

2015.02.24

### **3.3 Deputy G.P. Southern of the Minister for Social Security regarding appeals against sanctions imposed for failure to actively seek work:**

What target, if any, does the Social Security Department have for the time taken to deal with appeals against sanctions imposed for failure to actively seek work?

#### **Deputy S.J. Pinel of St. Clement (The Minister for Social Security):**

In order to answer this question, I would first like to clarify the procedure when a customer disagrees with a sanction for failure to be actively seeking work. The first stage is for them to request that the decision is looked at again by a second officer: an internal review, which is referred to as a re-determination. We have a target that all such requests should be dealt with within 7 days of the request being received, which matches the similar time limit placed on the customer to submit their request for reconsideration to the department. This timescale is achieved within the overwhelming majority of cases, but there will always be situations where a delay is caused by the need to obtain supporting evidence. This is only proper and in most cases for the benefit of the claimant, who may need additional time to provide evidence; for example, obtaining a medical certificate. If the claimant still disagrees with the second decision, they have the right to appeal to an independent tribunal. The process of appealing to an external tribunal is managed by the Judicial Greffe and is independent of the department. When the department receives notification of an appeal, case papers are prepared and submitted to the registrar of appeals with a target of 2 weeks and up to 3 weeks for complex cases.

#### **3.3.1 Deputy G.P. Southern:**

The Minister seems to be of the belief that these targets for response in these questions are being met. Does she not accept the evidence I have that in many cases the appeal system, the second re-determination, takes weeks rather than days and that the tribunal system is a very slow machinery to set in action? I have never seen that operate in less than a period of months rather than weeks, as she claims.

#### **Deputy S.J. Pinel:**

I think I already explained that in my original answer inasmuch as we hope to achieve the targets within 7 days, but when it goes to the second appeal it is then in the hands of the Judicial Greffe, not of the department.

#### **3.3.2 Deputy G.P. Southern:**

Does the Minister not accept that if these targets are not being met - and they are not being met - this runs the risk of putting those who wish to appeal into serious jeopardy in terms of the fact that often their sole income is being stopped by a decision made by her officers?

#### **Deputy S.J. Pinel:**

Anybody whose sole income is stopped completely, which is on breach 2 after fair warnings and after 6 weeks, has really not complied with the statutory nature of the sanctions and has been advised all the way along by an adviser, by a mentor, by the department, and at no time would anybody lose their benefit by an accidental lack of claim.

#### **3.3.3 Deputy G.P. Southern:**

Is it not the case that a breach can sit on a person's charge sheet for up to a year and if they breach again within that year they will get automatically put on that second level with a suspension of income and that that can happen to somebody with very short notice?

#### **Deputy S.J. Pinel:**

The breach will stay on their records for a year but equally they will be reminded consistently that if they fail to comply with the regulations they will fall foul of that breach and another warning will be issued.

**3.3.4 Deputy G.P. Southern:**

Further, that that breach could be simply missing an appointment with an officer on one occasion in a year?

**Deputy S.J. Pinel:**

No, that is not the case. The advisers will advise that they are in danger of having a breach and a sanction if they continue not to comply with either facing an appointment, going for training or a work placement, and they will be advised of this if they have missed an appointment without notifying the department officers.

**3.3.5 Deputy J.A. Martin:**

Can the Minister confirm that while the appeals for sanctions are taking place, if the whole family are then not receiving any money, that they are not receiving any money and if that is so, if the appeal is successful, is the money reinstated and backdated? In between, if you are appealing something you obviously think it is wrong. How does the department treat that family, especially if they have children? Do they have no money?

**Deputy S.J. Pinel:**

As I said consistently through every question on sanctions, the person who is in breach will be warned initially and then breach 1 and breach 2, if they do not comply, is consistently warned. If they consistently refuse to comply, then they have to accept that the money will not be forthcoming. The appeals will be dealt with as quickly as the department can and if it is a complex case then it will go to the Judicial Greffe.

**3.3.6 Deputy G.P. Southern:**

Would the Minister come to the House with a list of the lengths of time taken between the registration of an appeal process and the final decision being met by the appeal tribunal for the past, let us say, year so that we can see how long these tribunals actually take, not the weeks that she says they take?

**Deputy S.J. Pinel:**

Yes, I will. There have been 101 breaches in the third breach, which means that the benefits are removed. Is that what the Deputy is asking for?

**Deputy G.P. Southern:**

I am asking for something further than that. I just want to know the length of time it takes between the first registration of an appeal, any appeal, against a decision of the department with a tribunal and when those findings are given. So what is the length of time it takes on average in the last year for appeals to go through? I think Members will be shocked to find that it is a matter of months rather than weeks.

**Deputy S.J. Pinel:**

Yes.