

CHAPTER IX
MATERNITY BENEFIT LAW
CONTENTS

Subject	Paras No.
Definition of maternity benefit	L.9.1 to L.9.2
Contributory condition	L.9.3.1 to L.9.3.3
Duration of benefit for confinement	L.9.4.1 to L.9.4.3
Duration and eligibility for miscarriage or medical termination of pregnancy	L.9.5.1 to L.9.5.2
Maternity benefit on death	L.9.6.1 to L.9.6.3
Maternity benefit for sickness	L.9.7.1 to L.9.7.8
Daily rate of benefit	L.9.8 to L.9.9
Criteria for determination of rate	L.9.10
Claim before confinement	L.9.11.1 to L.9.11.3
Claim for miscarriage or after confinement	L.9.12.1 to L.9.12.3
Claim after death of IW	L.9.13
Claim for sickness arising out of pregnancy / confinement etc.	L.9.14.1 to L.9.14.2
When claim becomes due	L.9.15
When claim becomes payable	L.9.16.1 to L.9.16.3
Notice of work	L.9.17 to L.9.18
Authority for issuing certificate	L.9.19.1 to L.9.22
Benefits not to be combined	L.9.23
Disqualification for maternity benefit	L.9.24
Repayment of benefit improperly received	L.9.25
Reduction of existing benefits by employer	L.9.26
Discharge etc. of an insured woman under certain conditions	L.9.27
Payment of benefit to nominee of IW dying before confinement	L.9.28
Confinement expenses (earlier known as Medical Bonus)	L.9.29

CHAPTER IX

MATERNITY BENEFIT LAW

Definition of maternity benefit

L.9.1. Maternity benefit consists of periodical payments in case of confinement or miscarriage or sickness arising out of pregnancy, confinement, premature birth of child or miscarriage, to an insured woman being certified to be eligible for such payments by an authority specified in this behalf by the Regulations [Section 46(1)(b)].

L.9.2. Certain terms used in the foregoing para need to be clearly understood as follows :-

- (i) **Periodical Payments:** The payments to be made in respect of maternity benefit are periodical but the periods at which they are to be made are not fixed. Further, payments relating to this benefit cannot be commuted into a lump-sum.
- (ii) **“CONFINEMENT”** has been defined in sub-section (3) of Section 2 of the Act as “labour resulting in the issue of a living child, or labour after twenty-six weeks of pregnancy resulting in the issue of a child whether alive or dead”. In other words, if labour results in the issue of a still-born child before the expiry of 26 weeks of pregnancy, it will not be considered as confinement. On the other hand, if the still-born child is delivered after 26 weeks of pregnancy, it will be considered as confinement. Also, the issue of a living child has to be deemed confinement in any case.
- (iii) **“MISCARRIAGE”** has been defined in sub-Section (14-B) of Section 2 of the Act to mean “expulsion of the contents of a pregnant uterus at any period prior to or during the twenty-sixth week of pregnancy but does not include any miscarriage, the causing of which is punishable under the Indian Penal Code.”
- (iv) **Who is an ‘Insured Woman’?** The term “insured woman” has not been defined in the Act. However, sub-Section (14) of Section 2 defines an “insured person” as a person who is or was an employee in respect of whom contributions are or were payable under the Act and who is, by reason thereof, entitled to any of the benefits provided by this Act. The term “insured person” also includes an “insured woman”. By virtue of the definition of the term “insured person”, a woman can continue to be “insured woman” even after she has left insurable employment. She will thus be entitled to maternity benefit during a benefit period during which she may no longer be in insurable employment, provided she satisfies the contributory condition relevant to the said benefit period.
- (v) **Authority for certifying eligibility:** As per Regulation – 51 the Branch Office to which an insured woman is attached is the appropriate authority to certify eligibility and to admit claim for payment. The conditions that need to be satisfied for being eligible to benefit are discussed in the following paragraphs.

Contributory condition

L.9.3.1. Eligibility of insured woman to claim maternity benefit is determined by the provisions contained in sub-rule (1) of Rule 56 of the ESI (Central) Rules, 1950 which says that “an insured woman shall be qualified to claim maternity benefit for a confinement occurring or expected to occur in a benefit period, if the contributions in respect of her were payable for not less than seventy days in the immediately preceding two consecutive one or two contribution periods.

L.9.3.2. Where the IW is unable to satisfy the contributory condition as stated in the preceding paragraph, she will not be paid any maternity benefit by the Corporation. However, she can perhaps still be helped and guided to receive it from her employer under Section 5A of the Maternity Benefit Act, 1961, which states as under:-

5A. Every woman entitled to the payment of maternity benefit under this Act shall, notwithstanding the application of the Employees' State Insurance Act, 1948 (34 of 1948), to the factory or other establishment in which she is employed, continue to be so entitled until she becomes qualified to claim maternity benefit under Section 50 of that Act. (now Central Rule 56).

The said Act, under section 2(2) thereof, is normally not applicable to a factory/establishment to which the ESI Act applies, but an exception has been made in case of a woman falling under section 5A quoted above. Under section 5(2) of the said Act, a woman worker becomes entitled to payment of maternity benefit if she has worked in an establishment covered by that Act for a period of 70 days in the twelve months immediately preceding the date of her expected delivery. The period of 70 days is made up of days on which she actually worked, the days of lay off and paid holidays during the said period of twelve months.

L.9.3.3. A careful reading of sub-rule (1) of Rule 56 alongwith Regulation 4 will make the following points clear :-

- (i) To be eligible to maternity benefit, a confinement should either actually occur or should be expected to occur in a benefit period relevant to the insured woman. In other words, an insured woman who actually confines (or is expected to confine) on a date before the start of her first benefit period, is not entitled to claim maternity benefit even though part of the period of her maternity leave may fall within her first benefit period.
- (ii) Conversely, if the insured woman's date of actual confinement (or expected confinement) falls within her first benefit period, she will be entitled to maternity benefit even if a part of the period of her maternity leave may fall before the start of her first benefit period.
- (iii) As per paragraph L.9.3.1 above, an IW shall be eligible for maternity benefit if contributions in respect of her were payable for not less than 70 days in the immediately preceding two consecutive contribution periods. Even if she satisfied this contributory condition (either in one or the other) of the said two contribution periods, she shall be entitled for maternity benefit.

Duration of benefit for confinement

L.9.4.1. Sub-rule (2) of the said Central Rule 56 *ibid* says that an insured woman is entitled to receive maternity benefit for confinement for all the days on which she does not work for remuneration during a period of 12 weeks of which not more than 6 weeks shall precede the expected date of confinement. This sub-Rule provides as follows:

- (i) Maternity benefit for confinement is payable for a period of 12 weeks.
- (ii) It is payable for all the days on which the insured woman does not work for remuneration.
- (iii) In case insured woman claims maternity benefit before actual confinement, she is at liberty to do so but she must submit a certificate of expected confinement issued in accordance with regulations and the payment of maternity benefit will commence from a date –
 - (a) from which the benefit is claimed or
 - (b) from which work for remuneration is stopped or

- (c) 42 days before the expected date of confinement, whichever is the last (See Regulation 92).
- (iv) If an insured woman stops work for remuneration before confinement but submits her maternity benefit claim only after confinement, the period of 12 weeks shall commence on the date from which she has claimed the benefit and has stopped work for remuneration, irrespective of the fact whether or not she has submitted a certificate of expected confinement. In cases of this nature, the restriction of duration of 6 weeks prior to date of expected confinement will not be applicable as the same is relevant only when maternity benefit is claimed before confinement. In such a case the IW will get maternity benefit from the day she starts abstention if she claims it only after confinement i. e. after depositing her certificate specifying the date of confinement and she would be entitled to maternity benefit for 12 weeks from the date of abstention provided she satisfies the contributory condition with reference to the date of actual confinement.
- (v) If an insured woman does not abstain at all from work for remuneration before confinement and works for remuneration even on the date she confines, she will be entitled to maternity benefit for confinement for all the 12 weeks commencing from the date following the date of confinement provided insured woman does not work for wages during that period.

