

**Social Services  
Appeal Board**

**Annual Report  
2016-2017**



The Social Services Appeal Board Annual Report for the year 2016-2017 can be obtained at the Appeal Board's offices at 7th floor-175 Hargrave Street, Winnipeg MB R3C 3R8; telephone 204-945-3003 or online at [http://www.gov.mb.ca/fs/ssab/annual\\_reports.html](http://www.gov.mb.ca/fs/ssab/annual_reports.html).

**This publication is available in alternate formats upon request.**

**Please contact Accessibility Coordinator, Ms. Virginia Menzie, at 204-945-1947 or by email at [virginia.menzie@gov.mb.ca](mailto:virginia.menzie@gov.mb.ca).**



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MINISTER OF FAMILIES

Room 357  
Legislative Building  
Winnipeg, Manitoba R3C 0V8  
CANADA

September 2017

The Honourable Janice C. Filmon, C.M., O.M.  
Lieutenant Governor of Manitoba  
Room 235, Legislative Building  
Winnipeg, Manitoba  
R3C 0V8

May It Please Your Honour:

I have the pleasure of presenting the Annual Report of the Social Services Appeal Board for the fiscal year ending March 31, 2017.

Respectfully submitted,

*Original Signed By Scott Fielding*

Scott Fielding





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**Social Services  
Appeal Board**

**7th Floor, 175 Hargrave Street  
Winnipeg MB R3C 3R8  
CANADA  
TEL: 204-945-3003  
FAX : 204-945-1736**

September 2017

Honourable Scott Fielding  
Minister of Families  
Room 357, Legislative Building  
Winnipeg Manitoba R3C 0V8

Dear Minister Fielding:

I am pleased to submit the Annual Report of the Social Services Appeal Board for the fiscal year ending March 31, 2017.

Section 26 of The Social Services Appeal Board Act states that within six months after the end of the government's fiscal year, the appeal board must provide the Minister with a report about the Board's activities during that fiscal year. Within that report, the Board has traditionally provided sample decision letters in order to provide a reference to the types and range of decisions that are made by the Board. We are pleased to report that our decision letters are provided online, following strict confidentiality protocols at <http://www.gov.mb.ca/fs/ssab/decisions/index.html>.

The Board is proud of its continued efforts to provide a fair and impartial appeal process to Manitoba citizens as well as informing and offering recommendations to the Minister related to matters arising from appeal hearings.

Sincerely,

*Original Signed By James C. McCrae*

James C. McCrae  
Chairperson





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## **BOARD MEMBERSHIP**

The Social Services Appeal Board (SSAB) consists of 15 members who are appointed by the Lieutenant Governor in Council. Members must represent the social, economic, and cultural diversity of the province. They must also exhibit knowledge of the social programs and services that have the right of appeal to the Appeal Board. Members cannot be employees of a minister responsible for an act in which the right of appeal is granted. Each member is appointed for a term of up to two years and may be reappointed for two additional two-year terms.

Staff that support the activities of the Board are employed by the Department of Families.

### **Appeal Board Appointees during the 2016/17 fiscal year:**

<b>Chairperson:</b>	Frank Caldwell
<b>Vice-chair:</b>	Eva Dupont
<b>Members:</b>	George Bouchard Doug Crookshanks Ron Erickson Jeannette Gougeon Zanna Joyce Julie Kading Brent Kurz Derek Legge Garry McLean Annette Niven Ellen Peel Marie Walker

### **Social Services Appeal Board Staff:**

Heather Hamelin, Director  
Kim Harrison, Hearing Officer  
Linda Bothorel, Administrative Assistant  
Karen McKane, Administrative Secretary

<b>Legal Counsel:</b>	Vivian Rachlis
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## **BOARD BIOGRAPHIES – 2016/17**

### **Frank Caldwell, Chairperson**

**Appointed August 15, 2012**

Frank worked several years for the local mining company in Thompson, Manitoba before attending university (Bachelor of Social Work, 1980; Masters of Social Work, 2000) and commencing a long career (recently retired) with the City of Winnipeg. Frank worked for many years as a social work supervisor before moving to various community-focused and administrative positions with an emphasis on strengthening neighbourhoods and the responsiveness of public services. Frank was active on a variety of Boards, committees and inter-sectoral organizations including Main Street Project, Winnipeg School Division's Migrancy Steering Committee and Nutrition Education, West Broadway Project on Substance Abuse, St. Vital Crime Prevention Project, as well as a Board member of the City's management union.

### **George Bouchard**

**Appointed February 18, 2015**

George began his career as a flight attendant in 1997 in Calgary and moved back to Winnipeg with the airline in 2001. George got involved with his local union in 2006 and was subsequently elected as President in 2008. George began working as a National representative for CUPE in 2010. In the last 5 years, he has represented members in all five sectors, including health care and social services.

### **Doug Crookshanks**

**Appointed November 25, 2014**

Doug is retired from a career in Mental Health in Manitoba. He was initially employed as a clinician with the Psychology Department of Brandon Mental Health Centre, and then in administrative positions (Head of Psychology followed by Program Manager of the Child and Adolescent Treatment Centre in Brandon when Regional Health Authorities were created). During Mental Health Reform, Doug was involved in the organization and administration of Mental Health programs, along with the creation of the multi-faceted Treatment Centre in Brandon that provides services to children, adolescents, and their families in Western Manitoba. Both prior to and since retirement, Doug has served on a variety of boards and committees in the community, including the Board of Directors of a local credit union, various church committees, and the Board of Governors of Assiniboine Community College.

### **Eva Dupont**

**Appointed August 15, 2012**

Eva is a retired teacher/administrator who has supported and worked in the public education system for many years. As an educator, she has advocated for children, and fostered safe and inclusive learning environments for all. She is committed to "giving back to the community" in a variety of ways.

**Ron Erickson**

**Appointed August 15, 2012**

Ron has held many different jobs and positions during his career. He was elected as Vice-President of the Manitoba Métis Federation in Brandon in three different elections. He worked in the mental health field on two separate occasions both as a proctor and a psychiatric nursing assistant. He was also employed in the emergency preparedness program with the Manitoba and Ontario provincial governments as a community advisor. Since his retirement he has owned and operated a taxi on a part-time basis.

**Jeannette Gougeon**

**Appointed February 9, 2011**

Jeannette is retired following a 37 and a half year career as a caseworker in social services. Throughout her career she was active with her union and served in the capacity of delegate, secretary, negotiator, pension and benefit representative, vice-president and president of her component. Upon retirement she was given a Life Membership of the MGEU. She is currently a board member of the Canadian Paraplegic Association, a member of the Lions Club and an active volunteer in the community.

**Zanna Joyce**

**Appointed August 15, 2012**

Zanna is an educator in the field of Financial Literacy, operating from the point of view of the coaching style she uses in her additional work as Project Development Coach in her firm Duckwranglers. This work has enabled her to gain direct experience in working with many communities, from corporate to inner-city, from the environment to the arts, which informs her decision-making with the Social Services Appeal Board.

She has her Bachelor of Arts in Justice and Law Enforcement with additional coursework in Public Administration, Family Studies and Communications.

**Julie Kading**

**Appointed March 25, 2013**

Julie is a retired psychiatric nurse with experience in a variety of facilities across three provinces. Since retiring, she has volunteered in the community, mostly in the addictions field. She has been a Director with the Winnipeg Scrabble Club since its inception in 2001.

**Brent Kurz**

**Appointed February 18, 2015**

Brent is a lifelong Winnipeg resident with a background in human resources, education and social services. He has a Certificate in Human Resource Management and a Bachelor of Social Work from the University of Manitoba and holds the CHRP (Certified Human Resource Professional) designation. Brent has been an active member of several professional associations including the Human Resource Management Association of Manitoba, and the Winnipeg Organization of Recruitment Coordinators. He has also sat on the Boards of EDGE Inc. and Manitoba WorkInfonet. He retired in 2012 but continues to work on a contract/consulting basis.

**Derek Legge**

**Appointed August 15, 2012**

Following his Bachelor of Commerce (Hons) degree from the University of Manitoba, Derek worked in the human resources field at Brandon General and Victoria General Hospitals. He then moved into employment equity with both the federal and provincial governments, spending his last 17 years with the Manitoba Human Rights Commission. His outside activities revolve around issues of disability and access.

**Garry McLean**

**Appointed January 13, 2016**

Garry McLean worked in the field of social services in Manitoba and Ontario for 40 years with First Nations and the federal government. In recent years, he has worked in sales of vehicles and mobile homes. He volunteers at the Friendship Centre and has worked with Elders in the Ojibwa way of teaching for the last 35 years.

**Annette Niven**

**Appointed March 25, 2013**

Annette was born and raised in The Pas, Manitoba and has lived in several communities such as Leaf Rapids, Churchill, Thompson, Winnipeg, Dauphin and Minitonas. She completed a two-year Administrative Assistant Diploma course, has received her Applied Counselling certificate with honours, and is presently taking the Employment Counsellor Diploma program. She is an active volunteer in her community. She was the recipient of the Aboriginal Volunteer of The Pas and Opaskwayak Cree Nation (OCN). Annette has been active on many boards, the Legion Ladies Auxillary, and The Pas Métis Association. She has also worked in the child welfare field for eight years. Annette was also the coordinator for the Residential School Survivors program in Dauphin and Pine Creek. She is presently working as an Employment and Training Counsellor for the Manitoba Métis Federation's Métis Employment & Training program.

