

Reasons for Decision:

Order # AP1617-0272

The appellant appealed that the Employment and Income Assistance program determined that the appellant was in a common-law relationship. The appellant also appealed that the Employment and Income Assistance program has not paid for the appellant's outstanding ambulance bill.

Common-law status

The appellant advised the worker that the appellant was moving to a new address on <date removed>. The appellant indicated the appellant would be living with another person, <name removed>. The program required the appellant to complete a Relationship Assessment Form to assess the nature of the relationship with the person the appellant would be residing with.

On the Relationship Assessment Form the appellant described the relationship as roommates in a rent-share situation. The appellant also indicated that they were both the parents of a child. The form states that if a person answers "yes" to this question they are considered to be common-law and are not required to complete the rest of the form. The program advised the appellant verbally on <date removed> that they considered the appellant to be common-law as the appellant was residing with a previous common-law partner and parent of the appellant's child. The program has not actually withheld or suspended the appellant's income assistance at the time of the hearing, as they were waiting for the outcome of the appeal before cancelling benefits.

The appellant stated that the appellant was living in <location removed> on the appellant's own. The appellant's health was getting really bad and the appellant was having difficulty accessing proper medical care. The appellant's <age removed> adult child was living in <text removed> with the adult child's biological parent, <name removed> at that time. The appellant stated that the appellant had ended the relationship with <name removed> about <text removed> years previously, and has had no relationship or contact with <text removed> since that time. The appellant's adult child told the appellant that the appellant could move to <text removed> to access medical care, and could live with the appellant's adult child and <text removed> until the appellant could find the appellant's own place. The lease where they were residing was expiring on <date removed> and the appellant's adult child indicated that the adult child was planning on finding the adult child's own place at that time. From <dates removed> the appellant stated that the appellant looked for the appellant's own accommodations, but could not find anything the appellant could afford. At the same time, <name removed> was also looking for <name removed> own new place. <Name removed> came across a 2 bedroom place for <amount removed> a month, and asked the appellant if the appellant would be interested in sharing the cost of rent at this new place. As this appeared to be the appellant's only option at that time, the appellant

agreed.

At the hearing the appellant stated that the appellant does not have a relationship of any kind with <name removed>. They do not share in any expenses at all, they each look after their own needs. They do not socialize together, and none of either of their friends or family consider them a couple. The appellant stated that <name removed> does have a relationship with the <text removed> from another relationship. The appellant stated that if the program will not provide the appellant with assistance while the appellant rent shares with <name removed>, the appellant will need to find a new place to live because the appellant would not expect <name removed>, nor would <name removed>, help the appellant out financially, and they would not apply for assistance with the appellant because they are strictly roommates.

According to The Manitoba Assistance Act Section 18(3)

Where two persons who are not legally married to each other are living together under circumstances that indicate to the director that they are cohabiting in a conjugal relationship, they shall, for the purposes of this Act and the regulations, be treated in the same manner as two persons who are legally married, and any application by either or both of them for income assistance or general assistance shall be dealt with in every respect in that manner.

In order to provide direction to staff in determining whether or not a common-law relationship exists, the program has developed policies to clarify which “circumstances” are to be considered. In Section 8.1.4 of The Employment and Income Assistance Administrative Manual the existence of a common-law relationship is based on:

- a. Shared residency and family composition. All married couples, self-declared common-law partners and adults that are the parents of a child together or have maintenance obligations in place for each other or the children in the household are considered spouses or common-law partners.

For all other non-familial, cohabiting relationships the program will apply the other factors of common-law status once a cumulative three months of shared residency in a six-month timeframe have passed.

plus one of the following two factors:

- b. Family/social interdependence – the degree to which the two adults who are living together interrelate with family, friends and community as a couple rather than as two people sharing a residence.
- c. Financial interdependence – the degree to which the two adults who are living together support each other financially.

After carefully considering the written and verbal information the Board has determined that the appellant and <name removed> are not residing in a conjugal relationship. The Board found the appellant’s explanation of how the appellant came

to be rent sharing with the parent of the appellant's adult child to be very credible and circumstantial.

Although they are both the biological parents of the same adult child, they are not living in a familial situation. In accordance with the legislation they are not living like a married couple, and have no sense of intimacy, commitment, or exclusivity that typically defines a common-law relationship. The Board believes that the existence of a common-law relationship must be viewed in its totality. In this particular situation, the Board has determined that the lack of contact for <text removed> years, and the lack of any other indicators of a common-law relationship should be interpreted to support that this couple is not living in a conjugal relationship. Therefore the decision of the Director has been rescinded and the Board orders the program to continue to assist the appellant as a single person.

Ambulance bill

The appellant indicated that the appellant dropped off an ambulance bill in the "drop box" at the income assistance office. When the appellant received a "Statement of Account" from the Fire Paramedic Service, the appellant also dropped this off for the worker.

The worker stated that she did not receive the actual ambulance bill, but did receive the Statement of Account. The worker stated that the accounting staff have advised her that they can only pay for ambulances when they have an actual ambulance bill, they cannot pay it based on a Statement of Account. Once that bill has been received the appellant is eligible to have the ambulance bills covered.

After carefully considering the written and verbal information the Board has determined that this is an administrative matter, and not a decision of eligibility. Therefore the Board has not rendered a decision on this issue, and advises the appellant to contact the Fire Paramedic Service to have a duplicate bill submitted for processing.

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