L.9.4.2. A week mentioned in the foregoing paragraphs is to be deemed as any period of 7 consecutive days. Thus “12 weeks” means a period of 12 consecutive weeks i. e., 84 consecutive days.

L.9.4.3. According to the provisions of sub-rule (2) *ibid*, an insured woman is entitled to maternity benefit for 12 consecutive weeks and on all the 84 days of these 12 weeks she must not work for remuneration. If she rejoins duty before the expiry of 12 weeks, maternity benefit must be stopped. However, she may again start abstaining from work in which case, maternity benefit can be resumed as a fresh claim and paid for all the days falling within the range of 12 weeks, no payment being made for the days on which she worked for remuneration. But the said days will be counted for the purpose of arriving at the total range of 84 days.

Duration and eligibility for miscarriage or medical termination of pregnancy

L.9.5.1. The opening words “An insured woman who is qualified to claim maternity benefit in accordance with sub-rule (1)” used in sub-rule (3) of Rule 56 *ibid* imply that for determining title to maternity benefit in case of miscarriage under the Sub-Rule, the benefit period in which the event of miscarriage takes place is relevant. If contributions in respect of the insured woman were payable for not less than 70 days in the two contribution periods immediately preceding the benefit period in which the miscarriage occurs, she will be entitled to maternity benefit for all days on which she does not work for remuneration during six weeks immediately following the date of miscarriage, at the maternity benefit rate. The period of 6 weeks for which maternity benefit is payable for miscarriage under the above provision may be in one spell or more, but it must be within the range of 6 weeks from the date immediately following the date of miscarriage.

L.9.5.2. In addition to cases of natural abortion, cases of voluntary or induced abortion coming within the scope of Medical Termination of Pregnancy Act, read with the definition of miscarriage under Section 2(14-B) of the Act automatically qualify the insured woman for maternity benefit for miscarriage as provided under Rule 56 (3) *ibid* subject to fulfilment of other conditions. Legal opinion obtained in this regard is reproduced below for guidance “Under Section 50 (3)¹, maternity benefit is permissible for miscarriage as defined in Section 2 (14-B), so long as it is not caused in the circumstances which constitute an offence under Indian Penal Code. It does not make any difference for the purpose of Section 50 read with Section 2 (14-B) whether the miscarriage is natural or caused voluntarily, so long as it is not an

¹ Now Central Rule 56 (3)

offence under Indian Penal Code. Voluntary miscarriage has ceased to be an offence to the extent permissible under Medical Termination of Pregnancy Act.”

Maternity benefit on death

L.9.6.1. Proviso to sub-rule (2) of Rule 56 *ibid* as amended with effect from 16.11.96 says that if an insured woman dies during her delivery or during the period immediately following her confinement for which she is entitled to maternity benefit, benefit will be payable for the whole of the period in either case provided she leaves behind the child. If, however, the child also dies during the said period immediately following the confinement, the benefit will be payable upto and including the date of death of the child. Benefit will be payable to the person nominated by the insured woman in the manner specified in the Regulations and if there is no such nominee, to her legal representative.

L.9.6.2. Maternity benefit would, however, be payable under this provision where the insured woman dies during her confinement or during the period immediately following her confinement for which she is entitled to maternity benefit, leaving behind in either case the child, and the period for which such benefit is payable will be limited to the maximum period of 12 weeks which is normally payable for confinement. This period of 12 weeks will be subject to the condition that the total duration of maternity benefit including the period, if any, preceding her confinement for which she received her maternity benefit and the period after confinement does not exceed, under any circumstances, a period of 12 weeks.

L.9.6.3. It will be clear from the foregoing discussions that in case of death of an insured woman – (leaving behind the child) within 12 weeks of her confinement, maternity benefit is payable upto and including the –

- (a) day of death of the child or
- (b) 84th day from the date of start of maternity benefit, whichever happens earlier.

Maternity benefit for sickness

L.9.7.1. Sub-rule (4) of Rule 56 says that an insured woman who is qualified to claim maternity benefit in accordance with sub-rule (1), is entitled to maternity benefit for an additional period not exceeding one month on account of her abstention from work as a result of sickness arising out of pregnancy, confinement, premature birth of child or miscarriage or medical termination of pregnancy.

L.9.7.2. A month in the foregoing paragraph means a calendar month, e. g., 15.3.09 to 14.4.09 (31 days), or 11.2.08 to 10.3.08 (29 days), etc.

L.9.7.3. A reading of the above paragraph will establish that maternity benefit is admissible for sickness arising out of confinement or miscarriage or premature birth of child which contingencies occur on termination of pregnancy as well as for sickness arising out of pregnancy itself. An IW may suffer from sickness arising out of pregnancy as well as later after her pregnancy has terminated. In any case, the total duration of maternity benefit for sickness arising out of pregnancy or out of confinement, premature birth of child or miscarriage, cannot exceed one month. If such sickness continues beyond one month, only sickness benefit, if admissible, will be payable to the insured woman subject to deduction of the initial waiting period.

L.9.7.4. Sickness arising out of pregnancy may occur at a time when it may not be possible to determine the rate of maternity benefit. In such a case, sickness benefit may be paid to the insured woman. Later, when it is possible to determine the rate of maternity benefit on the basis of date of confinement/expected confinement or miscarriage, the difference between maternity benefit actually admissible and the sickness benefit already paid, may be paid to the insured woman.

L.9.7.5. Duration of one month for sickness arising out of confinement, premature birth of child or miscarriage would be counted on termination of the normal range of 84 days for confinement/premature

birth and 42 days for miscarriage. After determining this duration, the number of days for which maternity benefit was paid earlier for any sickness arising out of pregnancy will be deducted and the payment of maternity benefit for sickness arising out of confinement/miscarriage, will be admissible for the balance number of days. The total number of days comprising a 'month' in such a case shall be reckoned only as the number of days of the month in which the earlier spell of sickness (due to pregnancy) occurred.

L.9.7.6. "Threatened abortion" or "incomplete abortion" if supported by proper medical certificate requiring abstinence from work on medical grounds, is a condition in which maternity benefit is payable for sickness arising out of pregnancy.

L.9.7.7. Diseases like anaemia, post-confinement weakness and allied symptoms occurring immediately after confinement as post-confinement anaemia are to be deemed as sickness arising out of confinement if supported by the requisite medical certificates. There is, however, need for caution and the diagnosis on medical certificate may be got confirmed from Medical referee.

L.9.7.8. An insured woman whose date of expected confinement and date of actual confinement both fall prior to commencement of her first benefit period but the spell of sickness arising out of confinement etc. starts only after the commencement of benefit period, will not be eligible for maternity benefit. In such a case, sickness benefit can be paid for the sickness arising out of confinement, etc., for the period falling in the benefit period if IW is found qualified in the relevant contribution period.