***Ellen Peel***

***Appointed February 18, 2015***

Ellen attended the University of Manitoba (Bachelor of Arts and Master of Social Work) before embarking on a 39 year career with Child and Family Services. She retired in 2007 as the Program Manager for Resources at Winnipeg Child and Family Services. Throughout her career she advocated for strengthening services and resources for families and children. Now retired, she volunteers with a number of organizations and believes in giving back to the community.

***Marie Walker***

***Appointed February 18, 2015***

Marie was born and raised in Selkirk, Manitoba. She was employed as a case manager for 23 years with the Employment and Income Assistance Program. She has been working with Indian residential school survivors as a Resolution Health Support Worker for the past year. She is recently retired and raising three grandchildren full-time. She is an active volunteer and past board member with the Selkirk Friendship Center.

## **JURISDICTION OF THE SOCIAL SERVICES APPEAL BOARD**

The Social Services Appeal Board is the independent appeal body for the majority of programs and services provided by the Department of Families. The Board reports directly to the Minister of Families.

The Board was first established in 1959 by The Department of Welfare Act. In 1974, that Act was repealed and the Board continued under the provisions within The Social Services Administration Act. On February 18, 2002, The Social Services Appeal Board (SSAB) Act was proclaimed.

Under The Social Services Appeal Board Act, the Board has the ability to determine its own administrative policies and procedures. A series of information bulletins has been developed and made available in order to provide this information to the public.

The Board's decisions cannot be overturned by the minister's office. Only the Board, through a reconsideration of its decision, or the Court of Appeal, may overturn a decision.

There are several different issues that can be appealed. These are summarized below:

### **Adoption Agency Licensing**

Under Section 9 of The Adoption Act, an individual may file an appeal with the Appeal Board if the director refuses to issue a licence for an adoption agency. An individual may also file an appeal if a licence that was previously issued has been suspended, cancelled or not renewed.

### **Child Care Facility Licensing**

A person who is refused a licence for the operation of a child care facility other than a foster home or whose licence is suspended, cancelled or refused renewal may appeal this decision to the Appeal Board under Section 8(5) of The Child and Family Services Act.

### **Child Care Licensing and Subsidies**

Section 20 of The Community Child Care Standards Act allows the Appeal Board to hear appeals on the following four issues:

- the refusal to issue a licence to a child care facility
- the suspension or revocation of a child care facility licence
- the imposition of terms or conditions on a child care facility licence
- the denial or amount of a child care subsidy

## **Financial Assistance Programs**

### **Employment and Income Assistance Program AND Rent Assist**

Subsection 9(3) of The Manitoba Assistance Act gives an individual the right to appeal to the Appeal Board for the following reasons:

- a. he or she was not allowed to apply or re-apply for income assistance or general assistance or shelter assistance
- b. his or her request for income assistance, general assistance or shelter assistance or for an increase in income assistance, general assistance or shelter assistance was not decided upon within a reasonable time
- c. his or her application for income assistance, general assistance, or shelter assistance was denied
- d. his or her income assistance, general assistance or shelter assistance was cancelled, suspended, varied or withheld
- e. the amount of income assistance, general assistance or shelter assistance granted is insufficient to meet his or her needs

### **55 PLUS Junior Component**

The Junior Component of the 55 PLUS Program provides applicants with the right to appeal to the Appeal Board if an applicant is told that he or she is not eligible to receive benefits under the 55 PLUS Program. An appeal may also be filed if an individual disagrees with the level of benefits that he or she is receiving under the program. The right to appeal for these reasons is granted under Section 9 of the Income Supplement for Persons Not Eligible for Old Age Security Benefits (55 PLUS) regulation of The Social Services Administration Act.

### **Manitoba Prenatal Benefit**

If an individual disagrees with the assessment or re-assessment of his or her Manitoba Prenatal Benefit, the individual can appeal the decision under Section 12 of the Manitoba Prenatal Benefit regulation under The Social Services Administration Act.

### **Residential Care Facility Licensing**

A person may appeal to the Appeal Board, the Department's decision to deny, suspend or cancel a licence for a residential care facility. An individual may also file an appeal with the Appeal Board if a letter of approval relating to a residential care facility is cancelled or suspended. The right to appeal these decisions for adult facilities is granted under Section 13 of The Social Services Administration Act.

### **marketAbilities Program (Eligibility)**

The Appeal Board hears appeals regarding the marketAbilities Program. An appeal may be filed if the director refuses an application on the grounds that the applicant does not meet the eligibility criteria for enrolment. The right to appeal this decision is granted under Section 6 of the Vocational Rehabilitation of Disabled Persons regulation under The Social Services Administration Act.

**Community Living disABILITY Services (Eligibility and Individual Care Plan)**

The Appeal Board is also responsible for hearing appeals regarding The Vulnerable Persons Living with a Mental Disability Act. Section 16 of the act allows individuals to appeal when a person's eligibility for entrance into the program is denied, or there is a dispute concerning an individual's support services plan.

## **THE APPEAL AND HEARING PROCESS**

Appeals are accepted by mail, fax, or in person at the Appeal Board office. An appeal can be made in the form of a handwritten letter or by filling out the Notice of Appeal form. The Appeal must be in writing and submitted within 30 days from the time the appellant receives the decision they are appealing, although the Social Services Appeal Board (SSAB) may extend this time period.

Once an appeal is received, a copy is faxed to the respondent (the person who made the decision). The respondent is required to prepare a report outlining why the decision was made, and to include any documented evidence upon which the decision was made.

A copy of the respondent's report and a Notice of Hearing is mailed to the appellant. The SSAB is required to hold the hearing within 30 days after the appeal is received, unless the appellant requests a longer time.

The Appeal Board has the power to summon witnesses if required.

The appellant may bring a person to the appeal to support them or help them present their case, but they are not required to.

At the hearing, three members of the SSAB will sit as a panel to hear the appeal. The appellant is required to attend, as is a representative for the Department. Each party provides a short presentation and the Board may ask any questions they need in order to make their decision. The Board's decision is made in private following the hearing. A letter with the Board's decision and the reasons for the decision is mailed to the appellant within 15 days.

Decisions made by the SSAB are subject to reconsideration or application for leave to appeal from the Court of Appeal.

More detailed information about the SSAB's Policies and Procedures can be found at: <http://www.gov.mb.ca/fs/ssab/index.html>.



## FINANCIAL INFORMATION

In 2016/17, the annual budget for the Social Services Appeal Board was \$433,000. This amount was apportioned into \$391,000 for staff and board salaries and benefits, and \$42,000 for operating costs. The actual expenditures were \$433,000.

The board members' per diem payments are paid as salary expenses. In the 2016/17 fiscal year, the amount spent on board per diems was \$82,900.

### **09-3H Social Services Appeal Board**

<b>Expenditures by Sub-Appropriation</b>	<b>Actual 2016/17 \$000</b>	<b>FTE*</b>	<b>Estimate 2016/17 \$000</b>	<b>Variance Over/(Under)</b>	<b>Expl. No.</b>
Total Salaries and Employee Benefits	376	4.00	391	(15)	
Total Other Expenditures	57		42	15	
<b>Total Expenditures</b>	<b>433</b>		<b>433</b>	<b>0</b>	

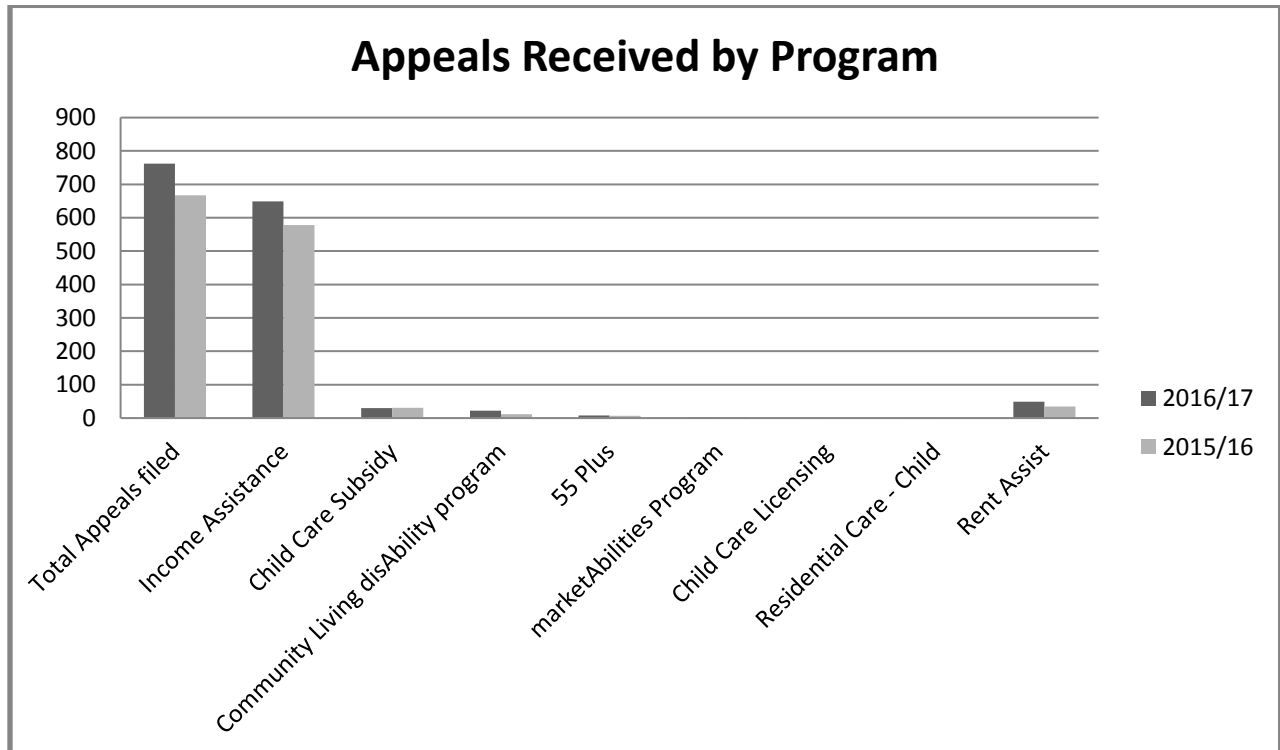
\* Full time equivalents do not include board positions.

