

**IN THE MATTER** of the Social Security Act 2018

**AND**

**IN THE MATTER** of a late appeal by **XXXX**, of  
XXXX against a decision of a  
Benefits Review Committee.

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**DECISION**  
EXTENDING TIME TO FILE APPEAL

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**Background**

- [1] XXXX wishes to appeal against a decision of a Benefits Review Committee on behalf of her late brother, XXXX. A Notice of Appeal was emailed to the Authority on 20 December 2021, however the email address used was incorrect and the Notice of Appeal did not reach the Authority until 26 January 2022.
- [2] The key background details are as follows:
- (a) The appeal concerns a decision made by the Ministry of Social Development (the Ministry) to grant a funeral grant for XXXX's funeral for a sum lower than the funeral cost claimed.
  - (b) A Benefits Review Committee heard XXXX's request for review of the decision on 29 April 2021.
  - (c) The Benefits Review Committee upheld the Ministry's decision.
  - (d) A copy of the Benefits Review Committee decision was posted to XXXX on or about 11 May 2021.
  - (e) The final date for lodging an appeal was 60 working days after receipt of the Benefits Review Committee decision. This timeframe would have given XXXX until the start of August 2021 to file the appeal.

- [3] For XXXX it is submitted that the filing of the appeal was delayed due to XXXX being stricken with grief: preoccupied with winding up her brother's affairs: caring for a close friend who suffers from dementia; and her own health issues.
- [4] The Ministry considers that overall there is no good or sufficient reason for the delay of five months in filing the appeal. It has referred to the fact that XXXX was able to apply for a review of its decision within time and that despite being informed of her appeal rights when the Benefits Review Committee decision was received, there is nothing to suggest that XXXX was unable to file her appeal within the required timeframe.
- [5] The Authority has a discretion to allow late appeals. We must decide whether we should exercise that discretion to allow XXXX to bring her proposed appeal.

#### **The Law**

- [6] Section 400(3) of the Social Security Act 2018 allows the Authority to allow a further period for bringing an appeal if it "considers there is good sufficient reason for the delay."

#### **Discussion**

- [7] Although the Authority did not receive the Notice of Appeal until 26 January 2022, we accept that XXXX attempted to file it a month earlier and consider that XXXX sought to file the appeal more than four months out of time.
- [8] Although XXXX could have filed her appeal within the required timeframe, we are satisfied that XXXX has been dealing with various matters which were cumulatively wearying and could have reasonably diverted her attention away from ensuring the appeal was filed in a timely manner. The Notice of Appeal also refers to XXXX being exhausted after her application was denied a third time (by the Benefit's Review Committee), and she was unaware until the time of completing her Notice of Appeal that she was able to get help from Community Law to address the issue. XXXX's unfamiliarity with the appeal process is reflected in her initial email forwarding the Notice of Appeal.
- [9] We are satisfied that XXXX's wearying situation and unfamiliarity with the process provides a good and sufficient reason for the delay. Accordingly, the Authority grants an extension of time to bring the intended appeal.

**Decision**

[10] The timeframe for bringing the appeal is extended to 26 January 2022.

[11] The Appeal is to be progressed in the usual way. The Ministry is to provide its report on or before **Friday 18 March 2022**.

**DATED** at Wellington 10 February 2022.

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**Rachel Palu**  
Deputy Chair

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**John Ryall**  
Member