

Section 4 support for women in late stages of pregnancy

Tuesday, 24 March 2009

At the First Tier Tribunal (Asylum Support) in Croydon this week Asylum Support Appeals Project (ASAP) successfully challenged the UK Border Agency's policy of only providing Section 4 (S4) support to pregnant women who are due to give birth in six weeks.

The client, a refused asylum seeker woman who was heavily pregnant, had applied for S4 support on the grounds that she 'was unable to leave the UK due to a physical impediment to travel'. This criterion covers women in the 'late stages' of pregnancy as well as individuals who are suffering from a medical condition which prevents them from being able to fly. The client's MAT-1 form (a maternity certificate issued by the midwife around the sixth month of pregnancy), showed her expected due date was in approximately seven and half weeks.

The UK Border Agency (UKBA) refused her application on the grounds that she was not far enough along in the pregnancy to qualify. This decision was based on Section 4 guidance notes, which are used by UKBA staff making decision on support applications, which states that 'support must not normally be granted until around 6 weeks before the expected due date'*

However, according to the NHS 'the length of a normal pregnancy varies between about 37 and 42 weeks' although the expected delivery date is 'calculated at 40 weeks from the first day of your last period. Only 5% of babies are born on their due date'**. This means that in reality substantial numbers of babies are born up to 3 weeks before the expected due date.

The Judge accepted this evidence presented by ASAP and granted the client support on the grounds that 'there is an uncertainty in predicting the date of delivery with a substantial margin of error.'

This judgment support ASAP's view that the six week limit currently being rigidly applied by UKBA ignores NHS guidelines and is unreasonable. Gerry Hickey, a legal adviser at ASAP who represented the case said 'ASAP believes that the current six week limit should be abolished and at the very least S4 support should automatically be provided to women who are six months pregnant and over'. However ASAP also believes that refused asylum seeking women in the

earlier stages of pregnancy should also be given support due to the risks destitution poses to the health of both the mother and the unborn child.

*www.ukba.homeoffice.gov.uk/asylum/support/apply/s4

**NHS choices, Pregnancy, Overview:

<http://www.nhs.uk/Conditions/Pregnancy/Pages/Introduction.aspx?url=Pages/wbat-is-it.aspx>