Board members are paid a per diem when they attend hearings, meetings, and training sessions. For a full day, the Chairperson receives \$243.00 and board members receive \$139.00. For a half day, the Chairperson receives \$138.00 and board members receive \$79.00.

## APPEAL ACTIVITY

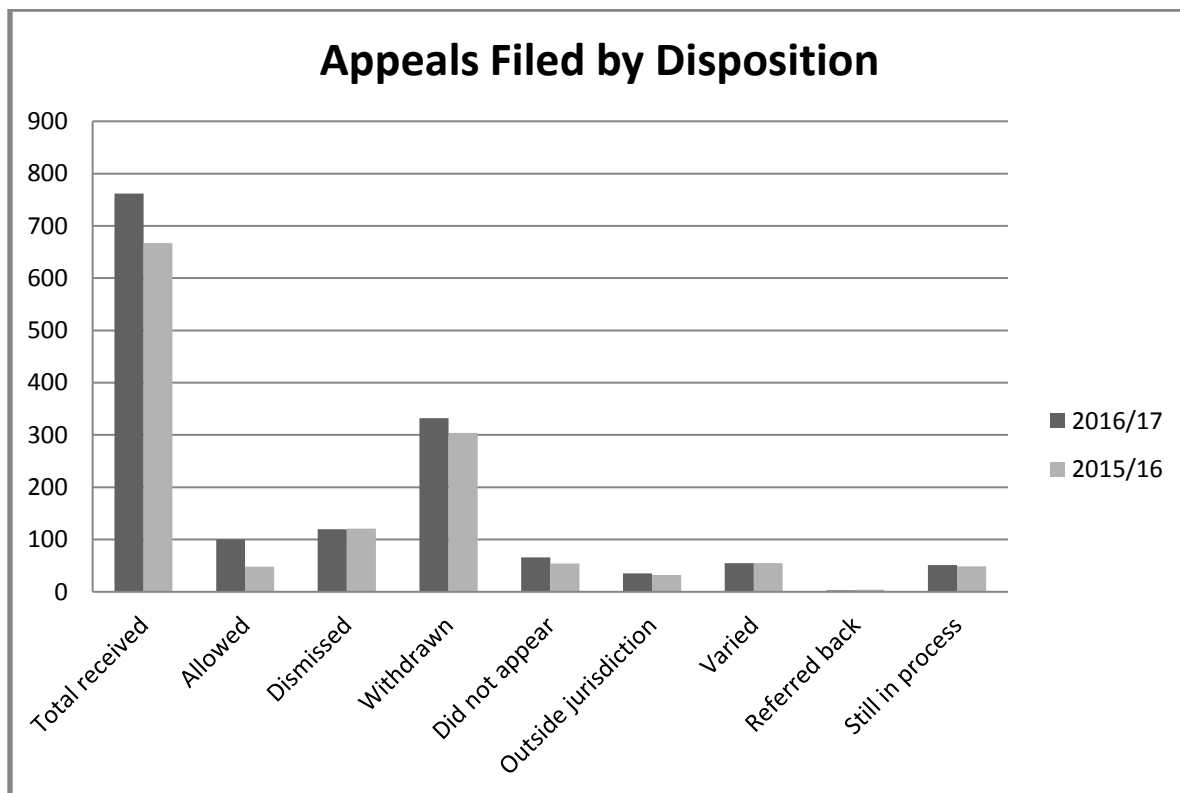
### COMPARISON BY PROGRAM

	2016/17	2015/16
<b>TOTAL APPEALS FILED</b>	<b>762</b>	<b>667</b>
EMPLOYMENT & INCOME ASSISTANCE	649	578
CHILD CARE SUBSIDY	30	31
COMMUNITY LIVING disABILITY SERVICES	22	12
55 PLUS	8	7
MARKETABILITIES PROGRAM	2	3
CHILD CARE LICENSING	1	0
RESIDENTIAL CARE – CHILD	1	1
RENT ASSIST	49	35



## **APPEALS FILED BY DISPOSITION**

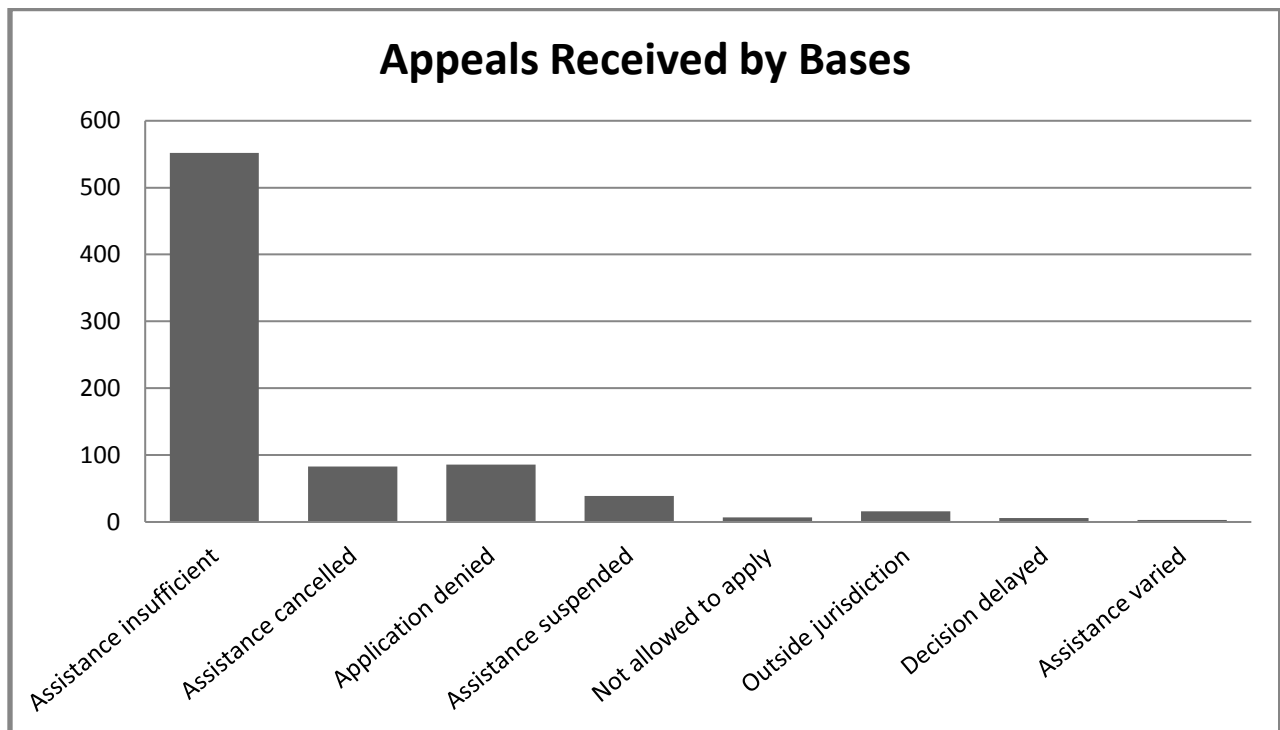
	<b>2016/17</b>	<b>%</b>	<b>2015/16</b>	<b>%</b>
Allowed	100	13	48	7
Dismissed	120	16	121	18
Withdrawn	332	43	304	46
Did not appear	66	9	54	8
Outside jurisdiction	35	5	32	5
Varied	55	7	55	8
Referred back	3	0	4	1
Still in process	51	7	49	7
<b>TOTAL</b>	<b>762</b>	<b>100</b>	<b>667</b>	<b>100</b>



