

[2023] NZSSAA 1

Reference No. SSAA 62/22

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

AND

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

BEFORE THE SOCIAL SECURITY APPEAL AUTHORITY

G Pearson (Chairperson)

R Palu (Deputy Chair)

Date of hearing: 14 February 2022

Appearances: The appellant in person

J Neumegen, counsel, and N Jaura, appeals officer, for the
Ministry of Social Development

Decision: 1 March 2023

DECISION

Introduction

- [1] XXXX appeals against a decision of a Benefits Review Committee (BRC) which upheld a decision by the Ministry of Social Development (the Ministry) on 8 November 2021 concerning XXXX's allowable disability costs for electricity associated with charging his hearing aids (power) and consumable CBD oil.

- [2] The CBD oil decision reduced the cost included in XXXX's disability allowance for CBD oil down from \$357.35 per fortnight. The Ministry subsequently reassessed XXXX's CBD oil cost and increased it from 8 September 2021. At the hearing XXXX confirmed that the increase covered his reasonable cost of CBD oil at the time and that the CBD oil aspect of his appeal was resolved.¹
- [3] The power decision determined the cost of power usage to charge XXXX's hearing aids. There is no dispute that XXXX qualifies for additional power cost to charge his hearing aids in his disability allowance. The issue in this appeal concerns the cost of power to recharge hearing aids as a disability related cost.
- [4] The Ministry considers that the power costs to charge XXXX's hearing aids is \$1.83 per annum. XXXX considers that the cost of power consumption is significantly higher.

Background

- [5] XXXX is 31 years old. He has various medical conditions and receives a supported living payment.
- [6] In or about February 2021 XXXX began using hearing aids. The hearing aids are a lithium-ion rechargeable style and need to be charged every night.
- [7] At the time of the Ministry's decision XXXX received a supported living payment and other supplementary assistance such as a disability allowance and temporary additional support (TAS). When XXXX's disability costs were reviewed his disability allowance, which was already at the maximum rate of \$66.11 per week, continued at that rate. His TAS was also reviewed and the rate of payment of XXXX's TAS was increased to include power costs. This was initially increased from 24 October 2021, the date of XXXX's doctor's certificate. After this appeal was filed, the increase was backdated to 24 February 2021, the date XXXX first informed the Ministry that he had started using hearing aids.
- [8] In January 2022, XXXX sought a review of that decision. The matter was reviewed internally and by a BRC. The BRC issued its decision in June 2022 and upheld the decision of the Ministry. XXXX then appealed to this Authority.

XXXX's position

¹ XXXX's CBD oil consumption needs and costs have subsequently changed. The change is currently a matter being processed with the Ministry and is not included in this appeal.

- [9] XXXX considers that the cost of power consumption to charge his hearing aids is significantly more than the amount assessed by the Ministry. He has undertaken a careful analysis of the overall cost. This has involved reference to the technical data for the hearing aids, the use of an online electrical calculator to convert power consumption into kilowatts and the application of the unit cost of electricity from his power bills.
- [10] The information provided by XXXX considers that the cost to charge his hearing aids over a 12-hour period is within the range of 6.79 kilowatt/hours per day, being \$50.14 per month and \$610.03 per year. The cost to charge for a 24-hour period is \$100.28 per month and \$1,220.06 per year.
- [11] In terms of the Ministry's assessment, XXXX considered that:
- (a) the Ministry's use of the Powerswitch website provided insufficient detail and was incorrect;
 - (b) the Ministry did not use any of the information he provided regarding the use of his hearing aids.
 - (c) The Ministry's assessment is incorrectly based on kilowatts and not kilowatt/hours .

The Ministry's position

- [12] As already stated, it is accepted that the cost of charging XXXX's hearing aids is a disability cost. To assess the cost the Ministry has used a maximum four-hour re-charging time to calculate the cost of charging the hearing aids. This timeframe comes from the technical data sheet for the hearing aids.
- [13] The Ministry has assessed the running cost by comparing it to a 5-volt security alarm running on mains power which costs \$0.03 cents per 24 hours. It has converted this to an hourly rate of \$0.00125 which has then been multiplied by 4 hours. The result of \$0.005 has then been multiplied by 365 days resulted in the annual calculated running cost of \$1.83 (rounded up).
- [14] The Ministry considers that its assessment is correct.

