

Casebase Number: G0019

Title of Payment: Carer's Allowance



Northside Community Law and Mediation Centre
Northside Civic Centre
Bunratty Road
Coolock
Dublin 17

Date of Final Decision: 13/10/2009

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Keywords: Means—whether appellant satisfied means— failure to disclose

Organisation who assisted claimant: Northside Community Law and Mediation Centre (NCL&MC)

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Case Summary:

Carer's Allowance. Appeal partially allowed. Year of Appeals Officer's decision: 2009. The Appellant applied for Carer's Allowance in 2008. The Appellant applied for Carer's Allowance as he was the carer of his elderly mother, with whom he lived. The Deciding Officer refused the claim on the basis that the Appellant worked outside the home for more than 15 hours per week. The Appellant appealed the decision. He submitted that he worked outside the home for only 13 to 14 hours per week. The Appeals Officer partially allowed the appeal.

Summary of benefit(s) received:

Carer's Allowance is a payment to people who provide full-time care and attention to (i) persons who are over 16 who require full-time care and attention, and (ii) persons who are under age 16 who require full-time care and attention and in respect of whom a domiciliary care allowance is being paid. It is means tested payment. One of the conditions of entitlement to Carer's Allowance is that the Carer must not be employed or self-employed outside the home for more than 15 hours per week.

Background:

The Appellant worked as a taxi-driver. His hours of work varied. He lived with his elderly mother. In June 2008 he applied for Carer's Allowance in respect of his mother. In August 2008, a Social Welfare Inspector called to the Appellant's house, without notifying the Appellant in advance. The Appellant was not there at the time of the visit. The Appellant's mother told the Social Welfare Inspector that the Appellant was out shopping. Two days later the Social Welfare Inspector called again to the Appellant's house. She interviewed the Appellant. The Appellant told the Inspector that he usually worked from 5.30am to 10am five days per week. He would then come home to help his mother. The Social Welfare Inspector requested details of the Appellant's finances. The Appellant did not provide those details.

The Deciding Officer denied the Appellant's claim for Carer's Allowance on the ground that he did not qualify for the allowance as he was working outside the home for more than 15 hours per week. The Appellant appealed this decision. After the Appellant lodged that appeal, in February 2009 the Social Welfare Inspector again called un-notified to the Appellant's house. The Appellant was not at home. The Appellant's mother spoke with the Social Welfare Inspector. She told the Inspector that the Appellant was in court that morning in relation to arrears of mortgage. The next day, the Social Welfare Inspector interviewed the Appellant in the local social welfare office. The Appellant told the Social Welfare Inspector that he was only working 10 to 13 hours per week. The Social Welfare Inspector

stated in her report that she found it difficult to accept that the Appellant was living on his stated earnings in light of the expenses of maintaining a taxi-plate, himself and his mother. The Social Welfare Inspector requested that the Appellant give her further details of his finances. The Social Welfare Inspector stated in her report that the Appellant did not provide those details to her and so she was unable to determine the Appellant's means.

Date of decision of Deciding Officer:

7 November 2008.

Date appeal submitted:

25 November 2008.

Date of hearing:

10 September 2009.

Date of decision of Appeals Officer:

13 October 2009.

At hearing:

The Appellant was represented at the oral hearing by his solicitor from Northside Community Law and Mediation Centre. The Social Welfare Inspector also attended. The Appeals Officer read out the Department of Social and Family Affairs decision and the Appellant's letter of appeal. The Social Welfare Inspector then read out her two reports.

The Appellant submitted that there had been a misunderstanding about the number of hours that he had told the Social Welfare Inspector that he worked when she visited in August 2008. The Appellant provided details of his earnings and the number of hours worked that he had worked in 2008 and 2009. The Appellant provided a letter from his employer that he had worked 40 to 50 hours per week in previous years but that in 2009, his average hours were 13 to 14 hours per week. These documents indicated that in 2009 the Appellant worked 13 to 14 hours per week and that he had earned just €613 up to 31 August 2009. The Appeals Officer asked how the Appellant and his mother could survive on his reported earnings. The Appellant stated that his sister helped out financially. The Appellant's sister confirmed this.

Decision:

Appeal partially allowed.

Relevant evidence provided by the Department of Social Protection

- Social Welfare Inspector's reports.

Relevant evidence provided by Appellant:

- Letters from employer stating earnings and hours of work in 2008 and 2009.

Appeals Officer's reasons and conclusion:

The Appeals Officer accepted that the Social Welfare Inspector's report in 2008 was an accurate account of her conversation with the Appellant when she had visited the Appellant and that he had told her that he worked over 20 hours per week. The Appeals Officer accepted that the Appellant had worked fewer hours in 2009. The Appeals Officer decided that, on balance, on the evidence before him, including that given at the oral hearing, that the Appellant was entitled to Carer's Allowance from 1 January 2009. The Appeals Officer suggested that the Appellant's entitlement be reviewed in 12 months time.

Our observations:

The issue here was the credibility of the Appellant's assertion that he worked less than 15 hours outside the home. It is clear that if in the course of investigating an entitlement to Carer's Allowance the Social Welfare Inspector finds, on visiting the home, that the claimant is absent from the house and the person in respect of whom the claim is made (the career) is present, this could be taken as evidence that the claimant is not providing full time care and attention to the career.

It is also clear that the evidence of a third party, e.g. an employer, as to the income of the claimant may help the claimant establish their entitlement to the allowance. However, it is open to the Inspector and the Appeals Officer to question the credibility of that evidence if it indicates an unrealistic level of income for the purposes of survival.

- For more information on Carer's Allowance, useful links are:

Citizens Information:

http://www.citizensinformation.ie/en/social_welfare/social_welfare_payments/carers/carers_allowance.html

- Department of Social Protection Operational Guidelines:

http://www.welfare.ie/EN/OperationalGuidelines/Pages/carers_all.aspx

For *more information*, contact us at:

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