

[2016] NZSSAA 005

Reference No. SSA 145/14

IN THE MATTER

of the Social Security Act 1964

AND

IN THE MATTER

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

BEFORE THE SOCIAL SECURITY APPEAL AUTHORITY

Ms M Wallace - Chairperson

Mr K Williams - Member

HEARING at AUCKLAND on 10 August 2015 and 14 October 2015 and on the papers

APPEARANCES

The appellant in person

Mr B Moodley for Chief Executive of the Ministry of Social Development

DECISION

Introduction

[1] The appellant lodged an appeal with the Authority on 23 October 2014. The appeal document noted that it was an appeal in relation to:

Wrong decision overall.

Not taken in overall.

Plus food grants.

This on behalf of all of NZ on disability allowance.

Cancel of level of alternative medical treatment 'reason given'.

[2] The appeal was lodged in relation to a decision of a Benefits Review Committee dated 22 August 2014 about a decision of the Chief Executive of May 2014. That decision related to the assessment of the Disability Allowance payable to the appellant and his wife. It appears that at that Benefits Review Committee hearing the appellant and his wife also raised issues about the difficulties they were experiencing making ends meet on their New Zealand Superannuation and Disability Allowance. The Benefits Review Committee considered that the Ministry had correctly applied the provisions relating to Disability Allowance and noted that the appellant was receiving a maximum rate of Disability Allowance payable. It was recommended that the applicant approach his doctor to see if any funding was available through the “exceptional circumstances panel” to meet the cost of his non-subsidised medication and it was suggested the appellant discuss with his doctor the process for applying for half-price taxi fares to assist with travel to medical appointments.

[3] The issue to be considered by the Authority is whether the assessment of the disability costs of the appellant and his wife as at 15 May 2014 was correct.

Background

[4] Following the filing of this appeal, the Chief Executive reviewed a decision to decline to include alternative medical treatment in Mrs XXXX's Disability Allowance. As a result an amount of \$12.50 per week for alternative medical treatment was included in his Disability Allowance. Arrears were paid for the period 21 May 2014 to 2 December 2014.

[5] The appellant was then invited to withdraw his appeal. It now appears that that request was inappropriate. Fortunately the appellant declined to withdraw his appeal and accordingly the matter was set down for a Directions Hearing on 10 March 2015.

[6] The appellant attended that hearing but indicated to the Authority that because he was unable to copy all of the documents he needed, he was not ready to proceed. In the circumstances the appeal was adjourned and an arrangement was made for the appellant to have his documentation copied by Tribunal staff.

[7] A further hearing was set down for 10 August 2015. The appellant attended the hearing on 10 August accompanied by his son. At that hearing the appellant raised issues about his disability-related transport costs. The appellant was unhappy about the way these had been calculated. The appellant said that he does not drive and he and his wife now rely on friends and family to drive them to their various

appointments. The appellant reimburses various drivers for this service. The appellant said that people would not be prepared to transport him for the mileage rate at which the Ministry paid. There was discussion with the appellant about accessing half-price taxis. It was suggested to the appellant that he keep a log of his disability-related transport costs.

[8] The second matter raised by the appellant was how the family's additional power costs had been calculated. The appellant considered that the way in which his disability-related power costs had been calculated was unfair because he and his wife were at home all day whereas their two adult sons, who also live with them, were not at home.

[9] A further issue raised by the appellant related to food grants. He spoke about the difficulty of making an application for a food grant when he was reliant on other people to transport him to the appointment.

[10] The hearing was adjourned and the Ministry was asked to provide information about how the appellant's disability-related transport costs and power costs had been calculated as at 15 May 2014. The appellant was asked to follow up on the following matters:

- (i) Make enquiries about whether he was entitled to vouchers for taxis to get to medical appointments.
- (ii) Make enquiries about whether he was entitled to national travel assistance from the Ministry of Health.
- (iii) Endeavour to put together a list of hospital, doctor and pharmacy visits for the period April 2013 to April 2014.
- (iv) Provide information about his electricity costs.

[11] A further hearing was arranged for 14 October 2015.

[12] The appellant did not attend the hearing on 14 October but provided hand-written lists of his and his wife's transport requirements and the cost of hiring a taxi to the various destinations, a number of medical appointment slips and a small number of parking receipts. Much of the information provided was not information that evidenced appointments and costs in the year prior to May 2014. He claimed an amount for parking of \$1,056, being 132 parking instances at \$8 each.

[13] The Ministry were then requested to comment on this information.

Decision

[14] It is important that the appellant understand that this appeal relates solely to the review carried out in May 2014. It does not relate to the review carried out in May 2015.

[15] In addition, the maximum amount payable by way of Disability Allowance is set by the government. In the period 1 April 2014 to 31 March 2015 the maximum payable was \$61.38 and from 1 April 2015 is \$61.69. If the appellant's disability costs exceed the maximum amount of Disability Allowance, further assistance to cover those costs will only be payable if he is eligible for Temporary Additional Support.

Power costs

[16] We have been advised by the Ministry that \$679.88 was allowed for additional power and included in his Disability Allowance from 14 May 2014. This was calculated on the basis that the total power costs for the household were \$3,034.88. The Ministry used a Powerswitch assessment indicating the cost for a four-person household with online energy was \$2,355 per annum. The difference of \$679.88 was treated as the appellant's additional power costs. It seems the appellant may have been mistaken about how this calculation was made. Although the appellant and his wife might be home for much of the day and their adult sons absent, the Authority's view is that the Ministry's approach of allowing all of the additional power costs to be included in the appellant's Disability Allowance rather than making any particular allowance for usage by the adult's sons, both of whom are apparently in employment, is very fair.

