

PARENTAL BEREAVEMENT LEAVE AND PAY – CONSEQUENTIAL AMENDMENTS TO SOCIAL SECURITY BENEFITS

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INTRODUCTION

1. This memo gives guidance on changes to SS benefits consequential to the introduction of parental bereavement leave (“PBL”) and parental bereavement pay (“PBP”). The changes are introduced by the Parental Bereavement Leave and Pay (Consequential Amendments to Subordinate Legislation) Regulations 2020 (SI 2020 No. 354). The changes come into effect on 6.4.20¹.

1 Parental Bereavement Leave and Pay (Consequential Amendments to Subordinate Legislation) Regulations 2020, reg 1

BACKGROUND

2. If a child dies on or after 6.4.20, there is a new statutory entitlement called PBL for bereaved parents who are employees to take up to 2 weeks’ leave from their job in the 56 weeks following the death of the child¹. If more than one child dies, the employee is entitled to PBL in respect of each child². In addition, PBP is payable for 2 weeks.

Note: For this purpose, a child is a person under the age of 18³. Also, references to a child include a child stillborn after 24 weeks of pregnancy⁴.

*1 The Parental Bereavement Leave Regulations 2020, reg 5(4); 2 reg 4(10);
3 ER Act 96, s 80EA(9); SS CB Act 92, s 171ZZ14(1); 4 ER Act 96, s 80EE(a); SS CB Act 92, s171ZZ15(a)*

INCOME SUPPORT

Prescribed category of person

3. DMG 20081 et seq gives guidance on categories of people who can receive IS. This will include a person who
 1. is entitled to, and taking, PBL **and**
 2. and satisfies either, or both, of the conditions in paragraph 4 below¹.

1 IS (Gen) Regs, Sch 1B, para 14C(1)

4. The conditions referred to in paragraph 3 above are that the person
 1. is not entitled to
 - 1.1 PBP¹ or
 - 1.2 a payment of any kind from their employer in respect of that leave for the period for which the claim for IS relates²
 2. is entitled to
 - 2.1 WTC
 - 2.2 CTC payable at a rate higher than the family element³ which is subject to calculations in prescribed legislation⁴
 - 2.3 HB
 - 2.4 CTB
- on the day before that leave begins⁵.

1 SS CB Act 92, Part 12ZD; 2 IS (Gen) Regs, Sch 1B, para 14C(2)(a) & (3); 3 CTC Regs 2002; 4 Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002; 5 IS (Gen) Regs, Sch 1B, para 14C(2)(b) & (3)

Not in remunerative work

5. When someone is absent from work due to PBL, the DM should decide that they are not in remunerative work during such absence¹. Such people should also be included on the list at DMG 20390.

1 IS (Gen) Regs, reg 5(3A)

Earnings

6. Payments made to an employee who is on PBL will not be included as earnings¹

1 IS (Gen) Regs, reg 35(2)(b)

Income other than earnings

7. The amount of PBP to be taken into account is the gross amount less any amount to be disregarded¹ in accordance with DMG 28216.

1 IS (Gen) Regs, Sch 9, para 1 & 4

JOBSEEKER'S ALLOWANCE

Not in remunerative work

8. When someone is absent from work due to PBL, the DM should decide that they are not in remunerative work during such absence¹. Such people should also be included on the list at DMG 20390.

1 JSA Regs, reg 52(1)

Availability

9. A person on PBL is regarded as not available¹.

1 JSA Regs, reg 15(1)(bc)

Earnings

10. Payments made to an employee who is on PBL will not be included as earnings¹.

1 JSA Regs, reg 98(2)(c)

Income other than earnings

11. The amount of PBP to be taken into account is the gross amount less any amount to be disregarded¹ in accordance with DMG 28216.

1 JSA Regs, Sch 7, para 1 & 4

EMPLOYMENT AND SUPPORT ALLOWANCE

Partner not in remunerative work

12. When a claimant's partner is absent from work due to PBL, the DM should decide that they are not in remunerative work during such absence¹. Such people should also be included on the list at DMG 41441.

1 ESA Regs, reg 43(3)

Treated as not in remunerative work for non-dependant housing cost deductions

13. When someone is absent from work due to PBL, the DM should decide that they are not in remunerative work during such absence¹. Such people should also be included on the list at DMG Chapter 44, Appendix 2, paragraph 141.

1 ESA Regs, Sch 6, para 2(5)

Earnings

14. Payments made to an employee who is on PBL will not be included as earnings¹.

1 ESA Regs, reg 95(2)(b)

Income other than earnings

15. The amount of PBP to be taken into account is the gross amount less any amount to be disregarded¹ in accordance with DMG 51136.

1 JSA Regs, Sch 8, para 1, 4 & 5

MATERNITY ALLOWANCE

16. When calculating earnings of employees, a woman's average weekly earnings will include any sum payable by way of PBP¹ (this includes payments by HMRC rather than the employer²).

1 SS (MA) (Earnings) Regs, reg 2(1)(i); 2 SS CB Act 92, s 171ZZ8(3)

STATE PENSION CREDIT

Treated as not in remunerative work for housing cost purposes

17. When someone is absent from work due to PBL, the DM should decide that they are not in remunerative work during such absence¹. Such people should also be included on the list at DMG Chapter 78, Appendix 2, paragraph 141.

1 SPC Regs, Sch II, para 2(7)

Benefit fully disregarded

18. DMG 85294 et seq gives guidance on benefits which are fully disregarded. This will include PBP¹. The DM should take any payment of PBP into account as earnings (see paragraph 19 below).

1 SPC Regs, reg 15(1)(qc)

Earnings

19. For SPC purposes, earnings included PBP¹.

1 1 SPC Regs, reg 17A(2)(ic)

ANNOTATIONS

Please annotate the number of this memo DMG 08/20) against DMG paragraphs:

20081 (heading), 20308, 20390, 21255, 26014, 28216, 41383, 41441, Chapter 44, Appendix 2, paragraphs 72 and 141, 49017, 51136, 62534, Chapter 78, Appendix 2, paragraphs 72 and 141, 85294 (main heading) and 86034

CONTACTS

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, 3E zone E, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in – Memo [4/19](#) Requesting case guidance from DMA Leeds for all benefits.

DMA Leeds: April 2020

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