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COMMISSIONERS DECISION

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SOCIAL SECURITY ACTS 1975 TO 1980

CLAIM FOR INVALIDITY BENEFIT

DECISION OF THE SOCIAL SECURITY COMMISSIONER

1. My decision is that invalidity benefit is not payable from 28 March 1980 to 31 March 1980 (both dates included) because the claimant has not proved that during that period he was incapable of work by reason of some specific disease or bodily or mental disablement.
2. This is an appeal by the claimant from the decision of a local tribunal dated 7 May 1980 which disallowed the claimant's appeal from the decision of the local insurance officer dated 2 April 1980 to the above effect.
3. The claimant claimed invalidity benefit from 28 March 1980 by means of a medical statement of that date advising him to refrain from work for 7 days on account of "Headaches". The statement was handed in at the local office of the Department of Health and Social Security on the day it was issued. An attempt was made to visit the claimant on 31 March 1980, but he was not at home. A further attempt to visit him was made on 1 April 1980 but the visiting officer was told that he had resumed work on that day and on 3 April 1980 a further medical statement dated 1 April 1980, advising him to refrain from work until that day, was received from him. In his evidence before the local tribunal he said that he had tried to see his doctor on Monday 31 March 1980, apparently with the intention of informing the doctor that he was ready to go back to work, but as he could not see the doctor until 1 pm on Tuesday 1 April he went back to work on that day and when he told the doctor that he had done so was given the final statement.
4. The claimant has a very long record of claims and at the time when he made the claim in issue he had not worked for 13 consecutive weeks for over 2½ years. As was explained in the local insurance officer's submission to the local tribunal, it is well established that a claimant's record of previous claims may be legitimately taken into consideration in determining whether incapacity has been proved although caution has to be exercised in drawing inferences from such a record.

5. In the present case I am satisfied that in all the circumstances the claimant's record afforded ample justification for the critical approach to his claim adopted by the local insurance officer and local tribunal. In the absence of any evidence from the claimant's doctor backing up the form Med 3 that he gave the claimant on 28 March 1980, or any other medical evidence supporting the claim, I have no doubt that the local tribunal's decision that the claimant had not proved that he was incapable of work during the period in issue was correct and I must therefore dismiss the appeal.

6. I hope that this decision will explain to the claimant that the effect of his long record of claims is to cast doubt upon the weight which should be attached to the medical statements upon which his claims are based, except, of course, in cases where it is obvious that his claims are well founded. He must understand that the burden of proving incapacity lies on him and that where the evidentiary value of his medical statements is challenged it is up to him to produce, if he can, some support for the statements by way of a letter from his doctor or otherwise.

7. For the foregoing reasons my decision is as set forth in paragraph 1 above.

(Signed) J N B Penny  
Commissioner

Date: 24 July 1981

Commissioner's File: C.S. 1/1981  
C I O File: I.O. 8100/V/80  
Region: Yorkshire and Humberside