



ROYAL NORWEGIAN MINISTRY
OF LABOUR AND SOCIAL AFFAIRS

EFTA Surveillance Authority
Rue Belliard 35

BELGIUM

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**Information concerning the transitional benefit for single parents
(overgangsstønad) and Regulation 883/2004**

Reference is made to the letter of 10 February 2021 from EFTA Surveillance Authority (hereafter the Authority) The Norwegian Government (hereafter the Government) has been invited to provide information on the conditions which must be fulfilled to be eligible for the transitional benefit for single parents, and to clarify whether this benefit falls outside the scope of Regulation 883/2004.

Conditions for the transitional benefit for single parents

The eligibility conditions for the transitional benefit for single parents is set in chapter 15 of the National Insurance Act.¹

The purpose of the transitional benefit is to cover subsistence expenses for single parents during a transitional period and provide them with help for self-help so that they are able to support themselves through their own work.

A parent can be considered single if the person is unmarried, divorced or separated and not living together with a person with whom he/she has children, or to whom he/she has been married. The person will not be considered a single parent if he or she lives with a spousal equivalent and they have a joint household, without having a child together. If, during the period a person is receiving transitional benefit, he or she has a new child with the same partner, none of the parents are considered a single parent. The same applies if a mother or father has previously received such benefit for a child the partners have together.²

¹ LOV-1997-02-28-19 Lov om folketrygd (folketrygdloven)

² § 15-4 (3)

To be entitled to transitional benefit the single parent must have a clear majority of the daily care for the child.³

The transitional benefit is a residence-based benefit which is financed over the national budget. The benefit is not conditional on previous work or income, nor is it a prerequisite that any employer's contribution has been paid or that the beneficiary has paid social security contributions. The benefit is thus given regardless of whether the person in question has previously contributed to the National Insurance Scheme. It is however required that the single parent has been a member of the National Insurance Scheme for five years immediately prior to claiming transitional benefit.

The annual transitional benefit to a single parent is 2.25 of the basic amount⁴ (NOK 282 040). Previous income from work is irrelevant for the benefit amount. If the single parent has an annual income from work exceeding 0.5 of the basic amount (NOK 50 676), the transitional benefit is reduced by 45 per cent of the exceeding income.

The transitional benefit is given as a fixed rate equal for everyone, regardless of how many children the recipient has.⁵ The benefit is completely independent of the benefit recipient's family expenses. The level of the benefit is determined in light of the general economic and social conditions in Norway, approximately the same level as several social security benefits and special social assistance schemes given to persons without children, e.g. transitional benefit to surviving spouse and former family carer (overgangsstønad til etterlatte og tidligere familiepleier)⁶, yearly minimum disability benefit (uføretrygd), yearly minimum Work Assessment Allowance (arbeidsavklaringspenger), Qualification Benefit (kvalifiseringsstønad) and introduction assistance (introduksjonsstønad til nyankomne innvandrere). The transitional benefit is thus a general subsistence benefit and has neither the purpose, nor the aim, of meeting family expenses, as it does not cover specific expenses related to the maintenance of the child.

As a general rule the transitional benefit may be granted until the child attains the age of 8⁷, but not for more than a total of 3 years. The benefit period may be prolonged by two extra years if the parent undergoes education in order to gain employment. Also, for single parents with more than two children or for persons who became a single parent before attaining the age of 18, the benefit period may be prolonged by three years.⁸

A person who has previously received transitional benefit for a full period of 3 years and becomes a single parent of a new child, can be granted a new period of transitional benefit until the child becomes 1 year or is entitled to a place in a day care centre.

³ § 15-4 (4)

⁴ Many benefits from the National Insurance Scheme are determined in relation to a basic amount. This amount is annually adjusted by the King with effect from 1 May, in accordance with the increase in wages. The basic amount per 10 March 2021 is NOK 101 351.

⁵ § 15-7

⁶ New rules adopted on the surviving benefits 18 December 2020.

⁷ § 15-5 (2)

⁸ § 15-8

The transitional benefit is intended to cover subsistence expenses while the recipient qualifies for work. From the youngest child is one year old, it is therefore as a main rule a requirement of occupational activity in the form of education at least 50 per cent of full time, being a genuine job seeker, working at least 50 per cent of full time, or establishing a business.⁹

Any education must be considered necessary and appropriate in order for the person to attain or keep employment by the Norwegian Labour and Welfare Administration.

While the person is registered at Norwegian Labour and Welfare Administration as a genuine job seeker to qualify for occupational activity, they will be subject to the same requirements for job search as for those who receive unemployment benefit.

