

---

*Held* that good cause for late notice must exist throughout the whole period from the fourth day of incapacity to the date of notice

---

1. My decision is that the claimant is disqualified for receiving sickness benefit from 5th July, 1948, to 14th September, 1948.

2. In respect of the period before 5th July, 1948, neither the Local Tribunal nor the Commissioner has any jurisdiction to decide the question by reason of the provisions of the National Insurance (Determination of Claims and Questions) (Transitional) Regulations, 1948 [S.I. 1948 No. 1311], Regulation 4. The purported decision of the Local Tribunal, therefore, so far as it relates to the period before 5th July, 1948, is a nullity.

3. The claimant became incapable of work on 27th June, 1948, having gone into hospital for a major operation. She left hospital on 20th July and went to a rehabilitation centre until 4th September, 1948, and there is no evidence of her incapacity after 14th September, 1948. She did not, however, give notice of her incapacity until 25th September, 1948. In explanation of her delay, she says that she had no thought of claiming benefit until she called at the National Insurance Office, because she thought that she would get nothing.

4. The Local Tribunal, by a majority, decided that until she left the rehabilitation centre on 4th September, 1948, she had good cause for delay in making her claim, and allowed her appeal, holding that she was entitled to benefit until that date. One member of the Tribunal dissented, thinking that she had good cause for her failure to make her claim before 25th September, 1948.

5. I do not feel able to accept that latter view, because of the widespread publicity that has been given to the National Insurance Scheme. Indeed, she agreed, when before the Local Tribunal, that she had seen pamphlets relating to the scheme. She could have written to inquire of the local Insurance Office if she could not obtain the information she required from any other source. Further, she said in her evidence before the Tribunal that the hospital had offered her certificates but she had refused them.

6. But I will now suppose that I accept the view of the majority of the Tribunal, and agree that she had good cause for her failure to give notice or make her claim until 4th September, 1948.

7. Such a decision, however, does not enable me to hold that she is entitled to benefit up to that date.

8. By the National Insurance (Claims and Payments) Regulations, 1948 [S.I. 1948 No. 1041], Regulation 15(2) proviso (which deals with the giving of notice of incapacity), "where the person proves that from the expiration of the said period of three days" (i.e., from the date on which the person became incapable of work) "*up to the day* on which the notice is given there was good cause for failure to give such notice, the time shall be extended to the date on which the notice is given".

9. A decision, therefore, that there was good cause for failure to give notice only for part of the time does not extend the time for giving notice.

10. Similarly, by Regulation 11(2) proviso of the same regulations, "if the claimant proves that there was good cause for the failure to make the claim before the date on which it was made, the prescribed time" (i.e., for making the claim) "shall be extended to the date on which the claim is made".

11. A finding that there was good cause for failure to make the claim before 4th September, 1948, is not a finding that there was good cause for failure to make the claim before 25th September, 1948.

12. It follows, that the claim was not made within the prescribed time and, accordingly, by Regulation 11(1)(b)(ii) the claimant is disqualified for receiving payment in respect of any period more than three days before the date on which the claim was made "Provided that, . . . , if in any case the claimant proves—(1) that on a date earlier than the date on which the claim was made, apart from satisfying the condition of making a claim, he was entitled to the benefit; and (ii) that *throughout the period between the earlier date and the date on which the claim was made* there was good cause for delay in making such claim; he shall not be disqualified under this paragraph for receiving any benefit to which he would have been entitled if the claim had been made on the said earlier date."

13. That proviso does not assist the claimant. That proviso only assists late claimants who succeed in showing that they had good cause for delay in the latter part of the period before the claim was made, although they had not good cause in the earlier part of that period.

14. There is no comparable provision covering the converse case, which is the claimant's case.

15. I must, accordingly, hold that the claimant had not good cause for her failure to give notice of her incapacity or make her claim before 25th September, 1948, and allow the Insurance Officer's appeal.

---