Daily rate of benefit

L.9.8. As per sub-rule (5) of Central Rule 56, "The daily rate of maternity benefit payable in respect of confinement occurring or expected to occur during any benefit period, shall be equal to twice the standard benefit rate corresponding to the average daily wages in respect of the insured woman during the corresponding contribution period or rupees twenty whichever is higher".

L.9.9. It is quite possible that an IW may qualify for maternity benefit with reference to contributions paid by her in two consecutive contribution periods immediately preceding the date of her confinement/expected confinement but the average daily wages may work out differently in each contribution period. In such a case, she will be entitled to higher of the benefit rates with reference to contributions paid by her in the two above-said contribution periods.

Criteria for determination of rate

L.9.10. The following criteria hold good for determination of eligibility as well as rate of maternity benefit for confinement :-

- (a) Where claim partly or wholly covers pre-confinement period and payments commence before actual confinement eligibility as well as the rate will be determined with reference to the benefit period in which the date of expected confinement falls.
- (b) Where the claim partly or wholly covers a pre-confinement period but payment of maternity benefit for this period has to be postponed till actual confinement, the eligibility as well as rate of maternity benefit is to be determined with reference to the benefit period in which confinement was expected to occur (provided certificate of expected confinement was submitted in accordance with Regulations) or with reference to the benefit period in which confinement actually occurs, whichever is more beneficial to the IW.
- (c) Where the claim covers only the period after confinement, the eligibility as well as rate of maternity benefit will be determined with reference to:
 - (i) the benefit period in which confinement actually occurs, if no certificate of expected confinement was submitted; or

- (ii) the benefit period in which the confinement occurs or the benefit period in which the confinement was expected to occur, whichever is more advantageous to the insured woman, provided that certificate of expected confinement was duly submitted strictly in the manner laid down in the Regulations and not otherwise.
- (d) where the claim covers a pre-confinement period and -
 - (i) no certificate of expected confinement was issued, the eligibility and the rate of benefit admissible is to be determined with reference to the benefit period in which confinement actually occurs.
 - (ii) a certificate of expected confinement was issued before confinement but is submitted after confinement. In such a case, submission of certificate of expected confinement becomes infructuous. Hence, eligibility to maternity benefit as well as the rate of benefit admissible will be that determined with reference to the benefit period in which date of actual confinement falls.
- (e) Where claim is for sickness arising out of confinement, premature birth of child or miscarriage and where maternity benefit terminates on the last day of a benefit period or continues into the next benefit period and the sickness arising out of confinement, etc., commences thereafter, the rate of maternity benefit payable during the spell of sickness arising out of confinement or miscarriage will continue to be the same at which maternity benefit was paid, irrespective of the conditions obtaining in the subsequent benefit period.
- (f) Eligibility as well as rate of maternity benefit for miscarriage shall be determined with reference to the benefit period in which the date of miscarriage falls.

Claim before confinement

L.9.11.1. An insured woman who is pregnant may obtain a certificate of pregnancy in new form 17 and submit it alongwith a notice of pregnancy as per form below the said form 17. The notice of pregnancy, to be valid, must be submitted, by post or otherwise, to the Branch Office within 7 days of the date on which the certificate of pregnancy is obtained (Regulation 87). However, it is not compulsory for the insured woman to give any notice of the pregnancy but it is helpful for her to give notice because -

- (i) it helps to determine whether the birth of a dead child may be deemed as ‘confinement’ entitling her to maternity benefit for 12 weeks, or ‘miscarriage’ which entitles her to maternity benefit for just 6 weeks; and
- (ii) if she decides to move to her village for her confinement, it helps establish her *bona fides* for acceptance of birth certificate issued in her village.

L.9.11.2. As per Regulation 88, every insured woman claiming maternity benefit before confinement shall submit to her Branch Office by post or otherwise –

- (i) a certificate of expected confinement in the new Form 18 by IMO after deleting portions not relevant. To be valid, this certificate must be issued not earlier than 50 days before the expected date of confinement;
- (ii) a claim for maternity benefit in new form 19 stating therein the date on which she ceased/will cease to work for remuneration and
- (iii) within 30 days of the date on which her confinement takes place, a certificate of confinement in form 18 in which the IMO should have deleted the portions not relevant to the context.

L.9.11.3. However, the Director General has delegated full powers to Regional Directors, the Director, Sub-Regional Office, Pune and Joint Directors of SROs to relax Regulation 88(iii) regarding submission of certificate of confinement in new form 18.

Note 1. Payment of claim for pre-confinement period is not to await receipt of certificate of confinement.

Note 2. In cases where payment was started before confinement on the basis of the certificate of expected confinement, it will be continued for 12 consecutive weeks even if no child is born during this period. However, since a maternity benefit payment for confinement is based on the birth of a child, papers will remain incomplete until a certificate of confinement is received. Hence a careful watch should be kept over such cases when confinement is getting delayed.

Claim for miscarriage or after confinement

L.9.12.1. Under Regulation 89, every insured woman claiming maternity benefit for miscarriage shall, within 30 days of the date of the miscarriage, and every insured woman claiming maternity benefit after confinement, shall submit to the appropriate office by post or otherwise a claim for maternity benefit in form 19 together with a certificate of confinement or miscarriage in form 18 given in accordance with these regulations.

L.9.12.2. In other words, an insured woman claiming maternity benefit for miscarriage must submit to her Branch Office claim for maternity benefit in Form 19, accompanied by a certificate of miscarriage, within 30 days of the date of miscarriage. However, Regional Directors have been delegated power to relax the time limit of 30 days as provided in Regulation 89 up to a period of six months.

L.9.12.3. Regulation 89 quoted above also speaks of another important matter: claim for maternity benefit after confinement. For this type of claim, no time-limit has been laid down. In such cases, the time-limit for submission of claim for maternity benefit after confinement will be as stated in Explanation (a) below sub-section (1A) of Section 77 of the ESI Act. As for the issue of certificate, though there is no time limit in the regulations to obtain a certificate of confinement in cases where maternity benefit is claimed after confinement, it is in the interest of the insured woman to obtain certificate of confinement as early as possible after her confinement because delay in approaching the Insurance Medical Officer may result in disappearance of symptoms of recent child-birth (See also paragraph L.9.15)

Claim after death of IW

L.9.13. Regulation 89-A says that for the purposes of the proviso to sub-rule (2) of Rule 56 *ibid*, the person nominated by the deceased insured woman on form 1 or on such other form as may be specified by the Director General in this behalf and, if there is no such nominee, the legal representative, shall submit to the appropriate office by post or otherwise a claim for maternity benefit, as may be due, in new form 20 within 30 days of the death of the insured woman together with a death certificate in new form 21 given in accordance with these Regulations. In case of late submission, Regional Director has been delegated powers to relax the time limit upto a period of six months.

Claim for sickness arising out of pregnancy / confinement, etc.

