

Your answers suggest that you may be entitled to make a primary claim for PPL.

Parental leave pay is paid to a person for a particular period. That period is called the person's PPL period. The maximum period for which any person may be paid parental leave pay is 18 weeks. A person's PPL period may be the full 18 weeks or a lesser period (e.g. where the person is not eligible for parental leave pay for that full period).

54 Who can make a primary claim, secondary claim or tertiary claim

Primary claim

- (1) Only the following people can make a primary claim for a child:
- (a) the child's birth mother;
 - (b) an adoptive parent of the child;
 - (c) a person who satisfies the circumstances prescribed by the PPL rules as being exceptional circumstances in which a primary claim can be made.

Secondary claim

- (2) Only the following people can make a secondary claim for a child:
- (a) the partner of a primary claimant;
 - (b) a person who:
 - (i) is a parent of the child; and
 - (ii) is not the primary claimant;
 - (c) a partner of a person covered by paragraph (b);
 - (d) a person who satisfies the circumstances prescribed by the PPL rules as being exceptional circumstances in which a secondary claim can be made.

Tertiary claim

- (3) Only a person who satisfies the circumstances prescribed by the PPL rules as being exceptional circumstances in which a tertiary claim can be made can make a tertiary claim for a child.

2.28 Exceptional circumstances for primary claimants — general

- (1) Subject to rule 2.30, the circumstances are that the person:
- (a) has, and is likely to continue to have, care of the child for at least 26 weeks; and
 - (b) became, or will become, the child's primary carer:
 - (i) before the child's first birthday; or
 - (ii) for an adopted child — before the first anniversary of the day of placement of the child; and
 - (c) is covered by subrule (2); and
 - (d) if rule 2.29 applies to the person — satisfies the circumstances mentioned in subrule 2.29 (2).
- (2) For paragraph (1) (c), a person is covered by this subrule if:

- (a) the birth mother, or adoptive parent, of the child is incapable of caring for the child and will be incapable, or is likely to be incapable, of caring for the child for at least 26 weeks; or
- (b) the Secretary is satisfied on reasonable grounds that:
 - (i) the person became the primary carer of the child in special circumstances; and
 - (ii) it would be unreasonable for the birth mother, or adoptive parent, of the child to care for the child; and
 - (iii) it is in the interests of the child for the person to care for the child.

Note For what is unreasonable and in the interests of the child, see rule 2.31.

1.4 Meaning of *incapable of caring for a child*

- (1) A person is *incapable of caring for a child* on a day if, on that day:
 - (a) there is a parenting order in force resulting in the person not providing care for the child; or
 - (b) the person is deceased; or
 - (c) the person is in prison or otherwise institutionalised; or
 - (d) the person's whereabouts are unknown; or
 - (e) the person suffers from a medical condition that makes the person incapable of providing care for the child; or
 - (f) the Secretary is satisfied that the person is, for a reason outside the control of the person, incapable of providing care for the child.
- (2) The person is not incapable of caring for a child if the person voluntarily chooses not to provide care for the child.

Example

A person may voluntarily choose not to provide care for a child by deciding to travel overseas on a holiday or to visit relatives or friends or by deciding to look after other relatives.

Division 6—Primary carer

47 When a person is the *primary carer* of a child

- (1) A person is the *primary carer* of a child on a day in the person's reference period if:
 - (a) the child is in the person's care in that period; and
 - (b) the person meets the child's physical needs more than anyone else in that period.
- (2) A person's *reference period* is the period that is determined by the Secretary for the purposes of making a payability determination on the person's claim.
- (3) Only one person can be a child's primary carer on a particular day.
- (4) Despite subsection (1), a person is not the *primary carer* of a child on a day if, before that day, the child has died.

--	--