

[2016] NZSSAA 062

Reference No. SSA 175/15

**IN THE MATTER**

of the Social Security Act 1964

**AND**

**IN THE MATTER**

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

**BEFORE THE SOCIAL SECURITY APPEAL AUTHORITY**

Ms M Wallace - Chairperson  
Mr K Williams - Member

**HEARING** at WELLINGTON on 11 April 2016

**APPEARANCES**

Mr G Howell for the appellants  
Ms Kirkman for Chief Executive of the Ministry of Social Development

**DIRECTION OF THE AUTHORITY**

[1] This matter was set down for hearing on Monday 11 April 2016. The Ministry did not provide a Section 12K report within the usual timeframe as it indicated there were prospects of settling the matter.

[2] Mr Howell on behalf of the appellant confirmed that the outstanding issues are:

- (i) The treatment of Childcare Assistance as the appellant's income.

Ms Kirkman on behalf of the Chief Executive acknowledged that the income charge should be removed from the appellant's main benefit entitlement and entitlement to supplementary benefits in respect of the period 22 August 2007 to 21 August 2012. The arrears payable will be calculated by the Ministry.

In addition the Chief Executive will consider an *ex gratia* payment for the failure to pay the appellant her correct benefit entitlement in the period 2007 to 2012. The payment may also include an element of compensation for the tax implications arising from payment of arrears in a lump sum in 2016, rather than the appellant receiving the correct rates of benefit at the time it was paid.

- (ii) The second outstanding issue is that when an arrears payment of \$26,000 was paid to the appellant on 24 March 2014 her entitlement to Accommodation Supplement and Temporary Additional Support were cancelled on the basis that the arrears payment constituted a cash asset which exceeded the applicable limits. The appellant believes that she should not have been penalised in this way and the lump sum payment should not have been treated as a cash asset. The period involved is the period from 15 March 2014 to 2 April 2014. The appellant left New Zealand on 2 April 2014 and did not maintain her accommodation during the period of her absence from New Zealand.

This issue has not previously been considered by the Ministry. The Ministry are to give consideration to the issue and report to the Authority.

- (iii) The appellant raised a third issue relating to payment of benefit to her on her return to New Zealand on 21 May 2014. That appears to be a fresh matter not related to the incorrect calculation of her benefit entitlement prior to her departure from New Zealand. If the appellant wishes to pursue that matter she will need to seek a review of decision.

[3] This appeal is adjourned to the June circuit of the Authority in Wellington. If the matters referred to are not resolved by 15 May 2016, then the appellant is to advise the Ministry and the Authority of the outstanding issues by that date and the Ministry are to provide a Section 12K report addressing those issues by 1 June 2016.

**DATED** at WELLINGTON this 30<sup>th</sup> day of June 2016

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Ms M Wallace  
Chairperson

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