## **APPEALS RECEIVED BY BASES**

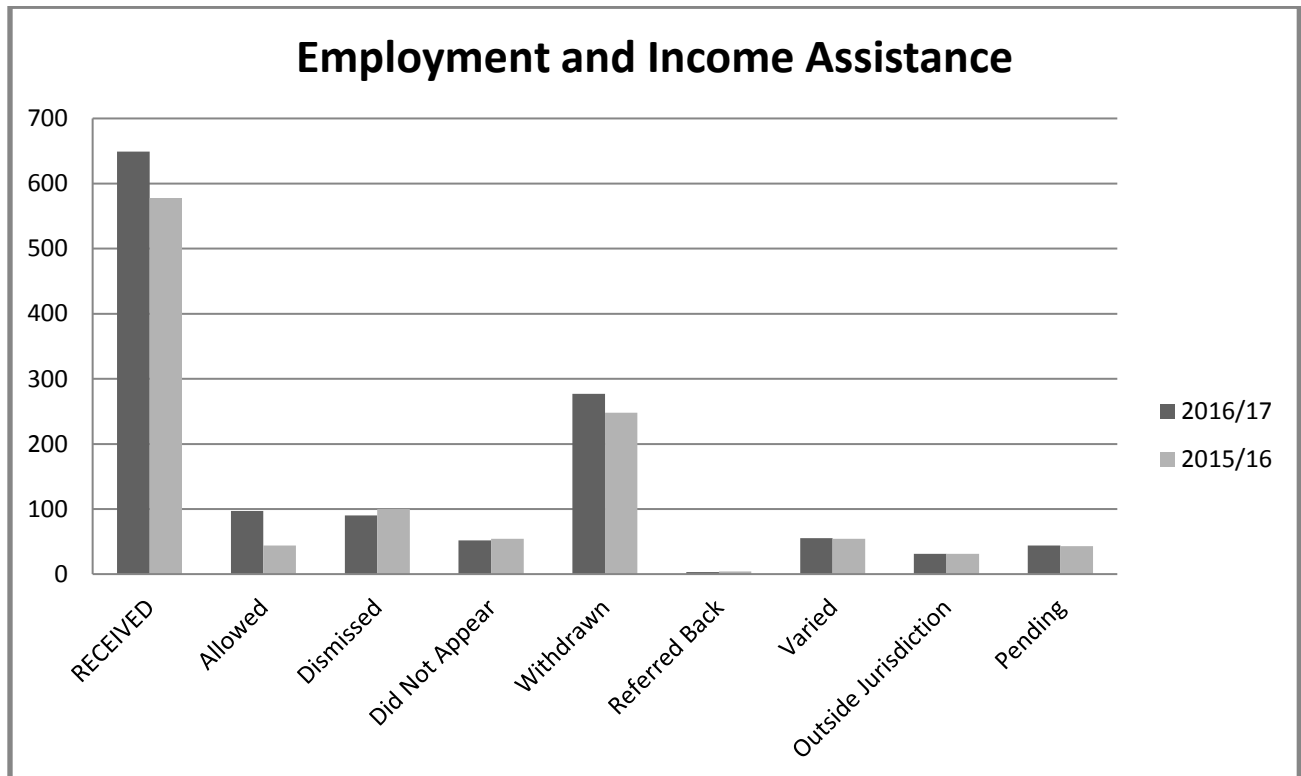
Of the 762 appeals filed during the 2016/17 fiscal year, the bases of appeal were as follows:

Assistance insufficient	522
Assistance cancelled	83
Application denied	86
Assistance suspended	39
Not allowed to apply	7
Outside jurisdiction	16
Decision delayed	6
Assistance varied	3



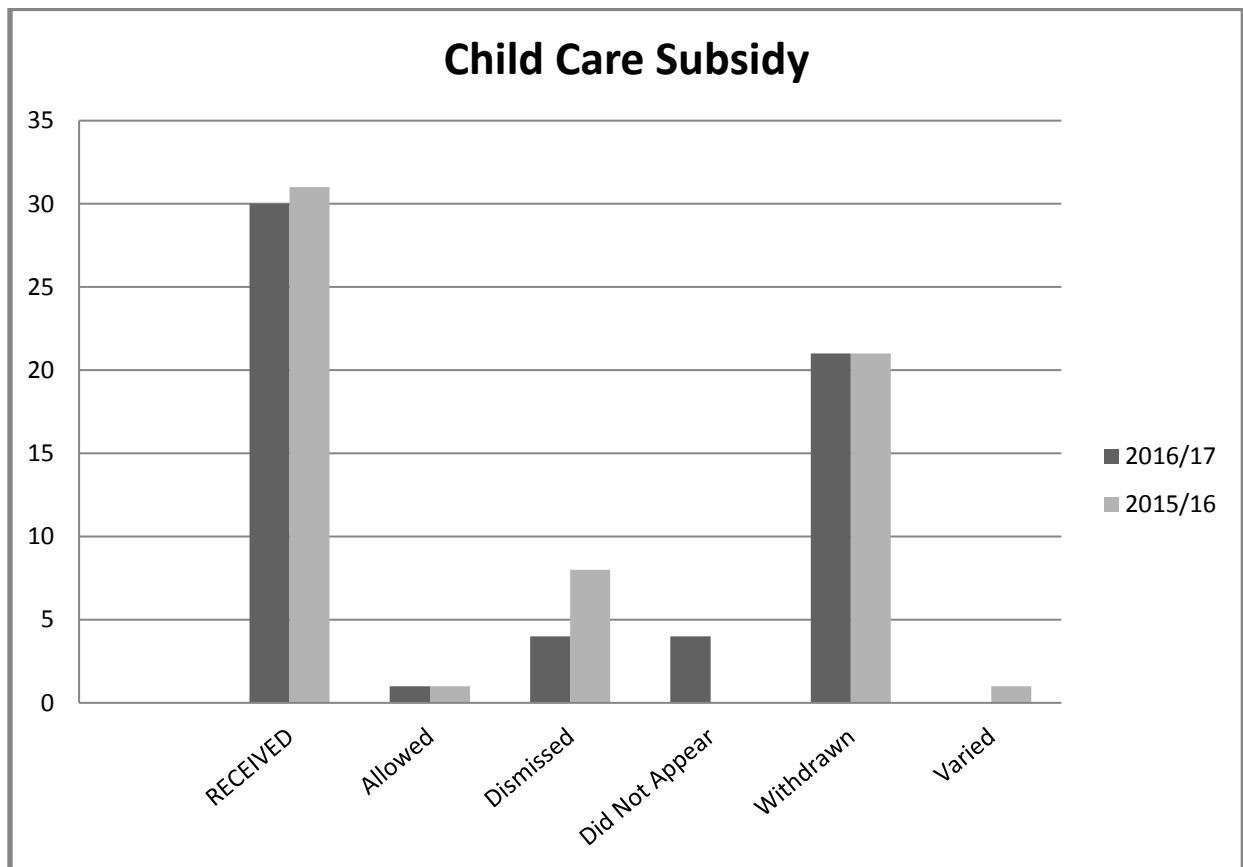
**EMPLOYMENT AND INCOME ASSISTANCE:**

DISPOSITION	2016/17	2015/16
<b>RECEIVED</b>	<b>649</b>	<b>578</b>
Allowed	97	44
Dismissed	90	100
Did Not Appear	52	54
Total withdrawn (includes abandoned, clarified and resolved)	277	248
Referred Back	3	4
Varied	55	54
Outside Jurisdiction	31	31
Pending	44	43



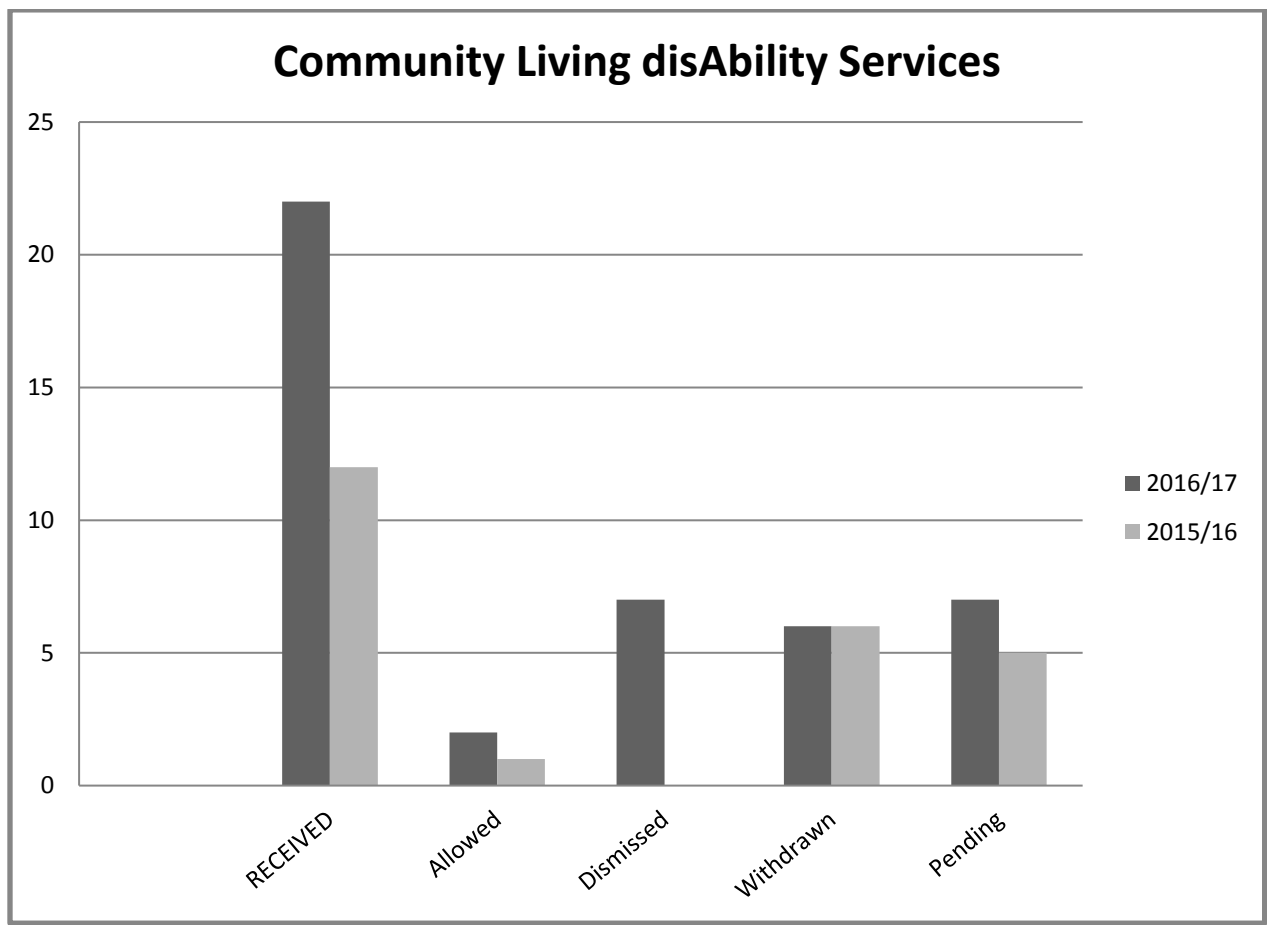
**CHILD CARE SUBSIDY:**

DISPOSITION	2016/17	2015/16
<b>RECEIVED</b>	<b>30</b>	<b>31</b>
Allowed	1	1
Dismissed	4	8
Did Not Appear	4	0
Total withdrawn (includes abandoned, clarified and resolved)	21	21
Varied	0	1



