Decision No. [2020] NZSAAA 1

Reference No. SAA 2/19

IN THE MATTER of the Education Act 1989 and the Student Allowances Regulations 1998

AND

IN THE MATTER of an appeal against a decision of the Chief Executive, Ministry of Social Development

BEFORE THE STUDENT ALLOWANCE APPEAL AUTHORITY

Neil Cameron

HEARING on the papers

DECISION

The appeal is dismissed

REASONS

Overview

[1] This is an appeal against the decision of the Secretary on review to uphold StudyLink's decision to decline the appellant's application for an extension to her allowance entitlement beyond the 120 week limit to enable her to receive a Student Allowance for the whole of the 2019 academic year.

The issue on appeal

[2] The only issue still live on this appeal is whether the ongoing effects of the appellant's accident in November 2013 on her studies can amount to *"special circumstances"* justifying a "*compassionate*" extension to her 120 week entitlement under reg 20(7) of the Student Allowances Regulations 1998 so as to enable her to receive a Student Allowance for the 2019 academic year.

[3] The appellant's review application initially raised two different (and more general) issues:

- First, whether as a consequence of having commenced her degree prior to turning the age of 40 she remained entitled to the full 200 weeks of allowance funding for the duration of that degree irrespective of her age at the time of any subsequent application, or whether when she applied in 2019 the fact that she was over 40 meant that her entitlement was limited to 120 weeks.

- Secondly, if she was in fact subject to the 120 week entitlement limit, whether the forced postponement of her studies in 2015 and her ineligibility for an allowance in 2016, both of which resulted from the accident in 2013 and which deprived her of 2 years of allowance funding which the reduced 120 week limit now prevents her from accessing, can justify an extension to her allowance under the reg 20(7) *"special circumstance"* discretion.

In her supplementary submissions on review the appellant abandoned her arguments on both these issues, saying that, having read the Ministry's Preliminary Review Report, she now agreed "*with your decision not to provide me with a further extension, based on the details provided thus far, for either reason that I have mentioned*". However since the Secretary never mentions this concession and, together with the Ministry, continued to treat the appellant's initial arguments as still in play, they will be considered briefly below: at [23], and [24]-[25].

Factual background

[4] The appellant is a 42 year old student who is currently enrolled in a six year Bachelor of Medicine and Bachelor of Surgery degree (MBChB). As of early 2019 she had received 158 weeks of Student Allowance as follows:

Year of study	**Course studied**	**Weeks received**
1996	Unknown	34
1999	Master of Science	45
2016	Bachelor of Medicine and Bachelor of Surgery (entry into 2nd year)	0 (not eligible for SA due to income)
2017	Bachelor of Medicine and Bachelor of Surgery	37 (turned 40 mid year)
2018	Bachelor of Medicine and Bachelor of Surgery	4 + 35 = 39 (approved 37+1 weeks extension)
2019	Bachelor of Medicine and Bachelor of Surgery	3 (part of 2018 extension)
	TOTAL	**158 weeks**

[5] In November 2013 the appellant had a serious accident which, among other things, resulted in a Traumatic Brain Injury (TBI) and which still continues to affect her daily life and her capacity to study in a number of significant ways. In 2014 she underwent surgery related to this accident. In 2015 she enrolled for the six year MBChB which, due to her prior study, would have taken her five years to complete. However delays in her recovery from the surgery forced her to delay this enrolment until 2016. If she had been able to enrol as intended in 2015 her allowance entitlement – which at that stage was 200 weeks – would have enabled her to receive an allowance for the first three years of her degree, terminating at the end of 2017 – the year in which she turned 40. In 2016 she commenced study, but did not apply for a Student Allowance as she was still receiving ACC payments following the accident and her income exceeded the allowance threshold. In 2017 she applied for and was approved 37 weeks of allowance under the 200 week allowance limit. However in the course of 2017 she turned 40 which reduced her entitlement for future years to 120 weeks. Accordingly when she reapplied for an allowance for the 2018 academic year she had already exhausted 116 weeks of allowance and was only eligible for four more weeks.

[6] Based on information she had received from StudyLink in August 2015, in which she was erroneously advised that because she had commenced her degree prior to turning 40 she would be entitled to 200 weeks of Student Allowance for the duration of that degree irrespective of her age, she challenged this decision and applied for an extension. This application was approved and she eventually received a further 38 weeks of allowance to cover the rest of the 2018 academic year. This figure proved to be incorrect and as a result she was able to carry over 3 weeks of her 2018 allowance to 2019. In granting this extension StudyLink accepted the appellant's argument that the accident in 2013 and the resulting delay in commencing her studies had effectively deprived her of a year of Student Allowance support (ie in 2015) and amounted to *"special circumstances"* justifying a one year extension.

