
Expected week of confinement incorrectly certified

A claimant for maternity allowance was told by her doctor that she could expect to be confined in the week including 8th September. By a clerical error the midwife, who completed the certificate of expected confinement, gave the date as the week including 2nd August. When the insurance officer became aware of the mistake, the confinement had already taken place

Held that the decision in which the maternity allowance period was determined on the basis of the erroneous certificate should be reviewed.

1. My decision is that the decision of the insurance officer that the claimant was entitled to maternity allowance from the 25th July, 1954 to the 19th September, 1954 inclusive should be reviewed.

2. The question to be determined in this the appeal of the claimant is whether a mistake by way of a clerical error on the part of the midwife, who completed form B.M.4 to the effect that the claimant might expect to be confined in the week which included the 2nd August, 1954 whereas in fact the midwife meant to say the 8th September, 1954, was one that could be rectified by review on the part of the insurance officer of his original decision. The insurance officer refused to review his decision because when he became aware of the mistake in the expected week of confinement the claimant had then been confined.

3. The facts show that all along the claimant's doctor had told the claimant that she might expect to be confined in the week which included the 8th September, 1954 and the fact that when the insurance officer became aware of the mistake the claimant had already been confined did not preclude him from reviewing his decision, if he was satisfied that his decision was based on a mistake as to some material fact, that is to say a mistake as to the week in which the confinement could be expected to take place.

4. At the time when the insurance officer gave his original decision he was mistaken, by reason of the statement of the midwife, as to what that week was. The review of the decision should be based on what the "expected week of confinement" at the date of the original decision really was. The *actual* date of confinement and the week in which the confinement took place are facts distinct from "the *expected* week of confinement" and are not revelant.

5. When once the insurance officer was satisfied that the midwife had made a mistake as to the week in which the confinement was expected to occur and was satisfied that the week in which the confinement was expected to occur was the week which included the 8th September, 1954, he should have reviewed his decision and awarded the claimant maternity allowance for thirteen weeks from and including the 26th July, 1954.

6. I decide accordingly and allow the appeal of the claimant.
