

Commissioner's File: CSB/289/1990

SUPPLEMENTARY BENEFITS ACT 1976

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

House

1. For the reasons hereinafter appearing, the decision of the social security appeal tribunal given on 14 June 1990 is erroneous in point of law, and accordingly I set it aside. I direct that the case be reheard by a differently constituted tribunal, who will have regard to the matters mentioned below.
2. The claimant, who was in receipt of supplementary benefit and had no capital, claimed on 9 February 1988 a single payment for various items of clothing and other items, which are not the subject of this appeal. The claim was in due course rejected and the claimant appealed against the decision to the tribunal. He stated that the need arose because he suffered from nervous debility and needed extra clothing because of his condition.
3. In his written observations on the claimant's appeal, the adjudication officer submitted that a single payment could not properly be made because the claimant did not satisfy the conditions of either regulations 27 or 30 of the Supplementary Benefit (Single Payments) Regulations 1981, as amended.
4. The claimant did not attend the hearing of the appeal before the tribunal on 14 June 1990. In the event the tribunal dismissed the appeal. The claimant now appeals to the Commissioner on a point of law, leave having been granted by a Commissioner.
5. Regulation 25(2)(b) of the Social Security (Adjudication) Regulations 1986 provides that every tribunal chairman shall record a statement of the reasons for the tribunal's decision and of their findings on material questions of fact. In the present case for the reasons set out below the tribunal chairman failed to comply with the statutory requirements. The decision

was erroneous in law in consequence. I should put on record that the adjudication officer now concerned supports the appeal on this ground.

6. Regulation 3(2)(a) of the Single Payments Regulations provides that a single payment shall be made only where there is a need for the item in question. Although it is the practice to refer to the claimant as having made a claim to a single payment notwithstanding that it covers a variety of different items, strictly the position is that he has made a separate claim in respect of each item. Accordingly, there are in effect a series of claims for determination and not a single composite claim covering a variety of items. The question has to be determined by reference to the situation as at the date of claim by applying the law then currently in force (R(SB) 42/83). Where the same law and facts apply to a group of items, it is of course permissible to give reasons in respect of that group provided the facts make it clear which items are included in that group.

7. A single payment for any item of clothing or footwear specified in column 1, of Schedule 2, to the Single Payments Regulations may be awarded subject however to the criterion of "need" first being satisfied in respect of each item. Although the tribunal did not specifically state that the claimant satisfied regulation 3(2), the mere fact that they went on to consider regulations 27 and 30 carries with it the implication that they had reached this conclusion. However, the new tribunal should make a finding on this issue. The tribunal gave reasons for concluding that the claimant did not satisfy the conditions of entitlement contained in regulation 27(1)(a). The tribunal accepted that as a result of his illness "that he has been in and out of hospital from time to time" and in those circumstances it was incumbent on them to have regard to paragraph (b) which provides for the need of clothing and footwear on admission to hospital. "Patient" is defined in regulation 2(1).

8. If the new tribunal conclude that the claimant cannot satisfy the conditions of entitlement contained in regulation 27(1) of the Single Payments Regulations, they should proceed to consider regulation 30 where a single payment can be made to meet an exceptional need in a case where "such a payment is the only means by which serious damage or serious risk to the health or safety of any member of the assessment unit may be prevented". There is nothing in the tribunal's decision to indicate that they considered the claimant's entitlement under this regulation.

9. I should add for completeness that the tribunal referred to the fact that the claimant's doctor failed to provide medical evidence in support of the claimant's claim. Corroboration of a claimant's evidence is not a necessity (see Decision R(SB) 33/85). However it would assist the claimant's case if such evidence could be submitted to the tribunal that rehearses this case.

10. The claimant's appeal is allowed and I give the decision set out in paragraph 1.

(Signed) R.F.M. Heggs
Commissioner

(Date) 27 February 1992