
Johnson v DWP - Tribunal Decision

Case Number: SC242/24/00892

Date: 22 March 2024

FIRST-TIER TRIBUNAL
SOCIAL SECURITY AND CHILD SUPPORT CHAMBER

Appeal Number: SC242/24/00892

DECISION NOTICE

Appellant: Ms Rebecca Johnson

Respondent: Secretary of State for Work and Pensions

Hearing Date: 15 March 2024

Venue: Manchester Tribunal Centre

Panel: Judge Williams (Chair)

Dr. Patel (Medical Member)

Ms. Thompson (Disability Member)

DECISION

The appeal is ALLOWED.

The decision of the Secretary of State dated 20 December 2023 is SET ASIDE.

Ms Johnson is entitled to the enhanced rate of both the daily living component and mobility component of Personal Independence Payment from 15 September 2023.

REASONS FOR DECISION

Background

1. This is an appeal against a decision dated 20/12/2023 refusing Personal Independence Payment (PIP). The appellant underwent a consultation on 10/12/2023. Following mandatory reconsideration, the decision was upheld on 10/01/2024.

The Law

2. To qualify for PIP, a claimant must score:

- 8 points for standard daily living, 12 for enhanced
- 8 points for standard mobility, 12 for enhanced

3. Regulation 7 requires assessment over a 12-month period, considering fluctuating conditions.

4. Activities must be completed safely, to an acceptable standard, repeatedly, and in a reasonable time.

Findings of Fact

5. The appellant suffers from fibromyalgia, chronic fatigue syndrome, IBS, depression, and anxiety.

6. These conditions cause:

- Severe fatigue on 5 out of 7 days
- Widespread pain requiring regular medication
- Cognitive dysfunction ("fibro fog")
- Significant mobility restrictions
- Variable symptoms with unpredictable flare-ups

7. The tribunal found the appellant to be a credible witness. Her evidence was consistent with substantial medical evidence from her GP, rheumatologist, and psychiatrist.

8. The original assessment contained factual errors:

- Stated appellant had no walking aid (she used a stick)
- Claimed she attended gym (was hospital hydrotherapy)
- Said she walked dog daily (has no dog)

Daily Living Activities

Activity 1 - Preparing Food: 8 points

Cannot prepare and cook a simple meal unaided. Fatigue and pain prevent standing for required time.
Risk of injury from cognitive fog.

Activity 2 - Taking Nutrition: 2 points

Needs prompting to eat due to depression.

Activity 3 - Managing Therapy: 2 points

Needs prompting to take medication due to cognitive dysfunction.

Activity 4 - Washing and Bathing: 2 points

Needs assistance to get in/out of bath safely.

Activity 5 - Managing Toilet Needs: 2 points

Needs assistance to manage incontinence due to IBS.

Activity 9 - Engaging with Others: 2 points

Requires social support due to anxiety.

TOTAL DAILY LIVING: 18 points (Enhanced rate)

Mobility Activities

Activity 11 - Planning and Following Journeys: 4 points

Cannot follow unfamiliar routes due to overwhelming psychological distress.

Activity 12 - Moving Around: 10 points

Can stand and move more than 1 meter but no more than 50 meters, evidenced by GP letter and consistent testimony.

TOTAL MOBILITY: 14 points (Enhanced rate)

Conclusions

9. The original decision failed to:

- Properly consider fluctuating conditions (Regulation 7)
- Give appropriate weight to medical evidence
- Apply descriptors considering reliability criteria

10. The tribunal preferred the medical evidence and appellant's testimony to the assessment report, which contained demonstrable inaccuracies.

11. The appeal succeeds. Enhanced rate for both components from date of claim.

Period of Award

12. Given the chronic nature of conditions, award should continue for 5 years before review.

Right of Appeal

13. Both parties have the right to appeal to the Upper Tribunal on a point of law within one month.

Signed: Judge Williams

Date: 22 March 2024

DIRECTIONS TO DWP

- 1. Implement this decision within 4 weeks**
- 2. Calculate arrears from 15/09/2023**
- 3. Issue new award notification**
- 4. Next review date: March 2029**

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