

[2016] NZSSAA 075

Reference No. SSA 177/15

IN THE MATTER

of the Social Security Act 1964

AND

IN THE MATTER

of an appeal by **XXXX** of
Raumati 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 G Howell for the appellant
Ms J Hume 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 establish and recover overpayments of Disability Allowance paid in respect of the period 1 September 2008 to 25 December 2011 amounting to \$769.90 and Temporary Additional Support paid in respect of the period 25 January 2008 to 10 October 2012 amounting to \$2,634.79.

[2] The overpayments occurred because income the appellant received from the Ministry of Education during the relevant periods was not taken into account in assessing her benefit entitlement.

Decision

[3] The appellant was in receipt of first Unemployment Benefit, then Sickness Benefit followed by Invalid's Benefit and Supported Living Payment during the period relevant to this appeal. In addition she received supplementary assistance including Temporary Additional Support and Disability Allowance. Overpayments totalling \$31,989.59 have been established in relation to all of these benefits but the appellant disputes only the calculation of the Disability Allowance and Temporary Additional Support. The overpayment has occurred because of either the complete failure of the appellant to report her income or the late reporting of her income.

[4] While the appellant's position at the hearing was that the Disability Allowance and Temporary Additional Support had been calculated incorrectly, her advocate did not point to errors in the Ministry's calculation. Rather he had prepared his own calculation of the debt which resulted in different amounts owing. This approach was unfortunate. Anyone wishing to challenge the Ministry's calculation would be better advised to focus on errors in the Ministry's calculations.

[5] Ms Hume for the Chief Executive pointed to a number of errors in the calculation produced by the advocate. The appellant's advocate was given an opportunity to consider the points made.

[6] Following the hearing the appellant's advocate has advised that the Ministry's calculations set out in the Section 12K Report are now accepted and that nothing further is required to be determined by the Authority. Accordingly we accept that the calculation of the Disability Allowance debt of \$769.90 and Temporary Additional Support debt of \$2,634.79 are correct.

[7] The appellant will need to discuss a rate of recovery with the Ministry.

[8] The appeal is dismissed.

[9] The Ministry are requested to make a submission to the Authority on whether or not costs should be awarded against the appellant in this case.

DATED at WELLINGTON this 22nd day of July 2016

Ms M Wallace
Chairperson

Mr K Williams
Member

Lady Tureiti Moxon
Member

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