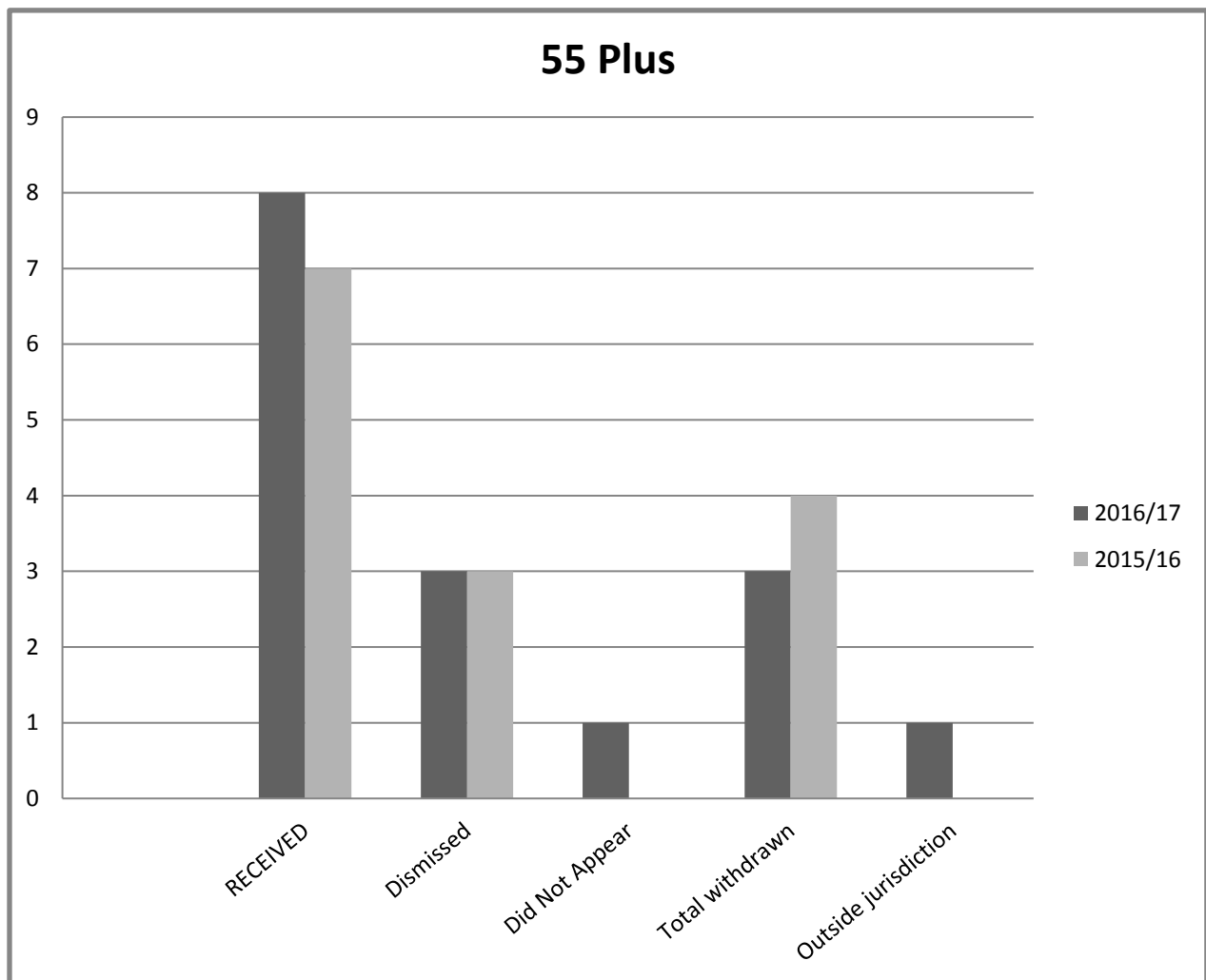
**COMMUNITY LIVING disABILITY SERVICES:**

DISPOSITION	2016/17	2015/16
<b>RECEIVED</b>	<b>22</b>	<b>12</b>
Allowed	2	1
Dismissed	7	0
Withdrawn	6	6
Pending	7	5



**55 PLUS:**

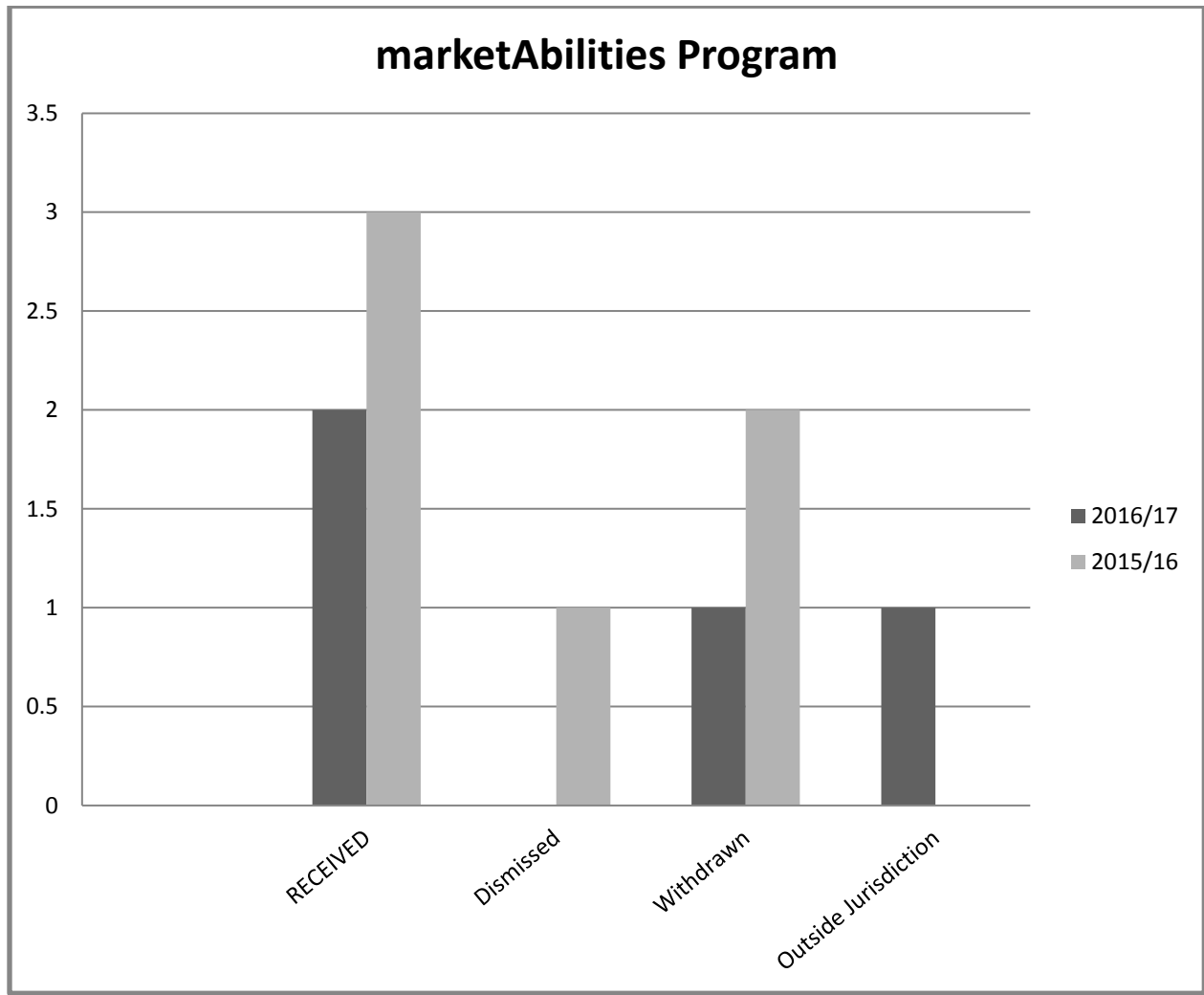
DISPOSITION	2016/17	2015/16
<b>RECEIVED</b>	<b>8</b>	<b>7</b>
Dismissed	3	3
Did Not Appear	1	0
Total withdrawn (includes abandoned, clarified and resolved)	3	4
Outside Jurisdiction	1	0





