

Contractor Doctor: Can I claim maternity pay benefits from my umbrella company?

Dear Contractor Doctor,

I have been with my umbrella company for nearly a year, ever since I first started contracting. I have also been with the same client and my contract expires in about three months.

I am now six months pregnant.

Do I qualify for any maternity benefits from my umbrella company?

Thanks

Kiran

Here's what the Contractor Doctor has to say on maternity pay rights for umbrella company contractors:

"Any contractor working through an [umbrella company](#) is employed by that umbrella company," explains Derek Kelly, Group Technical Director of contractor umbrella company [Parasol Group](#). "Therefore, pregnant employees enjoy a range of statutory maternity benefits."

Assuming the pregnant contractor meets the qualification criteria, she can claim a range of statutory benefits.

"The rules regarding maternity benefits and eligibility criteria can be quite complex," continues Kelly. "An umbrella company that employs contractors should have policies and procedures in place to guide their pregnant contractor clients through their entitlements."

If a contractor does not qualify for their umbrella company's benefits, they may still qualify for state maternity benefit, which they claim directly from the government.

Formal notification and qualification criteria for contractor maternity pay

The first step is for the contractor formally to notify their employer they are pregnant. "An umbrella company is an employer like any other, and so the contractor has a duty to inform their employer in writing with a [MAT B1 form](#), after having their pregnancy confirmed by their doctor or hospital."

Without this notification, the pregnant contractor would not be able to claim any employer or state maternity benefits and would have to rely completely on their own resources during the pregnancy and after the birth.

In order to qualify for a statutory maternity package, a pregnant contractor has to fulfil a number of criteria, and to do this they must have:

been an employee on or before the qualifying week (15th week before due date)

had 26 weeks service in the qualifying week

had average weekly earnings of, or greater than, £90 per week in the eight weeks prior to the qualifying week.

So everything hinges on length of service and sufficient average earnings. Without qualifying for these, the contractor will not qualify for their employer's scheme.

What are the maternity benefits for umbrella company contractors?

Maternity benefits for pregnant contractors include time off for antenatal care, maternity leave, maternity pay and a raft of measures designed to protect pregnant contractors' workplace rights, benefits and any contractual conditions.

Kelly says: "When a pregnant contractor takes time off for antenatal medical appointments, their umbrella company should pay them at their normal hourly or day rate. This is a cost the umbrella company, as their employer, has to bear."

Contractor maternity leave – paid and unpaid

Maternity leave is a combination of paid and unpaid leave, and with a formula that determines how much the contractor will get paid during their leave.

"All employees are entitled to 52 weeks of maternity leave, which is broken down into what we call 26 weeks of Ordinary Maternity Leave (OML) immediately followed by 26 weeks of Additional Maternity Leave (AML)," explains Kelly. "Of this total, a contractor is required to take a statutory two weeks of leave

immediately following the birth.”

Maternity leave can start, if the contractor chooses, up to 11 weeks before the due date. In the instance that an employee has been signed off work with pregnancy related sickness, the employer, in this case, the umbrella company, can ask the contractor to start their maternity leave up to four weeks before the due date.

“When claiming statutory maternity pay from their umbrella company, the contractor is eligible for 90% of their weekly earnings for the first six weeks of maternity leave,” continues Kelly “After that, they are entitled to 90% of their earnings, or £117.18, whichever is lower for the next 33 weeks.” (This rate will change to £123.06 from 5th April 2009) Contractors can claim statutory paid maternity leave for a total of 39 weeks, with the remaining 13 weeks to the 52-week total being unpaid.

Do umbrella companies have to bare the cost of contractor’s maternity leave? Well according to Kelly, umbrella companies have to pay for the period where the contractor receives 90%, while the £117.18 payments are to be claimed from the government, although there are usually management costs associated with this.

Employee maternity rights for contractors

As employees of their umbrella company, contractors are technically entitled to a range of other rights. However, because of the unconventional way in which contractors work, the value of some is questionable. These include:

The employer can’t make major changes to the contractors employment contract during maternity leave

Contractors still accrue holiday pay when they are on maternity leave

The employer must do health and safety risk assessments during the pregnancy.

Kelly explains that the last point is probably the most relevant for contractors: “Risk assessments can have the greatest impact on a pregnant contractor’s day to day work. Take a mud-logger or drilling engineer working offshore. As soon as they tell their client they are pregnant, it’s possible that health and safety regulations may prohibit them working offshore because of the risks.”

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Derek Kelly, Parasol Group

And more conventional, but no less important, is that many airlines will not allow pregnant contractors to fly late in their pregnancy, which could have a major impact on the work of expat contractors or those who need to attend meetings abroad. The client and umbrella company employer would have to make allowances for this situation.

“The level of support and benefits that a pregnant contractor can expect largely depends on their umbrella company,” says Kelly. “If the contractor works for a genuine umbrella company employer, then they will get the full range of support and benefits that is their right to expect and that they qualify for.

“If, however, they are working for a ‘sausage factory’ umbrella company that exists solely to process contractors’ payments, then it could be a whole different, and probably much less pleasant, experience.” If you’ve just started contracting, considering the maternity benefits an umbrella company offers should be something you consider when making your choice.

Good luck with your contracting!

Contractor Doctor

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