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AR for wear & tear on shoes. No principle that lay evidence about medical matters requires professional corroboration before it can be accepted.

RAS/6/LS

Commissioner's File: CSB/1311/1986

C A O File: AO 3090/SB/86

Region: Midlands

SUPPLEMENTARY BENEFITS ACT 1976

APPEAL FROM DECISION OF SOCIAL SECURITY APPEAL TRIBUNAL ON A QUESTION OF LAW

DECISION OF THE SOCIAL SECURITY COMMISSIONER

Name:

Social Security Appeal Tribunal: Leicester

Case No: 37/02

1. My decision is that the decision of the social security appeal tribunal dated 11 September 1986 is erroneous in point of law. I set it aside and direct that the case be reheard by a differently constituted tribunal.

2. This appeal concerns a claim for an additional requirement in respect of shoes for the claimant's daughter who was 14 at the relevant time. Under paragraph 19 of Schedule 4 to the Supplementary Benefit (Requirements) Regulations 1983 there is an entitlement to an additional requirement for special wear and tear on clothing or footwear in the case of a person who suffers from a physical or mental condition which has the consequence that her clothing or footwear wears out unusually quickly. There was evidence before the tribunal from the claimant that his daughter was specially hard on her shoes because she dragged her foot and wear occurred on the side sole and upper of her shoe. She was a large heavy girl, had been seen by the school doctor and was on a diet. However the tribunal seem to have decided the appeal against the claimant on the basis that there was no medical evidence. As the adjudication officer who is now concerned with the case agrees, that is a wrong approach. There was evidence from the claimant concerning his daughter's physical condition and its consequence for her shoes. The tribunal were entitled not to accept it but if this is what they did they should have said so and explained why. There is certainly no principle that evidence is not evidence or is not acceptable unless it is corroborated. And there is no principle that lay evidence about medical matters requires professional corroboration before it can be accepted. The tribunal were wrong in law in the respects indicated and I set their decision aside. With regard to the meaning of "suffers from a physical or mental condition" in paragraph 19 of Schedule 4 the new tribunal may be assisted by CSB/560/85 (which should be supplied to them) which makes plain that these are ordinary words to be given their ordinary and natural meaning. I would have no doubt that a person who drags a foot and is unable to prevent herself from doing so can be said to be suffering from a physical condition within the meaning of paragraph 19.

(Signed) R A Sanders
Commissioner

Date: 29 July 1987