Refugees from Ukraine were initially allowed to enter Germany without a visa. Now the European Commission has passed a decision under Directive 2001/55/EC, according to which all refugees from Ukraine will be granted a residence status. In Germany, this decision will then be implemented by issuing residence permits according to Section 24 Residence Act (Aufenthaltsgesetz - AufenthG).

**Entitlements to benefits until the granting of a residence permit according to Section 24 Residence Act**

The most basic benefits for living, accommodation, health are provided by the local Social Services Office (Sozialamt).

**Here is a sample application form:**

**IMPORTANT:** The Social Services Offices are required to interpret applications for social benefits as an asylum application and thus grant benefits according to the Asylum Seekers Benefits Act (Asylbewerberleistungsgesetz – AsylbLG). Those affected must therefore expressly declare with the application to the Social Services Office that they do not wish to submit an asylum application! Otherwise, the asylum procedure formally begins, which, however, makes no sense for the persons concerned, as they have a secure residence and will certainly receive a residence permit according to Section 24 Residence Act when their "Schengen status" expires. And the benefits under the Asylum Seekers Benefit Act are also worse than those under the Book XII of the Social Code (12. Sozialgesetzbuch - SGB XII)!

Unfortunately, benefits from the according to the Book II of the Social Code are excluded because those affected are allowed to enter Germany without a visa according to the "Schengen rules", which is associated with an absolute ban on working. Thus, according to Section 8 (2) of the Book II of the Social Code (2. Sozialgesetzbuch - SGB II), those affected are considered unable to work and are thus excluded from benefits according to Book II of the Social Code.

Those affected must therefore apply for benefits at the Social Security Office in the place where they live. As there are reports that Social Security Offices are turning away refugees from Ukraine, support appears to be urgently needed - it is necessary to insist on making the applications. If a Social Security Office refuses, urgent legal protection should be sought immediately at the competent Social Court. It is important to document the appearance at the Social Security Office or to submit the application in writing or electronically.

These benefits can be claimed from the Social Security Office:

**Living benefits**

The exclusion clause of Section 23 (3) Sentence 1 Number 1 of the Book XII of the Social Code applies, which excludes benefits for the first three months of residence. This is referred to by the Social Security Offices, which reject the affected persons.

However, there is a claim to so-called bridging benefits according to Section 23 (3) Sentence 3 of the Book XII of the Social Code. In cases of hardship according to Section 23 (3) Sentence 5 of the Book XII of the Social Code, these bridging benefits must be provided in the amount of the full standard rate plus costs for accommodation and heating for the entire period of the need for assistance. The fact that such a case of hardship is to be recognised in the case of the refugees from Ukraine should not be seriously doubted. If a Social Security Office denies the case of hardship: immediately seek urgent legal protection at the Social Court.

If the stay in Germany has already lasted longer than 3 months, the exclusion of Section 23 (3) Sentence 1 Number 1 of the Book XII of the Social Code no longer applies and there is access to...
regular living benefits. As long as no residence title has been issued and the visa-free status has been extended, benefits according to Chapter 3 of the Book XII of the Social Code are to be granted.

Health Care

Help with illness

Those who do not have effective health insurance receive health assistance according to Sections 47 et seq. of the Book XII of the Social Code (SGB XII) in conjunction with Section 264 (2) of the Book V of the Social Code (5. Sozialgesetzbuch - SGB V) via the Social Security Office. A health card is to be issued.

Nursing care

Those who are in need of nursing care can receive benefits for nursing care according to Sections 61 et seq. of the Book XII of the Social Code. The Social Security Office has to determine the care level without delay - after that, there can be chosen between nursing care by a care service or care allowance (in case of care by private caregiver(s)).

Participation benefits according to the Book IX of the Social Code (9. Sozialgesetzbuch - SGB IX)

The Social Security Offices are also responsible for participation benefits for people with disabilities. People with disabilities also have access to participation benefits, especially integration assistance benefits, according to the Book IX of the Social Code. Here, individual assistance can be of interest for better adjustment to the new situation.

Entitlement to benefits from the time a residence permit is granted according to Section 24 Asylum Seekers Benefits Act

As soon as a residence permit is granted according to Section 24 Residence Act, the scope of application of the Asylum Seekers Benefits Act is mandatory (Section 1 (1) Number 3 Letter a Asylum Seekers Benefits Act). This excludes access to living benefits and health care according to the Book XII of the Social Code and access to other benefits according to the Book V and IX of the Social Code.

Here can be referred to the very clear and detailed overview by Claudius Voigt (GGUA):

In addition, here are the competent authorities to which the benefits must be applied for:

- Living benefits/ health care/ nursing care/ integration assistance = Social Security Office
- Employment assistance benefits according to the Book III of the Social Code (3. Sozialgesetzbuch - SGB III) / training assistance according to the Book III of the Social Code = Employment Agency (Bundesagentur für Arbeit)
- Federal Training Assistance Act (BaföG) (if access is exceptionally opened) = the Federal Training Assistance Office search helps here https://www.bafoeg-rechner.de/bafoeg-amt/#suche
- Child benefits = Family Benefits Office at the Employment Agency
- Child supplement (if access is exeptionally opened) = Family Benefits Office at the Employment Agency
- Parental allowance = here the component authorities are listed: https://www.elterngeld.net/elterngeldstellen.html#text=Das%20Elterngeld%20ist%20weder%20eine,und%20manchmal%20auch%20besondere%20Beh%C3%B6rd.

When needs are met through employment
Those who are not dependent on benefits under the Asylum Seekers Benefits Act because they have income from their own employment may also have access to social insurance.

If employment is subject to social insurance, the compulsory insurance schemes for

- statutory health insurance
- statutory nursing insurance
- statutory unemployment insurance
- statutory pension insurance
- statutory accident insurance

come into force and those affected are largely protected.

Those who are not in contributory employment but, for example, are self-employed, may only be able to obtain cover through private insurance if the entitlements under the Asylum Seekers Benefits Act are not considered sufficient. This is because, in principle, the self-employed with a residence permit under Section 24 of the Residence Act are also covered in the event of illness under Sections 4 and 6 of the Asylum Seekers Benefits Act.

Application – competent Social Services Office

Those who have already found accommodation must submit their applications to the Social Services Office (Sozialamt) at the place of accommodation. Those who have not yet found accommodation apply to the nearest Social Security Office.

It is not the task of those affected to find their way through the jungle of German regulations on responsibility - the Social Security Office approached has to receive the application and, if necessary, forward it to the competent office (Section 16 of the Book I of the Social Code (1. Sozialgesetzbuch - SGB I). Since emergency situations often exist (no funds available), the Social Security Office first approached must also pay out provisional benefits immediately, even if it is not responsible (Section 43 of the Book I of the Social Code).