L.9.14.1. Regulation 89-B says that (1) every insured woman claiming maternity benefit in case of sickness arising out of pregnancy, confinement, premature birth of child or miscarriage, shall submit to her Branch Office by post or otherwise a claim for benefit in the new form 9 (by deleting portions inappropriate to the circumstances of the case) copy at Annexure A- together with the medical certificate in new form 7 (in which portions inappropriate will be deleted by the IMO granting it), given in accordance with these regulations, and (2) the procedure for issue of these certificates will be the same as prescribed for these certificates in Regulations 55 to 61 and the time-limit for submission thereof shall be the same as prescribed in Regulation 64.

L.9.14.2. To enable correct classification and payment of maternity benefit, Insurance Medical Officer/Insurance Medical Practitioner issuing medical certificate for sickness in appropriate form, shall clearly indicate the sickness being due to pregnancy, confinement, premature birth of child or miscarriage as the case may be.

When claim becomes due

L.9.15. Under Regulation 45 (b), a claim for maternity benefit shall, for the purposes of Section 77 of the Act, become due -

- (i) in case of confinement, on –
 - (a) the date of issue of certificate of expected confinement; or
 - (b) a date 6 weeks preceding the date of expected confinement so certified, whichever is later, or
 - (c) if no certificate of expected confinement is issued, on the date of confinement.
- (ii) in case of miscarriage and in case of sickness arising out of pregnancy, confinement, premature birth of child or miscarriage, on date of issue of the medical certificate of such miscarriage or sickness, as the case may be.

The said section 77 says that any application before the Employees' Insurance Court should be filed within three years of the date on which 'cause of action' arose. 'Cause of action' for the purpose of filing the claim before the Court shall arise only if the claim for benefit has been made before the Corporation within a period of 12 months from the date it became due. As an illustration, an IW who was issued certificate of confinement on 1.1.2005 should submit a claim for the maternity benefit, complete in all respects, on or before 31.12.2005 and the application before the E. I. Court should be filed within 3 years of the date on which the claim for maternity benefit was filed with the Corporation. E. I. Court, however, may waive the period of 12 months for filing the claim before the Corporation on grounds which appear to the Court to be reasonable and it may admit an application even when the claim for it was filed late with the Corporation.

When claim becomes payable

L.9.16.1. The first payment of maternity benefit shall be made not later than 14 days after the claim therefor, together with the relevant medical or other certificates and any other documentary evidence which may be called for has been furnished complete in all particulars, to the Branch Office [Regulation 52 (1) (c)].

L.9.16.2. Second and subsequent payments of maternity benefit shall be made alongwith the first payment or within the calendar month following the month to the whole or part of which they relate, whichever is later [Regulation 52 (2)]. Where it is not paid within the aforesaid time limits, it shall be reported to the Regional Office and shall be paid as soon as possible [Regulation 52 (3)].

L.9.16.3. Maternity benefit cannot be paid in advance.

Notice of work

L.9.17. Every insured woman who has claimed maternity benefit (except in case of maternity benefit for sickness arising out of pregnancy, confinement, premature birth of child or miscarriage) has to give notice in new form 19 (after deleting portions not relevant) at the time she resumes work during the period of 12 weeks in case of confinement and 6 weeks in case of miscarriage (Regulation 91).

L.9.18. It may happen that although an insured woman has declared on her claim the date from which she ceased to work for remuneration, she might take up work for remuneration at any time during the period of 12 weeks for short intervals. Ordinarily, however, the notice will be given when the insured woman resumes work for remuneration before the termination of the 12 weeks' period as determined for her. However, as Form 19 does not specify the period for which she worked for remuneration, it will be necessary for her to submit a fresh claim form in case she ceases to work again during the currency of the 12 weeks' period as originally determined for her. The claim form will not be accompanied by a fresh certificate of expected or actual confinement. Benefit, which will have been stopped from the date of resumption of work earlier will, on receipt of a fresh claim, become payable again from the date of cessation of work upto the end of the 12 weeks' period originally determined for her. Similar will be the position with regard to 6 weeks following the date of the miscarriage.

Authority for issuing certificate

L.9.19.1. A certificate of pregnancy, expected confinement, confinement, miscarriage, sickness arising out of pregnancy, confinement, premature birth of child or miscarriage, as well as of death of insured woman or of the child, under Regulation 87 to 89B, can be issued by an Insurance Medical Officer/Insurance Medical Practitioner to whom insured woman is allotted, or any other Insurance Medical Officer attached to the dispensary, hospital, clinic or other institution to which insured woman is or was allotted.

L.9.19.2. However, an Insurance Medical Officer/Insurance Medical Practitioner, other than the one aforementioned who is attending the insured woman for prenatal care, for confinement, for miscarriage or for sickness arising out of pregnancy, confinement, premature birth of child or miscarriage or who was attending the deceased insured woman or the child at the time of death of the insured woman or the child, may issue a certificate as aforesaid.

L.9.19.3. A registered midwife may also issue a certificate of pregnancy or expected confinement, confinement or miscarriage and such a certificate is acceptable to the Corporation on countersignature by an Insurance Medical Officer. Forms 17 and 18 have been designed to provide for signature by midwife and countersignature by the Medical Officer(Regulation 94).

L.9.19.4. But, a registered midwife cannot issue medical certificates in form 7 or 8 in respect of sickness arising out of pregnancy, confinement, premature birth of child or miscarriage and such certificates have to be issued by the Insurance Medical Officer in accordance with Regulations 55 to 61. Further, these certificates must be submitted by the insured woman to her Branch Office within time-limits provided in Regulation 64 in the same manner as for certificate of ordinary sickness or temporary disablement.

L.9.20. A certificate of confinement on form 18 is issued by an Insurance Medical Officer/Insurance Medical Practitioner only if the IMO/IMP or the registered midwife attached to dispensary/clinic has attended the confinement, or the Insurance Medical Officer/Insurance Medical Practitioner, by examination of recent signs of delivery, is satisfied that confinement has taken place. In the latter case, the language of the certificate is suitably modified. If the delivery has taken place at the home of the insured woman, and it was not attended by IMO/IMP and she did not present herself in the dispensary/clinic for examination by IMO/IMP, the IMO/IMP will not issue a certificate of confinement in form 18.

L.9.21.1. The Corporation may accept any other evidence in lieu of a certificate of pregnancy, expected confinement, confinement, death during maternity, miscarriage or sickness arising out of pregnancy, confinement, premature birth of a child or miscarriage issued by an Insurance Medical Officer/Insurance Medical Practitioner if in its opinion the circumstances of any particular case so justify (Regulation 90).

L.9.21.2. Where the certificates are not issued by a registered midwife or Insurance Medical Officer/Insurance Medical Practitioner, the Regional Office may, in accordance with the instructions from

Headquarters, accept any other alternative evidence in lieu of certificate of pregnancy, expected confinement or confinement. If an insured woman cannot submit a medical evidence of her confinement either from an Insurance Medical Officer/Insurance Medical Practitioner or from any other medical practitioner, she may be asked to produce a certificate of birth from the Registrar of Births and Deaths, which may be accepted as alternative evidence under Regulation 90. Powers under Regulation 90 can be exercised only by the appropriate Regional Office.

L.9.22. If an insured woman who was under pre-natal treatment of her Insurance Medical Officer/Insurance Medical Practitioner and who has submitted a certificate of pregnancy from such Insurance Medical Officer/Insurance Medical Practitioner goes to her village for confinement, a certificate from police/patil, village headman or president of the gram panchayat certifying the fact of her confinement may be accepted as alternative evidence under Regulation 90 by the Regional Office provided that the insured woman is unable to obtain a certificate from the registrar of births & deaths

Benefits not to be combined

L.9.23. An insured woman will not be entitled to receive for the same period –

- (a) both sickness benefit and maternity benefit;
- (b) both maternity benefit and disablement benefit for temporary disablement.

