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SOCIAL SECURITY ACTS 1975 TO 1981

CLAIM TO NON-CONTRIBUTORY INVALIDITY PENSION

DECISION OF THE SOCIAL SECURITY COMMISSIONER

CSS 15/82

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[ORAL HEARING]

1. My decision is that non-contributory invalidity pension is payable to the claimant from and including 18 November 1980.

2. The claimant claimed non-contributory invalidity pension on 17 December 1980. Under the relevant statutory provisions before a woman can be found entitled to the said benefit she must show that she was incapable of work and household duties for a period of not less than 196 consecutive days ending immediately before the day from which she wishes to claim. In this connection regulation 13A(2) of the Social Security (Non-contributory Invalidity Pension) Regulations 1975, as amended from 13 September 1978, provides:-

"A woman shall be treated as incapable of performing normal household duties if, without substantial assistance from or supervision by another person, she cannot or cannot reasonably be expected to perform such duties to any substantial extent, but she shall not be treated as so incapable if, without such assistance or supervision, she can or can reasonably be expected to perform such duties to any substantial extent".

3. In the claim form for the said benefit the claimant indicated that she was able to do very little in the way of household duties. In connection with her claim she was examined by her own doctor on 16 January 1981, and that doctor submitted a report of the same date. The diagnosis of the claimant's disabilities was stated by the doctor to be hypertension, cerebro-vascular incident and chronic duodenal ulcer. The doctor explained that the duodenal ulcer had not caused any trouble for several years. It is of importance in my view to refer in some detail to other portions of the said report. The said doctor stated amongst other things that the claimant had long standing hypertension for which she had been on treatment since 1968; that on about April 1980 she had had a mild cerebro-vascular incident from which she had made a good recovery but which had left her forgetful and indecisive; that prior to the said cerebro-vascular incident, she had always been busy and in fact had done too much; that since the said incident she had poor motivation and was quite content to sit passively and do very little; that with regard to ability to perform normal household duties

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lack of motivation following the said incident was the major factor; and that she had had spells of mild endogenous depression. Later in his report the said doctor stated that the claimant at the time of his examination had a degree of depression and that some degree of supervision was certainly necessary because she was unlikely to regain the capacity to make decisions. He thereafter stated that the claimant had been started on an anti-depressant and would hopefully improve within weeks. He expressed the view that the claimant should refrain from work, but he also stated that the claimant was capable in his view of most household duties.

4. The claimant has been incapable of work since 6 May 1980. She cannot therefore in any event be entitled to the benefit in question until 18 November 1980, i.e. 196 days after 6 May 1980. The local insurance officer, however, decided that the claimant had not proved that she was incapable of performing normal household duties, and, having regard to the report from the claimant's own doctor, a local tribunal reached a similar conclusion. In those circumstances the local insurance officer and the local tribunal decided that non-contributory invalidity pension was not payable to the claimant. The claimant's daughter thereafter applied for leave to appeal to the Commissioner from the decision of the local tribunal, and that application was granted. The claimant's husband requested an oral hearing in connection with the claimant's appeal, and that request was granted. The said husband appeared at an oral hearing before me and gave evidence regarding the claimant's condition. He explained that the claimant was unable to attend the hearing; that there had recently been a deterioration in her condition; that her mobility was extremely limited; and that she was now very incontinent. He also explained, as was stated in the doctor's report, that prior to her cerebro-vascular incident she had been an active and very busy person. He further stated that he had tried to encourage her to do things in the house but she just did not do them.

5. Prior to the claimant's cerebro-vascular incident, she appears to have been, as her doctor states, a busy person who in fact did "too much" i.e. presumably including household duties etc. After her said cerebro-vascular incident a dramatic change appears to have occurred. Although according to her doctor she was apparently physically capable of most household duties shortly after her cerebro-vascular incident, she appears for mental reasons to have been incapable of having the motivation to carry out a substantial number of household duties. It is also of importance to note that the doctor who gave the above-mentioned report considered that she required a degree of supervision because as he stated "she is unlikely to regain the capacity to make decisions and act under them without some prompting."

6. The insurance officer now concerned with the case and his representative at the oral hearing before me founded on a decision given by another Commissioner on 4 December 1979 in which the facts were somewhat similar to those existing in the present case - see decision on Commissioner's file C.S.239/1979. In the course of his decision, the said Commissioner stated as follows:-

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"In this connection the medical evidence is of paramount importance. Now, her doctor says that her inability stems from a mental incapacity. Of course, a claimant can ground her claim just as much on mental disablement as on physical disablement. However, the mental or psychological condition which operates to prevent the claimant from using her undoubted physical powers to discharge the various household tasks required of her has to be a specific mental disablement. It has to be something which controls and dominates her personality; it is not enough if it denotes a mere propensity to do or refrain from doing something and is such that with reasonable determination on the part of the person in question it could be overcome."

It was contended by the insurance officer's representative that in the present case the claimant's mental condition was not unduly severe, and the impression I got was that it was being contended that the claimant was not prevented from discharging household duties due to a specific mental disablement. My view in this whole connection is the following. If through indolence, disinclination or laziness, a claimant does not carry out household duties, then of course she cannot satisfy the condition relating to inability to carry out a substantial amount of household duties. If, however, a woman, although physically capable of carrying out household duties, is unable because of genuine mental reasons to carry out a substantial amount of household duties, then in my opinion she satisfies the statutory condition in regard to inability to perform normal household duties. On a consideration of the evidence before me, and having regard to the evidence given by the claimant's husband at the hearing before me, I have reached the conclusion that following upon her cerebro-vascular incident the claimant by reason of a mental disability, the exact nature of which is not clear to me, has been incapable of carrying out normal household duties to any substantial extent as from at least 6 May 1980. In all the circumstances I have therefore reached the decision set forth in paragraph 1 above.

7. The appeal brought on the claimant's behalf is allowed.

(signed) Douglas Reith
Commissioner
Date: 12 July 1982

Commissioner's File: C.S.S.15/82
C.I.O. File: I.O.8405/NV/81
Central Office File: North Fylde Central Office