

# FOSTER CARERS, SOCIAL SECURITY BENEFITS AND TAX CREDITS

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This leaflet outlines the effects of fostering on the benefits of foster carers.

NB: It only deals with fostering via Local Authority not via a private fostering arrangement.

## **INTRODUCTION**

As a foster carer you are paid by the Local Authority for looking after a child. It is often possible to top up this income by claiming benefits as well, and the rules for allowing foster carers to claim have traditionally been generous in recognition of the valuable role that foster carers provide.

In order to decide which benefit you can claim and the amount you should receive you need to be clear about:

- the type of fostering payments which you receive
- whether as a foster carer you are regarded as being in work and if so for how many hours per week
- the amount of your weekly income from both fostering and other sources
- whether you have a partner and any other children of your own.

These issues will also be relevant for deciding your tax status though it is beyond the scope of this leaflet to deal with this. You should seek advice from your local tax office or an independent financial adviser.

## **FOSTER PAYMENTS**

Different types of payments made to foster carers affect benefits in different ways. The main types of payments are:

- A.
  - ◆ Basic foster care allowance
  - ◆ Enhancements to foster care allowances
- B.
  - ◆ Reward elements
  - ◆ Retainers
  - ◆ Fee-paying scheme

Generally payments under (A) do not affect benefits as they cover the needs of the child. This leaflet will look at the effect on carers' benefits of being in receipt of (B).

## **KEY BENEFIT ISSUES**

Your fostering allowances affect:

- a. whether you are entitled to claim a benefit at all
- b. if so, how much you can be paid each week.

You can claim for any partner or dependent children of your own but as a general principle additional benefit cannot be claimed specifically for the foster child. This is because her/his needs are met by the fostering allowances which you are being paid. However any allowance which is paid to meet these needs is therefore ignored when calculating your benefit.

There are three main categories of benefits:

- a. Contributory benefits if you are not able to work (for example because of unemployment or ill-health) and have paid National Insurance Contributions (see Section 1)
- b. Non-contributory benefits to compensate for disability or caring costs (see Section 2)
- c. Means-tested benefits to top up a low income (see Section 3).

You may be able to claim more than one benefit or even one of each type.

*Employment & Support Allowance (ESA) was introduced in October 2008, replacing both Incapacity Benefit and (for those deemed unfit for work only) Income Support, where the first claim was from 27<sup>th</sup> October 2008. It is presumed that the effect of fostering on these will be the same as for the benefits they replaced. Get up-to-date advice if you are a foster carer on ESA.*

## **COUPLES**

If you have a partner, s/he may be able to claim the benefit instead of you if you are the named foster carer. Alternatively, if s/he is the carer and you need to claim benefits it will be your circumstances that affect whether you can claim.

Check the individual benefits in this leaflet to see which ones you could claim.

Some benefits allow you to claim for a dependent partner as well as yourself. However, any work or income they have will affect this.

## **ARE YOU TREATED AS WORKING?**

There has been some confusion about whether foster carers are in work, as looking after children is often not seen as a commercial arrangement. This confusion has been added to because the benefits system has often treated fostering allowances as unearned income.

However the tax system assumes that you are a self-employed earner and normally benefit offices take this view too. This is because fostering allowances are now more clearly broken down into basic allowances (mainly for the child's needs) and reward elements (which are more akin to wages for caring).

While you are treated as being self-employed you will not be able to claim some benefits at all. For example Jobseekers Allowance is paid if you are unemployed and looking for work. It may be difficult to meet these conditions because you are working as a foster carer. For other benefits, such as Employment and Support Allowance (ESA) or Incapacity Benefit, fostering does not count as work.

The number of hours you work will also affect what you can claim and again this can be difficult to establish. For most benefits it is relevant to know if you work more or less than 16 hours. Usually you will do far more hours than this.

## **NATIONAL INSURANCE CONTRIBUTIONS**

All employed or self-employed earners are obliged to register for National Insurance. It is an offence not to pay contributions so check if you are liable. These contributions go towards Retirement Pensions and other Contributory benefits such as Incapacity Benefit or ESA [if you fall ill and cannot work].

Any foster carer who receives the reward element of a fostering allowance is likely to be considered to be self-employed and therefore liable to register for National Insurance Contributions [NICs] at the Class 2 rate.

Nonetheless many foster carers will not actually have to pay NICs as their earnings may be too low – you may be entitled to an exemption certificate. However it is important to note that a certificate of exemption must be applied for. Only if this is applied for and then granted are you exempt from paying Class 2 NICs, no matter how low your earnings are.

### **HOW TO APPLY**

You can apply for a certificate of exemption on form CF10 which is found in leaflet CA 02 (for self-employed people with Small Earnings) available from the HM Revenue and Customs Enquiry Centre.

## **SECTION A. CONTRIBUTORY BENEFITS**

These are benefits for people who have worked and paid National Insurance Contributions (NICs).