Where an insured woman is entitled to more than one of the benefits mentioned above, she is entitled to choose which benefit she shall receive. (Section 65).

Disqualification for maternity benefit

L.9.24. An insured woman may be disqualified from receiving maternity benefit if she fails without good cause to attend for or to submit herself to medical examination when so required. She may, however, refuse to be examined by one other than a female doctor or a midwife. If an insured woman is disqualified as above, the disqualification is to be for such number of days as may be decided by the authority authorised by the Corporation, which is the appropriate Regional Office (Regulation 93).

Repayment of benefit improperly received

L.9.25. Where any insured woman has received maternity benefit when not lawfully entitled thereto, she is liable to repay to Corporation the amount of such payment. In case of her death, her legal representative is liable to re-pay the same from the assets of the deceased, if any, in his hands. The amount can be recovered as arrears of land revenue (Section 70 or Sections 45C to 45 I).

Reduction of existing benefits by employer

L.9.26. No employer by reason only of his liability for any contribution payable under the Act shall directly or indirectly reduce the wages of a woman employee or, except as provided by the Regulations, discontinue or reduce benefits payable to her under the conditions of her service which are similar to the benefits conferred by the ESI Act (Section 72). However, an employer may discontinue or reduce any maternity benefit granted to women employees to the extent to which such women employees may become entitled to maternity benefit under the ESI Act. Where an insured woman avails of any leave from the employer for maternity, the employer is entitled to deduct from the leave salary of the insured woman the amount of maternity benefit to which she may be entitled under the ESI Act for the corresponding period (Regulation 97). What has been said above relating to discontinuance or reduction of any benefit for maternity admissible for female employees pertains to only the benefit for maternity that is payable under the terms and conditions of service of such female employees. Position with regard to maternity benefit payable under provisions of Maternity Benefit Act is that when an insured woman is entitled to maternity benefit under the ESI Act she will not be entitled to receive any maternity benefit admissible under the provisions of any other enactment (Section 61). Please also see exception under

paragraph L.9.3.2 above which shows a way for an insured woman not found eligible to maternity benefit under the ESI Act.

Discharge etc. of an insured woman under certain conditions

L.9.27. No employer shall dismiss, discharge or reduce or otherwise punish a woman employee during the period she is in receipt of maternity benefit, nor shall he dismiss, discharge, reduce or otherwise punish a woman employee during the period she is absent from work as a result of illness duly certified to have arisen out of pregnancy or confinement rendering her unfit for work (Section 73 of the Act).

However, if the conditions of service of any insured woman so allow, an employer on due notice may discharge a woman employee who has been absent from work as a result of sickness arising out of pregnancy or confinement rendering her unfit for work, after she has been under such treatment or has been absent from work for a continuous period of 6 months or more (Regulation 98).

Payment of benefit to nominee of IW dying before confinement

L.9.28. Where an insured woman who is entitled to maternity benefit on the basis of a certificate of expected confinement dies before confinement, the payments made to her are in order. Any amount due till the date of her death can also be paid to her nominee or legal representative.

Confinement Expenses (earlier known as Medical Bonus)

L.9.29. In a move related to maternity benefit, but not strictly part of it, Rule 56A has been added to the ESI (Central) Rules, 1950. The said Rule amended as on 1.12.2008, reads as under :-

56A. Confinement Expenses – An insured woman and an insured person in respect of his wife shall be paid a sum of rupees two thousand five hundred per case as Confinement Expenses on account of confinement expenses w.e.f.. 01.12.08.

Provided that the confinement occurs at a place where necessary medical facilities under the Employees' State Insurance Scheme are not available. Provided also that confinement expenses are payable for two confinements only.

Thus, an IW as well as an IP whose wife confines at a place where medical facilities under ESI Scheme are not available, will be paid Rs. 2500/- as confinement expenses on production of proof of such confinement. The expenditure is to be deemed as part of medical benefit, to be shared between the Corporation and the State Government. The amount will be paid by the Branch Office. Please also refer to paras 12.C.1 and 12.C.2 of Chapter XII.

FORM . 9

CLAIM FOR SICKNESS/ T.D.B./ MATERNITY BENEFIT FOR SICKNESS

**EMPLOYEES' STATE INSURANCE CORPORATION
(Regulation 63 & 89-B)**

I, _____ Insurance No. _____ s/w/d of
_____ hereby claim Cash Benefit for period overleaf and state

- (i)* that because of sickness / temporarily disablement / sickness due to pregnancy / confinement / premature birth of child / miscarriage, I have not been at work since _____.
- (ii)* I no longer claim to be sick / temporarily disabled / sick due to pregnancy / confinement / premature birth of child / miscarriage from _____ and I shall / did not take up any work for remuneration before that date.
- (iii)* I have not been in receipt of any wages for the days of leave / holiday (s).
- (iv)* I was not on strike during the period of certified abstention on account of sickness / temporary disablement i.e. from _____ to _____ for which the benefit is claimed

I desire payment in * cash at Branch Office / by money order.

Signature or T.I. of claimant

Name in Block Letters _____
Address _____

Notes:

1. Any person who makes false statement or representation for the purpose of obtaining benefit whether for himself or for some other person renders shall be punishable with imprisonment up to 6 months or fine up to Rs. 2000/- or with both.
2. This form should be completed and submitted WITHOUT DELAY to the appropriate Branch Office.
3. A final certificate must be obtained before resuming work.

* Strike out if not applicable.

CHAPTER IX
MATERNITY BENEFIT PROCEDURE
CONTENTS

Subject	Paras No.
Scrutiny of certificates	P.9.1
Scrutiny of claims	P.9.2
Types of claims	P.9.3
A (i) Where payment commences before confinement	P.9.4 to P.9.9
A (ii) Where payment is postponed till confinement	P.9.10
B. Benefit commencing after confinement or miscarriage	P.9.11.1 to P.9.11.5
C. Claim after confinement for some period before confinement	P.9.12.1 to P.9.12.3
D. Where IW dies leaving behind child	P.9.13.1 to P.9.13.6
E. Sickness arising out of pregnancy, confinement, miscarriage	P.9.14.1 to P.9.14.4
Rate of Benefit	P.9.15 to P.9.16
If no benefit is admissible	P.9.17
Start of payment of maternity Benefit	P.9.18.1 to P.9.18.2
Notice of work	P.9.18.3
First payment before confinement	P.9.19
Ledger entries on payment	P.9.20.1 to P.9.20.2
Other important matters	P.9.21
Abstention enquiry	P.9.22

CHAPTER IX

MATERNITY BENEFIT PROCEDURE

Scrutiny of certificates

P.9.1. In respect of all certificates relating to maternity benefit, the following general points need to be checked: -

- a) Book No., Serial No., stamp of dispensary or of IMO/IMP on the certificate.
- b) The certificate has been issued from a book issued by the Branch Office/Regional Office for use by the IMO/IMP.
- c) All the existing instructions have been observed in writing the certificate, e. g., use of ball point pen and of double sided carbon paper, etc.
- d) The certificate bears the insured woman's signature/right thumb impression on top and also the code number of her employer.
- e) The signature of the Insurance Medical Officer/Insurance Medical Practitioner tallies with the specimen signatures kept in the Branch Office.
- f) The certificate is complete in every respect and wherever any modifications are required to be made in it, these have been duly made and all over writings/cuttings have been duly attested.
- g) The certificate is submitted within the time-limits stated in the relevant para and if it is delayed beyond the time-limits, relaxation of competent authority has been obtained.

