

NHS maternity pay entitlements

Sarah Cook

Head of NHS, Business and General Practice

An advice query we often get, whether during a global pandemic or not, is the question of maternity pay. How do I claim it? And how much am I entitled to? The NHS maternity rules for dentists in England and Wales seem complex and can lead to confusion for practice owners and associates about what their entitlements are.

Eligibility criteria

The starting point is whether you have been on a dental performers list for at least two years. This is counted up to the 15th week before the baby is due. There is no requirement for the two years to be continuous: it can be accumulated from separate periods of work over time.

You must, however, have been on a performers list for a continuous period of 26 weeks before the fifteenth week before the baby is due. The best way of checking eligibility is to count back from the expected date of delivery. Count back 15 weeks, and then count back a further 26 weeks from that date. Has the dentist been working continuously during these 26 weeks? And, looking back from the 15th week before the due date, can the dentist confirm at least two years' service in NHS dentistry? Your foundation training year counts towards this but previous work in hospitals or other sectors does not.

Calculating payments

The amount of maternity pay you are entitled to is a weekly amount based on your Net Monthly Pensionable Earnings. The maximum amount that can be claimed is £1660 per week for a dental performer or £3630 for an orthodontic performer. The NHS BSA will also deduct an amount equivalent to Statutory Maternity Allowance (SMA) therefore ensure you claim this separately. If you are not entitled to SMA, evidence in the form of a confirmation letter from DWP needs to be provided to NHS BSA.

Maternity Allowance pays a standard weekly rate of £151.20 or 90% of average gross weekly earnings, whichever is the smaller for a maximum of 39 weeks. The earliest you can get MA is from the 11th week before the week the baby is due. For details on applying visit: <http://www.gov.uk/maternity-allowance>.

Duration and amount of payments

NHS maternity pay is payable for 26 weeks. It is superannuable income and is also taxable. It may be paid from the eleventh week before the baby is due but no later than the expected week of childbirth. It is not a requirement that the performer works up until the eleventh week. Payments are made monthly in arrears and are only paid for complete weeks. You must continue to be engaged by the contract provider during the maternity pay period. If your contract terminates before the end of the 26 week maternity pay period then it is likely that your payments will stop.

Submitting the form

Claims should be made on the form 'Application for Parental Leave Payment Under the Statement of Financial Entitlements'. The form must be emailed to the NHSBSA. It is the contractor's obligation to submit the form but in the pregnant dentist's best interests to ensure that the claim has been submitted correctly. Therefore, many pregnant dentists take on the obligation to submit the form themselves, merely arranging for their practice owners to sign the form before it is sent. Those working for more than one contractor need to complete a form for each practice.

The maternity payment is made directly to the contractor but the contractor cannot keep the maternity pay received on behalf of another dentist. All of the maternity-leave pay must be paid to the dentist taking the maternity leave.

Maternity-leave cover

Self-employed pregnant dentists are obliged to find someone to fulfil their roles during their absences from the practice. Discuss this with the contractor; often it means engaging a locum. The locum should be paid from the contract value that will still come into the

contractor as normal. If a locum cannot be found, or only partial cover can be found, then both parties need to be aware of the financial consequences of any potential UDA shortfall.

Maternity-leave entitlement

Employed performers are covered by clear legal rules. There is an entitlement to 52-weeks maternity leave. For associates there is a right to take maternity leave but its length is not defined. It depends on what has been agreed in the associate contract. Nevertheless, as a minimum, 26 weeks, the length of time for which NHS maternity payments are made, is suggested by the BDA.

There is no obligation in England and Wales to return to work after maternity leave to retain the NHS maternity pay. However, if a dentist does not want to return to work she must give notice to the practice owner.

Pregnancy and COVID-19
There may be some aspects of work at a dental practice where, even with additional PPE, the risk of catching COVID-19 is higher at work than it would be outside the workplace. The practice has an obligation under those regulations to ensure pregnant members of staff do not have to do such work.

There is a small, theoretical risk that participating in aerosol generating procedures (AGPs) could lead to an increased chance of contracting COVID-19 from a patient. We therefore suggest that pregnant employees and associates in the first two trimesters are not required to participate in work that includes AGPs.

Current guidance suggests women in their final trimester should avoid patient facing roles, and as such we advise practices with pregnant members of staff in the final trimester to find work for them which is not patient-facing in a clinical setting.

If you are in your final trimester and unable to work you may be able to claim NHS long-term sick pay. However, your maternity pay will kick in automatically at 11 weeks before your estimated due date.

BDA members can access further advice about NHS maternity leave and pay: www.bda.org/advice ♦

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