They include:

1. Contributory Jobseekers Allowance
2. Contributory Employment and Support Allowance
3. Incapacity Benefit
4. Retirement Pension
5. Bereavement Allowance [formerly known as Widows Benefits]/Maternity Benefits

- **CAN THEY BE CLAIMED?**

- 1 **CONTRIBUTORY JOBSEEKERS ALLOWANCE**

Paid for up to 6 months to people who are unemployed, available for and actively seeking work. Based on having paid Class 1 contributions in the relevant tax years (not the contributions you pay as a self-employed foster carer). So if you have not done other work in the last 2/3 years you will not qualify.

After 6 months it may be necessary to claim Income-based Jobseekers Allowance, which is calculated similarly to Income Support (see below)

**ISSUES?**

- (i) It is hard, as a foster carer, to prove that you are unemployed and genuinely looking for a job and that fostering will not affect your ability to work (e.g. that adequate child care arrangements can be made).

This issue also applies where you are between placements – if you say you are waiting for your next placement the Jobcentre Plus office may deem you to be self-employed and not be genuinely looking for work.

- (ii) Your partner could claim instead but both members of a couple with no children apart from foster children need to register for work.
- (iii) If on a retainer where the Local Authority requires you to be fully available, you're unlikely to be seen as genuinely available for work.

- **DOES THE FEE AFFECT YOUR RATE OF BENEFIT?**

Foster payments do not count as income/earnings for Jobseekers Allowance purposes.

- 2 **CONTRIBUTORY EMPLOYMENT AND SUPPORT ALLOWANCE (ESA(C))**
- 3 **INCAPACITY BENEFIT (IB)**

ESA(C) is paid to people who meet the Government's definition of having "limited capability for work" because of illness or disability.

IB is paid to people who claimed before 27 October 2008 and met the Government's definition of being "incapable of work".

For both benefits you must also have paid enough Class 1 or 2 contributions in the relevant tax years.

**ISSUES?**

It has been held that fostering does not count as 'work' for Employment and Support Allowance or Incapacity Benefit purposes even if you get a reward element. However it is best to let the benefits office know your full circumstances.

If your partner is the foster carer you can claim Employment and Support Allowance or Incapacity Benefit but your right to claim an addition for her/him (for IB only) is affected by any fostering income.

- ***DOES THE FEE AFFECT YOUR RATE OF BENEFIT?***

This should not affect your right to Employment and Support Allowance or Incapacity Benefit.

If the Benefit authorities decide you are 'in work' you could challenge this decision.

Even if they do say you are in work, if your reward element is less than the earnings limit you should still qualify.

If in a couple, you can claim Incapacity Benefit and get a weekly increase for your partner who is fostering. Your Incapacity Benefit is affected by any income the partner receives (e.g. the reward element) and there is a separate earnings limit. There is no dependent increase for Contributory Employment and Support Allowance.

#### 4 RETIREMENT PENSION

This is unaffected by being in work or receipt of a fostering allowance of any kind.

Receipt of a Retirement Pension depends on having paid sufficient NICs in your working life.

#### 5 BEREAVEMENT ALLOWANCES MATERNITY BENEFITS

These depend on you (or your deceased partner in the case of Bereavement Allowance) having paid enough National Insurance Contributions.

Entitlement should not be affected by foster caring but you should always let the DWP know your full circumstances. A question might arise about whether you are still working for Maternity Benefit purposes and you should argue you are not.

Your fostering allowances do not affect the amount paid.

## **SECTION B. NON-MEANS-TESTED / NON-CONTRIBUTORY**

- 1 Disability Living Allowance
- 2 Attendance Allowance
- 3 Carers Allowance
- 4 Child Benefit

### **• CAN THEY BE CLAIMED?**

#### **1+2 DISABILITY LIVING ALLOWANCE / ATTENDANCE ALLOWANCE**

Paid to foster carers who themselves have high care needs arising from a disability. As long as these needs continue, neither Attendance Allowance nor Disability Living Allowance is affected in any way by fostering.

#### **3 CARERS ALLOWANCE**

Carers Allowance is given to people who provide unpaid care for someone in receipt of Attendance Allowance/ Disability Living Allowance (middle or highest care component of). It is not payable if you have earnings above £95.00 per week [at April 2008/09 rates].

None of the fostering allowance counts as earnings.

#### **4 CHILD BENEFIT**

Child Benefit is not payable for foster children, though you can get it for your other children up to the age of 16 (or 20 if still at school/college).

## **SECTION C. MEANS-TESTED BENEFITS**

These benefits depend on low income and savings. They are non-contributory, but are often used to top-up contributory benefits.

- They are:
- 1 Income Support
  - 2 Pension Credit
  - 3 Income-related Employment and Support Allowance (ESA[ir])
  - 4 Income-based Jobseekers Allowance (JSA[jb])
  - 5 Tax Credits (Working Tax Credit and Child Tax Credit)
  - 6 Housing Benefit
  - 7 Council Tax help, including Council Tax Benefit

### **• CAN THEY BE CLAIMED?**

#### **1, 2, 3 4 INCOMESUPPORT / PENSIONCREDIT INCOME-RELATED EMPLOYMENT & SUPPORT ALLOWANCE INCOME-BASED JOBSEEKERS ALLOWANCE**

Income Support is paid to people (and their partners) aged under 60 who do not work, or work less than 16 hours per week and who have savings below

£16,000. People 60 and over can claim Pension Credit which has no capital limit or restriction on hours of work. Claimants aged 60+ are also not required to be available for work.

