

JGMI/HD

Commissioner's File: CSSP/85/85
C.A.O. File: AO 2164/85
L.O: Airdrie
L.O. Ref. No: 2711/124983

Bottom of para 5 Commissioner points to the need for the need to consider each individual's case when considering whether 35p a load is reasonable.

SUPPLEMENTARY BENEFITS ACT 1976

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

DECISION OF THE SOCIAL SECURITY COMMISSIONER

Name:

Social Security Appeal Tribunal: Lanarkshire

[ORAL HEARING]

1. My decision is that the decision of the social security appeal tribunal dated 15 January 1985 is erroneous in law and is set aside. The claimant's case is referred to a differently constituted tribunal for consideration afresh.
2. This is an appeal by the claimant, with leave, against the above-mentioned decision of a social security appeal tribunal. The claimant's case before the tribunal was concerned with the assessment of his entitlement to an additional requirement for laundry costs under the provisions of paragraph 18 of Part II of Schedule 4 to the Supplementary Benefit (Requirements) Regulations 1983. The appeal was dealt with at an oral hearing held before me at which the claimant, who did not attend, was represented by Mr. C. Orr of Strathclyde Social Work Department and the adjudication officer was represented by Mr. C. A. M. E. D'eca of the Solicitor's Office of the Department of Health and Social Security.
3. Under the provisions of regulations 11 and 13 of the above-mentioned Requirements Regulations entitlement to and the amount of an additional requirement in respect of laundry costs is to be determined in accordance, respectively, of columns 1 and 2 of paragraph 18 of Part II of Schedule 4 to those regulations. Paragraph 18 is in the following terms:-

"18. Where -

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| <p>(a) the laundry of the assessment unit cannot be done at home because all adult members of the household are ill, disabled or infirm or because there are no suitable washing or drying facilities; or</p> <p>(b) the quantity is substantially greater, for example because of incontinence, than the amount which would normally be generated by an assessment unit of the same composition;..."</p> | <p>18. The amount by which the estimated average weekly laundry costs exceed £0.45.</p> |
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4. On 23 July 1984 the claimant requested a review of, inter alia the assessment of the additional requirement for laundry costs which was already in payment under paragraph 18(b) quoted above. The adjudication officer refused to review that assessment and adhered to his existing assessment of £2 weekly. This figure was calculated on the basis that the claimant's assessment unit required 7 wash loads weekly at £0.35 per load. The resultant cost exceeded by £2 per week the figure of £0.45 referred to in column 2 of paragraph 18. The claimant appealed to a social security appeal tribunal, where his representative endeavoured to persuade the tribunal that a higher figure of £0.47 to £0.53 per load should be adopted in the calculation of the estimated average weekly laundry costs of the claimant's assessment unit. This was said to have been tested by experiment. The social security appeal tribunal unanimously refused the claimant's appeal. The tribunal held that £0.35 per load was a "reasonable figure for each wash". The reasons for the decision were recorded as:- "The Tribunal accept the D.H.S.S. calculation that 35p is a reasonable amount to allow for each wash." The claimant has appealed to the Commissioner, contending that the decision of the tribunal is erroneous in law and his appeal is supported by the adjudication officer.
5. Under the provisions of regulation 19(2)(b) of the Social Security (Adjudication) Regulations 1984 as amended the chairman of the tribunal is required to include in the record of the decision a statement of the reasons for the decision and of the tribunal's findings on questions of fact material thereto. In my judgment the decision of the tribunal as recorded in this case does not fulfil those requirements. The issue in contention was as to the appropriate unit cost to be taken into account in computing the average weekly laundry costs of the claimant's assessment unit and a competing breakdown of the unit cost producing a higher figure than £0.35 had been put forward on behalf of the claimant. The chairman's notes of evidence show that this was based on an alleged electricity consumption and alleged detergent costs which were higher than those adopted for the purposes of the figure of £0.35 put forward by the Department of Health and Social Security. The tribunal were of course quite entitled to reject the claimant's contentions and to prefer the Department's figure but their reasons for adopting this course should have been given, particularly so far as the higher unit cost put forward by the claimant may have involved any element which the tribunal did not accept as relevant or accurate. The tribunal decision however does not reveal any reason whatsoever for preferring the departmental calculation to that put forward on behalf of the claimant. Moreover of course the tribunal were required to proceed on the best estimate they could make of the average weekly laundry costs of this assessment unit. It is not clear that in accepting the reasonableness of the departmental estimate, intended as a general yardstick guide, the tribunal kept firmly in view the individual nature of the assessment required of them.
6. The decision of the tribunal is erroneous in law and must be set aside. The claimant's case must be referred to a differently constituted tribunal for consideration afresh.
7. The claimant's appeal is allowed.

(signed) J. G. Mitchell
Commissioner
Date: 22 October 1985