment number in the footer.

<https://www.gov.uk/government/publications/decision-makers-guide-vol-10-benefits-for-incapacity-disability-maternity-and-bereavement-staff-guide>

Note: When printing PDF packages set the print properties to Duplex/Long Edge in order to produce double sided prints.

3. Amendment 51 affects chapter 62. The changes:
expand the guidance at paragraph 62592 and add Appendix 1.
4. If using a PDF amendment package remove the sheets as stated in the left hand column of the Remove and Insert table below and insert the new sheets as stated in the right hand column (note the record of amendments at the back of the Volume).

Remove

Chapter 62

Conts 62711 – Conts 62736 (1 page)
62588 – 62597 (1 page)
62736 – 62999 (1 page)
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Insert

Chapter 62

Conts 62711 – Conts Appendix 1 (1 page)
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Appendix 1 (1 page)

Conditions of entitlement	62711
Rate of maternity allowance	62716
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Disqualifications

62588 A woman may be disqualified for receiving MA if she

1. is absent from GB (see DMG Chapter 07)
2. is detained in legal custody (see DMG Chapter 12)
3. works during the period for which MA is payable¹ (see DMG 62592 et seq)
4. fails without good cause to attend for or submit to medical examination² (see DMG 62621 et seq).

Note 1: Before 23.2.15 a woman could be disqualified for receiving MA if she failed without good cause to observe the prescribed rules of behaviour.

Note 2: See DMG 62731 et seq for guidance on disqualifications for a participating wife or civil partner of a S/E earner.

1 SS (MA) Regs, reg 2(1); 2 reg 2(7)

62589 - 62591

Work done during the maternity allowance period

62592 A woman will not be entitled to receive MA if she works as an employed or S/E earner for more than ten days in the MAP. Those ten days do not have to be consecutive¹.

Note: Undertaking minimal maintenance and admin tasks (see Appendix 1 to this Chapter) does not count towards those ten days.

1 SS (MA) Regs, reg 2(1)

62593 Where DMG 62592 applies, if a woman works for more than ten days, she is not entitled to receive MA for any part of the MAP reasonable in the circumstances¹.

1 SS (MA) Regs, reg 2(2)

62594 For the purposes of DMG 62592 - 62593 the work includes work as an employed or S/E earner a woman does in her own home. However, housework does not count for this purpose. Receipt of salary or wages (but not SMP) during the period of receipt of MA, such as paid maternity leave, is not a ground for disqualification.

62595 However, if a woman entitled to MA has worked as an employed or S/E earner the DM must disqualify her from MA in accordance with DMG 62596 et seq.

Period of disqualification

62596 If a woman works for more than ten days during her MAP the DM must decide the period of disqualification. The DM must consider what disqualification might be reasonable based on the particular facts and circumstances of each case. However, once a woman has worked for ten days, the number of days for which a disqualification is imposed must be at least for the number of days she then works.

Example 1

Alison's MAP ends on 25.6.11. On 9.2.11 she goes to work and will continue to work every Wednesday only during her MAP. There is no disqualification for the first ten days Alison works (every Wednesday from 9.2.11 to 13.4.11). The DM then considers the period of disqualification. As Alison worked five days a week before her MAP and has returned to work for one day a week, the DM decides it is reasonable that she is disqualified for receiving MA only for the days worked (every Wednesday from 20.4.11 to 22.6.11).

Example 2

Jennifer's MAP ends on 17.9.11. On 6.6.11 she returns to work and will continue to work every Monday and Tuesday, her work pattern before her confinement, during her MAP. There is no disqualification for the first ten days Jennifer works (every Monday and Tuesday from 6.6.11 to 5.7.11). The DM then considers the period of disqualification. As Jennifer has returned to her normal working pattern, the DM decides it is reasonable that she is disqualified for receiving MA from 6.7.11 for the rest of her MAP.

Example 3

Ola's MAP ends on 5.11.11. On 5.7.11 she returns to work and will continue to work every Tuesday, Wednesday and Thursday during her MAP. Before her confinement, Ola worked 5 days a week. Her hours worked each day have not changed. There is no disqualification for the first ten days Ola works (5.7.11 – 26.7.11). The DM then considers the period of disqualification. As Ola's working pattern has changed **and** she works less hours, the DM decides it is reasonable that she is disqualified for receiving MA from 27.7.11 only for the days worked.

- 62597 If the claim has been decided and the woman has received a payment of MA before it is known that she worked for more than ten days within the MAP, the DM should supersede the original decision and disqualify her for the appropriate number of days or whole weeks within the MAP. This disqualification may relate to a period partly retrospective (including the days on which the woman worked) and partly prospective. Where MA has been overpaid the DM should make a decision as to the recovery and amount of overpayment (see DMG Chapter 09).

Note: See DMG Chapter 04 for guidance on supersession.

Example

Sabrina is awarded MA for the period 4.4.11 – 1.1.12. On 30.9.11 she states that she started work on 1.9.11 and had received a month's salary on that day. There was no indication that she intended to cease work before the end of the MAP. However, the DM established that she worked five days a week. The DM

Death

- 62736 A participating wife or civil partner of a S/E earner who is entitled to MA ceases to be entitled if she dies before the beginning of the 14-week period. If she dies after the beginning, but before the end, of the 14-week period, MA is not payable for any week within that period which falls after the week in which she dies¹.

1 SS CB Act 92, s 35B(10) & s 35(4)

62737 – 62999

Appendix 1

Minimal maintenance and admin tasks that do not count towards the ten days (DMG 62592)

These do not count towards the ten days
Minimal maintenance and admin tasks carried out which, if they were neglected would seriously impact the individual's ability to continue the work they do once they return to normal working pattern. There should be no direct payment for the work done. These are tasks that employed people would generally not need to take on during their period of maternity leave as the business they work for would be expected to cover them.
Minimal Maintenance and Admin Tasks:
Carrying out necessary administration.
Accepting work which is due to start after the woman's return to work and after her MA ends.
Carrying out essential maintenance to the woman's website or equipment.
Responding to correspondence requesting information as long as it does not relate to work to be carried out before the woman's return to work and before her MA ends.
Keeping essential formal qualifications and licenses up-to-date.
Keeping skills at an acceptable level. This should not include formal paid-for training.
Preparing for work arranged before the woman's MAP starts but to be carried out after her return to work and after her MA ends.

The content of the examples in this document (including use of imagery) is for illustrative purposes only