[7] In mid 2018 she applied for an allowance for 2019 and again requested an extension citing both the "*lost"* year in 2015 and the fact that she didn't receive an allowance in 2016 as a result of the ACC payments she received following the accident. This was declined because she had already received an extension in 2018 to compensate for the one year delay in starting her degree, and the allowance payments she missed out on in 2016 were due to excess income and not "*special circumstances"*. The appellant disputed this, repeating her belief that, as she had been told by StudyLink in 2015, she was still eligible for the full 200 week entitlement and that if she wasn't, she should get an extension to recognise the two *"lost"* years caused by the accident and the ACC payments she received in 2016 in consequence of it. In late October StudyLink reaffirmed its decision. In mid November the appellant responded, making further submissions in which she accepted that both the arguments she had made in her review application were unpersuasive. Instead she sought to develop an alternative argument relying on the accident and its continuing impact on her studies as the basis for the exercise of a *"compassionate"* discretion in favour of a further extension. At the end of November the matter was reviewed by the Secretary on the papers and the original decision upheld. In March 2019 the appellant appealed to the Authority.

Relevant legislation and policy

[8] The maximum period for which a student is entitled to receive an allowance is governed by reg 20 of the Student Allowances Regulations 1998. In general students are entitled to receive up to 200 weeks of allowance for any "*recognised course or courses of study*". However following amendments to the Regulations effective as from January 2014, if the student is of or over the age of 40 at the time they commence the course or courses of study for which they are applying for an allowance their entitlement is reduced to 120 weeks. The Regulations define "*course or courses of study*" as any "*course of study leading to the completion of a recognised programme*". A "*recognised programme*" is essentially any approved tertiary qualification – such as a degree, certificate, or diploma. Accordingly a student's entitlement depends on their age when they commence the course or courses they wish to receive an allowance for, and not on their age when they initially enrol for the overall qualification of which those courses are a part.

[9] Where for some reason strict adherence to these limits is inappropriate, reg 20(7) provides a general discretion to extend entitlement beyond the applicable limit where "*special circumstances exist"*. This discretion is a general one, limited only by the provision in reg 20(7A) that such "*special circumstances do not exist merely because a person has been affected by an amendment to these Regulations*". There are no

restrictions on the number of extensions that may be granted or the number of weeks that each extension may be granted for.

[10] The guidelines formulated by StudyLink governing the exercise of this discretion provide that:

> *Special circumstances are very limited in scope and normally only apply to situations where personal circumstances do not allow a student to complete their study within the … 120/200 week limit. These personal circumstances would generally not be able to be anticipated by the student and would be beyond their control. For example there has been an illness, injury, accident, bereavement, or personal difficulty that has prevented the student completing their study programme within the … 120/200 week limit.*

[11] Although it is not in issue in this appeal, insofar as these guidelines appear to be seeking to limit the discretion to cases where a student is unable to complete his or her "*study programme"* within the relevant allowance limit, they appear to be inconsistent with the Regulations. Regulation 20 limits the availability of allowances for "*courses*" not "*programmes*" and the extension discretion is expressed in absolutely general terms. Following the revocation of the long course provisions in 2013 – which accompanied the changes in entitlement limits that came into force in 2014 – it may be arguable that the reg 20(7) discretion is not even limited to students who need extra time to complete their current "*course of study"* (compare [2006] NZSAAA 6 at [15]), but whether this is now the case or not it is perfectly clear that it cannot be tied to the completion of a "*study programme"* (ie a degree or other recognised programme) as the guidelines appear to suggest. Indeed if it was, the appeal in this case would have been much easier for the Ministry to dispose of – the appellant could never have completed her five year medical *"programme"* within her original 200 weeks and she was perfectly well aware of this fact. As the Authority said in [2016] NZSAAA 01 at [20]:

> *While in a loose sense the entitlement limit is certainly intended to ensure that students can complete basic undergraduate programmes with allowance support, it is not predicated on enrolment in any particular programmes and it is certainly not expressed in terms of such enrolment. Rather it is an absolute entitlement that students are free to use for whatever recognised programmes and in whatever combination that they see fit. Given that such programmes and combinations of programmes will vary considerably in length it would be a nonsense for the Regulations to link the entitlement limit in any way to the completion of any chosen programme or programmes and they certainly do not do so. Contrary to the way in which the StudyLink guidelines are currently drawn, the question therefore is not whether the student has been prevented from completing their study programme within their entitlement, it is simply whether they have been prevented from receiving the full benefit of that entitlement in terms of their study.*

In that decision the Authority went on say that the Ministry needed to review the guidelines at least insofar as they appear to focus on *"programmes"* rather than *"courses".* So far as I am aware no such review has been conducted. In view of the erroneous advice the appellant received in 2015, which illustrates very clearly StudyLink's ability to confuse *"courses"* and *"programmes"*, the matter should be revisited.

[12] While the guidelines are unfortunately silent on the question, the policy underlying the reg 20(7) discretion and what this means in practice has been the subject of a number of decisions by this Authority. In particular in [2016] NZSAAA 01 at [16] the Authority said:

> *Although the discretion to extend eligibility in reg 20(7) is expressed in general terms, the regulatory context in which it is framed makes it quite clear that the discretion is a limited one aimed at alleviating the strictness of a rigid eligibility rule where a student has been unable to receive the full benefit of their entitlement due to circumstances beyond their control. The typical case in which the exercise of the discretion would need to be considered would be where a student in receipt of an allowance is unable, due to some medical condition, to undertake a normal full-time workload or whose study patterns are disrupted by some medical or family emergency beyond their control. In such cases the student is, through no fault of their own, obviously unable to receive the same study benefit from their allowance entitlement as other students. Simple fairness requires that they be granted extra support to recognise that their entitlement has been, in some sense, wasted.*

To similar effect see [2008] NZSAAA 03 at [7], [29], and [2012] NZSAAA 05 at [14].

The Secretary's decision

[13] In response to the appellant's initial argument that because she enrolled for the MBChB before she turned 40 she remains entitled to the full 200 weeks of allowance, the Secretary emphasises that it is not the date on which a student commences a "*programme*" that matters under reg 20(1)(b) but the date at which they commence any particular "*course or courses of study*":

> *Each "course of study" will have its own study start date which is distinct from any previous study period. It is this study start date and reference to the age of the applicant of that particular date that is relevant to the application of* [reg 20(1)(b)]*.* [This approach] *is endorsed by prior decisions of the Student Allowance Appeal Authority.*

Accordingly when the appellant applied for an allowance to cover her courses in 2018 and 2019 her entitlement was fixed at the lower 120 week limit. The advice given to her by StudyLink to the contrary in August 2015 was plainly incorrect. Insofar as she may have relied on this advice, the Secretary acknowledges that she has "*a valid complaint*" against StudyLink.

[14] In response to the appellant's argument that the enforced delay in commencing her medical studies and the year's allowance lost due to the ACC payments in 2016 amount to "*special circumstances*" justifying an extension, the Secretary is equally clear. The accident and her consequent *"loss"* of two years allowance while she was still eligible for the full 200 weeks is not within reg 20(7) because the

> *policy objective of the extension discretion is not met by providing additional weeks for events occurring prior to the commencement of a course of study. Further, Regulation 20(7A) makes clear that special circumstances do not exist merely because a person is affected by the reduced entitlement.*

In this situation an extension is "*not the appropriate remedy and is not available within the limited discretion provided by Regulation 20(7)*".

[15] Not only does this mean that her application for an extension in 2019 cannot succeed, it also means that the appellant was "*extremely fortunate to have received the initial extension* [in 2018] *which in my view should have been declined"*. It is unfortunate that nowhere in his decision does the Secretary actually identify the *"policy objective of the extension discretion"* or indicate in any clear way why that policy objective would not be met by granting an extension in the appellant's case. With all due respect, it is incumbent on the Secretary on review to provide a clear, tailor-made explanation of the grounds on which any decision is based. This is necessary not only to enable students to realistically assess their appeal prospects and formulate the arguments they will need to make, but also as part of the process of assuring students of the integrity and independence of the review process itself. Simply invoking *"policy"* without more does none of this.

