

6

4.5 Student

Ms [REDACTED] has been a student in the UK.

A student is a person who is enrolled in a course of study at a private or public establishment who has comprehensive sickness insurance cover in the United Kingdom. They must show that they have sufficient resources to avoid them becoming a burden on the social assistance system of the UK and should be covered by sickness insurance in respect of all risks in the UK.

Being a student would not grant [REDACTED] the right to reside in respect of a claim to Income Support because she would be required to be self-supporting whilst studying and she has not shown that she has sickness insurance in the UK.

Regulation 4 of the Immigration Regulations 2016

4.6 Being the parent and primary carer of a child who is in general education in the UK and is the child of an EEA work

[REDACTED] is a Polish national. To qualify to receive Income Support under this law she would need to show that:

1. she is the parent (or step parent) and primary carer of a child and
2. she or the child's other parent is a citizen of another EEA State or Switzerland and
3. one of the parents is both an EEA national and is working or has worked as an employed person in the UK and
4. there is a common period where the child was established as living in the UK whilst the migrant worked (either you or the child's other parent) and
5. that child is still in general education in the UK and is under 18

Work must be as an employed person and not self-employment. Simply registering as seeking work will not confer rights to a child under this law. Periods where "worker" status was only retained cannot trigger rights under this law.

General education can include up to and including university or similar courses, and vocational courses, but the right of the primary carer derived from Article 12 ends when the child reaches the age of majority, which is 18 in the UK.

It can, exceptionally, continue beyond that age if the child continues to need the presence and care of that parent in order to be able to complete their education. General education does not include play school or pre-school schemes. It usually starts around age 5.

[REDACTED] has provided evidence that her daughter [REDACTED] was enrolled in general education at her date of claim. [REDACTED] has held worker status in the UK since [REDACTED] has been resident here. [REDACTED] has not provided a copy of [REDACTED] birth certificate as evidence of their relationship.

* [This regulation is a final test for the right to reside in the UK for benefit purposes. This ruling can only be used when all other avenues have been exhausted. This includes any other treaty rights which [REDACTED] may have, including claiming Jobseeker's Allowance as a jobseeker for a period of 91 days.]

As [REDACTED] has not yet exhausted her right to reside as a jobseeker, this option remains available to her. This means that she is unable to gain a right to reside for benefit purposes under this regulation.]