ESA(ir) is paid to people (and their partners) with limited capability for work and have savings below £16,000. It can be paid instead of ESA(C) to those who do not meet the contribution conditions, or it may be paid on top of that.

JSA(ib) claimants have to sign on as available for work. Those not required to do so can claim Income Support instead. This includes single parents with children under 12, those caring for a disabled person, and those claiming as unfit for work before 27 October 2008. It also includes single foster carers who have foster children aged under 12.

Entitlement to Income Support, Pension Credit, ESA(ir) or JSA(ib) means eligibility to claim grants or loans from the Social Fund, free school meals and free health benefits.

### **ISSUES?**

- (i) Looking after a child for one day a week gives a single foster carer exemption from being available for work for the whole week.
- (ii) Foster carers on income-based JSA have the same problems as those on Contributory JSA regarding proving availability for work.
- (iii) For periods in between fostering placements, or when fostering a child of 12 or over, a single foster carer (unless s/he fits into one of the other exempt groups), will have to sign on and claim JSA(ib) (not Income Support).

### **• DOES THE FEE AFFECT YOUR RATE OF BENEFIT?**

Fostering allowances are fully ignored as income for these benefits.

### **REWARD ELEMENT?**

The reward element should also be ignored as income.

Seek advice if this element is treated as earnings.

### **RETAINER?**

If a retainer is paid between placements the amount may count as earnings, less any costs. This could reduce or remove entitlement to Income Support, ESA(ir) and JSA(ib)

## **5 TAX CREDITS (Dealt with by HM Revenue and Customs)**

### **CHILD TAX CREDIT (CTC)**

You can claim CTC for your own children, but not for your foster children.

## WORKING TAX CREDIT (WTC)

You can claim WTC provided that you or your partner are 'in qualifying paid work' for at least 16 hours a week and have a child of your own. If you do not have a child of your own you must be 'in qualifying paid work' for 30 hours per week.

Foster caring counts as 'qualifying paid work'.

Fostering allowances, retainers and reward elements are lumped together as receipts from fostering.

- ***DOES THE FEE AFFECT CHILD TAX CREDIT OR WORKING TAX CREDIT?***

All of a fostering allowance is completely ignored provided the annual amount is no more than £10,000, plus £200 a week for each child under 11 and £250 for each child aged 11 or over.

If fostering income exceeds this limit, only the taxable amount is taken into account i.e. the amount above this limit or the actual net profit. This will be added to any other income assessable for Tax Credit purposes.

## 6 HOUSING BENEFIT (HB)

Also known as rent rebate or rent allowance, this is a means-tested benefit for people who live in rented accommodation and are on a low income and low savings (under £16,000 except for people getting the Guarantee Credit part of Pension Credit).

The amount you get therefore depends on individual circumstances, although people on Income Support, ESA(ir) or JSA(ib) are automatically entitled, usually to a full rebate.

There is no direct impact of being a foster carer on Housing Benefit – all the allowance is ignored, but so is the presence of the foster child.

- ***DOES THE FEE AFFECT YOUR RATE OF BENEFIT?***

Fostering Allowances are ignored.

### ***REWARD ELEMENT?***

This should be ignored too. If the Local Authority treats it as earned income seek advice.

### ***RETAINER?***

The retainer will be taken into account as earnings, after deductions of any income tax, NICs paid and other reasonable expenses.

## 7 COUNCIL TAX

There are three main schemes for assistance with the Council Tax bill, Council Tax Benefit (CTB), Discounts and Disability Reduction:

CTB: Is worked out in the same way as HB, but for Council Tax not rent

Disability Reduction: You may be able to apply for this where the foster child is disabled.

Discounts reduce your bill by up to 50% in limited circumstances, for example, if you are the sole adult in the house, carer for a disabled person. Ask for details at the Local Authority to which you pay Council Tax.

- ***DOES THE FEE AFFECT YOUR RATE OF BENEFIT?***

For CTB only: - as Housing Benefit

Discounts and Reductions are not affected by your income.

## **OTHER ISSUES**

### **WHEN YOUR FOSTER CHILD REACHES 18**

The benefit position of both you and your foster child will alter when s/he reaches 18 and the fostering allowance ceases. Ask your Keyworker/Social Worker to seek advice from Warwickshire Welfare Rights Advice Service (WWRAS).

### **WHERE TO GO FOR ADVICE**

For generalist advice on all matters, contact your local advice agency such as the Citizens Advice Bureau (details in the telephone book).

Contact your local HM Revenue and Customs Enquiry Centre for general advice on tax or National Insurance matters.

If you have a query about your social security benefits that you cannot resolve, ask your Keyworker/Social Worker to contact Warwickshire Welfare Rights Advice Service on your behalf.

The Fostering Network is the leading organisation in this field and can help with all related queries. Their helpline telephone number is 0800 040 7676.

**The information in this booklet is correct as of October 2008**

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