

CSB 48/1983

AGREED

Reg 27: abnormal growth
clothing

SUPPLEMENTARY BENEFITS ACT 1976

APPEAL FROM DECISION OF SUPPLEMENTARY BENEFIT APPEAL TRIBUNAL ON
A QUESTION OF LAW

DECISION OF SOCIAL SECURITY COMMISSIONER

Name: Hilary Dorothy Brown (Mrs)

Supplementary Benefit Appeal Tribunal: Norwich

Case No: 20/166

1. My decision is that the decisions of the supplementary benefit appeal tribunal, under which single payments were not awarded for any items other than one pair of trousers, two shirts and one pair of shoes, are erroneous in point of law for want of an adequate statement of the reasons for the decision. The decisions (excluding those awarding payments as aforesaid) are set aside. The claims for the items other than aforesaid must be referred to another tribunal.
2. The claimant made a composite claim for single payments for a list of items of clothing for her growing child. It emerges from the decision of a Tribunal of Commissioners to be reported as R(SB) 42/83 that all such claims, which may for convenience be treated together, are nevertheless on a strict analysis separate claims. Accordingly it is open to the claimant to appeal in respect of some items and not others. The claimant in fact appealed to the appeal tribunal in relation to all the items (the benefit officer having rejected the entire claim) and the appeal tribunal awarded payments for a pair of trousers, two shirts and a pair of shoes. The claimant now with leave appeals to the Commissioner limiting her appeal (as she is entitled to do) to those items for which a payment was not awarded. It was of course open to the benefit officer to seek leave to appeal in relation to those other items, but he has not done so and the awards in respect of those items stand. I am concerned only with the question of those items for which no award was made.
3. A single payment for items of clothing may be made under regulation 27 of the Social Security (Single Payments) Regulations 1981 or in special cases under regulation 30 of those regulations. There may be other regulations authorising in special cases single payments for clothing but it has not been suggested that they are relevant in this case.
4. A tribunal ought always to consider other relevant regulations before falling back on regulation 30 because that applies only where the need arises for an item included in any of the earlier specific regulations but the claimant fails to satisfy the conditions of those regulations or the need is for an item not mentioned in those regulations. In the present case the possible application of regulation 27 had been put in issue and logically the first thing to be considered was regulation 27. Only if the conditions

If that regulation were not satisfied would regulation 30 arise. The tribunal in fact awarded the payments that they did award under regulation 30. It may be that they considered regulation 27 and rejected it but they did not say so. This perhaps did not matter in relation to those items for which they made an award that has not been challenged under regulation 30 but in relation to the other items the claimant has been left without any explanation as to why her claim failed under both regulation 27 and regulation 30. I find the decisions in relation to those other items erroneous in point of law on this ground and I set them aside.

5. The tribunal to whom the matter is now referred must consider first regulation 27 and then regulation 30. Regulation 27 provides for single payments for items of clothing, but only where the need for the item has arisen otherwise than by normal wear and tear and otherwise than in the normal course of events. Needs for clothing arising from normal wear and tear or otherwise in the normal course of events are expected to be met as part of the claimant's normal requirements covered by his or her supplementary allowance. There is given a specific example in regulation 27(1)(a) of a need arising in the normal course of events, viz. an item of clothing or footwear being outgrown. In my judgment this is a reference to the items being outgrown in the normal course of events and not to an item being outgrown because of some abnormal or exceptional circumstances such as very rapid growth such that a child requires replacement of clothing very much more quickly than is normal. It was the claimant's case that her child had grown abnormally fast. I do not think that it would be right to award a payment for clothing in these circumstances unless the rate of growth has been of a different order from the normal; but the tribunal do not appear to have considered this question; and the tribunal to whom the appeal is now referred should do so.

6. In the event that the tribunal do not under regulation 27 award a payment for any or all of the items claimed they will have to go on to consider regulation 30. By implication I should take it that the tribunal did not consider that a payment for the now outstanding items represented the only means by which serious damage or serious risk to the health or safety of the child could be prevented. It was plainly open to them on the evidence to reach this conclusion, but it would have been better if they had stated it expressly instead of leaving it to implication. The matter will have to be considered afresh by the new tribunal in relation to items for which a payment is not awarded under regulation 27.

7. The appeal is allowed.

Signed: J G Monroe
Commissioner

Date: 5 September 1983

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