

IN THE MATTER of the Social Security Act 2018.

AND

IN THE MATTER of an Appeal by XXXX of Wellington, against a decision of the Chief Executive that has been confirmed or varied by a Benefits Review Committee.

BEFORE THE SOCIAL SECURITY APPEAL AUTHORITY

G Pearson (Chairperson)

J Ryall (Member)

Mr G Howell, for XXXX

Mr P Engels for the Chief Executive's case

Decision: Friday, 02 July 2021

DECISION

Introduction

[1] This decision concerns whether XXXX should have received a non-recoverable special needs grant to purchase a security camera. The Ministry declined assistance, but later offered assistance on a recoverable basis. However, the Ministry did accept that it would have provided non-recoverable assistance had XXXX had a police recommendation to install the camera.

[2] We are required to consider XXXX's circumstances, the nature of the need for the camera and then make a discretionary decision regarding the appropriate assistance.

The scope of the issues and the law

[3] Mr Howell and Mr Engels agreed that the only issue was the recoverability of the assistance. After being refused the assistance XXXX has in fact purchased a security camera, therefore non-recoverable assistance would potentially not assist her. Both parties agreed the form of assistance would be under the Special

Needs Grants Programme (the Programme). The Ministry accepted XXXX met the threshold requirements under the Programme, as there was an emergency situation and immediate need. The reasons were XXXX's personal circumstances. She was a vulnerable person on account of multiple factors that included her age and medical conditions; and the recent experience of a burglary of her home. The result of the burglary, the Ministry accepted, was stress and leaving XXXX to fear for her safety.

[4] The Ministry considered that the limit of \$500 maximum assistance applied as XXXX did not meet the "exceptional circumstances" exception required before a higher level of assistance applied. However, the assistance she sought was only \$459.00, so the issue did not arise.

[5] The essential element of dispute was the application of the discretion in clause 14.3 of the Programme, which provides:

14.3 In deciding whether a Grant made under clause 14.1 will be recoverable or non-recoverable, the chief executive must have regard to the following matters-

- (a) the purpose of the Grant;
- (b) the nature of the need;
- (c) whether it would be equitable with other Applicants to require or not to require repayment; and
- (d) the effect on the Applicant of requiring or not requiring repayment of the Grant.

[6] The Ministry considered that without something to set XXXX apart from others in similar circumstances, it could not justify making the grant non-recoverable. It did note that something like police recommendation would have that effect.

Facts

[7] It is not necessary to explore XXXX's circumstances in detail. The key elements are:

[7.1] We are satisfied that XXXX has suffered considerable emotional and mental distress in recent years. She is in a high-density social housing situation, and she does not deal with it very well. We formed the view that XXXX's account may not reflect an objective narrative, but accept it reflected her perceptions and beliefs.

[7.2] We are satisfied that XXXX was distressed due to her beliefs regarding a burglary, her ongoing vulnerability and she was not well equipped to deal with that situation. Unfortunately, she initially had assistance to install a security camera, which was not fit for purpose, and not able to be fitted under the conditions of her tenancy. Accordingly, it had to be removed. We are considering her need for a replacement camera, which allows proper monitoring of her living space. It is allowed by the tenancy as it does not take images of shared space.

Discussion

[8] We turn to the criteria under cl 14.3 of the Programme:

[8.1] The purpose of the grant is to provide a greater sense of security within XXXX's home following a traumatic event occurring there. She does not have the option of changing her living circumstances. She has significant anguish arising from her circumstances due to ongoing background circumstances. We are satisfied that without the increased security XXXX could potentially have suffered a serious setback to her mental health, and that is a cost that the State would have borne.

[8.2] Our view of the nature of the need is reflected in the preceding sub-paragraph.

[8.3] Equity with other applicants is not, in our view an important criterion in this particular case. The circumstances are personal to XXXX. For other people receiving assistance, if a modest expenditure could alleviate potentially serious health risks, the same support would be offered to them.

[8.4] The effect of requiring the repayment would impose further financial stress on XXXX, when the support she receives essentially only covers her living costs.

[9] We are accordingly satisfied that XXXX's personal fragility requires that the grant be non-recoverable. As the amount of assistance sought was \$459.00, we are satisfied the full assistance should be provided.

Conclusion

[10] The appeal is allowed, XXXX is granted the Special Needs Grant of \$459.00, which is non-recoverable.

DATED at Wellington 02 July 2021

Grant Pearson
Chairperson

John Ryall
Member