

[2016] NZSSAA 073

Reference No. SSA 026/16

IN THE MATTER

of the Social Security Act 1964

AND

IN THE MATTER

of an appeal by **XXXX** of
Eketahuna 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

Mr N Ellis for the appellant
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, declining to include the cost of travel to a support group in the appellant's entitlement to Disability Allowance.

Background

[2] The appellant is a single man aged 57 years.

[3] He is in receipt of Supported Living Payment.

[4] A certificate from a Dr Smith states that the appellant suffers from psychiatric/psychological disorders. Dr Fran Lowe says he suffers from Post Traumatic Stress Disorder. At the hearing of this matter, the appellant stated he was also suffering from Chronic Fatigue Syndrome. There is no medical evidence before us supporting this particular claim.

[5] The appellant sought assistance with the cost of travelling to a support group in Masterton in September 2015. His application was declined.

[6] The group concerned is a men's group at the Masterton Community Church. The group is held on a Monday evening. The appellant says that it is not organised by anyone in particular. There is no leader. The church simply makes a room available to whoever turns up. There is no particular format or process and the attendees talk about whatever they might choose to discuss. The group is informal and confidential and the appellant said that the same people do not necessarily attend every week. The appellant says that the pastor of the church is not present every week. The appellant has attended the group at some stage but had not attended recently at the time of the hearing before the Authority. The appellant says it would not be possible for him to have someone verify his attendance on a regular basis. The benefit the appellant sees in attending the group is that it would give him contact with other people who help each other. Although the appellant has been travelling to Masterton approximately once every three weeks, he does not make that visit on a Monday so that he can attend the group. He prefers to go to Masterton on the day his benefit is paid.

[7] The appellant says his request is supported by the certificate from Dr Smith and letters from his psychologist Dr Fran Lowe dated 24 September 2013 and 12 October 2015.

[8] The Ministry submit that there are inconsistencies in the letters from Dr Lowe which gave rise to a question over the validity of the letter of 12 October 2015.

Decision

[9] Disability Allowance is provided for pursuant to s 69C of the Social Security Act 1964.

[10] Before Disability Allowance can be paid the Chief Executive must be satisfied that the disability of the person:

- (a) is likely to continue for not less than six months; and

(b) has resulted in the reduction of the person's independent function to the extent that the person requires—

(i) ongoing support to undertake the normal functions of life; or

(ii) ongoing supervision or treatment by a health practitioner.

[11] Section 69C(2A) provides:

A Disability Allowance is not payable to or on account of any person except to the extent:

(a) that person has additional expenses of an ongoing kind arising from the person's disability and

(b) the assistance towards those expenses available under this Act or any other enactment is insufficient to meet them.

[12] Clause 4 of the Ministerial Direction relating to the payment of Disability Allowance gives the Chief Executive guidance as to when a cost might be considered an additional expense of an ongoing kind.

[13] The group the appellant wishes to attend is an informal church group, apparently without a leader. There is no suggestion that the group operates under any particular therapeutic model. It appears that the appellant's primary need to attend this group is that he is a single person living some distance from the nearest town and seeks social contact. We infer that a range of men attend this group regardless of whether they suffer from a disability or the appellant's particular disability.

[14] We consider the criteria in clause 4 as follows:

4(a)(i) The relationship between the disability and the need to incur the expense.

We are not satisfied that there is a direct relationship between the appellant's disability and the need to incur the cost of attending an informal church group. Most people have a need for contact with others, regardless of whether or not they suffer from a disability.

(ii) *The need for the goods or services to which the expenses relate.*
(Clause 2d).

The appellant has a need for social contact which can be met in a variety of ways.

(iii) *The therapeutic value to the appellant of the support group (Clause 2d).*

There is no evidence the group is geared towards persons with the appellant's disabilities or that it follows a particular therapeutic model. There is no evidence of a probative value that attendance at the church group will have positive long-term effects for the appellant's conditions.

(iv) *Whether the person would be incurring that expense if he or she did not have the disability (4)(a)(iii).*

It is reasonable to infer that most people attending the group will not have the appellant's particular disability. The appellant may incur the expense of attending the group whether or not he was suffering from his particular disabilities.

(v) *Whether the expense is of a kind that was being incurred before the disability arose (4)(a)(iv).*

There is no suggestion the appellant incurred this particular expense before the disability arose.

(aa) *The extent to which the person's life or health would be put at risk or the disability aggravated if the person could not receive the goods or services because the expense was not wholly or partly met from a Disability Allowance.*

We are not satisfied that the appellant's life or health would be put at risk or his disability aggravated if he could not attend this particular group.

(b) *Whether a person in a similar position who does not have the particular disability would incur the expense of that type or amount.*

It is reasonable to infer that many of the people attending the group will not have the appellant's disabilities but incur the cost of attending the group.

(c) *Whether there are less costly goods or services which might meet the need.*

It seems likely that the appellant could satisfy his need for human contact by meeting with people closer to his home.

[15] Taking all these matters into account we are not satisfied that travel to a men's church group in Masterton can be regarded as an additional cost which amounts to a disability cost, in respect of which the appellant should receive assistance by way of Disability Allowance.

Verification

[16] The appellant says his need to attend the Support Group has been verified by a registered health professional. The decision on whether or not a cost is a disability cost always remains with the Chief Executive. The Ministry have made a number of points relating to the validity of the letter purporting to be from Dr Fran Lowe on 12 October 2015. The Authority acknowledges that there is room to doubt the authenticity of this letter, but for reasons outlined it does not consider that attendance at the men's church group to be a disability-related cost. It is not therefore necessary to consider the authenticity of Dr Lowe's letter.

[17] The appeal is dismissed.

DATED at WELLINGTON this 18th day of July 2016

Ms M Wallace
Chairperson

Mr K Williams
Member

Lady Tureiti Moxon
Member