

[2017] NZSSAA 016

Reference No. SSA135/16

IN THE MATTER of the Social Security Act
1964

AND

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

BEFORE THE SOCIAL SECURITY APPEAL AUTHORITY

Mr G Pearson - Chairperson

Mr C Joe - Member

Hearing at Wellington on 6 April 2017

Appearances

For Chief Executive of the Ministry of Social Development: Ms E Kirkman (agent)

The Appellant in person

DECISION

[1] This is the second appeal that Mr XXXX has brought to the Authority. His first appeal concerned Temporary Additional Support. The Authority has issued its decision on that appeal, and it has also been addressed by the High Court. Accordingly, although Mr XXXX understandably referred to the issue when he sought this review, it is not a matter the Authority can consider again.

[2] The issue we can consider is whether the Ministry was correct to decline an application for an advance payment of benefit or Special Needs Grant of \$139.96. It relates to a power bill that Mr XXXX received. Mr XXXX's support requires him to manage his money very carefully. Through a set of

circumstances which were no fault of Mr XXXX's, he did not receive his power bill and did not realise there was money owed for that month. When he did receive a subsequent notification of the amount owed, he was left in a situation where he had not budgeted for the power he used in the previous month. That caused him a great deal of concern.

- [3] When considering this matter it is very important to recognise that Mr XXXX's health leaves him in a vulnerable position. He has been to a budgeting advice course, and he is very conscious of the need to pay his bills on time, so that he does not incur penalties and the more serious consequences that may follow from non payment of a debt. Mr XXXX suffers from anxiety, and because of his fragile health, potential outcomes of his anxiety are panic attacks and seizures. In these circumstances, the issue was not minor for Mr XXXX, and raised issues of potentially very serious effects on his health.
- [4] The Ministry did enquire into the situation relating to the power bill. It seems the power company was willing to allow Mr XXXX to continue to make his regular weekly payments; and, if he continued to do, there would be no issues with continuing the supply of his power or other adverse consequences.
- [5] However, Mr XXXX's vulnerability was such that he paid the full amount outstanding. We consider that was a fair and reasonable thing to do to protect his health. Mr XXXX accepts that after he paid the power account, the Ministry did provide him with some support to purchase food, because he had spent his food money on the unexpected power bill.

The Issues

- [6] The issue is what support, if any, the Ministry should have provided for Mr XXXX in relation to the power bill. Section 82(6) of the Social Security Act 1964 (the Act) allows an advance payment of benefit. The Ministerial Direction requires the identification of a "particular immediate need", and gives some guidelines as to what meets that requirement.
- [7] The other option is the Special Needs Grant Programme; established pursuant to s 124(1)(d) of the Act. Clause 2 of the Programme allows for

non-recoverable assistance in certain circumstances that relate to “immediate need”.

- [8] The Ministry’s position is that as the power bill could be paid off with regular instalments without adverse effects, the threshold requirements of the two types of entitlement were not met.

Discussion

- [9] We do not agree with the Ministry’s view that the circumstances were insufficient to potentially reach the threshold for either an advance payment of benefit, or Special Needs Grant. The Ministry’s consideration has only covered the objective requirements of the power company in relation to the terms of payment. We accept it is true that the situation was manageable.
- [10] However, the Ministry was required to relate the immediacy of the need and potential consequences considering Mr XXXX’s personal vulnerability. This power bill had potentially serious consequences for his health. The Ministry was required to consider Mr XXXX’s personal vulnerability. His perceptions of the potential consequences of not paying the power bill could have led to a seizure; even though his power would not have been cut off. Mr XXXX has a rare vulnerability due to his physical fragility, which has psychological triggers.
- [11] There are of course various ways in which the concern relating to Mr XXXX’s vulnerability could have been met. Paying the bill was one way; potentially, there were other ways that triggering a serious spiral of adverse consequences could be avoided.
- [12] We are satisfied that in this case the discussion relating to the options for payment and the support relating to the funding of food purchased after Mr XXXX paid the power bill were sufficient to take this situation outside the scope of “immediate need”. Our decision in that regard is made by a fine margin.

Observation

- [13] Mr XXXX explained he has had a rather difficult relationship with some of the Ministry staff. Those dealings had become a trigger for his anxiety, and detrimental to his wellbeing and progress to living independently of support.
- [14] He has expressed confidence in the current programme he is working in with the Ministry, and the officer in the Ministry he works with. The value of that programme and the obvious dedication of the officer and her empathetic response to Mr XXXX's needs are plainly making a significant and positive difference for him.
- [15] With this support, Mr XXXX has made significant progress towards developing the resilience and skills to achieve financial independence. We emphasise that it is most important that the Ministry continue to acknowledge Mr XXXX is vulnerable, and the consequences of events for him may be quite different to those that would ensue for a person who does not have his vulnerabilities. The importance of allocating staff who have the appropriate skills and ability to engage with Mr XXXX is critical both to his wellbeing, and achieving the goal of reducing or removing his need for financial support.

Decision

- [16] While we dismiss the appeal, we acknowledge the importance and genuineness of the issues Mr XXXX raised.

Dated at Wellington this 20th day of April 2017

G Pearson
Chairperson

C Joe JP
Member