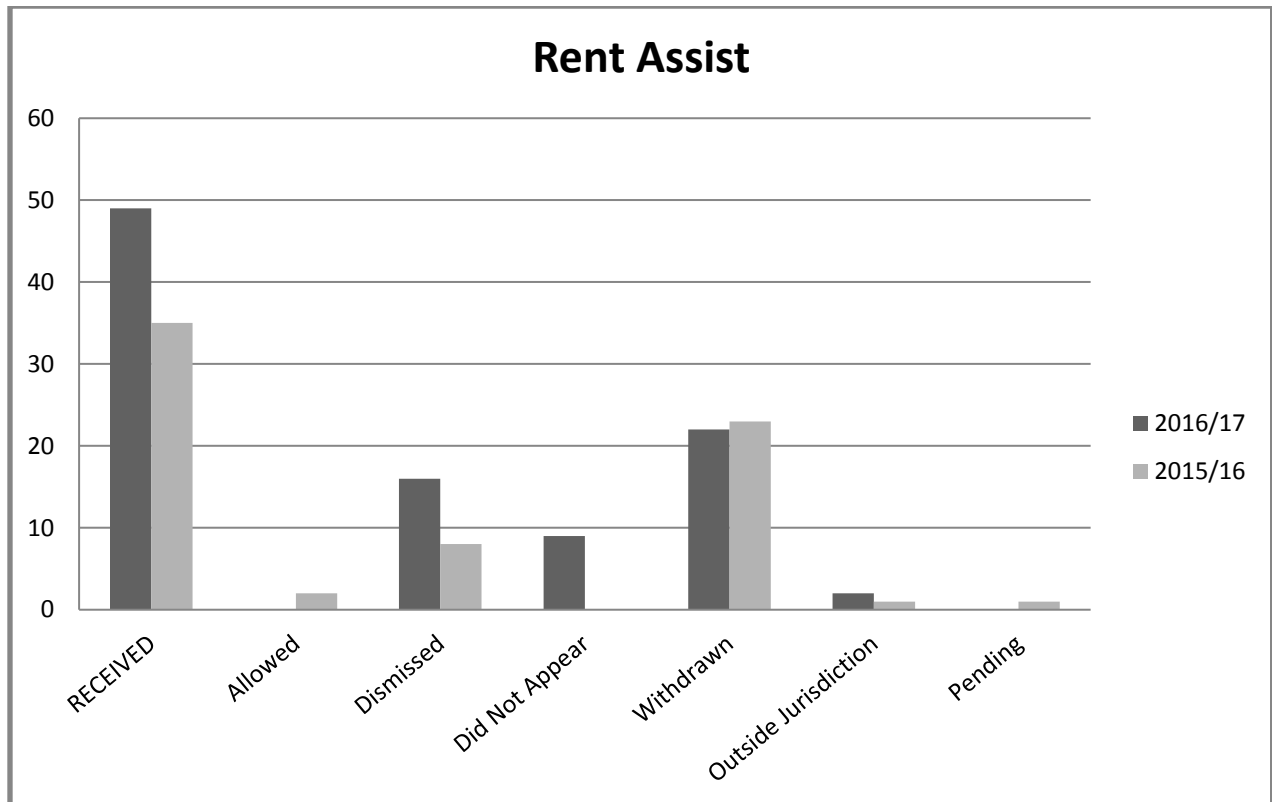
**marketABILITIES PROGRAM:**

DISPOSITION	2016/17	2015/16
<b>RECEIVED</b>	<b>2</b>	<b>3</b>
Dismissed	0	1
Withdrawn	1	2
Outside Jurisdiction	1	0



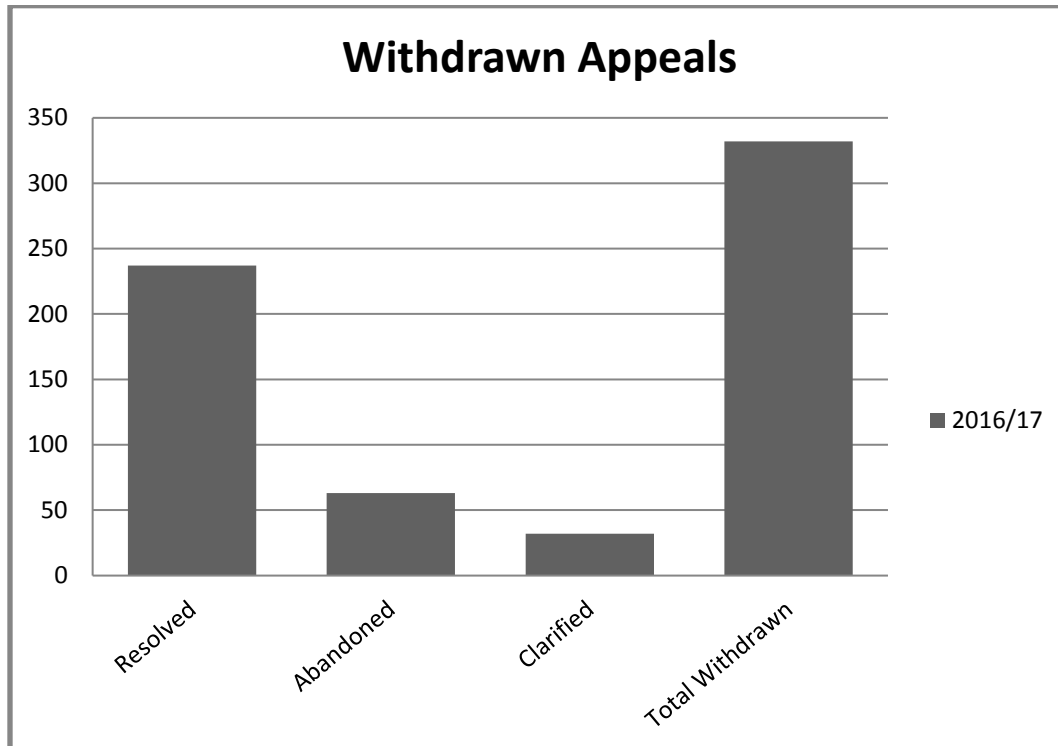
**RENT ASSIST:**

<b>DISPOSITION</b>	<b>2016/17</b>	<b>2015/16</b>
<b>RECEIVED</b>	<b>49</b>	<b>35</b>
Allowed	0	2
Dismissed	16	8
Did Not Appear	9	0
Withdrawn	22	23
Outside Jurisdiction	2	1
Pending	0	1



## WITHDRAWN APPEALS

Resolved <sup>1</sup>	237
Abandoned <sup>2</sup>	63
Clarified <sup>3</sup>	32
Total Withdrawn	332



### Notes:

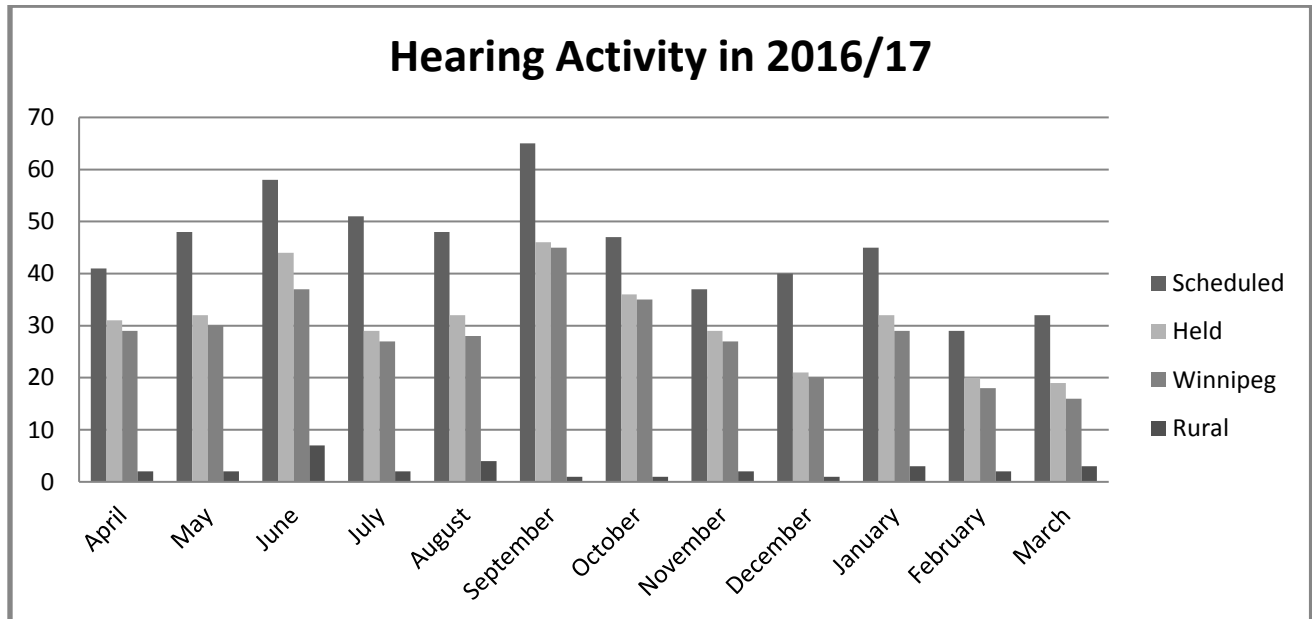
<sup>1</sup> A **resolved** appeal means that some action was taken by the Department to address the concerns raised in the appeal.

