

Maternity issues for doctors in training

December 2010

1. Maternity leave

When to tell the employer

Under normal circumstances, by the end of the 15th week before the expected week of childbirth (EWC) the employee must have notified their employer of their pregnancy, the EWC, and the date she wants Ordinary Maternity Leave (OML) to start.

How long is Maternity Leave

There is a statutory period of compulsory maternity leave of two weeks starting with the date the baby is born.

There is a statutory entitlement to 26 weeks of OML, beginning no earlier than the 11th week week before the expected week of childbirth (EWC), followed by an entitlement to a further 26 weeks of Additional Maternity Leave (AML). Contractual rights, with the exception of pay, continue during OML and AML.

When to take Maternity Leave

Maternity leave can start at any time after the beginning of the 11th week before the baby is due.

2. Moves between employers

If the employee is entitled to NHS Occupational Maternity Pay and the contract of employment expires after the 11th week before EWC, then the employer should extend the contract to allow the employee to remain employed by their original employer during the period of maternity leave and for any additional period to enable them to complete any training missed during that leave. This is a contractual requirement for doctors in hospital posts, and an expectation for those in GP practices.

If the contract expires before the 11th week before EWC the doctor will normally be required to move to her next placement before commencing maternity leave.

3. Maternity pay

Maternity pay has two components, Occupational Maternity Pay which depends on NHS service, and Statutory Maternity Pay which depends on continuity of employment. The qualifying criteria for each are different.

Occupational Maternity Pay

To qualify for Occupational Maternity Pay (OMP) the doctor must have had 12 months continuous service with one or more NHS employers by the start of the 11th week before EWC.

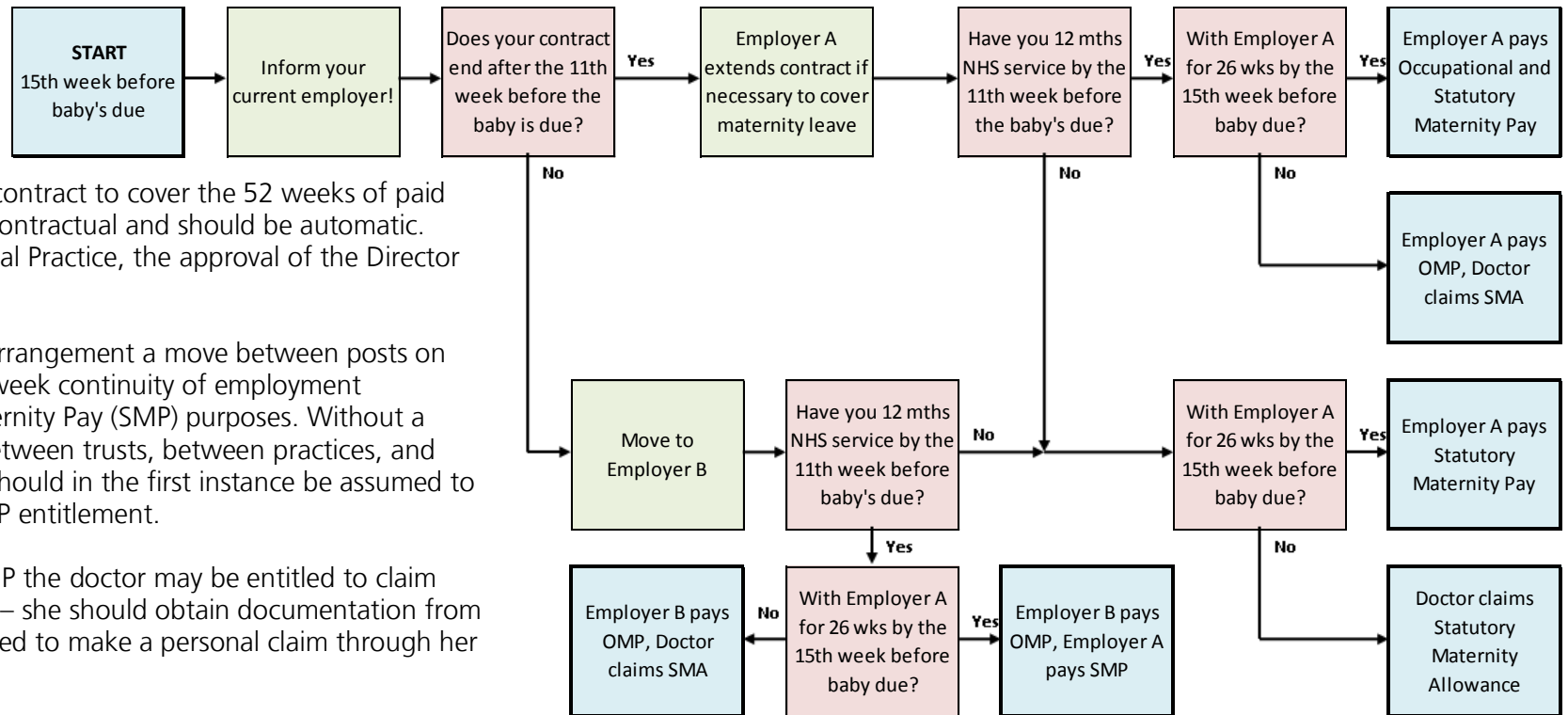
Statutory maternity pay

To qualify for Statutory Maternity Pay, the doctor must have been employed by the same employer for a continuous period of at least 26 weeks into the 15th week before EWC. Under a single lead employer arrangement a move between posts on rotation will not break the 26 week continuity of employment requirement for Statutory Maternity Pay (SMP) purposes. Without a single lead employer, moves between trusts, between practices, and between trusts and practices, should in the first instance be assumed to break continuity and affect SMP entitlement.

If the doctor satisfies the qualifying conditions, and leaves their employer after the start of the 15th week before EWC, it does not matter why she left or that she is not coming back - she is entitled to SMP. If the doctor moves to a new employer before her baby is born, the first employer is still liable to pay SMP (HMRC Employer Helpbook for Statutory Maternity Pay e15 2009). SMP payments from the first employer cease at the end of the 39 weeks of SMP entitlement or on the doctor's return to work after the birth, whichever is the sooner.

Flowchart for doctors on rotation – an indication of actions to take and what to expect when planning maternity leave

Please note the following, and see the relevant contractual documentation for further details.



In hospital posts, extension of contract to cover the 52 weeks of paid and unpaid maternity leave is contractual and should be automatic. Where the employer is a General Practice, the approval of the Director of GP Education is required.

Under a single lead employer arrangement a move between posts on rotation will not break the 26 week continuity of employment requirement for Statutory Maternity Pay (SMP) purposes. Without a single lead employer, moves between trusts, between practices, and between trusts and practices, should in the first instance be assumed to break continuity and affect SMP entitlement.

If there is no entitlement to SMP the doctor may be entitled to claim Statutory Maternity Allowance – she should obtain documentation from her employer which she will need to make a personal claim through her local JobCentre Plus office.

Occupational Maternity Pay (OMP) is currently 8 weeks at full pay and 18 weeks at half pay. The rate of Statutory Maternity Allowance (SMA) is £124.88 a week (from 1 April 2010) for 39 weeks.

SMP is paid at 90% of full pay for 6 weeks, and at £124.88 for the remainder of the 39 weeks. SMP is liable for tax and National Insurance contributions; SMA is not. If OMP is payable, SMP/SMA is included in the 8 weeks of full pay; SMP/SMA is payable in addition to the 18 weeks of half pay.

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