

Section 4 support for pregnant refused asylum seekers

April 2016

Factsheet 8

The information contained in this factsheet is intended for guidance only. While every effort is made to ensure it is correct at time of publication, it should not be used as a substitute for legal advice. For client specific advice please contact ASAP

This factsheet provides information about applying for Section 4 support on the grounds of pregnancy or having recently given birth. It also provides general information about access to maternity services for refused asylum seekers and the particular risks such women face when pregnant.

Our telephone advice line

If you still have questions or need further information and advice after reading this factsheet, please contact our advice line on 020 3716 0283. It is open Mondays, Wednesdays and Fridays from 2pm to 4pm. Please note, this is a 'second-tier' advice line. This means that we can give advice to other advice workers but not to individual clients.

Section 4 support

Refused asylum-seekers who are destitute and pregnant, and who do not meet any of the other criteria for s4, can qualify for support if they are unable to travel back to their country of origin. Support consists of accommodation and basic subsistence provided by the Home Office. If the Home Office refuse support, then there is a right of appeal to the Asylum Support Tribunal.

For more information on s4 support, see factsheet 2.

Unable to travel due to physical impediment or other medical reasons

Under Regulation 3(2)(b) of the [rules governing Section 4](#), support can be granted if an applicant is destitute and is 'unable to leave the UK by reason of a physical impediment to travel or for some other medical reason'.

NOTE: For all applications under Regulation 3(2)(b) the medical evidence must show the person is unable to travel. This means 'not able' but not 'impossible'. Support will not usually be granted under this criterion if the medical evidence only shows a need for housing or support or because the patient is receiving treatment in the UK.

Pregnancy and inability to leave the UK

Pregnant women applying for s4 support on medical grounds are asked to submit a MAT B1 with their application. A MAT B1 is completed by a registered midwife or doctor and

states the week in which they expect the woman to give birth – the expected delivery date (EDD). If the woman does not have a MAT B1, written evidence confirming the pregnancy and the EDD will be accepted.

Women who are at least 34 weeks pregnant

The Home Office considers that women in the 'late stages of pregnancy' are unable to leave the UK as there is a physical impediment to travel.

According to section 1.11.3 of the [Section 4 Policy and Process Instruction](#):

'Unless there are complications with the pregnancy supported by medical evidence that the applicant's health and/or that of the unborn child may be at risk, support must not normally be granted until around 6 weeks before the EDD.'ii

The NHS assesses the average length of pregnancy in the UK to be around 40 weeks, so 6 weeks before the EDD usually equates to the 34th week of pregnancy. If your client is 34 weeks pregnant or over, there should be no need to provide additional medical evidence. Simply include a copy of the MAT B1 form with the section 4 application.

Women who are less than 34 weeks pregnant

Home Office policy is not to grant support earlier than 34 weeks 'unless there are complications with the pregnancy supported by medical evidence that the applicant's health and/or that of the unborn child may be at risk'.

NOTE: The Home Office's guidance is not binding and women can be eligible for support at any stage in the pregnancy, provided they can show that they are unable to leave the UK.

When applying for support for a woman who is less than 34 weeks pregnant, it is a good idea to ask the midwife or doctor for a letter explaining:

- Whether the midwife/doctor considers the woman to be able to travel
- Details of any complications in the pregnancy and how these complications prevent her from flying
- Any evidence that the health of the mother or baby would be at risk if they were to travel.

Women experiencing complications

When advising refused asylum-seekers who are pregnant, it is very important to ask if the woman is experiencing any difficulties with her current pregnancy or any previous pregnancies. Information concerning any complications would normally be written on the maternity notes. The midwife or doctor should refer to this in their letter and also explain why the complication places the health of the mother or child at greater risk if they were

to travel.

High-risk pregnancies

Even if there are no known complications to do with the pregnancy, the midwife or doctor may still have concerns about advising the woman to travel. There are number of physical and social factors which create additional challenges for asylum seekers and other recently arrived migrants during pregnancy. These include: poor overall health, possible underlying and unrecognised medical conditions (including congenital cardiac disease, HIV/AIDS and TB), genital mutilation, the psychological and medical effects of fleeing war-torn countries, sexual violence, trafficking, language difficulties, homelessness and difficulties accessing maternity services. According to a [confidential report into maternal health conducted in 2007](#): 'Women who are socially excluded, such as asylum seekers or homeless people, have a disturbingly high risk of death', pages vii & 32.

The midwife or doctor may decide that, because of these or other factors, there is a greater risk of harm to the mother or baby and therefore the woman should not travel. If so they should explain this in their letter to be submitted with the s4 application.

Applying after birth

The Home Office also consider that women with babies under 6 weeks old are unable to leave the UK as there is a physical impediment to travel. If a woman has a new-born baby under 6 weeks old, she should apply to the Home Office with a copy of the child's birth certificate or a document from a medical professional confirming the birth of the baby.

Discontinuing Section 4 support to women with children

In order to remove s 4 support from a woman with a child, the Home Office should demonstrate, under [Section 55 of the Borders Citizenship and Immigration Act 2009](#), how they have discharged their duties in relation to the safety and welfare of the child. In effect this means that, for destitute families with children, the Home Office should not remove support unless they can show that other support will be provided, for example from a Local Authority.

The Home Office disclosed its internal policy on Section 4 in 2012, as a result of a High Court case ([MK and AH v SSHD 2012](#)). This document showed that the Home Office had taken an 'interim decision' not to discontinue support to destitute families with children. At the time of writing (February 2016), this still appears to be the Home Office position.

Maternity services and payment

Refused asylum-seeking women who are pregnant and not in receipt of s4 support or s95 support may be charged for maternity services they receive. They are one of the groups not exempted from NHS charges to overseas visitors. However, it is very important to note that maternity care is classed as urgent and necessary treatment, which means that it must not be withheld from the woman if she is unable to pay. The woman, however,

may be given a bill for the maternity care she receives and the hospital may pursue her for the costs.

It is not uncommon for a refused asylum-seeking woman to approach maternity services late in their pregnancy. If the woman has not yet presented to the maternity service it is very important that they are encouraged to make an appointment as soon as possible. Lack of maternity care puts pregnant women at serious risk.

If the woman is not registered with a GP it is possible for them to access maternity services directly. Many regions have drop-in maternity clinics and details about these, and accessing maternity services generally, can be obtained from local clinical commissioning groups (CCGs).

This is a complex area and eligibility for support may not be clear cut. It can take time to apply for and arrange support from the Home Office. If you are advising a pregnant refused asylum seeker who becomes destitute, we recommend that you contact ASAP's advice line (020 3716 0283) at the earliest possible stage.