

[2020] NZSSAA 6

Reference No. SSA 39/20

IN THE MATTER of the Social Security Act 2018

AND

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

BEFORE THE SOCIAL SECURITY APPEAL AUTHORITY

S Pezaro - Deputy Chair

J Ryall - Member

Hearings at AUCKLAND on 15 December 2020 and 3 February 2021

Appearances

The appellant and her advocate, Kaye Brereton, by audio link

C Hunt, counsel, and P Siueva, appeals officer, for the Ministry of Social Development
in person

DECISION

Background

[1] XXXX ("the appellant") appeals the decision by the Ministry of Social Development on 30 July 2019 to pay to top up her 30-day bus pass with \$150 by way of an advance payment of benefit rather than a non-recoverable grant. This decision was heard and confirmed by a Benefits Review Committee on 23 October 2019.

[2] When the appellant filed this appeal she thought that she had been granted non-recoverable assistance the previous month for a monthly bus pass however she now accepts that grant was also recoverable.

Relevant law

- [3] The Special Needs Grant Programme was established under s 124(1)(d) of the Social Security Act 1964, now replaced by the Social Security Act 2018 which contains the same provision. The objectives of the programme are to provide non-recoverable financial assistance for certain essential and immediate needs and immediate needs in emergency situations, and to provide recoverable or non-recoverable financial assistance in specific circumstances as set out in the programme. The programme requires the Ministry to be satisfied that an emergency situation exists before making a grant. In deciding whether there is an emergency situation, the Ministry is required to have regard to:
- (a) Whether the situation was unforeseen.
 - (b) If the situation could have been foreseen or predicted, whether the applicant could reasonably have been expected to make provision in advance to meet the need; and
 - (c) The extent to which declining the request for the grant would worsen the applicant's position or increase or create any risk to the life or welfare of the applicant, their spouse, or dependent children, or cause serious hardship.

Issue

- [4] The issue that we must decide is whether the appellant's circumstances met the requirement for a non-recoverable grant of assistance for a bus pass at the time of her application.

The case for the appellant

- [5] Ms Brereton filed submissions for the appellant on 9 December 2020. She said that at the time of application the appellant had recently returned to Wellington and her Supplementary Assistance, Disability Allowance and Temporary Additional Support had been suspended with the result that she was receiving only basic levels of assistance. The appellant was in emergency accommodation and required to be actively seeking housing. She therefore needed to travel to view potential rentals and a monthly bus pass was the most economical means of doing so.

- [6] Ms Brereton acknowledged that the situation whereby the appellant required a bus pass was not entirely unforeseen, but the appellant expected that as she had priority for social housing she would be housed quickly. Ms Brereton stated that if the appellant was not granted the assistance she sought, she would have been unable to ensure her daughter got to school daily and unable to meet her obligations to actively seek long term accommodation. Mr Brereton argued that if the appellant purchased the bus pass herself, she would have been unable to purchase adequate food or send her child to school. Ms Brereton submitted that the appellant's circumstances were unique and she met the criteria for an emergency situation and a non-recoverable Special Needs Grant.
- [7] In evidence the appellant said that the bus pass was a better option than weekly or daily tickets. She said that because her daughter's schooling was in an affluent area which did not have social housing she would have an ongoing need for a bus pass when she obtained private housing. The appellant accepted that she did not put money aside for the bus pass and also agreed that, as stated in the Ministry's report, she received a benefit payment of \$337.01 on 24 July 2019 and her next benefit payment was due on 31 July 2019, the day after the decision was made. She also accepted she received Family Tax Credit of \$113.04 per week from Inland Revenue.

The case for the Ministry

- [8] The Ministry accepts that the appellant had an immediate need for her bus pass to be topped up but does not accept that this need arose because of an emergency. The Ministry says that because the appellant was in emergency housing at the time she was not committed to paying weekly rent and did not have those costs. If the appellant could not afford a monthly bus pass she had other options for paying her bus fare.
- [9] The Ministry also said that the need to get for the appellant to get her daughter to school was not unforeseen; it would always be the case that the appellant would need to travel between home, her place of employment and her daughter's school and the cost of the bus pass was predictable.
- [10] The Ministry did not accept that its decision to make the grant recoverable adversely effected the appellant's situation because the recovery rate is \$2 per week. Mr Hunt said that as the appellant had not provided a break down of her

costs or budget at the relevant time, there was no evidence to support her assertion that she could not afford a bus pass.

Discussion

[11] The hearing on 15 December 2020 was adjourned for the appellant to file by 25 January 2021 a schedule showing her expenses and outgoings for the period 1 to 31 July 2019. On 26 January 2021 the appellant emailed the case manager stating that she would not be providing the information requested. She did not produce this information at the hearing.

[12] As a result, we do not have evidence of the appellant's financial situation at the time she applied for a non-recoverable grant. The evidence we have is that she was in emergency housing and therefore not required to pay rent and receiving a weekly benefit of \$335 and Family Tax Credit of \$113.04 per week. In the absence of any information of the appellant's financial situation at the time, we are not satisfied that her circumstances constituted an emergency or that she could not afford bus travel. We conclude that the appellant did not meet the requirements for a non-recoverable grant at the time of her application.

Order

[13] The appeal is dismissed.

Dated at Wellington this 5th day of March 2021

S Pezaro
Deputy Chair

J Ryall
Member