

JBM/MB/11

Commissioner's File: CSB/057/1990

**SUPPLEMENTARY BENEFITS ACT 1976**

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

**DECISION OF THE SOCIAL SECURITY COMMISSIONER**

1. My decision is that the decision of the Mansfield Social Security Appeal Tribunal dated 3 February 1989 is erroneous in point of law. Accordingly I set it aside and give the decision that the appeal tribunal themselves should have given namely that supplementary benefit amounting to £21.60 has been overpaid for the period 6 December 1984 to 27 February 1985 and is recoverable from the claimant because he failed to disclose the material fact that his son David had started full-time work but that the supplementary benefit amounting to £168.25 overpaid for the period 28 February 1985 to 3 December 1986 is not so recoverable.

2. This is an appeal by the claimant's to the Commissioner with leave of the tribunal chairman against the decision of the appeal tribunal confirming the decision of the adjudication officer first involved in these appeals.

3. The facts of the case are dealt with in box 5 of the submission of the adjudication officer first involved in these appeals in his written submission to the appeal tribunal. In respect of those matters and of the submission of the adjudication officer now concerned in these appeals dated 6 April 1990 the claimant has had the opportunity to comment and I have through his representatives their comments to me dated 18 April 1990. No useful purpose would be served by my setting out these matters afresh here.

4. The relevant statutory provision is section 33 of the Social Security Act 1986. Regulation 25(2)(b) of the Social Security (Adjudication) Regulations 1986 is also relevant.

5. In my judgment the decision of the appeal tribunal is erroneous in point of law and the appeal tribunal has breached

regulation 25(2)(b) of the Social Security Act (Adjudication) Regulations 1986. In my judgment the submission made on 6 April 1990 is rightly made. There is no merit in my setting out those matters afresh here. I need only refer to paragraph 28 of Decision R(SB)15/87 being a decision of a Tribunal of Commissioners.

6. In accordance with my jurisdiction my decision is as set out in paragraph 1 of this decision. As sufficient facts have been found I give the decision myself which the appeal tribunal should have given.

7. Accordingly the claimant's appeal is allowed.

(Signed) J.B. Morcom  
Commissioner

(Date) 12 March 1992