<sup>2</sup> An **abandoned** appeal means that the Appeal Board has been unable to contact the appellant for a significant period of time and their appeal has been closed.

<sup>3</sup> A **clarified** appeal means that an explanation by the Department caused the appeal to be withdrawn.

## HEARING ACTIVITY IN 2016/17

	Scheduled	Held	Winnipeg	Rural
April	41	31	29	2
May	48	32	30	2
June	58	44	37	7
July	51	29	27	2
August	48	32	28	4
September	65	46	45	1
October	47	36	35	1
November	37	29	27	2
December	40	21	20	1
January	45	32	29	3
February	29	20	18	2
March	32	19	16	3
<b>TOTALS*</b>	<b>541</b>	<b>371</b>	<b>341</b>	<b>30</b>



Of the 762 appeals received in 2016/17, 371 or 49% went to a hearing phase.

\*Includes some appeals filed in previous fiscal years.

## **APPEALS WITH OUTCOMES FAVOURABLE TO THE APPELLANTS**

For the 2016/17 fiscal year, there were 100 appeals allowed. They included 97 for the Employment and Income Assistance program, 1 for the Child Care Subsidy Program, and 2 for Community Living disABILITY Services. There were also 237 appeals withdrawn as they were deemed to be resolved and another 55 appeals where the Board varied the decision of the director to favour the appellant.

As a result, in 2016/17 a total of 392 of the appeals processed, or 51% of the appeals were resolved in favour of the appellants.

### **Employment and Income Assistance - Reasons for Appeal**

Of the 649 appeals received for the Employment and Income Assistance Program in 2016/17, the most common reasons for filing appeals were as follows:

Medical eligibility	244
Financial resources	50
Health needs	74
Overpayments	27
Shelter costs	31
Special needs	23
Common-law union	24
Basic needs	46
Non-cooperation	52

These reasons total 571 appeals, which is 88% of the appeals filed.

These reasons for appeal apply only to the Employment and Income Assistance program.

## REQUESTS FOR RECONSIDERATION

According to The Social Services Appeal Board Act, either party to the appeal may request a Reconsideration of the Appeal Board's decision.

A Reconsideration Request must be filed in writing within 30 days of the decision of the Appeal Board and asks the board to take a second look and to consider the following issues:

- if the original, three-person process or decision was, or was perceived to be **biased**
- if the panel process **inhibited** the presentation or consideration of relevant evidence
- if the decision was inconsistent with the **legislation**
- if an obvious **administrative error** in calculation or relevant dates has occurred in the Board's Order.

### REQUESTS RECEIVED

	2016/17	2015/16
<b>Total</b>	<b>13</b>	<b>14</b>
From appellant	10	11
From respondent	3	2
From the Board	0	1

### PROGRAM BREAKDOWN

	2016/17	2015/16
Employment and Income Assistance	10	14
Community Living Program	1	0
Residential Care – Child	1	0
Rent Assist	1	0

### DISPOSITION

	2016/17	2015/16
Requests granted	4	4
Requests denied	9	9
Withdrawn	0	1

### OF THE REQUESTS GRANTED

	2016/17	2015/16
Decision varied	3	0
Decision overturned	1	3
Request withdrawn	0	1

## **SUMMARY OF ADVISORY ACTIVITIES**

Under The Social Services Appeal Board Act, the Board has the responsibility to advise and make recommendations about matters that relate to the social services provided under the designated act. The Appeal Board met twice during the 2016/17 fiscal year and made the following recommendations to the Minister.

The Board had concerns that Employment and Income Assistance recipients did not receive written notification of their right to appeal decisions concerning dental, optical, and orthotic services. Under the current system, the Health Services Program for income assistance recipients is administered through a central office. Requests for dental and optical services are sent in by the service provider (i.e. dentist or optician) and the service provider is advised directly by the Health Services Program as to whether or not the request is approved. The Board's concern is that under Section 9(2) of The Manitoba Assistance Act, an income assistance applicant or recipient is entitled to receive a notice in writing that their request has been denied, the reason for the decision, and their right to appeal that decision. Currently, income assistance recipients are not advised in writing of the decision, why the decision was made, and that they have a right to appeal that decision.

The Board continues to have a number of appeals regarding transportation needs and asked the Minister to consider the provision of transportation costs as a basic need. Currently, funds for transportation for Employment and Income Assistance recipients are provided for confirmed medical appointments, supported education plans, the first six months of addictions recovery and for employment purposes until receipt of a recipient's first pay. The Board feels strongly that for persons on income assistance, access to reasonable transportation should be considered a basic need. The Board recommended that the Minister explore and implement a measure to provide low-income Manitobans with access to local bus transportation as a means of providing a level of independent mobility essential in a large urban environment. Similarly, improved access to basic transportation is required in rural and northern areas of Manitoba.

The Board also raised their continued concerns regarding the limited eligibility criteria under The Vulnerable Persons Living with a Mental Disability Act which determines eligibility for the Community Living disAbility Services Program. In order to be eligible for this program, a person must be found to be significantly intellectually impaired, or significantly adaptively impaired, and these conditions must have manifested themselves before the age of eighteen. The Board's concerns revolve around adults who have qualified for Children's Disability Services for years or had supports through Child and Family Services, but do not qualify for adult services due to the narrow eligibility criteria for this program. Service gaps exist for those adults who have extremely low adaptive behaviours, but do not meet the clinical definition of a significant intellectual impairment. Often, disorders such as autism or fetal alcohol syndrome, leave the adult with the inability to live and function independently and without services to support them. Appeal hearing panels often hear from distraught and aging parents

worried about what will happen to their adult children when they are no longer in a position to provide regular care and support for them. The Board is aware that there has been some work in this area; however, it remains our opinion that comprehensive programs of adult services are needed for these vulnerable persons.

In December 2015, The Manitoba Assistance Act and Manitoba Assistance Regulation made some positive changes to the Rent Assist benefits program to provide greater assistance to low income Manitobans to meet the demands of rental costs. As part of these changes the legislation also changed the way in which applications are assessed for eligibility by the program. Previously, applications for Rent Assist benefits were assessed based on the current financial circumstances of the person or family applying. As of December 1, 2016 the income from the previous, or two years previous, income tax returns is used to assess eligibility. The result of this change is that individuals and families, who have a reduction in their income due to factors such as job loss, retirement, illness, etc, must wait a minimum of twelve to eighteen months, depending on the time of year, before they would qualify for the Rent Assist benefit. The Board has seen a number of appellants who are in dire circumstances and do not qualify for the Rent Assist Benefit. The Board recommended that some discretion and flexibility could be applied to the Rent Assist Program.



# The Social Services Appeal Board Act

(Assented to July 6, 2001)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

## DEFINITIONS AND PURPOSE

### Definitions

1 In this Act,

**"appeal board"** means the Social Services Appeal Board referred to in section 3; (« Commission d'appel »)

**"designated Act"** means

- (a) *The Adoption Act*,
- (b) *The Community Child Care Standards Act*,
- (c) *The Employment and Income Assistance Act*,
- (d) *The Social Services Administration Act* or a regulation under that Act,
- (e) *The Vulnerable Persons Living with a Mental Disability Act*,
- (f) any other Act or regulation designated as a designated Act in the regulations; (« loi désignée »)

**"designated officer"** means a person who has authority under a designated Act to make a decision or order for which there is a right of appeal under the designated Act to the appeal board, or the person to whom that authority is delegated; (« fonctionnaire désigné »)

**"minister"** means the minister appointed by the Lieutenant Governor in Council to administer this Act; (« ministre »)

**"panel"** means a panel of the appeal board. (« comité »)

S.M. 2004, c. 42, s. 50.

### Purpose

2 The purpose of this Act is to give Manitobans a fair, impartial and informal appeal process from decisions relating to various social services and programs.

## APPEAL BOARD

### Social Services Appeal Board

3 The Social Services Advisory Committee, which was established under *The Social Services Administration Act*, is continued under this Act as the Social Services Appeal Board.

### Members

4(1) The appeal board is to consist of 15 members appointed by the Lieutenant Governor in Council.

### Who can be a member

4(2) The members of the appeal board must, in the opinion of the Lieutenant Governor in Council,

- (a) be representative of the regional, economic and cultural diversity of Manitoba;
- (b) be knowledgeable about social services and programs under designated Acts; and
- (c) not be employees under the control of a minister responsible for a designated Act.

### **Two-year terms**

4(3) Each member is to be appointed for a term of up to two years, and may be reappointed for two further two-year terms.

### **Reappointing a member**

4(4) A member who has served for three terms may be reappointed for a further term, but only if at least one year has passed since the end of his or her last term.

### **Member continues to hold office**

4(5) A member continues to hold office until he or she is reappointed, a successor is appointed or the appointment is revoked.

### **Remuneration and expenses**

5 The members of the appeal board are to be paid remuneration and expenses at rates set by the Lieutenant Governor in Council.

### **Chair and vice-chair**

6(1) The Lieutenant Governor in Council must designate one of the members of the appeal board as chair and one or more members as vice-chairs.

### **Duties of vice-chair**

6(2) A vice-chair has the authority of the chair if the chair is absent or unable to act, or when authorized by the chair.

### **Staff**

7 Any employees required to enable the appeal board to carry out its responsibilities may be appointed in accordance with *The Civil Service Act*.

