

ATH/SH/6/MD

Commissioner's File: CA/120/1986
DHSS File: SD 450/2223

SOCIAL SECURITY ACTS 1975 TO 1986
APPEAL FROM DECISION ON REVIEW OF ATTENDANCE ALLOWANCE BOARD
ON A QUESTION OF LAW

1. I disallow this appeal by the claimant. The decision of the delegated medical practitioner on behalf of the Attendance Allowance Board dated 6 August 1986 was not, in my judgment, erroneous in law.
2. The claimant was born in 1913. On 27 August 1985 she made a claim for attendance allowance. On 2 October 1985 she was examined by a medical officer and by a decision dated 8 October 1985 the Attendance Allowance Board disallowed her claim for attendance allowance. The claimant applied for a review and on 14 March 1986 she was examined by a different medical officer. On 6 August 1986 a delegated medical practitioner reviewed the case and decided that the decision of 8 October 1985 should not be revised. The claimant now appeals with my leave.
3. As the decision in the present case might have been affected by the judgment of the Court of Appeal in the case of Moran v. Secretary of State for Social Services, I extended the time for making written submissions until the Court of Appeal had given judgment in that case. In the event, the judgment of the Court of Appeal has not materially affected my decision in the present case.
4. I have considered very carefully the arguments put forward on behalf of the claimant by her representative from the Merseyside Welfare Rights Advice Centre and the supporting documents. I have also considered the full and careful submission of the Secretary of State dated 16 July 1987. I do not think that it is necessary for me to recite the careful arguments put forward by both sides. I have to bear in mind that I can allow an appeal only if I am satisfied that the decision of the delegated medical practitioner was erroneous in law. It is no part of my function to substitute my opinion for that of the medical authorities. I appreciate that it is often difficult to determine on which side of the line a case falls but I must accept the clinical judgment of the medical authorities.

5. Having considered, as I have said, the matter very carefully, I have come to the conclusion that there is no error of law in the decision of the delegated medical practitioner. Accordingly, I disallow this appeal.

(Signed) A.T. Hoolahan
Commissioner

Date: 30 September 1987