

Commissioner's Advice to Inspectors

Maternity Expenses

Section 138(1) of the Social Security Contributions and Benefits Act, 1992¹ specifies that:

Payments may be made out of the social fund...

- (a) of prescribed amounts...to meet, in prescribed circumstances, maternity expenses and funeral expenses; and
- (b) to meet other needs in accordance with directions given or guidance issued by the Secretary of State.

1. The regulated and discretionary parts of the Social Fund

The judge in the *Harper* JR concluded that sections 138(1)(a) and (b) of the Act (quoted above) "provide mutually exclusive methods of making payments to meet particular needs, the former meeting the need for maternity and funeral expenses and the latter meeting other needs." This, as the judgement makes clear, means that Social Fund decision-makers do not have jurisdiction to award payments from the discretionary part of the Social Fund for maternity or funeral expenses. They may only award payments from this part of the Fund for "other needs".

2. Working definition of maternity expenses

The Social Fund Commissioner advises that maternity expenses should be interpreted as: "those expenses which are necessarily incurred to cater for the immediate needs of a child at the time of its birth and shortly afterwards."

The following points of explanation are necessary:

The needs of the child. Maternity expenses are related to the needs of the child only, not to the needs of the mother.

Necessary expenses. Only "necessarily incurred" expenses can be counted as maternity expenses. Any additional expenses will not count as maternity expenses.

The time of the birth and shortly afterwards. This period cannot be precisely defined, but it will normally include both the immediate aftermath of the child's birth and, if the child is born in hospital, the period immediately following its arrival in the home.

Immediate needs. Items required for the immediate needs of the child at the time of its birth and shortly afterwards are maternity expenses. This applies even if those items might continue to be used in the longer term. However, if the item will not start to be used, or will not start to be necessary, until some time after the birth, then it will not normally be a maternity expense.

¹ Or Section 134(1) of the *Social Security Contributions and Benefits (Northern Ireland) Act, 1992*