Other checks to be applied to each kind of certificate have been mentioned in the relevant para.

Scrutiny of claims

P.9.2. In respect of all claims relating to maternity benefit, the following general points need to be checked/kept in mind:

- (a) The claim is on the correct form and is complete in all respects.
- (b) The signature of the insured woman tallies with the signature on her identity card. Further, the identity of the insured woman claiming benefit has been satisfactorily established.
- (c) The period for which benefit is claimed is the period for which the woman has actually abstained from work.
- (d) The insured woman does not appear to have joined insurable employment merely for the sake of claiming maternity benefit. This may apply to cases where insured woman claims maternity benefit for a confinement occurring or expected to occur during her first benefit period.
- (e) The identity of a pardah-nashin lady should be checked carefully with the help of a female employee of the Branch Office or another insured woman, so as to prevent impersonation particularly because a heavy amount of payment is involved.

Types of claims

P.9.3. A claim for maternity benefit may fall under five groups : -

- A. Where an insured woman (IW) ceases to work before confinement and submits a claim before confinement covering some pre-confinement period. This class of claims can fall into two sub-groups : -
 - (i) Where payment commences before confinement.
 - (ii) Where payment has to be postponed till confinement occurs.
- B. Where IW stops work after confinement or miscarriage and her claim relates to a period after confinement or miscarriage.
- C. Where IW stops work before confinement but submits a claim for benefit in respect of the pre-confinement period also only after confinement has occurred. This class of claims can also fall into two sub-groups :-
 - (i) Where IW does not submit a certificate of expected confinement, and
 - (ii) Where she submits a certificate of expected confinement but does not claim maternity benefit before confinement.
- D. Where IW dies during her confinement or during the period immediately following her confinement, leaving behind the child.
- E. Where IW needs abstention from work on account of sickness arising out of pregnancy, confinement, premature birth of child or miscarriage, etc., for which maternity benefit is payable for an additional period not exceeding one month in accordance with sub-rule (4) of Central Rule 56.

A (i) Where payment commences before confinement

P.9.4. An insured woman claiming maternity benefit before confinement has to submit the following documents either personally or by post :-

1. A certificate of expected confinement on new form 18 (after deleting portions not relevant)
2. A claim on new Form 19 duly completed after scoring out portions not relevant.

In addition to the above, she has also to obtain and submit a certificate of confinement within 30 days of the date of her confinement in new form 18 wherein portions not relevant will be scored out.

P.9.5. An insured woman may also, at her discretion, submit a certificate of pregnancy (new Form 17) accompanied by a notice of pregnancy on the same form. If she does so, a notice of pregnancy will ordinarily be the first intimation the Branch Office receives in respect of IW intending to claim maternity benefit.

P.9.6. The claims clerk will check the certificate of pregnancy in the manner specified in para P. 9.1, diarise the same in the claims diary (ESIC-12) and keep it in the bundle of current medical certificates in serial order.

P.9.7.1. IW may submit the certificate of expected confinement (new form 18) either along with the certificate of pregnancy or at any time thereafter. In case she has not submitted a certificate of pregnancy

(accompanied by a notice of pregnancy), the certificate of expected confinement alone may be received in respect of her.

P.9.7.2. On receipt of the certificate of expected confinement, apart from the usual checks stated in para P.9.1, the following checks peculiar to this certificate will also be applied :-

- (i) The date of issue of the certificate of expected confinement is not more than 50 days before the expected date of confinement mentioned after the words “on or about” in the certificate.
- (ii) After the words “on or about”, a date has been duly filled in in the certificate.

P.9.7.3. A certificate issued earlier than 50 days before the expected date of confinement is invalid and the claims clerk will return it to the IW either personally or by post with a forwarding letter in form ESIC-162 duly signed by the Manager suitably advising this IW to submit a fresh certificate and a claim for cash benefit if she has stopped working for wages. A remark “Returned on” will be entered in the remarks column of the diary by the claims clerk who will also initial the entry.

P.9.7.4 On receipt of a valid certificate of expected confinement, it will also be seen that the claim form 19 printed on its back is also received complete in every respect. The fresh certificate of expected confinement and the claim will be diarised by the claim clerk in the claim diary (ESIC-12).

P.9.8. He will initiate action to get the ledger sheet prepared if it has not been opened so far.

P.9.9. The claims clerk will determine the benefit period in which date of expected confinement falls and process the claim for payment.

A (ii) Where payment is postponed till confinement.

P.9.10. If the insured woman is found ineligible for maternity benefit on the basis of certificate of expected confinement, the claims clerk will advise her accordingly. However, she may possibly become eligible in the benefit period in which she actually confines. In such a case, the insured woman may be advised to visit Branch Office again alongwith the certificate of actual confinement (new Form 18) certifying the birth of a child and her eligibility may be re-examined with reference to the date of her confinement.

B. Benefit Commencing after confinement or miscarriage

P.9.11.1. To establish her entitlement to maternity benefit when IW claims it for the period only after her confinement, she has only to submit a certificate of confinement (Form 18) alongwith her claim (form 19). Similarly, to establish her entitlement to maternity benefit for miscarriage which is payable only after miscarriage, IW has to submit a certificate of miscarriage alongwith her claim (Form 19). A certificate of miscarriage is issued on the same form 18 as for confinement with suitable modifications.

P.9.11.2. In case of miscarriage, Branch Office should ensure that the certificate contains :-

- (i) the date of miscarriage; and
- (ii) the week of pregnancy in which IW miscarried.

The information at (i) above will help determine her eligibility, rate of benefit and the date from which payable and the information at (ii) above will enable Branch Office to decide whether maternity benefit should be paid for six weeks for miscarriage or for confinement. Please refer to definition of ‘confinement’ and ‘miscarriage’ reproduced in para L.9.2.)

P.9.11.3. Maternity benefit will be payable for the date of miscarriage also provided she abstains from work on that day and is certified as needing medical treatment and abstention from work on medical grounds on that day. Payment for the day of miscarriage will be deemed as payment for sickness arising out of pregnancy and dealt with accordingly.

P.9.11.4. After the certificate of confinement or of miscarriage, as the case may be, is diarised, it will be subjected to scrutiny by applying the general checks prescribed in para P.9.1 and, in addition, the following :-

- (i) In case the claim is for maternity benefit for miscarriage, the certificate of miscarriage alongwith claim in new form 19 should have been submitted within 30 days of the date of miscarriage as provided in Regulation 89. When the certificate is not submitted within 30 days, the time limit will need to be relaxed by Regional Director if the certificate alongwith claim is submitted within 6 months of the date of miscarriage and by the Director General in case it is submitted thereafter.
- (ii) In case the claim is for maternity benefit for confinement (where IW claims it only after confinement) the Manager can pay maternity benefit if otherwise found admissible if the certificate of confinement alongwith claim in new form 19 is submitted within one year after the date of confinement. Any delay in submission of the claim for a period exceeding one year but within 6 years can be condoned by the Regional Director and, beyond this period, by the Addl. Commissioner/ Director (Benefits), Hqrs Office. Procedure for reference of time-barred claims to Headquarters Office will be found in Chapter XI *vide* para titled "Time Barred Claims" therein.

