DGR/SH/27

Commissioner's File: CS/281/1993

SOCIAL SECURITY ACTS 1975 TO 1990

SOCIAL SECURITY ADMINISTRATION ACT 1992

CLAIM FOR SEVERE DISABLEMENT ALLOWANCE

DECISION OF THE SOCIAL SECURITY COMMISSIONER

Name: Patricia Joyce Stringer (Mrs)

Appeal Tribunal: Exeter

Case No: 305/00576

1. For the reasons set out below, the decision of the Medical Appeal Tribunal ("MAT") given on 19 October 1992 is not erroneous in point of law, and accordingly this appeal fails.

2. The history of this case, so far as is relevant, is that the Secretary of State received a claim for severe disablement allowance on form SDA1 dated 7 October 1991, and referred the claim to an adjudicating medical authority ("AMA") to decide the medical question in accordance with regulation 29(3) of the Social Security (Adjudication) Regulations 1986. On 13 January 1992 the claimant was medically examined, and the AMA decided that the degree of disablement resulting from the claimant's loss of faculty did not amount to at least 80%. They assessed her condition at 60% from 5 June 1991 to 20 December 1997. The claimant was dissatisfied with this assessment, and appealed to the MAT, who on 19 October 1992 assessed the extent of disablement at 65% as follows:-

> "Fibro-myalgic syndrome 15%
>
> Obesity-asthma (intermittent attacks) 20%
>
> Osteo-arthritis of the knee, neck and back 20%
>
> Hiatus hernia 10%."

The claimant contends that the MAT erred in point of law.

3. Manifestly, when the claimant appealed from the AMA to the MAT, the whole question of her medical condition was at large. The tribunal did not consider that the claimant was suffering from pulmonary hypertension and slow ventricular filling, and

gave reasons for their conclusion, and they adjusted the assessments attributed to other facets of the claimant's condition. In particular they reduced the AMA's award of 35% for asthma to 20%, and the Secretary of State contends that the MAT should have given some explanation for their action. He says "it is therefore submitted that it is not clear to the customer in what respect they disagree with the AMA's assessment of this condition, nor why they reduced the assessment to 20%". I reject that submission.

4. The MAT, as the appellant medical body, had to look again at the assessment made by the AMA, and in the exercise of their medical expertise make a value judgment as to what they considered was the correct assessment, and if this was at variance with the view of the AMA, they were at liberty to substitute their own opinion. This they did. Whereas the AMA thought an award of 35% was appropriate, the MAT thought otherwise. They were not required to justify their medical expertise. They were simply required to make their own judgment, which they did; they thought the tribunal were wrong, which they were entitled to do, and they simply substituted what they thought was appropriate. No further explanation was needed.

5. In short, I see nothing wrong in law with the tribunal's decision, and have no hesitation in dismissing this appeal.

(Signed) D.G. Rice
Commissioner

(Date) **2 March 1994**