

IN THE MATTER of the Social Security Act 1964

AND

IN THE MATTER of an appeal by **XXXX** of Palmerston North against a decision of a Benefits Review Committee

BEFORE THE SOCIAL SECURITY APPEAL AUTHORITY

Ms M Wallace - Chairperson
Mr K Williams - Member
Lady Tureiti Moxon - Member

HEARING at WELLINGTON on 15 June 2016

APPEARANCES

The appellant in person
Mr R Signal for the Chief Executive of the Ministry of Social Development

DECISION

Introduction

[1] The appellant appeals against a decision of the Chief Executive, upheld by a Benefits Review Committee, to recover the balance of an advance not used from the supplier.

[2] The appellant outlined at the hearing of this matter that her primary concern was the fluctuating nature of benefit payments she received between the end of May 2015 and December 2015.

Background

[3] The appellant is aged 43 years. At the time relevant to this appeal she was in receipt of Jobseeker Support.

[4] We understand that she suffered a brain injury while living in Australia. She returned to New Zealand and was living in Greymouth at the time of her application for an advance of benefit.

[5] On 14 May 2015 she made application to the Greymouth office for assistance to travel to Taupo to attend a memorial service for her father who had passed away in Australia. She was granted assistance of \$1,147 paid to the Flight Centre for accommodation and ferry crossing, and \$400 on a payment card for petrol. The grant was made by way of an advance of benefit.

[6] The appellant's departure for the North Island was delayed apparently because of weather conditions which, amongst other things, resulted in the Interislander ferries being cancelled. In any event, the appellant apparently crossed to the North Island on 19 May 2015 and drove to Palmerston North. She did not proceed beyond Palmerston North to Taupo either because her family had by that time decided not to go to Taupo or she had missed the memorial service. She remained in Palmerston North and did not return to Greymouth. Ministry records indicate that the appellant had accommodation for six nights at the Copthorne Hotel in Palmerston North from 22 May to 28 May. We understand that she then moved to a Women's Refuge for a week or so. The appellant said that she wanted to use the balance of the advance to meet her living costs but had not been able to do so. Instead, the Flight Centre repaid the unused balance of \$290 to the Ministry. The appellant says she then had a nervous breakdown and was hospitalised for five to six weeks.

[7] At the time the application for review of decision in relation to the advance of benefit was lodged by the appellant on 5 June 2015, the appellant was living at Camellia House. Ministry records show that on 5 June 2015 an advance for a bond of \$200 payable to Camellia House was approved. A short time thereafter it appears that she moved to the Pioneer Motel at a cost of \$200 per week. By 15 July 2015 she had moved to accommodation at Civello, also costing \$200 per week.

[8] At the request of the Authority, the Ministry has provided a report of various actions in relation to the appellant's benefit from late May 2015 through to December 2015. Mr Signal has helpfully identified a number of decisions that were made during the period that could have been reviewed at the time if the appellant had chosen to do so. He says the appellant had not sought to review these various decisions.

Decision

[9] The jurisdiction of this Authority is limited to decisions of the Chief Executive which have been confirmed or varied by a Benefits Review Committee or have been made by the Chief Executive in person. In this particular instance the appellant sought a review of

decision on 5 June 2015 which clearly related to what she refers to as “the bereavement grant”, which was the advance payment of benefit to enable her to attend a service for her father. Her complaint was that part of the advance was returned to the Ministry.

[10] There were a number of fluctuations in the appellant’s benefit after 5 June 2015 but we do not have jurisdiction to consider those matters in the absence of the appellant asking the Ministry to review the various decisions made. It is apparent that the appellant raised her concern about the fluctuations in her benefit at the Benefits Review Committee hearing on 20 July 2015 and the Benefits Review Committee recommended that she arrange a meeting with Work and Income to check her entitlement. It may well be the case that it was because of this advice the appellant was granted Supported Living Payment from 7 August 2015, but we do not have before us an appeal in relation to any decisions made after 5 June 2015, and the appellant’s original notice of appeal clearly relates to the Benefits Review Committee decision regarding the advance for the “bereavement grant”.

[11] The matter of the advance payment of benefit is something that the Authority can consider.

[12] The amount of the advance of \$1,147 was spent as follows:

Ferry vehicle plus passenger	\$324.00
Six nights’ accommodation at the Copthorne Palmerston North (from 22 May to 28 May)	\$532.90
Total payments	<u>\$856.90</u>
Balance	\$290.00

[13] The balance of \$290 which was not utilised was refunded by the Flight Centre to the Ministry.

[14] As there was a change in the appellant’s plans and the balance was no longer required to meet the appellant’s immediate need to travel to and stay in Taupo, the decision to recover the balance of the advance from the travel company was appropriate. In effect, the result was to reduce the amount of advances owed by the appellant, which in turn would have resulted in a greater ability by the Chief Executive to make further advances to her. This is, in fact, what happened when the appellant was given an advance for a bond to stay at Camellia House.

[15] The appellant did not advance any reasons at the hearing as to why the balance of the advance should not be paid back to the Ministry rather than be made available to her for purposes other than travel to Taupo.

[16] We are satisfied that the decision to take back the balance of the advance made to enable the appellant to travel to Taupo for the memorial service for her father was correct.

[17] In relation to the appellant's concerns about the fluctuation in her benefit, we note these fluctuations primarily occurred because of changes in her circumstances. This seems to have been an unsettled period for the appellant and there were many changes in her circumstances. We note in passing, however, our concern at the level of advance repayments the appellant was required to make. In a number of instances they would inevitably have left the appellant in significant hardship. For example, increasing her advance benefit payments to \$43 per week on 3 June 2015 on the face of it appears to have been completely inappropriate. So was the recovery rate of \$39.50 set in July 2015. It is difficult to understand why the case managers who fixed the level of recovery thought they were appropriate. Questions might also be asked about why the appellant was not granted Supported Living Payment until 7 August 2015. However, we do not have jurisdiction to consider these matters. The appellant will need to seek an out-of-time review of the various decisions made.

[18] The appeal as it relates to the advance of benefit is dismissed.

DATED at WELLINGTON this 11th day of July 2016

Ms M Wallace
Chairperson

Mr K Williams
Member

Lady Tureiti Moxon
Member