

# FOSTER CARERS

## SOCIAL SECURITY

### BENEFITS & TAX CREDITS

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This leaflet outlines the effects of fostering on the benefits claimed by foster carers, plus there is also reference to the benefits claimable by the foster children when they are 16/17 and when they reach 18.

NB: It only deals with fostering via Local Authority not via a private fostering arrangement. It also does not cover 'supported living/supported lodgings' schemes.

## **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 booklet 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 may 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.

## **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 they do, 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 a child 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 Employment & Support Allowance [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  
<https://online.hmrc.gov.uk/shortforms/form/CWF1ST> .

## **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.

Incapacity Benefit is paid to people who claimed before 27 October 2008 and met the Government's definition of being "incapable of work". Most Incapacity Benefit claimants have been *migrated* to its successor ESA, but some remain on it at the time of writing.

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 ESA 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 ESA 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/Personal Independence Payments (PIP)
- 2 Attendance Allowance
- 3 Carers Allowance
- 4 Child Benefit

#### • ***CAN THEY BE CLAIMED?***

#### 1+2 DISABILITY LIVING ALLOWANCE / PIP / 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, PIP nor Disability Living Allowance is affected in any way by fostering.

#### **FOR THE CHILD:**

**DLA can be claimed for a foster child, payable to the adult with whom s/he lives. DLA is payable up to the age of 16, at which point PIP must be claimed.**

#### 3 CARERS ALLOWANCE

Carers Allowance is given to people who provide care for at least 35 hours a week, for someone in receipt of Attendance Allowance/ Disability Living Allowance (middle or highest care component only) / PIP Daily Living). It is not payable if you have earnings above £110 @ April 2016.

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). Families where one partner has a taxable income over £50,000 have to pay tax on Child Benefit.

## **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.

### **FOR THE CHILD:**

**You cannot include a foster child for any means-tested benefit you claim. BUT any fostering allowance received is ignored as income.**

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

### **• CAN THEY BE CLAIMED?**

- 1, 2, 3, 4 INCOME SUPPORT / PENSION CREDIT  
income-related EMPLOYMENT & SUPPORT ALLOWANCE  
income-based JOBSEEKERS ALLOWANCE

Income Support is paid to people (and their partners) under pension age\* who do not work, or work less than 16 hours per week and who have savings below £16,000. People over pension age\* can claim Pension Credit which has no restriction on hours of work, and no capital limit. Claimants over pension age are also not required to be available for work.

There is also a special route into eligibility to Income Support: for a lone foster parent fostering a child aged under 16.

ESA(ir) is paid to people (and their partners) who are sick or disabled and have only a 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 5, 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 16.

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

\* Between April 2010 and March 2018 the pension age for women will be gradually increased from 60 to 65. From then, both men and women's pension age will increase to 66 by 2020. During this period, other benefits previously available from the age of 60 (such as Pension Credit) will also see the qualifying age gradually increased. You will, therefore, need to check what "pension age" means at different times.

## **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 under 16, a single foster carer (unless s/he fits into one of the other exempt groups), may 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)  
HMRC produce a leaflet – HS236 – outlining the issues about tax and foster carers, and have an on-line Pack – go to [www.hmrc.gov.uk](http://www.hmrc.gov.uk) .

### **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 as long as you are in 'qualifying paid work' of at least 16 hours a week (if lone parent) or (if one of a couple) they work 24 hours a week between them, with one partner working at least 16 of those hours (there are some exceptions). Otherwise one or both must be aged 25 or over and work at least 30 hours per week (unless they qualify as a 'disabled worker' or aged 60 and over);

Foster caring counts as 'qualifying paid work'.

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

Note: If you claim CTC for your own child and also declare that you are fostering, HMRC may automatically assess you for WTC.



- ***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.

## **INCOME SUPPORT -V- WORKING TAX CREDIT**

As fostering is treated differently by HMRC (paid work) and DWP (not paid work) some foster carers can choose which to claim. The 'better off' considerations include having your mortgage interest paid with Income Support, while likely getting maximum Working Tax Credit – get specialist advice if this applies to you.

## **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.

You cannot claim for a foster child, but the allowance is ignored as income.

**ISSUE?** HB is based on the number of bedrooms allowed per household. Although foster children are 'invisible' for HB purposes, foster carers with one child are allowed a bedroom for that child. This also applies when you have been approved within the last 12 months, or had a child placed in that period.

Foster carers with more than one foster child can apply to the Council for a *Discretionary* Housing Payment - and should be treated as a priority for this.

- ***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 Support (CTS-means-tested rebate), Discounts and Disability Reduction:

CTS: Is now a locally-based system of means-tested rebates, but should apply similar rules to HB.

Disability Reduction: You may be able to apply for this where the foster child is disabled. See the WWRAS leaflet Pb35 for more detail.

Discounts: reduce your bill by up to 50% in limited circumstances, for example, if you are the sole adult in the house or carer for a disabled person. See the WWRAS leaflet Pb35 for more detail.

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

For CTS only:- as Housing Benefit

Discounts and Reductions are not affected by your income.

## **OTHER ISSUES**

### **WHEN YOUR FOSTER CHILD REACHES 16/17**

Generally speaking very few 16/17 year olds can claim benefits in their own right, and foster children are not treated differently.

Those who can claim are:

- Parents  
If a young person has a child of their own they can claim Income Support, Child Benefit and Child Tax Credit (even if 'looked after')
- Unable to work  
If the foster young person meets the conditions for being deemed unfit for work, s/he can claim Employment & Support Allowance (income-related)

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

Some young people stay with their foster carers (or move to new carers) and cease to be 'looked after'. They can now claim benefits in their own right as they are 18, including Income Support, JSA or ESA, depending on meeting the individual conditions of entitlement. They may be able to claim Housing Benefit if they have a rent agreement with their foster carers.

If, after 18, there is a payment made by the Local Authority (often wrongly referred to as a fostering allowance), get specialist advice – it should be ignored as income for means-tested benefits if made under sections 23B, 23C or 24A of the Children Act 1989.

Ask your Keyworker/Social Worker to seek advice from Warwickshire Welfare Rights Advice Service (WWRAS).

## WELFARE REFORM AND FOSTER CARERS

### UNIVERSAL CREDIT

Six of the benefits mentioned in this booklet will be replaced by Universal Credit. They are; Income Support, JSA (income-based only), ESA (income-related only), Housing Benefit, Child Tax Credit and Working Tax Credit.

Carers Allowance, for example, is not replaced by Universal Credit.

Universal Credit is being introduced over the next few years. In our area FULL (or digital) Universal Credit has been introduced in Rugby and Stratford upon Avon, extending to the rest of the county by the end of 2018.

Universal Credit will mean that carers will not have to choose between Income Support, JSA or Working Tax Credit, there may be more favourable rules between placements and there may be other changes such as an obligation to attend work-focused interviews. At present there are no changes to specific rules relating to fostering.

### BENEFITS CAP

The Benefits Cap looks at the total amount of benefits being claimed by an individual and if a threshold is reached, caps the amount payable. The Cap does not generally affect foster carers as they are prevented from claiming some of the benefits which are taken into account. However it may affect ex-foster carers who now provide care under 'friends and family' or 'special guardianship' provisions.

## WHERE TO GO FOR ADVICE

For generalist advice on all matters, contact your local advice agency such as the Citizens Advice: call 0344 855 2322, (addresses in the telephone book).

Contact your local HM Revenue and Customs (HMRC) 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 020 7620 6400 or email at [inf@fostering.net](mailto:inf@fostering.net).

**The information in this booklet is correct as of April 2017**

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