

MATERNITY ACTION – WRITTEN EVIDENCE (EUC0123)

The economics of Universal Credit

Introduction

Maternity Action welcomes the opportunity to submit evidence to the Economic Affairs Committee's inquiry on the Economics of Universal Credit. We deliver free advice on employment rights, maternity and parental pay, and relevant social security benefits through our telephone helplines. And we undertake research, policy and influencing work to protect and strengthen maternity rights and improve the health and wellbeing of all pregnant women, new mothers and their partners.

We note, from the call for evidence, that the Committee is interested to hear about groups that have lost out from the introduction of Universal Credit, and whether Universal Credit policy and practice adequately reflects the lived experience of such low-income workers. In this submission, we highlight one such group: pregnant women and new mothers in receipt of (or entitled to) Maternity Allowance.

Maternity Allowance is a social security benefit paid by the DWP to some 60,000 low-income women each year who do not qualify for Statutory Maternity Pay (SMP).

To qualify for SMP, a woman must have been continuously employed by the same employer for at least 26 weeks preceding the 15th week before her due date (i.e. for the first 26 weeks of her pregnancy). And her normal weekly earnings during the eight-week period before the 15th week before her due date must not be less than the Lower Earnings Limit, currently £118 per week.

To qualify for Maternity Allowance, a woman must have been employed or self-employed for at least part of the week in at least 26 of the 66 weeks preceding her due date. And her *average* weekly earnings must not be less than the Maternity Allowance minimum threshold, currently £30 per week.

As a result of these differences, there are a number of circumstances in which a woman will not be able to meet the stricter qualifying conditions for SMP, and will only be entitled to claim Maternity Allowance. Self-employed women can *only* claim Maternity Allowance. And an employed woman will not qualify for SMP if she has not worked for the *same* employer throughout the first 26 weeks of her pregnancy (perhaps because she changed jobs before discovering she was pregnant), or where her earnings fall below £118 per week in the eight weeks before the 15th week before her baby is due.

Indeed, the combination of the stricter qualifying conditions for SMP, and the prevalence of pregnancy-related discrimination by employers, can

result in a woman not being able to qualify for SMP for entirely arbitrary reasons:

- where she is dismissed or unfairly made redundant during her pregnancy;
- where she suffers a pregnancy-related or other illness and has to take sick leave on Statutory Sick Pay during the eight-week SMP qualification period (SSP is £94.25 per week, below the Lower Earnings Limit of £118 per week);
- where her hours of work are reduced during her pregnancy; or
- where failure by her employer to provide health and safety adjustments during pregnancy forces her to take sick leave or to leave her job.

For example, calls to Maternity Action's helplines show that many pregnant women are forced out of their job if they take time off due to pregnancy-related illness, while others are forced to leave their job because their employer fails or refuses to carry out an adequate risk assessment and/or make reasonable adjustments to their working conditions.

Under the previous tax credits regime, women in receipt of Maternity Allowance were treated as being in remunerative work for the purposes of working tax credits, and their Maternity Allowance was fully disregarded in the calculation of any tax credit award.

However, under the Universal Credit Regulations 2013, Maternity Allowance is treated by the DWP as 'unearned income' and is deducted from any Universal Credit award pound for pound. In contrast, SMP is treated by the DWP as 'earnings', and is largely disregarded from any Universal Credit award as a result of the 'earnings disregard' (that is, the work allowance and the 63% earnings taper).

As a result, for example, single women with a new baby on Maternity Allowance can be as much as £460 per month worse off than women in the same circumstances on Universal Credit and SMP – a difference of more than £4,100 over 39 weeks of maternity leave (and the average duration of Maternity Allowance awards is 38 weeks and four days).

The financial impact on women on Maternity Allowance

As the Committee knows, the calculation of Universal Credit awards is complex, and the precise amount of Universal Credit that a claimant may be awarded depends on their *maximum* Universal Credit entitlement, less any deductions in respect of income and capital. And the maximum entitlement is made up of the claimant's *standard* Universal Credit allowance, plus – where applicable – one or more elements depending on their individual circumstances. The most common elements are the 'child element', payable in respect of a claimant's first two children only, and the 'housing element' in respect of housing costs.

The deductions made from the maximum entitlement in respect of *income* then depend on whether the income is treated as 'earned income' or 'unearned income'. Claimants in receipt of 'earned income' are entitled to the 'work allowance', a minimum amount of their earnings that they can keep before 63% of any 'excess earnings' above that amount is deducted from their maximum entitlement.

The current standard allowance is £317.82 per month for a single parent aged 25 or over, and £498.89 per month for a couple (at least one aged 25 or over); the child element is £231.67 per month per child; and the work allowance for a working parent with dependents (no housing costs) is £503 per month.

In contrast, 'unearned income' is deducted pound for pound from the maximum entitlement, without the benefit of the work allowance or the 63% taper rate.

For example, a single parent (aged 25 or over) with her first baby and who qualifies for SMP, but who is not eligible for the housing element because she lives with family or owns her own home, has a maximum Universal Credit entitlement of £549.49 per month (i.e. her standard allowance of £317.82, plus one child element of £231.67). Her SMP of £148.68 per week amounts to a monthly income of £644.28, which is treated as earned income by the DWP, and her work allowance is £503 per month.