The transitional benefit for single parents and Regulation 883/2004

When Norway entered the EEA Agreement, an assessment was made of the different benefits in relation to the former Regulation, Regulation 1408/71. The transitional benefit was discussed with the Commission, as Norway wanted to include the transitional benefit in annex VI as a benefit not covered by the Regulation. The Commission's view, however, was that this benefit was so special and peculiar that it would not be necessary to mention this in annex VI to keep it outside the scope the Regulation.¹⁰ However, the Commission could not provide any guarantee that this benefit could be excluded for all time, as this would ultimately be up to the EFTA-court or ECJ to decide.

Based on the discussions with the Commission, the Government concluded that the transitional benefit fell outside the scope of Regulation 1408/71 since the benefit covers a particular risk (*sui generis*) that is not covered by any of the branches of social security in Regulation 1408/71.¹¹

The transitional benefit has also been described as an "institutionalised social assistance", e.g. Trygd og Pensjon i EØS (2015) *Bjørn Bogstad red.* page 37 and 111, and Trygdeeksport – en trussel mot velferdsstaten (2015) *Aksel Hetland page 139.*

The special nature of the transitional benefit has not been changed since 1994, but rather strengthened. The objective of the transitional benefit is to cover subsistence expenses while qualifying for work. The goal of self-sufficiency has become more important. The requirements of occupational activity have been strengthened and adjusted several times. The focus has been on facilitating education, to strengthening or establishing ties to working life by requirements of being a genuine job seeker or having part time work as rapidly as

⁹ § 15-6

¹⁰ Cf. internal memorandum prepared 22 November 1991 by the National Insurance Administration (enclosed). In 1991, the eligibility conditions for the transitional benefit for single parents was set in chapter 12 of the National Insurance Act, LOV-1966-06-17-12 Lov om folketrygd (folketrygdloven)

¹¹ Cf. section 6.4.3 of the the parliamentary bill on the ratification of the EEA-agreement, *St.prp. nr. 100 (1991-1992) Om samtykke til ratifikasjon av Avtale om Det europeiske økonomiske samarbeidsområdet (EØS)*, undertegnet i Oporto 2. Mai 1992

possible.¹² These changes substantiate that the special purpose of the transitional benefit which is to provide cover subsistence expenses while the beneficiary qualifies for work.

When incorporating Regulation 883/2004, the Government found that the new Regulation did not entail any changes that indicated that this benefit should be assessed differently in relation to the new Regulation.

The Government therefore considers that the transitional benefit falls outside of the scope of Regulation 883/2004.

The transitional benefit guarantees single parents a minimum means of subsistence. It has traditionally been more difficult for single parents to support themselves through work. The state has here chosen to provide a temporary benefit to cover subsistence expenses for a socially disadvantaged group. The benefit is given as a fixed rate and is not linked to previously earned rights from work. The fixed rate is closely linked to the socio-economic conditions in Norway, and the standard of living here. The benefit is financed by contributions from the state only, and not conditional on previous social security contributions from the beneficiary.

The transitional benefit cover subsistence expenses for single parents during very different occupational activities in order to qualify for work and self-sufficiency. The benefit is special in the sense that its purpose, is to provide help for self-help for the benefit recipient to be self-sufficient.

The fact that this benefit can only be paid to single persons with children does not imply that it must be regarded as a family benefit under Regulation 883/2004.

The ECJ has ruled that a benefit that cannot be linked to one of the risks mentioned in Article 3 (1), falls outside the scope of the Regulation, cf. Case 249/83, Hoeckx, sections 12–14. The transitional benefit is a general benefit that covers subsistence expenses, such as food, clothing and housing, etc. The benefit level corresponds with the other Norwegian residence-based benefits, i.e. benefits that do not require benefit recipient have children. The purpose is thus not to cover the additional expenses due to children or maintenance burden, but to ensure this special group (single parents) a subsistence benefit while the person in question qualifies for work. The transitional benefit is thus more comparable to the benefits like the one the ECJ assessed in Hoeckx, or unemployment benefit, than family benefits.

In the letter, the Authority points out that the transitional allowance is listed as a family benefit on a website administered by the European Commission. Twice a year, Norway provides detailed information to the EU on various benefits. The Commission request information both on benefits that falls under the scope of Regulation 883/2004, and benefits that fall outside the scope (such as the Social Assistance, Lump sum Maternity and Adoption Grant and

¹² St.prp. nr. 35 (1994-95) chapter 5, Ot.prp. nr. 8 (1996-97) chapter 4, Prop. 7 L (2011-2012) chapter 2, Prop. 13 L (2012-2013) chapter 2 and 3, Prop. 115 L (2014-2015) chapter 7, 8 and 10

Advance payment of child maintenance). We have no influence on how the Commission chooses to present this information on its website. Since Norway provides a benefit to low income single parents, we provide the information on the transitional benefit under the section "Allowance for single parents ". The fact that we provide information on the transitional benefit, does not imply that this is considered as a family benefit under Regulation 883/2004. The information on benefits is given regardless of whether the benefit in question falls within the scope of Regulation 883/2004.

Yours sincerely

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This document is signed electronically and has therefore no handwritten signature