Child Birth Maintenance: Covering the Cost of Having Your Child

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You might have heard of spousal maintenance, but few have heard of the term “child birth maintenance.” Child birth maintenance is different from both spousal maintenance and child support because it is specifically concerned with supporting women through the birth of their child. Family law lawyers explore this topic below.

The *Family Law Act* s 67B states that a father (who is not married to the child’s mother) is liable to make a proper contribution towards:

- The maintenance of the mother for the childbirth maintenance period in relation to the birth of the child, and
- The mother’s reasonable medical expenses in relation to the pregnancy and birth.

The Childbirth Period

The childbirth period is defined as two months before the child is born (unless a doctor advises the mother to stop working for medical reasons prior to this) to 3 months after the child is born.

What Kinds of Expenses?

When deciding what expenses can be accounted for, Judge Demack in *Millar & Johnston* [2015] FCCA 543 (13 March 2015) suggested family law lawyers need to distinguish between items that have been purchased for the mother or the child. Items purchased for the child would rather come within the scope of child support.

In *Millar & Johnston,* the Court considered a list of items that were and were not payable for child birth maintenance. Some examples are as follows:

Items that fall within Child Birth Maintenance

- Prenatal vitamins and antenatal vitamins
- Mothers food
- Mothers utilities including mobile telephone, internet, electricity
- Car expenses including petrol, registration, insurance
- Clothing for the mother

Items that do NOT fall within Child Birth Maintenance

- Nappies
- Wipes
- Change table

- Digital thermometer
- Breast pump
- Bottle steriliser
- Mother's entertainment

Factors the Court Will Consider

In determining what contribution is proper in the circumstances, the Court and family law lawyers can only consider the following matters:

- The income, earning capacity, property and financial resources of the mother and the father of the child,
- Commitments of each of those persons that are necessary to enable the person to support himself or herself, or any other child
- Any special circumstances which would result in injustice or undue hardship to any person

Generally, a half share of the expenses is considered to be proper as found in *Abrahams & Simm* [2014] FCCA 67.

When considering the income, earning capacity, property and financial resources of the mother, the Court must disregard any entitlement of the mother to an income tested pension allowance or benefit such as the baby bonus.

Time Limits

Applications for childbirth maintenance should be made by family law lawyers at any time during the pregnancy of the mother, or within 12 months of the birth of the child.

For advice about child birth maintenance contact us on **1800 300 170** or email us at **familylaw@matthewsfolbigg.com.au**

Disclaimer

Family law situations can be complex and sometimes they can involve serious issues. Information outlined is proposed to provide general guidance only. Due to the seriousness of legal matters as well as the uniqueness of your individual situation, professional advice should be sought. For advice, please contact one of our Family Lawyers.