

DLA/AA (3062) Reviews —
Ann 16 43054 Collins

RAS/SH/3

Commissioner's File: CDLA/606/1994

SOCIAL SECURITY ACTS 1975 TO 1990
SOCIAL SECURITY ADMINISTRATION ACT 1992
CLAIM FOR DISABILITY LIVING ALLOWANCE
DECISION OF THE SOCIAL SECURITY COMMISSIONER

Name: Lorraine Cain
Appeal Tribunal: Central London (South)
Case No: D/22/011/94/0089

1. This is an appeal by the claimant against the decision of the Central London (South) disability appeal tribunal, given on 8 July 1994, whereby the tribunal decided that the claimant was not entitled to the higher rate mobility component of disability living allowance.
2. The claimant, who suffers among other things from congenital hydrocephalus, had been awarded a lower rate attendance allowance for life and, by a decision said to have been made on 15 March 1993, was awarded the lower rate mobility component of disability living allowance from 6 April 1992 for life. Some months after that decision the claimant requested a review of her mobility component entitlement. Eventually an adjudication officer decided that there was no entitlement to the higher rate mobility component and the tribunal confirmed that decision.
3. As the current adjudication officer points out, because the request for the review of the mobility component was made more than three months after the decision awarding the lower rate, it was necessary for the adjudication officer and then the tribunal first to consider whether there were grounds for review (for example the decision was given in ignorance of or based on a mistake as to some material fact, or there had been or was likely to be a relevant change of circumstances: see section 30 of the Social Security Administration Act 1992). However, neither the adjudication officer nor the tribunal considered the review question. I agree with the current adjudication officer that, for that reason alone, the tribunal's decision is erroneous in law. Furthermore, with regard to whether the claimant satisfied

the conditions for the higher rate mobility component, it is plain that the tribunal's findings of fact are insufficient with regard to the matters made relevant to entitlement by regulation 12(1)(a)(ii) and (iii) of the Social Security (Disability Living Allowance) Regulations 1991. Those provisions are set out in the current adjudication officer's written submissions and I do not need to repeat them here. It is enough for me to say that the tribunal should have made findings as to distance, speed, length of time, manner of walking etc; in that connection they should also have made precise findings as to the claimant's propensity to fall and injure herself and as to how that affected her walking ability.

4. The tribunal's decision is erroneous in law because of the failure to deal with the review question and also for insufficiency of findings and reasons. I accordingly allow this appeal, set aside the tribunal's decision and remit the case for rehearing by a differently constituted tribunal.

5. I notice that the claimant does not have professional representation. This is by no means a straightforward case and I would suggest to the claimant's parents that they should endeavour to obtain such representation before the new tribunal. Their local Citizens Advice Bureau should be able to assist.

(Signed) R A Sanders
Commissioner

(Date) 15 May 1995