
Late claim—incorrect advice by doctor alleged

Claimant pleaded that her doctor had said there was no need for her to visit a doctor while away on convalescence and she did not submit medical certificates for that period until she returned.

Held that good cause for delay in claiming had not been established. A claimant should not rely on a doctor for advice about claiming benefit

1. My decision is that the claimant was disqualified for receiving sickness benefit from the 6th to the 10th May, 1955 both dates included.

2. The claimant became incapable of work on the 14th April, 1955 and claimed sickness benefit up to and including the 5th May, 1955. She made no further claim for benefit until the 23rd May, 1955. Her explanation of her delay in doing so is that when her doctor gave her the intermediate certificate on the 4th May, 1955, which she used for making her claim on the 5th May, 1955, he had told her that, as he had written on that certificate a note to say that she was advised to go away for convalescence, that would

suffice and she need not visit a doctor while away. He was a doctor of great experience and she had relied on his advice as she was entitled to do because she was his patient.

3. The claimant herself is a general medical practitioner, who admittedly has national health service patients. She could see for herself that on the certificate which her doctor had given her on the 4th May, 1955 he had not certified anything more than that she had remained incapable of work up to that date. He had not completed that part of the certificate which related to her being incapable of work for a further period in the future, as it was obvious on the face of the certificate that he was not entitled to do because she had not on that date been incapable of work for 28 days or more.

4. Further, on form B.S. 12 which had accompanied the postal drafts in payment of her sickness benefit before the 4th May, 1955, she had been warned that, so long as she remained incapable of work, she should send in medical certificates regularly and that, if more than ten days passed without a certificate (except when she had submitted a special intermediate certificate or an intermediate convalescent certificate covering a longer period), she might lose benefit.

5. As her claim made on the 23rd May, 1955 was made after the prescribed time in relation to the period named at the head of this decision she has to be disqualified for receiving sickness benefit for that period, unless she can prove that she had good cause for her failure to claim benefit in respect of it before she did.

6. "Good cause" means some fact which, having regard to all the circumstances (including the claimant's state of health and the information which she had received and that which she might have obtained) would probably have caused a reasonable person of her age and experience to act (or fail to act) as the claimant did. (Compare Decision C.S. 371/49 (reported).)

7. It was strongly urged on behalf of the claimant that the claimant was in a patient/doctor relationship with her doctor and was, accordingly, entitled to rely on his advice. This contention betrays a fundamental misconception. A patient goes to a doctor for medical, not for legal, advice. He has no right to rely on his doctor to advise him on what he has to do to claim sickness benefit. Such information can be obtained if needed from a local insurance office. If doctors were under a duty to give such advice, they might find themselves involved in actions for negligence for giving incorrect advice on such matters.

8. It was also urged that it would have involved the claimant in great expense if she visited a doctor while absent from home to obtain a medical certificate, but on inquiry I was informed that the claimant was a patient of the doctor concerned on his health service list and this contention was withdrawn.

9. The claimant had contended in the course of her appeal to the Commissioner that, if she had doubted the advice which she had received from her doctor, she was too ill to inquire at the local insurance office. This contention, however, was clearly unfounded. She had been incapable of work by reason of haemorrhoids and during the period in question had gone away to stay at a country village. She undoubtedly could have written or telephoned to the local insurance office to inquire if she had wished to do so.

10. Reviewing the facts of this case, I can find no ground whatever for holding that the claimant has proved good cause for her failure to claim benefit in respect of the period after the 5th May, 1955 before the 23rd May, 1955. Even if her doctor had really meant by what he said to her that she need not claim benefit in respect of that period until she returned from her convalescence, it was so clearly in contradiction of the written information that she had received that it was not reasonable, in my view, for her to act on that advice without further inquiry.

11. I note, however, that the local tribunal overlooked the fact that her previous claim was valid up to and including the 5th May, 1955 and I have, accordingly, held her to be disqualified for receiving benefit in respect of a period commencing on the 6th May, 1955 and not on the 5th May.

12. Save to that extent, I must dismiss the claimant's appeal.
