

MATERNITY BENEFIT

Late claim to maternity allowance—language difficulties discussed in relation to good cause. The Commissioner also comments on the report of the proceedings of the local tribunal

The claimant ceased work on 12.10.74. She claimed maternity allowance on 21.10.74 and was disqualified for receiving it from 12.10.74 to 19.10.74 on the ground that she had not shown good cause for the delay in claiming. This decision was upheld by the local tribunal but their findings and grounds of decision were not fully recorded. In the appeal to the Commissioner, it was said that the claimant's husband went to the local office on 14.10.74 to claim maternity allowance on her behalf. He was issued with form BM4 and told to obtain form Mat B1 from her doctor. The urgency of claiming was not explained to him. The claimant understands very little English and relies on her husband who also relies on the help of friends.

Held that:—

(i) the record of the tribunal's findings was such that there had been a breach of regulation 10 of the National Insurance (Determination of Claims and Questions) Regulations 1967, but the Commissioner had discretion to give a final decision himself;

(ii) difficulty over language is not *in itself* good cause for a delayed claim but difficulty in communication might in certain circumstances amount to good cause;

(iii) the claimant had proved good cause for the delay in claiming.

1. My decision is that maternity allowance is payable to the claimant for the inclusive period 12th to 19th October 1974 because she has proved that there was good cause throughout the period for failure to claim before 21st October 1974 as was provided by regulation 11 of and Schedule 2 to the National Insurance (Claims and Payments) Regulations 1971 [S.I. 1971 No. 707].

2. In the grounds of appeal to the Commissioner, objection is made that the report of the proceedings of the local tribunal is very inadequate. Regulation 10(1) of the National Insurance (Determination of Claims and Questions) (No. 2) Regulations 1967 [S.I. 1967 No. 1570] (now replaced by regulation 12(2) of The Social Security (Determination of Claims and Questions) Regulations 1975 [S.I. 1975 No. 558]) provides that a local tribunal shall record in writing all their decisions and shall include in the record of every decision a statement of the grounds of such decision and of their findings on questions of fact material thereto. The report of the local tribunal in this case is deplorably inadequate in that respect and is an example which lends support to the complaint of some claimants (although not the claimant in the present appeal) that a local tribunal merely "rubber stamps" the decision of the local insurance officer. That, of course, is not so and a report of the proceedings before a local tribunal should not give the impression that it is.

3. The insurance officer now concerned with this appeal submits that there has been a breach of the said regulation 10 and there can be no doubt that there has. It is open to me to remit the case to the local tribunal for rehearing but I have a discretion to give a final decision myself (Decision R(U) 3/63). The claimant's representative and the claimant have no further facts to present or submissions to make and the claimant's representative, in his letter of 6th May 1975, has requested me to decide the case on the documentary evidence, which I have decided to do.

4. The claimant ceased work on 12th October 1974 so was correctly disqualified for receiving maternity allowance before that date and there is no dispute as to any period before 12th October. In the grounds of appeal to the Commissioner, it is stated that on 14th October 1974 the claimant's husband went to the local office to claim maternity allowance for her. He took with him an exemption certificate for free medicine which the claimant's doctor had given her. It is alleged that he was told by the counter clerk that that was the wrong certificate and that form Mat B1 was required from the claimant's doctor. The claimant's husband was given a maternity benefit claim form BM 4 but he was not told to complete it at once or it might be late. The claimant's husband gave the claimant a note to take to her doctor asking for form Mat B1 to be completed by the doctor and, as the claimant had an appointment for a pre-natal check up on 23rd October, she took her husband's letter with her then.

5. The claimant understands very little English and relies on her husband who also relies on the help of friends. Language difficulty is a factor in the case. I would not regard difficulty over language as *in itself* good cause for a delayed claim. Persons who are claiming or receiving social security benefits should be diligent in seeking and obtaining interpretation of language and proper advice and it is not sufficient merely to rely on ignorance of language any more than it is good cause to prove, in the absence of any other relevant factors, merely illiteracy or ignorance of statutory provisions. Difficulty in communication, on the other hand, might in certain circumstances amount to good cause but there again steps should be taken to make matters clear. (Compare Decision C.S. 100/49 (K)).

6. The claimant attended and was represented before the local tribunal and her husband also attended. Whether or not all or any of that set out in the grounds of appeal to the Commissioner, which I have summarised in paragraph 4 above, was stated before the tribunal it is impossible to say from the report of the proceedings. There is no note to the effect that the claimant's husband gave any evidence and the only note recorded is that the claimant is a light assembler not a cuff seamer and that the appellant's case was based on ignorance of language.

7. On the reverse of the letter of 4th November 1974 informing the claimant of the insurance officer's decision disqualifying her for receiving maternity allowance for the period under consideration in this appeal, the claimant, or someone on her behalf, wrote that she had been to the local office on 14th October 1974 to claim maternity allowance when she was told to get form Mat B1 from her doctor. The insurance officer concerned with this appeal has submitted that it is for consideration whether or not the claimant has shown good cause for the delay in claiming maternity allowance.

8. Having considered the report of the proceedings before the local tribunal, from which one derives no assistance, and the grounds of appeal and circumstances, I find on the whole that the claimant has proved that there was good cause for the delay in claiming throughout the period.

9. The claimant's appeal is allowed.

(Signed) J. S. Watson,
Commissioner.
