JUDGMENT OF THE COURT OF FIRST INSTANCE (Third Chamber)
7 November 2002

Case T-199/01

G
v
Commission of the European Communities

(Officials – Social security – Refusal to reimburse medical expenses – Inefficacious treatment)

Full text in French . . . . II - 1085

Application for: annulment of the implied rejection of the complaint submitted by the applicant against the decision of the office responsible for settling claims of 30 November 2000 refusing reimbursement of expenses relating to magistral preparations prescribed by the doctor providing treatment.

Held: The application is dismissed. The parties are ordered to bear their own costs.

Summary

1. Community law – Principles – Protection of legitimate expectations – Conditions

2. Officials – Social security – Sickness insurance – Medical expenses – Reimbursement – Refusal following previous reimbursements granted for identical treatments – Treatments considered inefficacious and unnecessary – Breach of the principle of the protection of legitimate expectations – None
(Staff Regulations, Art. 72(1); Rules on Sickness Insurance, Annex I, section XV(3))

3. Officials – Social security – Sickness insurance – Medical expenses – Reimbursement – Conditions – Appraisal of each claim in the light of its own merits in fact and in law
(Staff Regulations, Art. 72(1))

4. Officials – Administration's duty to have regard for the interests of officials – Scope – Limits

1. The right to claim protection of legitimate expectations presupposes that three conditions are satisfied. First, specific, unconditional and consistent assurances originating from authorised and reliable sources must have been given to the person concerned by the Community administration. Second, those assurances must be such as to lead the person to whom they are addressed to entertain a legitimate expectation. Third, the assurances given must comply with the relevant rules.

(see para. 38)

See: T-203/97 *Forvass* v *Commission* [1999] ECR-SC I-A-129 and II-705, para. 70, and the case-law cited

2. Even if the approval of claims for reimbursement of medical expenses submitted in the past by a member of the Joint Sickness Insurance Scheme of the Community institutions (JSIS) constitutes a specific assurance as to the existence of a right to future reimbursement for identical treatments, it is obvious that, being contrary to the relevant regulations, those assurances cannot give rise to a legitimate expectation.

For the purpose of safeguarding the financial equilibrium of the JSIS, the institutions have provided, in the first paragraph of section XV(3) of Annex I to the Rules on Sickness Insurance for Officials of the Communities, for the possibility of refusing reimbursement of expenses relating to treatments regarded as inefficacious or unnecessary. The fact that such a possibility is expressly provided for in the rules – which every official knows or is deemed to know – is sufficient in itself to preclude a person covered by the JSIS from relying on the existence, with respect to himself, of a legitimate expectation as to the automatic reimbursement of his medical expenses. Even though a member may reasonably take the view that his medical expenses will generally be reimbursed within the limits laid down in Article 72(1) of the Staff Regulations, he must nevertheless be aware of the fact that reimbursement may be refused by the office responsible for settling claims if, after consulting the medical officer, it considers that those expenses relate to an inefficacious or unnecessary treatment. Similarly, subsequent developments in scientific knowledge may establish that the medicinal preparation for which he has obtained reimbursement in the past is not efficacious in treating the pathology from which he suffers or that the medicinal preparation in question is efficacious only for a particular aspect of that pathology and/or under strict conditions.

(see paras 41-42)

See: T-12/94 *Daffix* v *Commission* [1997] ECR-SC I-A-453 and II-1197, para. 116

3. The appointing authority must, for every claim for reimbursement submitted by a member of the Joint Sickness Insurance Scheme, determine whether the conditions for reimbursement laid down in Article 72(1) of the Staff Regulations are satisfied by reference to the matters of fact and of law disclosed by the person concerned, without being bound by a previous decision adopted on the basis of different or less complete evidence.

(see para. 43)

See: T-33/89 and T-74/89 *Blackman* v *Parliament* [1993] ECR II-249, para. 82

4. The duty of the administration to have regard for the interests of its officials reflects the balance of the reciprocal rights and obligations established by the Staff Regulations in the relationship between a public authority and civil servants. That duty implies in particular that when the appointing authority takes a decision concerning the situation of an official, it should take into consideration all the factors which may affect its decision and that when doing so it should take into account not only the interests of the service but also those of the official concerned The duty to have regard for the interests of its officials cannot in any circumstances require the administration to act in contravention of the relevant provisions. However, that would be the case if, although convinced of the inefficacious or unnecessary nature of a treatment, the office responsible for settling claims of the Joint Sickness Insurance Scheme agreed to reimburse the relevant medical expenses.

(see paras 67, 71)

See: *Blackman* v *Parliament*, cited above, para. 96; *Forvass* v *Commission*, cited above, paras 52, 53 and 54