[16] Although the appellant changed her position in her supplementary submissions to the review in mid-November – abandoning her earlier arguments and substituting an application for an extension on general compassionate grounds based on the ongoing effects of the accident on her current study, clinical work and ordinary day-to-day activities – the Secretary does not mention or address these concerns in his decision. It may be that this is because he received her submissions late in the process accompanied by a note from the StudyLink Report Writer simply stating that the Ministry's view remained unchanged, or it may be that it is based on his having already ruled out "*events occurring prior to the commencement*" of the relevant course of study and saw this as extending to the ongoing effects of the accident. Either way it is unfortunate that neither the appellant's concession nor her reformulation of her arguments received the consideration they deserved.

The basis of this appeal

[17] As noted above, at the review the appellant abandoned her earlier arguments and advanced a more general case based on her ongoing medical issues and arguing for what she describes as a "*compassionate consideration for an extension*". In particular she disputed StudyLink's statement in its various reports to the Secretary – which are included in the Review report but which are neither referenced nor discussed in the Secretary's final determination – that her medical circumstances *"did not impact her ability to successfully study"*. Rather she said

> *… While I have indeed passed course requirements each year, my medical circumstances have very greatly affected my ability to study. The Traumatic Brain Injury (TBI) significantly increases my need for sleep so I have less time to study. Fatigue from the TBI means that I have often had to take naps during class time. Orthopaedic injuries have reduced my ability to exercise (which aids study). The TBI has increased the amount of work required for me to retain information. Mild incontinence from fracturing my T12 vertebrae requires a considerable level of management that can detract from my time spent with patients and clinicians in hospital. The TBI has also increased my levels of psychological stress, as I fail to sleep (insomnia is a common TBI effect) and therefore worry about my performance as a clinician while awake in the small hours … None of these points necessarily*

> *change my eligibility for the Student Allowance, but I hope that they add to my request for compassionate consideration.*

She repeats this submission in a very abbreviated form on this appeal, rejecting StudyLink's comments that her study was unaffected as "*unfortunately patently untrue"* and describing her injuries as *"ongoing impediments"* that continue to "*affect my ability to study in the very concrete ways I outlined in my initial appeal*".

[18] In addition she says more generally as part of her case for "*compassionate consideration"* that StudyLink should, in effect, emulate ACC and assist in the ongoing support that, through no fault of her own, she still needs:

> *If I had not had the accident, I would have been eligible for three years of Student Allowance before I turned 40. The accident was nearly fatal, and its effects continue to have significant impacts on my life. I am very grateful to ACC for their ongoing support in a multitude of facets. I additionally ask that StudyLink might acknowledge that had I not had the accident, I would have been eligible for, and they would have paid me, the entire 200 weeks of allowance.*

And she reiterates her view that the general discretion provided by the Regulations is an appropriate vehicle for acknowledging her "*unusual (abnormal) case*", and should not be constrained by the StudyLink guidelines which only indicate situations in which the discretion "*normally*" applies.

The Ministry's submissions

[19] First, the Ministry endorses the Secretary's view that, contrary to the advice she had received from StudyLink in August 2015, when she commenced study in 2019 the appellant was "*of or over the age of 40* years" and was accordingly restricted to a maximum of 120 weeks allowance – which she had already exhausted. While the Ministry accepts that the advice StudyLink gave her was clearly incorrect, it denies that it is relevant to the issues on appeal because it was given after the appellant had finalised her study plans and postponed her enrolment until 2016.

[20] The Ministry is unpersuaded by the *"lost"* years of entitlement argument based on the accident and its aftermath. It reiterates the Secretary's view that "*the policy objective of the extension discretion is not met by providing additional weeks for events occurring prior to the commencement of the course of study*", and concludes that since she was *"neither studying full time nor was she enrolled to study", "the accident did not result in the appellant's Student Allowance entitlement being impacted due to the accident".* It also agrees with the Secretary that the decision to grant her an extension in 2018 was incorrect and resulted in her receiving 38 weeks of allowance in excess of her actual entitlement.

[21] In response to the appellant's arguments on appeal the Ministry largely ignores her abandonment of her earlier arguments and her shift of focus to the ongoing impact of the accident and its aftermath on her studies, and simply reiterates its earlier arguments. Events happening prior to the commencement of the appellant's studies cannot be taken into account in exercising the discretion and the appellant "*has not provided any evidence of special circumstances <u>after</u> she enrolled for her studies*".

