

CASE SUMMARY

Complaint against the Social Welfare Department for having unreasonably suspended payment of his Disability Allowance

THE COMPLAINT

The complainant was in receipt of disability allowance (DA) in 1996 based on medical certification following a lung operation for two years. He underwent another operation of his eyes in 1997, and his level of disability was then assessed and he was considered not eligible to claim DA. He was so notified by the Social Welfare Department (SWD) and payment had been stopped as from February 1998.

2. The complainant felt aggrieved that his DA was suspended simply based on the latest medical certification irrespective of the type of medical conditions under which the DA was previously granted. He therefore lodged a complaint with The Ombudsman.

FINDINGS AND CONCLUSION

3. According to the SWD, the complainant started to receive Normal Old Age Allowance (NOAA) in 1995. Subsequently his allowance was converted to Normal Disability Allowance (NDA) for the period from 15 November 1996 to 31 October 1998 as recommended by a medical officer of a hospital on grounds of Chronic Obstructive Airway Disease (COAD) with 100% loss of earning capacity.

4. In connection with a referral for Comprehensive Social Security Allowance (CSSA), the Field Unit received on 19 January 1998 another Medical Assessment Form from another polyclinic certifying the complainant's right-eye blindness of 50% disability which was below the eligibility criteria of 100% loss of earning capacity. The complainant subsequently withdrew his application for CSSA on 4 February 1998 as he was then supported by his son. However, taking that Medical Assessment Form as the most up-to-date one, the Field Unit staff suspended his NDA with effect from 1 February 1998.

5. When the complainant lodged a complaint to the Field Unit on 7 March 1998 the Field Unit supervisor sought clarification with the medical officer of the polyclinic. Upon confirmation from the medical officer that the disablement arising from the COAD problem in this case should not be superseded by another certification of his right-eye blindness three weeks later, the complainant's entitlement of NDA was resumed on 21 April 1998, with retrospective effect from February 1998.

6. The SWD admitted that payment of the NDA need not be suspended in this case had clarification been made earlier. The SWD subsequently had strengthened coaching of staff in the handling of Medical Assessment Forms as they might cover different nature of illnesses, and reminded them the need to seek clarification in case of doubt before proceeding to stop payment of the allowance.

7. This Office considers that for those NDA recipients who have multiple medical conditions, it is both inappropriate and irresponsible for the processing staff to simply cease payment of NDA based on the latest certification of some illnesses or problems irrespective of the type of medical condition under which NDA was first granted. They should have exercised due care and diligence when they processed the medical certification. It is common place among the elderly that some may suffer a multiple of illnesses. This Office does not find their argument acceptable that there was no guideline laid down in the Social Security Manual of Procedures requiring them to make clarification about the different nature of illnesses.

8. This Office, however, notes that the SWD has already sought to explain and offer an apology to the complainant in person at an interview in July 1998. This Office is of the view that this complaint could have been avoided if the front-line staff of the Field Unit had exercised due care and diligence in cross-checking the nature of illness of the latest medical certification with the earlier one. The complainant has under the circumstances suffered because of a wrongful cessation of NDA payment.

9. All points considered, The Ombudsman concludes that this complaint is substantiated.

RECOMMENDATIONS

10. The Ombudsman is much concerned that this may not an isolated case and that processing staff in other Field Units may have a similar misunderstanding and do not cross-check against the nature of illness which first qualified recipients the grant of NDA. Accordingly, The Ombudsman has made the following recommendations to the Director of Social Welfare to consider -

- (a) reviewing the adequacy of relevant guidelines of the Social Security Manual of Procedures on cessation of NDA having regard to different nature of illnesses and in case of doubt seek guidance from senior officers and where necessary clarification from the medical officers before cessation of payment;
- (b) requiring that Field Unit concerned to review cessation of payment of NDA cases to ensure that they are correctly ceased and take corrective actions if they are not; and
- (c) requiring other Field Units to conduct a similar review in (b) above if the processing staff have incorrectly adopted the latest certification as the basis to cease payment of NDA without making reference to the original illness under which NDA was granted.

FINAL REMARKS

11. This Office is pleased to note that the Director of Social Welfare has accepted all the recommendations, taking all remedial steps as necessary to prevent recurrence of such an incident. They have also brought up this case for discussion with all Field Units supervisors to ensure clear understanding among processing staff of the appropriate handling of similar cases.

Office of The Ombudsman

Ref. : OMB 1998/0899

November 1998