Relevant Law

- [15] Under s 85 of the Social Security Act 2018 a person who has additional expenses of an ongoing kind arising from their disability, which cannot be met from other available assistance, can be paid a disability allowance. A disability allowance can be paid for additional electricity costs that a person has because of their disability.
- [16] Although XXXX was already in receipt of the maximum allowance for a disability allowance of \$66.11 per week, as referred to above his total disability allowable cost can affect the calculation of TAS.

Discussion

- [17] As already stated, there are different views concerning the cost to recharge XXXX's hearing aids.
- [18] The Ministry's position was that the annual power consumption for charging XXXX's hearing aids was minimal. However, XXXX understood that the cost was a significant item. He is not an expert on electricity and did his best to research the process. It was not easy for him to do that. The BRC also confused the situation and misdescribed power use as 1,000 times higher than it intended (confusing kilowatts and watts), but then did not apply the power use it erroneously described.
- [19] The Ministry's original assessment that the cost was very low was in fact correct. Essentially there are three variables to determine the annual cost of power. The Ministry and XXXX agreed on a power consumption of 1 watt. The next variable was the number of hours of use in a day, for analysis at the hearing we assumed the most favourable time for XXXX, being 24 hours daily. The third variable was the cost of that power, the Ministry and XXXX agreed on about 30 cents/kilowatt hour (i.e., the cost of a constant draw of 1 kilowatt, which is 1,000 watts, for one hour).
- [20] Using those variables, it became evident that: drawing 1 watt would result in drawing 24 watt/hours a day; when multiplied by 365 days to derive a year of power consumption it comes to 8,760 watt/hours. It is then necessary to convert this to kilowatts (which is 1,000 watts) by dividing by 1,000. This results in 8.76 kilowatt/hours annually, at a cost of \$0.30 cents per kilowatt/hour. Accordingly, the full cost is \$2.63 per annum.

- [21] XXXX understood that calculation and agreed with it when we explored it with him. Plainly any nuances of calculation were *de minimis*. That is to say the law does not take account of small things. However, the Ministry advanced the argument that only 12 hours per day should be allowed. The Authority took the time to explore that proposition. XXXX very reasonably accepted 12 hours might be appropriate and he had also used that timeframe in some of his calculations. If the agreed variables were recalculated that would have resulted in an annual cost of \$1.31 rather than \$2.63 (after rounding).
- [22] In support of the reduced timeframe, the Ministry referred the Authority to technical specifications for the device. If this level of exploration were appropriate it was necessary to review the agreement that the hearing aids did draw 1 watt. While the hearing aids drew 1 watt, the correct device to measure power draw is the power supply unit. It is not a 100% efficient process to transfer power from the mains supply to the hearing aids. The difference shown in the technical data sheet is that the low voltage power supply output is 5 watts (which means it must consume not less than 5 watts). However, the data sheet does not say whether that is a maximum or actual draw, and the 12 hours is not certain either.
- [23] On the balance of probabilities using the best evidence we have we will accordingly make the calculation based on 12 hours/day and a power consumption of 5 watts not 1 watt. Recalculating the cost of power at 5 watts for 12 hours a day instead of 1 watt for 24 hours results in an annual cost of \$6.57 per annum. XXXX is entitled to recovery of that amount as the annual cost of charging his hearing aids.

Observations

- [24] We observe that it is not an effective use of resources for the Ministry or this Authority to undertake analysis of this kind. A table that makes sensible allowances for the cost of power consumption for devices required by persons with a disability seems to be necessary if the Ministry is not to waste resources.

Decision

- [25] The appeal concerning the power cost to charge hearing aids is allowed. XXXX is entitled to \$6.57 per annum for disability related power costs to recharge his hearing aids. This is to apply from 24 February 2021.

Dated at Wellington this 1st day of March 2023

G Pearson
Chairperson

Rachel Palu
Deputy Chair