Discussion

[22] As noted above at [12], in [2016] NZSAAA 01 at [16], the Authority described the reg 20(7) discretion as "*a limited one aimed at alleviating the strictness of a rigid eligibility rule where a student has been unable to receive the full benefit of their entitlement due to circumstances beyond their control"*. The test is whether a student has received an allowance in circumstances where, through no fault of their own, they are unable to derive "*the same study benefit*" from that allowance as other students. It is the impact of the circumstance or event on the student's study that matters not when or how it arose or occurred. All that is needed in such a case to bring the reg 20(7) discretion into play is for the student to be able to point to some evidence of a "*special*" circumstance or event that has meant that they have been unable to complete their course or courses in the usual way and that they now need extra (supported) time to do so.

[23] **The entitlement issue.** It is clear that the appellant's initial contention that she should have the benefit of the full 200 week entitlement for the duration of her degree irrespective of her age is untenable and she was clearly correct to concede the point before the Secretary. As both the Secretary and the Ministry say, and as the Authority emphasised in [2016] NZSAA 01 at [14], under reg 20(1)(b) the point at which a student's entitlement is to be assessed is when the student applies for an allowance to cover the specific course or courses they intend to undertake in a particular academic period and not the point at which they enrol in the general qualification (or "*programme*") of which those courses form a part.

[24] **The appellant's *"loss"* of access to two year's of allowance entitlement in 2015 and 2016.** It is also clear that the Secretary and the Ministry were correct to reject the appellant's initial contention that the *"special circumstances"* discretion enables account to be taken of her "*loss*" of two years worth of allowance in 2015 and 2016 as a result of her accident and its aftermath. However this is not, as both the Secretary and the Ministry seem to suggest, simply because the events in question occurred "*prior to the commencement of a course of study".* The issue under reg 20(7) is not when the events occurred, it is whether those events had an adverse effect on the student's ability to "*receive the same study benefit from their allowance entitlement as other students"* (see [2016] NZSAAA 01 at [16]). Certainly the usual events that may affect a student's ability to make full use of their entitlement – such as illness, family crises, bereavement and the like – will generally occur while the student is studying. But many will not. Pre-existing disability, learning disorders and the long term effects of illness, injury and family breakup may well have a continuing impact on a student's ability to function in the same way as other students while they are studying irrespective of when or how they originated and can all form the basis of an exercise of the discretion under reg 20(7).

[25] While there is no difficulty in accepting that the appellant's circumstances are "*special*" in the sense that her accident and its ongoing consequences are both clearly out of the ordinary and largely beyond her ability to control, and while these circumstances certainly caused her, either directly or indirectly, to "*lose*" two years of allowance supported study, they did not affect her while she was studying so as to "*waste"* her entitlement. When she enrolled in 2019 she had exhausted her entitlement of 120 weeks. What happened in 2015 and 2016 is irrelevant to this – over that period she was either not studying at all or was not receiving an allowance. She was not deprived of the benefit of any of the allowance payments she had received within her

entitlement. As with the general question of her entitlement, she was clearly correct to concede this argument before the Secretary. It was untenable.

[26] **Whether the reg 20(7) discretion should have been exercised to recognise the impact of the ongoing consequences of the appellant's accident on her subsequent study.** As noted above at [2], given the appellant's concession before the Secretary, the only live issue on this appeal is whether the reg 20(7) discretion should nevertheless be exercised in her favour out of what she describes as *"compassion"* for the "*unusual (abnormal)*" nature of her case. In support of this plea she describes in some detail the ongoing impact of the accident and its aftermath on her ability to study and to discharge her clinical responsibilities over the whole period of her medical studies. It is unfortunate that neither the Secretary nor the Ministry make any attempt to address this argument. Indeed the Ministry in its supplementary submissions seems to see the appellant's submissions to the Authority as simply repeating the earlier *"lost years"* argument and portrays her as claiming that but for the accident she would *"have been able to complete her qualification within the 200 week limit"*. This is patently incorrect. The *"lost years"* argument was conceded by her before the Secretary and is not repeated by her on appeal. Furthermore she has never argued that but for the accident she would have been able to complete the five years of her medical degree within the 200 week limit. Rather she acknowledged right from the start that if the accident had not had the effects it did, her allowance would have run out in the fourth year of her degree (ie 2018) anyway, and that the final year (2019) would have been unsupported. The only part of the Ministry's response to the appellant's submissions that is remotely relevant to what she actually says is its statement that the appellant "*has not provided any evidence of special circumstances <u>after</u> she enrolled for her studies*". While technically this may be correct – in that she has not provided any independent supporting evidence attesting to the ongoing consequences of her accident for her study in 2017 and 2018 when she was in receipt of an allowance – the Ministry ignores the fact that all the consequences outlined in her submissions are specifically described as affecting her studies and at least appear to go some way towards establishing factors beyond her control affecting her ability to make the best use of her entitlement. With all due respect to both the Secretary – who does not mention her supplementary submissions at all – and the Ministry, the appellant's submissions on this point needed to be acknowledged and deserved a considered response.

