

Laundry addition - amount awarded disputed -
failure by SSA1 to give adequate reasons for decision

RFMH/SH/18

Commissioner's File: CSSB/335/1987

Region: Scotland

SUPPLEMENTARY BENEFITS ACT 1976

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

DECISION OF THE SOCIAL SECURITY COMMISSIONER

Name: Jean Waugh (Mrs)

Social Security Appeal Tribunal: Glasgow South

Case No: 304/09

1. My decision is that the decision of the social security appeal tribunal dated 12 February 1987 is erroneous in point of law and I set it aside. I direct that the matter be reheard by a differently constituted tribunal in accordance with the directions in this decision.
2. The facts before the adjudication officer, as set out on form AT2, state that at the material time the claimant was aged 26 and separated from her husband. She had three dependant children then aged 8, 5 and 4. She was in receipt of supplementary benefit and had no income.
3. As a result of a visit to the claimant's home by an officer of the Department of Health and Social Security on 20 March 1986, a further visit was made on 16 May 1986, when the claimant claimed an additional requirement for laundry costs. She stated she had to use the laundry facilities at Dougrie the total cost being £19.95 per week.
4. On 27 May 1986 the adjudication officer decided that the claimant was entitled to an additional requirement of laundry costs of £11.75 per week up to and including the relevant pay day commencing 19 May 1986 and an additional requirement for laundry costs of £4.85 per week from the relevant pay day week commencing 26 May 1986. The increase awarded was backdated to the date of claim for supplementary benefit in February 1986. The adjudication officer based the decision of laundry costs from information obtained at the visit on 16 May 1986. The claimant stated she was using the launderette at Dougrie Road six days per week. The launderette machine used was a small machine and the claimant also had fares of 0.70 pence per day. The claimant was unsure of the total cost and the laundry addition was calculated from local knowledge of costs involved. It was suggested to the claimant at the time of the visit that she should use the launderette at Mitchellhill which was much nearer to the claimant. The claimant was unaware of this facility but agreed to make use of it. Laundry addition was therefore revised from relevant pay day commencing 26 May 1986 to take into account the use of this launderette. The adjudication officer submitted a minute showing how the calculation was done. He rejected the estimated cost of £19.95 as unrealistic having regard to the amount of supplementary benefit in payment to

the claimant. However, the claimant was dissatisfied with the amounts awarded and appealed to the tribunal.

5. In his written observations on the claimant's appeal the adjudication officer accepted that the claimant was entitled to an additional requirement for laundry costs under column (1) of paragraph 18(b) of Part II of Schedule 4 to the Supplementary Benefit (Requirements) Regulations 1983, as amended, in that the quantity of laundry was substantially greater due to the claimant's children's incontinence. The adjudication officer reiterated the basis of calculation which led to the awards.

6. The claimant and her representative attended the hearing of the appeal before the tribunal on 12 February 1987. The chairman's note of evidence so far as relevant reads as follows:-

"Presenting officer said calculation had been revised from 15.9.86. It was submitted for claimant that increase then made should be backdated to date of claim.

Presenting officer said assessment previous to 15.9.86 was incorrect, claimant had gone back to Dougrie Road launderette again according to the visiting officer. Claimant said she found Mitchellhill launderette had only small machines and it cost just as much. Evidence of Department was that claimant had changed back in September 1986 according to statement made at visit in October. Claimant now said she tried Mitchellhill laundry for few weeks only. In the event the tribunal dismissed the appeal. The findings of fact read:-

- "1. Date of claim was 16.5.86.
2. At that date claimant was entitled to laundry addition of £11.75.
3. At 26.5.86 claimant was entitled to laundry addition of £4.85 per week.
4. Tribunal accepted that claimant did not stop using Mitchellhill launderette until September 1986."

The reasons for decision read:-

"Paragraph 18 of Part II of Schedule 4 to the Supplementary Benefit (Requirements) Regulations applied."

The claimant now appeals to the Commissioner on a point of law leave having been granted by a Commissioner.

7. Regulation 19(2)(b) of the Social Security (Adjudication) Regulations 1984 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 statutory requirements. The tribunal's decision was erroneous in law on this ground and I have no alternative but to set it aside. I should put on record that the adjudication officer now concerned supports the appeal on this ground.

8. It is not in dispute that the claimant was entitled to an additional requirement for laundry costs under column (1) of paragraph 18(b) of Part II of Schedule 4 to the Requirements Regulations. What is in dispute is the amount of the additional requirement for laundry costs awarded. Column (2) of paragraph 18 provides that the amount of the additional requirement for laundry costs is "the amount by which the estimated average weekly laundry costs exceeds £0.55". Regulation 13(1)(c) of the Requirements Regulations provides that the weekly amount specified in the said column (2) shall be applied to the

claimant "where the condition in column (1) of the paragraph is satisfied."

9. The evidence indicates that the award of an additional requirement for laundry costs was backdated to February 1986 when the claimant claimed supplementary benefit. The tribunal found as fact that on 16 May 1986 the claimant was entitled to £11.75 and that from 25 May 1986 the amount decreased to £4.85 per week when it was found that the claimant had transferred to the nearer and cheaper launderette. In her grounds of appeal to the tribunal the claimant estimated that her weekly expenditure was approximately £19. The tribunal failed to explain why they rejected the claimant's statement. Further the tribunal found as fact that the claimant did not stop using the Mitchellhill launderette until September 1986 and accepted the presenting officer's evidence that this accorded with the statement made by the claimant "at visit in October". The claimant disputed this and stated that she had tried the Mitchellhill launderette for a few weeks only. The tribunal failed to provide the claimant with clear and adequate reasons for their decision so that she was left in the dark as to why her evidence had been rejected.

10. The amount of the additional requirement for laundry costs is the weekly amount referred to in column (2) of paragraph 18, the amount by which the estimated average weekly costs exceeds 0.55. What requires to be estimated by the new tribunal are the average weekly laundry costs of the claimant. As a starting point the average past weekly laundry costs of the claimant should be ascertained by the new tribunal, so far as figures are available. There may be reasons for making a different estimate of future weekly laundry costs because circumstances differ from those obtaining in the past (eg charges at the launderette have increased or, perhaps, diminished). But past laundry costs should be the foundation of any estimate. The new tribunal should have regard to the explanation given by the claimant as to why she reverted using the Dougrie Road laundry as opposed to the Mitchellhill laundry in considering their decision. They should find as fact the dates during which the claimant used the Mitchellhill laundry and in the light of their findings estimate the cost including the fares payable in the calculation of the additional requirement. In this connection, the new tribunal should have regard to the remarks quoted in paragraph 5 of decision R(SB)1/84, which were:-

"The supplementary benefit legislation is directed to satisfying the requirements of claimants, and the approach must broadly be subjective rather than objective, although of course, it cannot be pursued to such absurd lengths of personal idiosyncrasies are catered for to the exclusion of all objective criteria based on reasonableness."

11. The record of the new tribunal's decision should comply with the Adjudication Regulations. The hearing before the new tribunal will constitute a complete rehearing and the parties will be at liberty to submit further relevant evidence if they so wish.

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

(Signed) R.F.M. Heggs
Commissioner

Date: 9 June 1988