



Appeal No. UA-2025-000413-PIP

**IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER**

Between:

KS

Appellant

- v -

SECRETARY OF STATE FOR WORK AND PENSIONS

Respondent

**Before: Upper Tribunal Judge Stout
Decided on consideration of the papers**

Representation:

Appellant: In person

Respondent: Ryan Binks, DMA Leeds

On appeal from:

Tribunal: First-Tier Tribunal (Social Entitlement Chamber)

Tribunal Case No: SC240/23/01427

Digital Case No.: 1696-8478-1066-9912

Tribunal Venue: Leeds (in person)

Decision Date: 17 September 2024

DECISION

The decision of the Upper Tribunal is to allow the appeal. The decision of the First-tier Tribunal involved an error of law. Under section 12(2)(a) and (b)(ii) of the Tribunals, Courts and Enforcement Act 2007, I set that decision aside and remake the decision on the basis that the appellant satisfied mobility activity descriptor 1f (cannot follow the route of a familiar journey without another person, an assistance dog or an orientation aid) and that she is accordingly entitled to the mobility component of Personal Independence Payment at the enhanced rate in addition to the daily living component.

REASONS FOR DECISION

1. The appellant appeals against the First-tier Tribunal's decision of 17 September 2024 (as amended) allowing (in large part) the appellant's appeal against the

decision of the Secretary of State of 16 August 2023 in respect of the appellant's entitlement to Personal Independence Payment (PIP) under Part 4 of the Welfare Reform Act 2012 (WRA 2012) and The Social Security (Personal Independence Payment) Regulations 2013 (SI 2013/377) (the PIP Regulations).

2. The Secretary of State had awarded the appellant 2 points on the daily living activities and 0 (zero) points on the mobility activities. The First-tier Tribunal allowed the appellant's appeal in large part and awarded the appellant 12 points on daily living activities (thus entitling the appellant to the enhanced rate for the daily living component) and 10 points on mobility activities (thus entitling the appellant to the standard rate of the mobility component).
3. The First-tier Tribunal's Statement of Reasons (SoR) was issued on 14 February 2025 and permission to appeal was refused by the First-tier Tribunal in a decision issued on 25 March 2025. The appellant filed the notice of appeal to the Upper Tribunal on 1 April 2025 (in time).
4. I granted permission to appeal in a decision issued on 21 May 2025, observing as follows:-
 5. The sole ground of appeal is directed to mobility activity 1 (planning and following journeys). The appellant argues that the First-tier Tribunal's conclusion that she is able to follow the route of a familiar journey without another person, an assistance dog or an orientation aid was perverse. She submits the First-tier Tribunal failed to take account of her oral and written evidence and that its conclusion that there was "no evidence" that she satisfied this descriptor was perverse. She further submits that the First-tier Tribunal must have failed to consider whether she was able to satisfy the descriptor safely, repeatedly, to an acceptable standard within a reasonable time.
 6. The appeal seems to me to be clearly arguable. Indeed, given that the Tribunal found the appellant to be a credible witness, it appears that the First-tier Tribunal may simply have made a mistake as to the appellant's case as regards mobility activity 1 and her evidence regarding following the route of a familiar journey.
 7. If the Secretary of State agrees, she may consider whether she could in this case consent to the Upper Tribunal substituting a decision in the appellant's case that simply corrects the Tribunal's apparent error rather than remitting the case for re-hearing.
5. The Secretary of State responded to the appeal and supported it, including supporting the remaking of the decision in the terms I suggested in my grant of permission.
6. At the permission stage, I merely had to be satisfied that the appeal was arguable. At this stage, I have to be satisfied that the Tribunal has actually erred in law. I am so satisfied. The Tribunal's reasons in this case were extremely brief. Regarding mobility activity 1, the Tribunal stated as follows:-

[KS] described difficulties with planning and following journeys. In the Healthcare Professional's report, it was stated that she went out on average once a month and never on her own. These trips [sic] There was no evidence to support the idea either that she never went out or could not undertake familiar journeys with assistance.

7. It went on at [8]-[9] to explain that it found the appellant's evidence credible and that the HCP had significantly underestimated the severity of her inability to function day to day.
8. The Secretary of State notes in response to the appeal that *"Further evidence shows that the appellant does not leave the house alone and the last time they [tried] to leave the house alone was 7 years (prior to the assessment), furthermore they always have someone with them on familiar and unfamiliar journeys..."*.
9. In those circumstances, I am satisfied that it was perverse of the Tribunal to conclude that that the appellant satisfied mobility descriptor 1e (cannot undertake any journey because it would cause overwhelming psychological distress to the claimant) and not descriptor 1f (cannot follow the route of a familiar journey without another person, an assistance dog or an orientation aid). The only evidence before the Tribunal on this was that of the appellant, which the Tribunal accepted as credible. That evidence was that she did make familiar journeys with the aid of another person.
10. While I acknowledge that there was not evidence of the appellant doing this on the majority of days (as required by regulation 7), the appellant's evidence was that she would go out to familiar places with assistance when she had to and it can be inferred from this that she could have done such a journey with assistance on the majority of days if need be. On the other hand, it was not the appellant's case (or her evidence) that she could not undertake any journey because it would cause overwhelming psychological distress, so the Tribunal's conclusion that this was the appropriate descriptor is without any basis in the evidence and also inadequately reasoned.
11. In the circumstances, I am satisfied that the First-tier Tribunal erred in law and that the Secretary of State is right to accept that, consistent with the view the Tribunal took of the appellant's evidence in this case, she should have been assessed as satisfying mobility descriptor 1f.
12. I set the decision of the First-tier Tribunal aside and remake it accordingly.

Holly Stout
Judge of the Upper Tribunal

Authorised by the Judge for issue on 12 August 2025