[27] In 2013 the appellant undoubtedly suffered a life threatening accident that has continued to have a very significant impact on her personal and professional life. By all accounts it is very likely to continue to do so for the foreseeable future. While the accident and the medical treatment that followed certainly occurred prior to her commencing her medical studies, the question is whether the ongoing consequences of these events have affected subsequent periods of allowance supported study to such an extent as to deprive her of all or some of the benefit of her remaining allowance entitlement. The ongoing effects she describes, which, if not wholly outside her control are at least very difficult to compensate for, have undoubtedly seriously affected her ability to study "normally" over the period when she was receiving allowance support. Accordingly I have no difficulty in accepting that they could certainly amount to *"special circumstances*" for the purposes of reg 20(7). A student suffering from the lingering results of a serious injury and consequent surgery who is continually stressed, suffers from insomnia, is prone to fall asleep in class, has difficulties retaining information and whose interaction with colleagues and patients is affected by a constant need to manage her incontinence is certainly functioning in a rather different world from other students. The question, then, is simply whether the effects the appellant has described can be seen as having

prevented her from deriving "*the same study benefit*" from her allowance as other students.

[28] I accept, as anyone who reads her submissions must, that her injury has affected her study significantly. It has affected the whole of her medical degree and it has affected both her academic work and her clinical practice. However, while it is clear that this has rendered her study more difficult and that she faces issues not faced by other students, there is nothing to suggest that this has somehow "*wasted"* her allowance entitlement so as to now require extra time to restore her to the same position as other students. There is nothing in her submissions suggesting that she has failed courses or in-course work. She does not appear to have been forced to undertake a reduced workload, withdraw from courses or even seek extra time to complete in-course assignments or clinical tasks. Indeed she presents this side of her case in the balanced and realistic way she conceded her initial arguments, noting that despite the *"impediments"* she has nevertheless *"passed course requirements each year"* and accepting that *"none of these points necessarily change my eligibility for the Student Allowance"*. Unfortunately in this she is correct. Without wishing to diminish the difficulties she has had to overcome in any way, they have not resulted in her having to take extra time in order to complete the same courses as other medical students. To put it crudely, it has simply been harder for her to achieve the same degree of success. But she has done so and she has received and benefitted fully from her allowance entitlement in doing so. The reg 20(7) discretion is accordingly not available. Nor is there any residual *"compassionate"* discretion of the sort the appellant argues for available to either StudyLink, the Secretary or this Authority.

[29] In reality it is the reduction in entitlement when she turned 40 that has deprived her of allowance support in 2019 and not some special circumstance that has affected her ability to make full use of her supported study time. When she enrolled in 2019 she was entitled to access 120 weeks of Student Allowance and had already done so. She received the full benefit of that entitlement. As reg 20(7A) specifically provides, the fact that her eligibility has been affected by the 2014 amendments to the Regulations cannot in itself constitute a special circumstance justifying an extension. It is true that the appellant was advised by StudyLink in August 2015 that if she commenced her degree studies before the age of 40 she would remain eligible for 200 weeks allowance support. This was clearly incorrect and, as the Secretary says, the appellant certainly has a valid complaint against StudyLink in relation to it. However, as the Ministry argues, this advice did not appear to impact in any way her decision to structure her study in the way she did or indeed to continue with her medical studies. She had enrolled in a degree that she knew would take her five years of full-time study to complete prior to receiving this advice and had already applied to defer her first year of study in 2015 because of her medical situation.

[30] Although it is not an issue in this appeal and nothing flows from it, the Secretary and the Ministry are undoubtedly correct in describing StudyLink's decision to approve a 38 week extension to the appellant's allowance in 2018 as incorrect. The one year delay in commencing her medical studies that provided the sole justification for this decision had no effect on her use of her allowance entitlement and could never constitute a special circumstance under reg 20(7).

The appeal is dismissed. The decision of the Secretary on review to uphold StudyLink's decision to decline the appellant's application for an extension to the 120 week Student Allowance limit for study in 2019 is upheld.

DATED at WELLINGTON this day of 2020

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Neil Cameron
Student Allowance Appeal Authority

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