### **Responsibilities of the appeal board**

8 The appeal board has these responsibilities:

- (a) to hear and decide appeals under designated Acts;
- (b) at the minister's request, to advise and make recommendations about matters that relate to social services and programs in Manitoba;
- (c) on its own initiative, to advise and make recommendations to the minister about social services provided under the designated Acts;
- (d) to perform any other duties assigned to it by an Act or regulation or by the minister.

### **Procedural rules**

9 The appeal board may establish its own rules of practice and procedure and must make them available to the public.

### **Posting information about appeals**

10 A designated officer must post information about the right to appeal to the appeal board, and about the appeal process, in a visible public location in any office in which decisions are made that can be appealed under a designated Act.

## PANELS OF THE APPEAL BOARD

### **Board to sit in panels**

11(1) The appeal board must sit in panels of three members when hearing appeals.

### **Assigning members to panels**

11(2) The chair is to assign members to sit on panels.

### **Chair of panel**

11(3) The chair or a vice-chair is to preside over a panel, or the chair may designate another member of the appeal board to preside.

### **Who is not eligible to be a member of a panel**

11(4) A member of the appeal board is not eligible to sit on a panel if he or she

(a) is a relative of a party; or

(b) is not able to be impartial and independent about the outcome of the appeal.

### **Quorum**

11(5) A quorum for a panel is the three members referred to in subsection (1).

### **Jurisdiction of panel**

11(6) In considering and deciding an appeal,

(a) a panel has all the jurisdiction of the appeal board and may exercise the board's powers and perform its duties; and

(b) a decision of a majority of the members of a panel is the decision of the appeal board.

## APPEAL TO THE APPEAL BOARD

### **Filing an appeal**

12(1) A person who has a right to appeal a decision or order to the appeal board under a designated Act may commence an appeal by filing a notice of appeal with the board.

### **Time limit for filing**

12(2) A notice of appeal must be filed within 30 days after the date of the decision or order, unless the designated Act specifies a different time limit.

### **Extending the time limit**

12(3) The appeal board may extend the time limit for commencing an appeal, and may do so either before or after the time limit expires.

### **Reasons**

12(4) A notice of appeal must be in writing and must state the reasons for the appeal.

### **Parties**

13(1) The parties to an appeal are the person who has a right to appeal to the appeal board and the designated officer under the designated Act.

### **Parties to be present**

13(2) The appellant and the designated officer or a delegate of the designated officer must be present at the hearing or, if subsection 19(2) applies, must be able to communicate with each other and the appeal board simultaneously.

### **Advocates**

14 At the appellant's request, another person may communicate with the appeal board at any time on the appellant's behalf and may be present with the appellant at the hearing.

### **Notice to the designated officer**

15(1) On receiving a notice of appeal, the appeal board must promptly give a copy of it to the designated officer.

### **Designated office must forward documents**

15(2) On receiving the notice of appeal, the designated officer must promptly give the appeal board

- (a) all of the documentary evidence on which the designated officer made the decision or order being appealed;
- (b) any documents that the designated officer is specifically required to provide to the board under the designated Act; and
- (c) any other documents the designated officer thinks might be relevant to the appeal.

### **Hearing date**

16(1) For each appeal, the appeal board must arrange the earliest possible hearing date. The hearing must not be commenced more than 30 days after the board receives the notice of appeal, unless the board at the request of the appellant, grants an extension.

### **Notice**

16(2) Unless the parties agree to a shorter period of notice, at least six days before the hearing the appeal board must give the parties written notice of the date, time and place of the hearing.

### **Parties may examine evidence**

17 The appeal board must give each party a reasonable opportunity to examine and copy any information that has been submitted to the board for the purpose of the hearing.

### **Powers and duties of the board**

18 The appeal board must inform itself fully of the facts concerning each appeal. For that purpose, the board

- (a) may require the attendance of witnesses and the production of documents in addition to the witnesses called by the parties and the documents produced by the parties; and
- (b) has the powers of a commissioner under Part V of *The Manitoba Evidence Act*.

### **Hearing process: rules of evidence do not apply**

19(1) The appeal board is not bound by the rules of evidence that apply to judicial proceedings.

### **Hearing by teleconference**

19(2) A hearing may be held by means of a conference telephone call, or by another method of communication that permits the appeal board and the parties to communicate with each other simultaneously.

### **Closed hearing if appellant requests**

19(3) The hearing is to be closed to the public if the appellant asks for it to be closed; otherwise it is to be open to the public.

## **Adjournment**

19(4) The appeal board may adjourn a hearing when it considers it appropriate to do so.

## **ORDER OF THE APPEAL BOARD**

### **Order of the board**

20(1) Unless the designated Act states otherwise, after a hearing the appeal board may, by written order,

- (a) confirm, vary or rescind the order or decision of the designated officer;
- (b) make any order or decision that the designated officer could have made; or
- (c) refer the matter back to the designated officer for further consideration by the designated officer in accordance with any direction of the appeal board.

### **Reasons**

20(2) The appeal board must give written reasons for its order.

### **Time limit for making order**

20(3) The appeal board must make its order within 15 days after the hearing ends.

### **Order given to the parties**

20(4) The appeal board must give the parties a copy of the order and inform them of their right to appeal a question of law or jurisdiction to The Court of Appeal.

### **Method of giving the order**

20(5) The order must be given to the parties personally or by regular lettermail or by another method acceptable to the appeal board and the parties.

### **Order must be given effect**

21 A designated officer must give effect to the order of the appeal board.

### **Reconsideration of the order**

22(1) At the request of a party to the appeal or on its own initiative, the appeal board may reconsider all or part of its order and may confirm, vary, suspend or rescind its order.

### **Time limit for making request**

22(2) A written request for a reconsideration, stating the reasons for the request, must be filed with the appeal board within 30 days after the date of the board's order.

### **Time limit for deciding request**

22(3) The appeal board must, by order, make a decision as to whether an order will be reconsidered, within 15 days after the date the request for a reconsideration is filed.

### **Reasons**

22(4) The board must give written reasons if it decides not to reconsider an order.

## **APPEAL TO COURT OF APPEAL**

### **Appeal to Court of Appeal**

23(1) Any party to the appeal before the appeal board may appeal the board's order to The Court of Appeal on any question involving the board's jurisdiction or on a point of law, but only after obtaining leave to appeal from a judge of The Court of Appeal.

### **Time limit**

23(2) An application for leave to appeal must be made within 30 days after the date of the appeal board's order, or within any further time that a judge allows.

### **Parties**

23(3) The parties to the appeal before the appeal board, and the appeal board, are entitled to be heard on the application for leave to appeal and on the appeal itself.

### **Order of Court of Appeal**

24 The Court of Appeal may

- (a) quash, vary or confirm the order of the appeal board; or
- (b) refer the matter back to the appeal board for further consideration in accordance with any direction of the Court.

## REGULATIONS

### **Regulations**

25 The Lieutenant Governor in Council may make regulations

- (a) designating Acts or regulations for the purpose of the definition "designated Act" in section 1;
- (b) respecting any other matter the Lieutenant Governor in Council considers necessary or advisable to carry out the intent of this Act.

## ANNUAL REPORT

### **Annual report**

26 Within six months after the end of the government's fiscal year, the appeal board must provide the minister with a report about the board's activities during that fiscal year. The minister shall lay a copy of the report before the Legislative Assembly within 15 days after receiving it if the Assembly is sitting or, if it is not, within 15 days after the next sitting begins.

## PROTECTION FROM LEGAL ACTION

### **Protection from legal action**

27 No action or proceeding for damages may be brought against the appeal board or any member of the board because of anything done or omitted in good faith

- (a) in the performance or intended performance of a duty under this Act; or
- (b) in the exercise or intended exercise of a power under this Act.

## TRANSITIONAL

### *Transitional: definitions*

28(1) *In this section,*

**"former Act"** means *The Social Services Administration Act, R.S.M. 1987, c. S165; (« ancienne loi »)*

**"former designated Act"** means *a designated Act as it read immediately before the coming into force of this Act. (« ancienne loi désignée »)*

*Appeals already commenced*

28(2) *Where on the day this Act comes into force an appeal under a former designated Act to the Social Services Advisory Committee under the former Act has been commenced but not finally disposed of, the appeal shall be continued and completed in accordance with that former designated Act as if this Act had not come into force.*

#### CONSEQUENTIAL AMENDMENTS

29 to 32

**NOTE: These sections contained consequential amendments to other Acts that are now included in those Acts.**

33

**NOTE: This section contained consequential amendments to *The Social Services Administration Amendment Act*, S.M. 2000, c. 31, and is not yet proclaimed.**

34

**NOTE: This section contained consequential amendments to *The Vulnerable Persons Living with a Mental Disability Act* that are now included in that Act.**

#### C.C.S.M. REFERENCE AND COMING INTO FORCE

##### **C.C.S.M. reference**

35 This Act may be cited as *The Social Services Appeal Board Act* and referred to as chapter S167 of the *Continuing Consolidation of the Statutes of Manitoba*.

##### **Coming into force**

36(1) This Act, except section 33, comes into force on a day fixed by proclamation.

##### **Coming into force: section 33**

36(2) Section 33 comes into force on the day *The Social Services Administration Amendment Act*, S.M. 2000, c. 31, comes into force.

**NOTE: S.M. 2001, c. 9, except section 33, was proclaimed in force February 18, 2002.**