P.9.11.5. It should be noted that in every case of delay in submission of a certificate of confinement or of miscarriage beyond 4 weeks after the date of its issue, IW should be asked to give reasons for delay and these should be recorded. The Manager should consider the reasons for delay and record his recommendation and forward the case to the Regional Office for consideration.

C. Claim after confinement for some period before confinement

P.9.12.1. Claims of the above type can be divided into two sub-groups : -

- (i) Where IW does not submit a certificate of expected confinement; and
- (ii) where she submits a certificate of expected confinement but does not claim maternity benefit before confinement.

P.9.12.2. In respect of category (i) above, the IW would submit a certificate of confinement only which itself would be sufficient to establish her entitlement to maternity benefit for confinement for all the twelve weeks even if part of this period falls before the date of confinement.

P.9.12.3. In respect of category (ii) above, the IW will submit two valid documents viz., (a) certificate of expected confinement and (b) certificate of confinement. Eligibility and rate of maternity benefit will have to be calculated both with reference to the benefit period in which her expected date of confinement falls and also with reference to the benefit period in which her actual date of confinement falls and the IW would be entitled at higher of the two rates. If IW was eligible with reference to one benefit period and ineligible with reference to the other, she will still be entitled to claim maternity benefit at the rate at which she is eligible.

D. Where IW dies leaving behind child.

P.9.13.1. In case of claims falling under this category, the following documents will be necessary to establish a claim for maternity benefit :-

- (a) A claim in Form 24-A renumbered as form 20 w.e.f. 1.1.2005 (Annexure I) duly certified by an authority specified in the said form, together with -
- (b) a death certificate in new form 21.

P.9.13.2. By the time the above documents are received in the Branch Office, entitlement of the deceased IW for maternity benefit would have been decided on the basis of the certificate of expected confinement and/or of actual confinement. In that case, the claims clerk will need to check only the above referred documents. In case, however, the entitlement had not been decided by the time these documents are received, usual checks as referred to in para P.9.1 and other checks as specified in other paras relevant to the case will be applied.

P.9.13.3. Under Regulation 89-A, the above mentioned documents have to be submitted to the Branch Office within 30 days of the death of the insured woman. In case of delay in their submission, Manager may refer the case to Regional Director who can relax the time-limit for a period upto 6 months from the date of death. In case delay is longer, the matter will have to be referred to the Director General.

P.9.13.4. The claims clerk will also ascertain the name of nominee from the declaration form of the deceased IW.

P.9.13.5. Further action to make payment of maternity benefit to the nominee or, where there is no valid nomination, to the legal heir/representative, etc., will be taken in accordance with the relevant paragraph of Chapter III – General Claims Procedure.

P.9.13.6. The nominee or the legal heir/representative shall be paid benefit (including that which was admissible to the IW while alive but was not received by her) –

- (i) for the period upto and including the date of death of the child, or
- (ii) for a maximum period of 84 days (which should exclude the days for which she received maternity benefit for her sickness arising out of her pregnancy), whichever happens earlier.

E. Sickness arising out of pregnancy, confinement, miscarriage

P.9.14.1. To claim maternity benefit for an additional month for sickness arising out of pregnancy, confinement, premature birth of child or miscarriage, the insured woman would submit the following:–

- (i) a claim for benefit in new form 9 (after scoring out portions not relevant), together with –
- (ii) the appropriate medical certificate in new form 7 as first, intermediate or final certificate, as the case may be.

P.9.14.2. Whenever such a claim is received, the claims clerk will scrutinise the certificate in the same manner as applicable to certificates of sickness/temporary disablement. In addition, he will also check whether the IMO/IMP has clearly indicated the sickness being due to pregnancy, confinement, premature birth of child or miscarriage. These certificates should also be received within time-limits laid down in Regulation 64.

P.9.14.3. If a spell of sickness has arisen out of pregnancy, the claims clerk will need to ascertain the date of expected confinement so as to determine the eligibility and rate of benefit. In case that is not yet available, he will calculate the daily standard benefit rate and prepare claim for payment of sickness benefit and advise the insured woman to come again at the time of issue of a certificate of expected confinement or actual confinement when the rate of maternity benefit admissible to her for the earlier period would be available and she can be paid difference between maternity benefit due and sickness benefit being paid now, for a period not exceeding one month.

P.9.14.4. If the claim is for sickness arising out of confinement or miscarriage, the claims clerk will take the following steps :–

- (i) He will calculate the last day upto which normal maternity benefit is admissible.

- (ii) He will add one month to the last day. For instance, if the last day of normal maternity benefit was 13.4.09, then the insured woman can draw maternity benefit for sickness arising out of confinement etc. upto 13.5.09.
- (iii) He will deduct the days, if any, of maternity benefit drawn by the IW for sickness arising out of pregnancy. The period of one month for which maternity benefit is admissible for sickness arising out of pregnancy, confinement or miscarriage will be determined in accordance with para L.9.7.5.
- (iv) He will prepare the claim for maternity benefit for the rest of the days if duly certified by the Insurance Medical Officer.

Rate of benefit

P.9.15. On receipt of the certificate of (i) expected confinement, or (ii) actual confinement, or (iii) miscarriage in respect of an IW, her eligibility shall be determined and the rate of maternity benefit payable to her during the period she abstains from work on account of confinement or miscarriage or during her sickness arising out of her pregnancy, confinement or miscarriage shall be calculated by claims clerk in accordance with paras L.9.3.1 and L.9.8 to L.9.9.

P.9.16. It is possible that a second contribution period may have just ended before the date of expected/actual confinement and this contribution period will have to be considered for determination of IW's eligibility and daily rate of her maternity benefit. But the contributory record for the said second contribution period is neither due nor available in the Branch Office. In such a case, the Branch Office can call for the contributory record from the employer in ESIC-71 and if the IW is found entitled to a better rate, the B.M should cause wage verification made from the employer's record and, if satisfied, make payment at the higher rate as stated above. This would further need confirmation on receipt of RC for the said contribution period in the Branch Office, and the case would have to be noted in the ESIC-71 register.

If no benefit is admissible

P.9.17. If no benefit is admissible, the claims clerk will prepare a regret slip and he will also cancel the claim and the certificate with a rubber stamp. He will then write the words 'not admissible' in the column for 'remarks' in the ledger sheet of the IW concerned, and pass on the ledger to the checker with a request to see this case on a priority basis so that IW is not made to wait unnecessarily in the Branch Office.

Start of payment of maternity benefit

P.9.18.1 The claims clerk will determine the 12 weeks' period in case of confinement or 6 weeks' period in case of miscarriage and take steps to start payment of maternity benefit.

P.9.18.2. When payment of benefit has to be commenced before confinement on the basis of the certificate of expected confinement, it will have to be continued for all the 12 weeks even if child birth is delayed (refer also to note 2 below para L.9.11.3).

