

CSB 52/1987

JGM/SH

*Clothing - inadequate
Reason*

SUPPLEMENTARY BENEFITS ACT 1976

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

DECISION OF SOCIAL SECURITY COMMISSIONER

1. My decision is that the decisions of the supplementary benefit appeal tribunal dated 19 October 1982 are both erroneous in point of law. They are set aside accordingly. The matters must be referred to another tribunal.

2. The appeals concern two distinct matters. The appeal to which I shall refer as the first appeal concerns a claim or claims for a single payment for an assortment of items of clothing, in relation to which it seems that regulations 27, 28 and 30 of the Supplementary Benefit (Single Payments) Regulations 1982 were relied on. The claims were rejected by the benefit officer whose decision was confirmed on appeal by the appeal tribunal. So far as regulation 27 was concerned they were rejected on the ground that the need had arisen through normal wear and tear. Under regulation 28 they were rejected on the ground that the claimant's redundancy payment was not money set aside within the meaning of the regulation; and under regulation 30 they were rejected on the ground that no serious risk to the health or safety of the assessment unit would arise if the payments were refused.

3. The benefit officer now concerned supports the claimant's contention that the grounds of the decision were either inadequately expressed or actually unsound, and I propose briefly to indicate why I agree. As to regulation 27, which is the main provision under which single payments may be made for clothing, no payment can be made under the regulation where the need arises from normal wear and tear. A need so arising is expected to be met out of the payment for a claimant's normal requirements. Regulation 27(1)(a) gives a number of examples of cases in which a payment can be made. The list is not of course exhaustive but it does include need arising from rapid weight loss or gain. The tribunal had evidence before them

that the claimant's wife's weight had as the result of an operation fallen from 9 stone 7 pounds to 8 stone. Their only finding of fact on this was that she had lost weight after an operation. If they accepted the evidence about the loss of weight they needed to make a finding about whether it was rapid and if so to indicate in the grounds of the decision why they did not think it right to award a single payment for clothing said to be needed on this account. In this connection the claimant has referred to a finding of fact (not alluded to in the reasons) that the claimant's wife's clothing could be adapted. The claimant submits that this is not a relevant consideration. I do not agree. I think that it is open to a tribunal to find that there is no need for single payment for clothing when clothing that can reasonably be expected to be adapted is available. However on the issue of clothing for which a need was said to exist on account of the claimant's wife's weight loss the findings and reasons are plainly not expressed in a manner that satisfies the requirements of regulation 7(2) of the Supplementary Benefit and Family Income Supplements (Appeals) Rules. The reasons for rejecting claims for all the single payments requested are so wrapped up that I do not think that I can sever the various claims and set aside a part only and I set aside the whole. The matter must go back to another tribunal.

4. I turn now to regulation 28. I infer from the reference to money set aside that it was regulation 28(1)(b) that was put in issue. This provides (in effect) that where a claimant has spent on any item for which, had he claimed it, a single payment would have been made money set aside to provide for any item in the category of normal requirements and in consequence cannot meet such normal requirements he is to receive a single payment. The tribunal simply decided that the balance of the claimant's redundancy payment was not money set aside. I agree that a redundancy payment is not, as such, money set aside for any of the things mentioned in regulation 28(1)(b). But there is no reason why a claimant should not set aside part of his redundancy payment for such a purpose. I think that what the tribunal decided was that because the money in question was part of the claimant's redundancy money it was for that reason not money set aside for any relevant purpose. I do not think that this follows. What needs now to be found is whether any money set aside for any normal requirements had been expended on items for which a single payment might have been claimed and if so how much. There was evidence that the claimant still had £135 out of the redundancy money. This had clearly not been expended on any purpose relevant to regulation 28. The tribunal to whom the matter is referred back must go into this question.

5. This leaves regulation 30. The conclusion of the tribunal about regulation 30 cannot in my judgment be criticised. But the tribunal to whom the matter is referred back will have to consider it afresh if it is raised.

6. I now turn to the second appeal. The claimant was refused an additional requirement for heating and an additional requirement for laundry by the benefit officer. The tribunal allowed an additional requirement for heating, and that conclusion is not challenged now by the benefit officer. He was refused an additional requirement for laundry notwithstanding that there was evidence, which the tribunal accepted, that the claimant's son was incontinent due to a kidney complaint and that this created extra washing of bed linen. Paragraph 17 of Schedule 3 to the Supplementary Benefit (Requirements) Regulations 1980 provides for an additional laundry allowance to be awarded in two cases one of which is where:-

"the quantity of laundry is substantially greater, for example because of incontinence, than the amount that would normally be generated by an assessment unit of the same composition".

The tribunal did not refuse the addition on the ground that the increase in the amount of laundry was not substantial; indeed there is no reason for thinking that they thought it was not. They refused it on a somewhat sophisticated ground derived from regulation 9(i) of the Supplementary Benefit (Single Payments) Regulations 1981 reproducing the almost identical provisions of regulation 9(4)(i) of the similarly named Regulations of 1980. Under that regulation a single payment for a washing machine can be awarded only where an additional requirement for laundry is not appropriate (broadly) because a laundrette is not available. The tribunal found that the claimant had a washing machine and deduced from that that he could not also have an additional requirement for laundry. This does not however follow from the terms of the regulations and the grounds for refusal of the laundry allowance were unsound. As I cannot on the findings of the tribunal determine what the amount of the laundry allowance should be I must send this decision also back to another tribunal. They should confirm and not disturb the present tribunal's decision on the additional heating allowance.

7. The claimant's appeal is allowed. Being able to allow it without troubling the claimant to attend I did not hold an oral hearing as requested by the claimant.

(Signed) J G Monroe
Commissioner

Date: 2 June 1983

Commissioner's File: CSB/52/1983
C SBO File: 1302/82