

E121 FORM DEPENDANT'S QUALIFICATION CLARIFIED

Many people are not aware that under an EU Regulation that came into force in 1998 spouses and other members of a family are not covered automatically by an E121 held by another member. Before 1998 they were covered by the holder of the E form who was able to make a claim under his/her own registration.

Since January 2002, when France brought this Regulation into force, each person must have his or her own E121 for accounting purposes as individuals rather than as family units. At first there was an outcry until it was realised that the persons thought to have been deprived by the new Regulation would be registered automatically as Dependant Beneficiaries of the family holder.

Problems soon surfaced around the definition of "Dependant" which differs between member states. However, in the case of France and the UK both apparently recognised marriage as a common definition and there was only difficulty helping unmarried partners. We were informed that couples resident in France were subject to French, not British Law, and in cases where the UK authority was unable to decide only the French authority could give a ruling on their status. The E107 was to be used as a communication form to request such a decision. This would be given under French Law, which defines "Dependant" as being financially dependent.

The system faltered almost immediately. CPAM offices administering it had never heard of the E107, did not have one, were too busy to follow the cumbersome procedure etc. Three or four years of confusion and in many cases personal anguish ensued some of which ended up with an appeal to a tribunal or even to the French ministry of health through the good offices of the British Embassy in Paris. The problem still persists and we have had four cases referred to us during the last seven days; that is four too many.

The Dependant Beneficiary right is important to many people qualifying for the E121 before other members of a family. Qualification is on condition of reaching the official age of retirement and coming into receipt of the State Retirement Pension. One member of a family often satisfies the conditions before the other.

An example is a retired couple both 60 years of age. Assume that the female qualifies for an E121 at the age of 60 years and the male at the age of 65. The terms "male" and "female" have been used as we are going to examine the generic term "couple" living together in different legal states.

1. Living together in a married state the husband is classified as an entitled Dependant Beneficiary without reference to any further consideration. Husband and wife are required to make a joint tax declaration together and are regarded as mutually dependant each on the other. When the husband qualifies in his own right he will no longer be a Dependant Beneficiary.
2. Living together having entered into a French civil marital contract named PACS. The definition, rights and responsibilities are the same as in 1. above. CODE CIVIL ART 515-1 to 515-7 specifically states that if one of the partners of a PACS Contract benefits from assurance maladie the other can benefit as a Dependant Beneficiary to the same extent. The children of either partner can benefit in the same way also.
3. Living together in an unmarried state. Here the definition of the term "Dependant" is taken into consideration. Under French law the definition of "Dependant" is financially dependant and it has to be demonstrated that the one seeking classification as a Dependant Beneficiary is wholly, completely and permanently dependant on the other. Under this heading the examining authority (CPAM) is entitled to ask for proof of means whereas under 1. and 2. above it is not.

It should be pointed out that there are wide variations in the interpretation of the above regulations from department to department and sometimes even between individuals in the same department. The only way it is possible to find out how a particular CPAM office will react is to pay a visit and discuss your case. A "please can you help me" approach can take you a long way.

There has been great confusion about the way in which the Dependant Beneficiary regulations are implemented and after a long period during which the complicated routines have proved unreliable, the following procedure has now been adopted:

The cardinal principle is that every person must have his/her own E121.

From this it follows that the first member of a family to qualify for an E121 (the Qualifier), should be issued with a Form in his/her own name and no other person. A duplicate of the Qualifier's Form should be issued with the Dependant Beneficiary entered in the appropriate section on the back. For a husband and wife, a Form and a Duplicate should be issued; for a husband, wife and child, a Form and two duplicates should be issued.

In the case of 1. above, married couples, contact the International Pension Center requesting the E121s a month before the first member of the family qualifies.

In the case of 2. above, couples who have entered into a PACS Contract, contact the International Pensions Center and proceed exactly as for a married couple.

In the case of 3. above, couples living together in an unmarried state, the procedure should be through CPAM as outlined above. However, if you press the International Pension Centre the appropriate Dependant Beneficiary E121(s) will be sent to you although CPAM has the absolute right to accept or reject them for registration.

CONTACTS

To apply for the issue of the E121 call the International Pension Center:

Telephone 0044 (0)191 218777 between 8 am and 8pm UK time.

Names, DOB, NI numbers and proposed date of departure from the UK will be required.

For enquiries regarding entitlement, registration in France etc. call Overseas Medical Benefits Telephone 0044 (0) 191 2181999 between 8am and 5pm. The same personal information will be required.

As always the regulations may be subject to local interpretations in France and anyone encountering a problem should contact:

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