

Benefit entitlements

Do I need to inform the Benefits Agency if a member of the family who was receiving benefits goes to prison?

It is important that the relevant authorities are kept informed about the situation either by the prisoner or his/her family. This needs to be done as soon as circumstances change. There are some benefits which prisoners would no longer be entitled to; others are suspended, and a few continue to be payable. You may need to make a claim in your own right if the prisoner was supporting you. If a prisoner has been on remand it is also important to inform the Benefits Agency about any conviction and sentence.

Can prisoners claim income support?

Those detained in custody, whether convicted or on remand, or on temporary release, are not eligible for income support, and do not count as a member of the family for income support purposes. If your partner is in prison, you can claim income support as a single person or a lone parent.

Can s/he claim if released on home detention curfew or probation hostel?

People on home detention curfew are entitled to income support, as are those released on license or parole, in a probation or bail hostel, or detained in hospital under the Mental Health Act 1983. If your partner is in a bail or probation hostel, you can still claim income support at the couples rate.

What about jobseeker's allowance?

A person in custody is not eligible for jobseeker's allowance, because they are not able to satisfy the condition that they must be available for work.

Is housing benefit payable?

Housing benefit can only be paid to those whose absence from home will be 13 weeks or less. Those remanded in custody awaiting trial or required to live in a bail hostel are entitled to housing benefit for up to 52 weeks.

This also means that those who are given a six month sentence or less may be eligible for housing benefit because they will only serve half their sentence. Those who are sentenced for up to a year may also be

eligible (as with HDC they may serve 13 weeks) but this is at the discretion of the social security office.

I was living with someone who was getting housing benefit but the length of their sentence means they will be away for more than 13 weeks. What can I do?

You may be eligible for housing benefit in your own right to help with the rent while the person is away. You should let the authorities know about the change in circumstances and put in a claim as soon as possible.

What about council tax?

If a prisoner's home is going to be empty while they are away, they can apply to the council for it to be exempted, as long as they are not in prison for not paying a fine, or for not paying council tax! If the prisoner was claiming council tax benefit, the rules are the same as for housing benefit. Check with the local council as soon as possible. For more information about general rules for Council Tax Benefit you can get leaflet GL17 "Help with your Council Tax" from your local council offices, Jobcentre Plus office, job centre or social security office.

Are tax credits affected?

The Prisoners cannot get working tax credit because they are not "in qualifying remunerative work".

Can I claim Working Tax Credit if my partner is in prison?

You can still claim Working Tax Credit while your partner is in prison provided you are working the necessary number of hours. You will qualify if you are working at least 16 hours and:

- are responsible for a child or qualifying young person or
- have a disability or
- are aged 50 or over and returning to work for at least 6 months.

What other benefits are prisoners not entitled to?

People in prison are not eligible to claim:

- social fund payments, including crisis loans
- incapacity benefit or severe disablement allowance
- attendance allowance, disability living allowance or invalid care allowance
- retirement pension
- maternity allowance
- reduced earnings/retirement allowance
- statutory sick pay or maternity pay.

Otherwise to qualify you must be aged 25 or over and working at least 30 hours a week.

Phone the Tax Credit Helpline on 0845 300 3900 to find out more about Working Tax Credit.

What happens if the prisoner is on remand and is later found not guilty or released on a non-custodial sentence?

Disability, retirement and maternity benefits are suspended while the person is on remand, but if they do not receive a custodial sentence, they are entitled to full arrears on release.

Are there any benefits a prisoner does remain entitled to?

Basic disablement benefit, although it is suspended while the person is in prison and paid in arrears on release. If the person was convicted, this is subject to a maximum of 12 months arrears. If they were on remand, but not subsequently sentenced to custody, they are entitled to arrears of the full period they were on remand.

Child benefit and guardian's allowance, for as long as the prisoner is responsible for the child or children ie. if the child is living with a prisoners in custody or if a baby is born in custody. However, if someone is likely to be in prison for some time, they may want to arrange for the child benefit to be paid to whoever is caring for the child(ren).

If a child is a prisoner, does their parent or guardian still get child benefit for them? Child benefit will stop after 8 weeks. If the child is on remand and

is not subsequently sentenced to custody or detention, full arrears will be paid when they are released.

Can I get financial help if I am caring for someone on temporary release? You may be eligible to claim a community care grant for living expenses.

If you are on Income Support, Pension Credit or income-based Jobseekers allowance you maybe entitled to a Community Care Grant from the Social Fund. This will only cover daily amounts for the family member's living expenses.

What happens when someone is released?

Once released from prison, the person needs to put in claims for any benefits they are entitled to as soon as possible. They may receive a discharge grant from the Prison Service, but as it may take a little time to process the new claims, it may be necessary to apply for a social fund crisis loan to tide them over and meet any initial expenses.

Where can I get more information?

The Benefits Agency also produces a more detailed guide, leaflet GL32, entitled **Prisoners and their families** www.dwp.gov.uk/publications/dwp/2004/gl32_apr.pdf, which is available from the Benefits Agency.

Both this sheet and the booklet are only a general guide, and the rules can change, so the best way to find out exactly what you are entitled to is to contact your local Jobcentre Plus or Social Security Office.

The information provided in this factsheet is intended for information purposes only. It does not constitute legal advice. Prisoners' Families and Friends Service (PFFS) recommends that professional legal advice should always be sought. The information contained in this factsheet is subject to change and may not be up-to-date or accurate. PFFS gives no guarantee of the accuracy or completeness of this information. PFFS will not be held responsible for any loss or damage arising from the use of the information provided.