Notice of work

P.9.18.3. Where, during the period of 12 weeks in case of confinement and 6 weeks in case of miscarriage, an insured woman gives notice of work in new form 19 after scoring out portions not relevant, maternity benefit will be stopped with effect from the date of resumption of work. However, the insured woman may again submit a claim in fresh form 19 (which need not be accompanied by any certificate)

declaring that she stopped work from the date specified therein. In such an event, payment of maternity benefit to her will be resumed provided the period of abstention falls within the range of 12 weeks/6 weeks from the date on which maternity benefit was commenced on account of confinement/miscarriage. Such a claim will be diarised in the claims diary (ESIC-12) with a suitable remark and cross reference with the certificate of confinement/miscarriage received earlier.

First payment before confinement

P.9.19. Referring to paras P.9.4 to P.9.9, having determined the eligibility, the period and the rate of maternity benefit, claims clerk will await the insured woman's arrival in the Branch Office unless the insured woman has desired the payment by money order. In case the insured woman turns up in the Branch Office before her confinement, the claims clerk will prepare her claim for maternity benefit upto and including the date of her visit. He will also ask the insured woman how she would desire the subsequent payments of maternity benefit made to her. In case she wants them by money order, a written request may be obtained from her and recorded with the first payment whereafter payments will be remitted to her week after week without insisting upon a request for payment by money order. For this purpose, a reminder diary may be kept by him.

Ledger entries on payment

P.9.20.1. Having found the claim admissible for maternity benefit and having worked out the first payment, the claims clerk will complete entries in the ledger sheet as follows (in new series small-size ledger sheet):-

- (i) In column 4, the first date of the range for which maternity benefit is admissible and in column 5 the date upto which it will be admissible, should be entered. In case of death of insured woman, a fresh entry will be made in column 5 below the first entry which will be rounded.
- (ii) In column 6, the date of confinement/expected confinement/miscarriage will be entered with suitable remarks in abbreviation (e. g. cft, ecf, mcg for confinement, expected confinement and miscarriage respectively).
- (iii) In column 7 & 8, the period, i. e., date 'from' and the date 'to' for which the benefit is being paid on a given date, will be entered.
- (iv) In column 9, the number of days for which benefit is being paid, will be entered.
- (v) In column 14, the daily rate of benefit will be entered.
- (vi) In column 15, the amount of benefit due for the period in question will be entered.

P.9.20.2. The claims clerk will then fill up benefit payment docket and benefit payment slip and pass on the ledger to the checker for checking.

Other important matters

P.9.21. Certain important steps are required to be taken in the Branch Office before each maternity benefit claim gets paid. But, these matters are in common with other cash benefits for which a separate Chapter III – General Claims Procedure – is available and the same should be referred to in case of need. Some of the important matters which are relevant as part of Maternity Benefit Procedure but which will find a place in the Chapter III mentioned above, are as under :-

- Cent per cent checking of claims.

- Identification of claimant before payment.
- Attestation of thumb impression of claimant.
- Obtaining of proper acquittance by Cashier.

In order to avoid delay in payment of maternity benefit, the IW may be advised to -

- (a) give notice of pregnancy and submit certificate of expected confinement.;
- (b) submit her claim periodically;
- (c) submit the birth certificate from an ESI Dispensary, Hospital or Registrar of Births and Deaths or any other alternative evidence at the earliest; and
- (d) obtain letter from employer regarding abstention from the work.

Abstention enquiry

P.9.22 After the last payment has been made on a maternity benefit claim, the claims clerk before putting back the ledger, should initiate abstention enquiry from the employer to ascertain as to whether the insured woman did actually abstain from work for the period during which she has received maternity benefit. The claims clerk will prepare a letter for the employer in new form 10 (copy at Annexure II), delete portions not relevant and issue it under Manager's signature. The letter will be entered in the Branch Office Register of enquiries about abstention from work. When a reply is received from the employer, an entry will be made in the register of abstention enquiries by the claims clerk who will also examine whether the employer has confirmed the abstention of the insured woman. If the abstention is confirmed, the reply will be shown to the Manager and filed. Otherwise, the question of prosecution and/or recovery action against the insured woman shall be examined and further action taken in the same way as in similar cases of drawal of benefit by false declaration. Please also see para 11.35.1 in this connection which implies that maternity benefit is admissible to an insured woman who did not work for remuneration during the period for which she has claimed maternity benefit, irrespective whether she received any leave wages also for the days of her abstention or was on strike during the said period.

FORM 20

**CLAIM FOR MATERNITY BENEFIT AFTER THE DEATH OF AN
INSURED WOMAN LEAVING BEHIND THE CHILD**

**EMPLOYEES' STATE INSURANCE CORPORATION
(Regulation 89A)**

Claim arising from the death on of Ms.....
wife/daughter of.....having Insurance No. and last employed by
M/s.....

I , * being related to the above-named deceased insured woman as
her..... and being her nominee/ being her legal representative (applicable if the woman dies leaving no
nominee), hereby claim Maternity Benefit for the period from to

I also declare that –

**i) the deceased insured woman died on leaving behind the child
who is still alive, or

**ii) the deceased insured woman died on leaving behind the child
who also died on

The amount due may be paid to me by money order/ in cash at the Branch Office.

I further declare that the particulars, as given here-in-above, are true to the best of my knowledge and belief.

Dated.....

Signature / thumb impression
of the Claimant

Name in Block letters and _____

Address of claimant _____

ATTESTATION

***Certified that the declarations, as made here-in-above are true to the best of my knowledge and belief.

Signature
Designation.....
Name in block letters and rubber stamp or seal of
the Attesting Authority

* Strike out this line if not applicable.

** Delete either (i) or (ii), as may not be applicable in the case.

*** This certificate is to be given by (i) an officer of the Revenue, Judicial or Magisterial Department; or (ii) a Municipal
Commissioner; or (iii) a Workmen's Compensation Commissioner; or (iv) the head of gram-panchayat under the official seal of the
panchayat; or M.L.A./M.P.; or (v) A Gazetted Officer of the Central/ State Govt./ Member of the Local Committee/Regional Board;
or (vi) any other authority considered as appropriate by the Branch Manager concerned.

IMPORTANT:

1. This claim form duly filled up, is required to be submitted to the appropriate Branch Office together with a death
certificate in Form 21 within 30 days of the death of the Insured Woman.

2. Any person who makes a false statement or representation for the purpose of obtaining benefit, whether for himself of
for some other person, commits an offence punishable with imprisonment for a term which may extend up to six months or with a
fine up to Rs.2,000/- or with both.

FORM-10

**ABSTENTION VERIFICATION IN RESPECT OF SICKNESS BENEFIT/ TEMPORARY
DISABLEMENT BENEFIT/ MATERNITY BANEFIT**

**EMPLOYEES' STATE INSURANCE CORPORATION
(Regulation 52A)**

From

The Manager,
_____ Branch Office,
ESI Corporation,

To

M/s _____

**Subject: Verification of abstention from work in respect of Sh./Shri./Km. _____
Ins. No. _____ Department _____.**

Dear Sir (s),

The above-named employee of your factory has submitted a certificate of incapacity for the period from _____ to _____ and has declared that he/she has not worked on any day during this period.

He/she has further declared that he/she has not received wages as defined under section 2(22) of ESI Act, 1948 for any leave/ holiday /weekly off / lay off and strike in respect of any day during the above period and that he/she was not on strike on any day during the above period.

I shall be grateful if you confirm the exact position in this regard on the form appended within 10 days of the receipt of this form.

Yours faithfully,

**(MANAGER)
_____ Branch Office**