

JSW/JW

SUPPLEMENTARY BENEFITS ACT 1976

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

DECISION OF THE SOCIAL SECURITY COMMISSIONER

Name:

Supplementary Benefit Appeal Tribunal:

Case No:

Decision: CSB 25/81

1. My decision is that the decision of the Watford Appeal Tribunal on 5 January 1981 confirming a supplementary benefit officer's decision not to award an additional requirement for attendance fees to attend an adult training centre in week commencing 24 November 1980 to and including the prescribed pay day in week commencing 8 June 1981 is not erroneous in law.

2. The appellant, who was in receipt of a supplementary allowance, claimed that his allowance be revised to cover the cost of attendance fees of 40p a day, amounting to £2 a week, at Hornbeams Adult Training Centre. His claim was made on the basis that, by a decision of an appeal tribunal on 10 November 1980, such an increase was awarded. In support of his claim, the appellant has referred to the supplementary benefits scheme in operation under the Supplementary Benefits Act 1976 before it was amended. In the submission on the appellant's appeal, the benefit officer has referred to a number of statutory provisions. These affect the change in the supplementary benefit scheme which came into operation on 24 November 1980. The Supplementary Benefits Act was amended and new regulations made to introduce a new scheme with effect from week commencing on that date. One of its purposes was to eliminate, as far as possible, allowances which depended on discretion and to substitute a code of entitlements governed much more firmly by the law and, in particular, the Supplementary Benefits Regulations. Paragraph 4(1) of Part I of Schedule 1 to the Act no longer exists as it was before amendment by paragraph 30 of Schedule 2 to the Social Security Act 1980.

3. Whether or not the award was correct under the former scheme, as to which I express no opinion, I find nothing in the amended Act or the regulations, and I have not been referred to any provisions, which provide for education as a requirement for the purposes of supplementary benefit. Fees and charges payable for education, which the daily attendance charge is, are not covered by the statutory requirements and are not subject to the exercise of a discretion. For the purposes of the amended Schedule 1 to the Supplementary Benefits Act 1976, requirements shall be of 3 categories, normal requirements, additional requirements and housing requirements. The

benefit officer dealing with the appeal has explained that the items of each category 'shall be such as may be prescribed'. These have been prescribed in the Supplementary Benefit (Requirements) Regulations 1980 referred to by the benefit officer. There is no provision in Schedule 3 to those regulations for any requirement that could conceivably cover the claim for payment of fees or charges for attending the adult training centre. There is, moreover, no provision for flexibility or discretion such as is contended for by the appellant.

4. Having considered the claimant's grounds of appeal and the statutory provisions, in my judgment, the submission of the benefit officer is right and there was no error of law in the decision of the appeal tribunal.

5. The appeal is dismissed.

(Signed) J S Watson
Commissioner

Date: 22 September 1981

Commissioner's File: CSB/56/1981
CSBO File: SBO 69/81