This means she has 'excess earnings' above her work allowance of £141.28, of which 63% – £89.00 – is deducted from her maximum entitlement. So her monthly income during her maternity leave is £644.28 of SMP, plus an award of £460.49 of Universal Credit – a total of £1,104.77.

In contrast, a woman in the same circumstances who does not qualify for SMP, but qualifies for Maternity Allowance, has the same maximum Universal Credit entitlement of £549.49 per month. However, as her monthly Maternity Allowance payment of £644.28 is treated as unearned income and deducted pound for pound from that maximum entitlement, she is left with no Universal Credit award. So her monthly income during her maternity leave is therefore just the £644.28 of Maternity Allowance.

In short, the woman on Maternity Allowance is £460.49 per month worse off than the woman on SMP, even though their basic circumstances are the same. In addition, she misses out on the £500 Sure Start Maternity Grant (or, in Scotland, the Best Start Grant, which is £600 for the first child, and £300 for each subsequent child), as eligibility for the Grant depends on being in receipt of a *means tested* benefit, such as Universal Credit.

Yet, clearly, the essential purpose of SMP and Maternity Allowance is exactly the same: to enable women to take time off work to prepare for

and recover from birth, and to bond with their child. And, while there are, as noted above, some differences in the qualifying conditions, both SMP and Maternity Allowance require at least 26 weeks of recent employment. Furthermore, other than in the first six weeks (when SMP is paid at 90% of average earnings), SMP and Maternity Allowance are paid at the same *standard* rate (currently £148.68 per week), or at 90% of average weekly earnings, if that is lower than the standard rate.

In short, both SMP and Maternity Allowance are maternity pay, and there is no obvious or good reason to treat them differently in the calculation of Universal Credit awards, to the disadvantage of some of the poorest new mothers.

By definition, the some 60,000 women granted Maternity Allowance each year are relatively low-income, so tens of thousands stand to lose out from this anomaly in the Universal Credit Regulations (as a result of which they are also worse off than a worker in receipt of Statutory Sick Pay which, like SMP, is treated by the DWP as *earned* income in the calculation of Universal Credit awards).

The Government's position to date

The Government has rejected repeated calls by Maternity Action, the Child Poverty Action Group (CPAG) and others for Maternity Allowance to be treated, like SMP, as earned income in the calculation of Universal Credit awards. And, in doing so, its sole justification has been that Maternity Allowance is a social security benefit paid by the DWP, while SMP is paid by employers (who reclaim it from HMRC).

For example, in a letter dated 3 July 2019 to Frank Field MP, then Chair of the Work & Pensions Committee of MPs, the then Secretary of State, Amber Rudd MP, stated:

“Maternity Allowance is treated as unearned income in the Universal Credit assessment. This is because it is a social security benefit paid to meet living costs.

Statutory Maternity Pay is paid in the same way as wages, therefore it was decided that it should be treated as earned income in the Universal Credit assessment. As a result of this treatment, individuals do benefit from the work allowance and taper rate.”

Similarly, in a letter dated 15 October 2019 to Steve McCabe MP, the DWP Minister for Employment, Mims Davies MP, stated:

“The difference in the treatment of SMP and Maternity Allowance in Universal Credit is not unintended. It is a consequence of the simplification of the treatment of earned income in Universal Credit.

One of the simplifications introduced by Universal Credit is for information on claimants' earned income to be collected automatically through information that Universal Credit receives from HMRC. This enables a claimant's Universal Credit entitlement

to be reassessed quickly in response to any changes in their earnings.

As statutory benefits such as SMP are paid by employers, they are treated as earned income rather than unearned income.

Other benefits paid to meet living costs, such as Maternity Allowance, will continue to be taken fully into account in the [Universal Credit] assessment process as these benefits were replaced by Universal Credit.”

However, these ministerial statements are simply descriptions of the different treatment of SMP and Maternity Allowance, and do not offer any justification – moral, practical or otherwise – for the different treatment or the resultant disadvantage to low-income working mothers. And they do not explain – let alone justify – the change in practice from fully disregarding Maternity Allowance under the previous tax credits regime, to deducting Maternity Allowance pound for pound in the Universal Credit regime.

Conclusion

Maternity Action considers the different treatment of SMP and Maternity Allowance in the calculation of Universal Credit awards to be grossly unfair to women on Maternity Allowance. Indeed, we believe it is both discriminatory and contrary to common law reasonableness.

The Universal Credit system has rightly received much criticism, not least for its consistent failure to get support to the least well-off in a timely fashion. However, a recent report by the Institute for Government concludes that “despite real on-going problems, [the Universal Credit system] is working better”.

This is to be welcomed. But it is unfortunate that the understandable focus of ministers and senior DWP officials on ‘making the system work better’ appears to have crowded out addressing anomalous policy injustices such as the inequitable treatment of SMP and Maternity Allowance in the calculation of awards, which does not reflect the lived experience of low-income pregnant women and new mothers.

So, having tried and failed to convince ministers to amend the Universal Credit Regulations, we have contributed a witness statement to an application for judicial review by the Child Poverty Action Group (CPAG) that is set to be heard by the High Court in June. However, we remain hopeful that ministers will yet accept the case for amending the Universal Credit regulations.

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