[17] The appellant says that in addition to the online energy power costs, the household uses approximately 12 bottles of gas a year at \$28 per fill. The total cost is \$336. There is no verification of the gas heating costs as would normally be required by the Chief Executive. The Chief Executive has agreed to include these costs from 14 May 2014.

[18] If the appellant wishes to claim for gas bottles for heating in the future, then he needs to collect the receipts and provide them to the Ministry.

[19] We are satisfied that the new assessment of the additional power costs in the circumstances is not unreasonable.

Health-related transport costs

[20] The appellant's disability-related transport costs were assessed at \$467.64 at the time of the review in May 2014. The assessment comprised of:

- eight return trips to North Shore hospital per annum;
- twelve return trips to Waitakere hospital per annum;
- fifty-two trips for shopping in Henderson per annum; and
- twelve visits to the chemist in Henderson per annum.

The mileage rate of \$0.40 cents per kilometre is the maximum allowed. The distance to and from the appellant's home has been calculated using Wises' maps online. The maximum rate allowed has been used, despite the fact that the Ministry has no knowledge of the actual cc rating of the cars used on these trips.

[21] The appellant has provided a list of medical-related trips for himself and his wife. For Mrs XXXX, these include trips to North Shore hospital, Waitakere hospital, Auckland hospital and Greenlane hospital, the chemist, Dr Moore, the physiotherapist, Income Support, blood testing and the pools each week. The appellant also claims two shopping trips per week and trips to Income Support four times a year. In addition, the appellant claims for eight visits a year to the North Shore hospital, 10 visits a year to Waitakere hospital, six visits to Auckland hospital and one return trip to Greenlane hospital for himself. We are unclear as to what each of those trips relates to. He also claims for trips to the chemist, trips to his GP, visits to the Henderson Medical Centre five times a year and 20 trips a year to Westgate for blood tests.

[22] Unfortunately, the list does not cover dates for the visits in the 2013/2014 period. It is the information for this period that is used in the review of May 2014. There are no dates for the visits, nor are reasons for the visits listed. This factor is of particular importance because not all medical visits are necessarily disability-related and therefore able to be included in the assessment of Disability Allowance. Further, the appellant's claims relate to taxi costs; however unless costs are actually incurred the Chief Executive cannot pay for taxi costs. The appellant was very clear at the hearings of this matter that family and friends transport him to medical appointments at the time relevant to this appeal. In that case, the costs which will be met are calculated on the basis of the mileage involved and the cc rating of the car used. The Chief Executive has allowed \$0.40 cents per kilometre regardless of the cc rating of the car used. This is the maximum rate that the Chief Executive pays.

[23] On the basis of the information available, we are not satisfied that the allowance made for trips to the hospitals and chemist was incorrect.

[24] The appellant has also made a claim of \$1,056 for parking on the basis of 132 events at a cost of \$8 each. As the Ministry point out, the claim for parking is at variance with the claim for use of taxis. The Ministry have now agreed to make an allowance of \$120 per annum for parking for 20 hospital visits.

[25] It seems likely that the appellant does have laboratory visits for regular blood testing. The Chief Executive has now allowed \$48.08 per annum from 14 May 2014 for lab testing.

[26] The appellant has been invited to comment on the additional amounts now being allowed for transport to the laboratory and for parking costs. He has not done so.

[27] The result of the Chief Executive's reassessment is that the appellant has now received the maximum Disability Allowance payable in respect of the 2014–2015 review year. He has received a payment of \$408.91 for arrears.

Mrs XXXX's disability costs

[28] As noted at the outset, Mrs XXXX's disability costs relating to alternative treatment were reinstated at an early stage in this appeal. Unfortunately, the assessment of her other disability costs was overlooked by the appeals officer who originally handled the appeal.

[29] The Ministry have now reviewed Mrs XXXX's disability-related travel costs and made allowances for travel to the hospital, including parking, travel to the pool and doctor and chemist visits. Arrears of \$217.70 have now been paid to Mrs XXXX.

[30] An opportunity to comment on the new assessment has been provided. No comment has been received.

Food grants

[31] We understand the Ministry have now agreed not to require the appellant and his wife to attend at a Work and Income office if Special Needs Grants for food are required.

Conclusion

[32] A difficulty in this case is the lack of precise information and verification of the appellant's claims for transport costs and parking. The appellant in particular is an elderly person with high health needs. The Ministry's requirements for evidence of costs incurred is onerous.

[33] As discussed at the hearing, we strongly recommend that the appellant keep a log of his disability-related travel. It may assist if the friends and family members who transport the appellant were to assist in keeping this record. It will be important for him to keep a note of the purpose of each visit. The Chief Executive may wish to consider providing a disability-related travel log to the appellant and other beneficiaries with high health needs.

[34] In any event the position now is that both the appellant and his wife have been paid the maximum rate of Disability Allowance since 14 May 2014. Mr XXXX's total disability costs have been assessed as \$64.17 per week. Mrs XXXX's total disability costs have been assessed to be \$89.25 per week. As previously pointed out, if the disability costs of the appellant and his wife exceed the rate of Disability Allowance payable they will not receive any further assistance from the Ministry unless they can establish eligibility for Temporary Additional Support. A recent assessment by the Ministry indicates that the appellant and his wife are not eligible for this assistance. It is important therefore that they explore the other options for the funding of their disability-related travel costs such as taxi chits.

[35] To the extent that the appellant has been successful in his claim for additional power and transport costs, the appeal is allowed.

DATED at WELLINGTON this 16th day of February 2016

Ms M Wallace
Chairperson

Mr K Williams
Member