

[2015] NZSSAA 010

Reference No. SSA 039/14 &  
SSA 040/14

**IN THE MATTER**

of the Social Security Act 1964

**AND**

**IN THE MATTER**

of an appeal by **XXXX** of against  
a decision of a Benefits Review  
Committee

**BEFORE THE SOCIAL SECURITY APPEAL AUTHORITY**

Mr R D Burnard - Chairperson  
Mr K Williams - Member

**HEARING** at WELLINGTON on 5 September 2014

**APPEARANCES**

Mr G Howell for the appellant  
Ms P Sieuva for Chief Executive of the Ministry of Social Development (by telephone connection from Auckland)

**DECISION**

[1] These appeals were heard by the Authority immediately following the hearing of appeal number 38/2014 in respect of which the Authority's decision was issued on 11 December 2014. Both parties were in agreement that the two appeals 39/2014 and 40/2014 involved identical facts and the identical period so that this decision covers both appeals and relates to the Ministry's review of a Disability Allowance and Temporary Additional Support for the appellant, the review being conducted on 23 January 2014 and the Benefits Review Committee decision being dated 14 March 2014. The review increased costs included in the Disability Allowance and Temporary Additional Support became payable from 20 November 2013 at the amount of \$109.99 weekly.

[2] **XXXX** is a frequent appellant to this Authority with most of the nineteen appeals she has lodged since 2009 relating to her Disability Allowance. In previous decisions the Authority has extensively reviewed items making up the Disability Allowance that has been paid to **XXXX** and dealt with a number of specific issues which have arisen between her and the Ministry. In respect of the appeals we are dealing with in this decision however no identification of the challenge **XXXX** apparently seeks to make to the Disability Allowance has been identified.

[3] By s 12K of the Social Security Act 1964 (the Act) an appeal is begun by a written notice of appeal and subs 2 states: "*the notice of appeal shall state with particularity the grounds of the appeal and the relief sought*". These appeals were initiated by an e-mail from Mr Howell who is an experienced advocate. In the e-mail he took issue with the Benefits Review Committee which had upheld the Ministry's

decision of 23 January in a decision issued on 14 March 2014 contending that a proper assessment of the application had not been made. He was also critical of the scope and nature of the information the Benefits Review Committee relied on and said that a determination about the “process of natural justice” was required because the person the Ministry used as its Benefits Review Committee coordinator was also the case manager whose decision was under review. We consider that these submissions are misconceived. The decision of the Benefits Review Committee is not a judicial decision. As the Supreme Court noted in *Arbuthnot v. Chief Executive of the Department of Work and Income* [2008] 1NZLR 13 at para 19 the Benefits Review Committee is intended to act in place of the Chief Executive and is making a departmental decision when it confirms modifies or reverses the original decision.

[4] At the hearing the Authority enquired in what respects Mr Howell contended that the Disability Allowance should be altered. Mr Howell said that he could not answer this question because he and XXXX did not have “*the documents from the Ministry*”. He said that the Authority should order the Ministry to provide them and he could then “*say what the Disability Allowance should be*”. The Authority is not prepared to accede to this approach. It is for the appellant to assert her grounds for appeal and Mr Howell is experienced enough to take the trouble to isolate the grounds on which XXXX challenges the Ministry’s assessment. Numerous documents have been presented to the Authority on previous appeals relating to XXXX Disability Allowance and the Authority considers that no purpose would be served by ordering the Ministry to provide once again the hundreds of pages of documentation in the Ministry’s possession regarding her benefit.

[5] In fairness to XXXX however the Authority has given consideration to some of the items in a list of what Mr Howell described as “*D A Costings*” in a document he presented in connection with the appeal. We note that most if not all of the items on the list have been considered by this Authority on previous occasions. For instance included on the list is a cost for Automobile Association membership. The Authority noted in its decision on 1 July 2014 [2014] NZSSAA 55) that we had in a previous decision concluded that a need for an AA membership did not arise from her disability and could not therefore be regarded as a disability cost.

[6] Also on the list are “*authorised consumables*” at a rate of \$33.69 per week being described as “*vitamin supplements, liquids such as juices and water*”. In the Authority’s decision on 13 November 2014 [2014] NZSSAA 96) the Authority stated that a very detailed report from a registered health practitioner would be required explaining the relationship between the need for these items and the appellant’s disabilities. No such report was presented in connection with the current appeals.

[7] The list also includes a claim of \$12 per week for massage/naturopath and in the same decision the Authority noted that a detailed report explaining how the need for this treatment arose from the appellant’s disability would be required before the Authority would direct that any costs for these treatments arose from the appellant’s disability.

[8] In the same decision the Authority dealt with prescription costs, telephone costs, medical fees, clothing, lawn and gardening costs, transport, power costs, mail delivery costs, extra clothing and home help. At the hearing before us in Wellington on 5 September 2014 the appellant produced no further evidence which would persuade us to direct the Ministry to increase XXXX Disability Allowance in respect of these items.

[9] Having reviewed the material accompanying the Ministry's report under s 12K(4)(e) of the Act and having considered the list of costs Mr Howell put forward and his submissions the Authority can find no grounds on which to allow this appeal.

***Conclusion***

[10] For the reasons given above these appeals are dismissed.

**DATED** at WELLINGTON this 27<sup>th</sup> day of February 2015

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Mr R D Burnard  
Chairperson

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Mr K Williams  
Member