

SOCIAL SECURITY ACT 1986

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

INTERIM DECISION OF THE SOCIAL SECURITY COMMISSIONER

Name: Alice Grimes (Mrs) appointee for Susan Grimes

Social Security Appeal Tribunal: Manchester

Case No: 6/14/16936

[ORAL HEARING]

1. My interim decision is that the claimant's applicable amount of income support is to be calculated in respect of the period 11 April 1988 to 8 October 1989 (both dates included) so as to include a severe disability premium pursuant to paragraph 13 of Schedule 2 to the Income Support (General) Regulations 1987.

2. This appeal was heard at the same time as CIS/11/91 and the same representatives appeared. The only pertinent difference between the two cases is that, whereas in CIS/11/91 the decision officer's decision refusing the review and the date of the adjudication officer's decision, in the present case both the adjudication officer's decision and the tribunal's decision came before CIS/180/89. Mr. McLeary readily conceded that he had no argument in this case that regulation 72(2) of the Social Security (Adjudication) Regulations 1986 applied and he agreed that the claimant was entitled to her severe disablement premium at least from 11 April 1988 to 8 October 1989. The tribunal did not, it appears, have regard to regulation 72(1)(a) and did not back-date entitlement beyond the date of the request for review; nor did they have regard to the amendments made to the definition of "non-dependent" which, to be fair, may not have been drawn to their attention. So there is no doubt that the tribunal's decision is erroneous in law. As with CIS/11/91 I give an interim decision, as in paragraph 1, in relation to the pre-

amendment period and reserve my decision so far as it relates to the post-amendment period until after Foster in the House of Lords.

(Signed) R A Sanders  
Commissioner

Date: 9 August 1991