Welcome
... to the fourth issue of Lasa’s Asylum Support Briefing

In this issue we –
❖ provide information about the new maternity payment from the National Asylum Support Service (NASS)
❖ explore the possibility of getting extra vouchers or cash to meet a person’s “essential living needs”
❖ focus on the mechanisms for challenging unfavourable asylum support decisions
... and more!

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Extra Support in Respect of “Essential Living Needs”
– the “general rule”

In accordance with regulation 10(2) and (6) of the Asylum Support Regulations 2000 –
❖ asylum support in respect of a person’s essential living needs should not exceed a figure effectively set at 70% of the income support personal allowance – eg, for a couple, £57.37, compared to £81.95 for income support purposes; and
❖ the redemption value of those vouchers redeemable for cash should not exceed £10 per person per week

However, regulation 10 states that these rates and the maximum cash element of £10 per person per week, will be applicable “as a general rule”. Importantly, “as a general rule” is not defined! As a result there is clearly scope, where a supported person’s circumstances are other than the general rule – eg for reasons of poor health, disability, age etc – for support in respect of essential living needs –
❖ to exceed 70% of the income support personal allowance; and/or
❖ the element of the voucher package redeemable for cash to exceed £10

It is clear however that NASS will be unlikely to award “extra” essential living needs without an explicit request from the applicant or their advocate. Advisers should therefore be prepared to provide evidence of a support applicant’s or family member’s wider circumstances and use the wooliness of section 10(2) and (6) to their advantage.

NB – for those already in receipt of support at the standard rate, there is scope for requesting a review of the assessment to take into account any circumstances that were missed at the initial assessment or that have subsequently come to light.

New Arrival!
– Maternity payments from NASS

NASS has introduced a new Maternity Payment to help with costs arising from the birth of a new baby. However, whilst any additional financial help is to be welcomed, the nature of the criteria governing the scheme, and the fact that NASS are not planning to publicise the payment, mean that it’s impact on supported families is likely to be limited.

The maternity payment can be made where either –
❖ a child is born to, or the expectant mother is, a NASS supported person; or
❖ a child aged less than 3 months was born outside the UK to someone who now qualifies for NASS support

Applications for the payment, worth £300 per child, need to be made between one month before the due date and 2 weeks after the birth. Applications need to be submitted to NASS in writing (though NASS have not issued an application form at present) accompanied by a birth certificate or medical evidence of the due date.

Successful applicants will receive the payment in vouchers – though not redeemable for cash – which need to be “spent” within 4 weeks.

Thanks to the Refugee Women’s Resource Project for this information.
NB – RWRP produce a monthly bulletin – Women’s Asylum News – available by email – rwrp2000@hotmail.com

www.rightsnet.org.uk
the welfare benefits website for advice workers
Challenging Asylum Support Decisions

What happens if a destitute asylum seeker applies for support from NASS and is turned down, or perhaps a request for extra support in respect of a disability is refused, or compelling reasons for a person not to be dispersed are ignored? What rights of appeal have been incorporated in the Asylum Support system?

Regulations made subsequent to section 102–104 of the Immigration & Asylum Act 1999 established a new independent appellate body – Asylum Support Adjudicators (ASA).

However a person only has a right of appeal to an ASA against certain NASS decisions – ie if they are refused support, or support is terminated early (for example, because the person was alleged to have breached conditions attached to the provision of support). A challenge, for example, to the nature of the support package is not appealable to an ASA.

In addition the time limits for submitting an appeal are extremely tight – 2 days from the day the decision letter had been received. (Although this time limit can be extended if the ASA considers that it is in the interests of justice to do so and the appellant (or their representative) was unable to meet the time limit by circumstances beyond their control)

For those who have no right of appeal to an ASA – for example

- the person whose request for extra support in respect of a disability was refused
- someone who needs to challenge a decision relating to local authority “interim” asylum support (since only NASS decisions can be appealed to the ASA)
- where the ASA’s decision itself is unfavourable (since there is no further formal right of appeal)

the applicant’s only effective remedy will be judicial review.

NB – there are strict time limits for applying for judicial review. The application must be made with 3 months of the decision being challenged (unless there are good reasons for the delay). Even within the 3 month period, leave can still be refused if there has been “undue delay” in making the application. As a result it is clearly vital that the appellant is able to quickly get advice from a solicitor.

The “70% of Income Support” Fallacy

An additional argument to use in requesting that the value of the NASS support package paid in respect of a person’s essential living needs should exceed the standard rates set out in section 10 of the Asylum Support Regulations 2000 lies in the misrepresentation that those rates approximate to 70% of the income support levels that would apply for the same person/family.

In fact, the rates approximate to 70% of the income support personal allowance, and do not reflect any of the range of premiums that would be included in the income support assessment in recognition of the extra costs of, for example, poor health or disability.

For example – whilst a single person aged 25 who has been incapable of work for more than a year would be entitled to income support of £74.45/week (a personal allowance of £52.20 and a disability premium of £22.25), the same person would only be entitled to £36.54 in asylum support – effectively the asylum support package in this case is worth just 49% of income support!

The Immigration & Nationality Department has relaunched its website – www.ind.homeoffice.gov.uk – and in doing so have added more information about NASS. However, still no sign of their Policy Bulletins on the site! (see issue 3 of this briefing for more information).

So … still worthwhile contacting NASS to convince them that making the bulletins more widely available is a very good idea indeed. (Helpfully the IND site provides the opportunity to submit feedback by email).

£50 – claim now!

Regulation 11 of the Asylum Support Regulations 2000 provides for “additional single payments in respect of essential living needs” – effectively vouchers redeemable for cash worth £50 per supported person – where they have been supported by NASS for a 6 month period.

This provision was introduced as the Immigration & Asylum Bill concluded its journey through Parliament as a result of the Government accepting that it’s target of determining asylum applications and appeals within 6 months would not be met on every occasion and that, in consequence, a supported person should be compensated in some way.

Of course, with NASS having begun to take responsibility for destitute asylum seekers from 3 April 2000, many of those still awaiting resolution of their asylum application and/or subsequent appeal will now have become eligible for an “additional single payment”.

However the payments will not be made automatically, despite the fact that NASS will know from their records the point at which a person/family are eligible. Instead regulations require the supported person to make a written application to NASS.

So … claim now!