

**Manitoba Health Appeal Board  
Annual Report  
April 1, 2014 to March 31, 2015**

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## Message from the Chairperson



The Manitoba Health Appeal Board sits in panels of 3 or 5 members (depending on the issue) and is often called upon to make difficult decisions. As a creature of statute, the Board can only do what the law allows. We often see cases where the Appellant has a very sympathetic case and the Board would like to assist but is constrained by the legislation that governs the decision. This can sometimes frustrate Appellants (and Board members as well). It is however remarkable how often Appellants, even if unsuccessful, are appreciative of the opportunity to tell their stories and to get clarity around the reasons for the decision they are appealing. Sometimes the Board is able to direct the Appellant to other resources or to suggest ways in which the deficiency that led to the decision could be corrected. Much of the credit for that goes to staff of the Board, who take the “service” aspect of being a public servant to heart, and offer clear, professional, friendly and helpful advice and assistance to parties that appear before the Board.

This past year saw a significant shift in the Board’s staffing. Doreen Côté, who had been acting Administrator for over 2 years returned to her position as Office Manager when Bob Sample a senior and experienced public servant was appointed to the vacant Administrator position. I have enjoyed getting to know Bob Sample and look forward to working with him. During her time as acting Administrator Doreen made an invaluable contribution to the Board and left a legacy of professionalism in administration that will serve the Board well into the future. It is also worth noting that much of the direct contact with parties originates from the Administrator and Doreen showed true compassion, sympathy and understanding in all her dealings with Appellants and Respondents.

When Doreen returned to her Office Manager position, Claudie Carbonneau Janisch who had been acting Office Manager returned to her former position with Manitoba Health. While she was only with the Board for a relatively short time we will miss her skill and excellent sense of humor.

The Board is proud that all of its decisions are now accessible on CanLII.org which is a website that is freely available to anyone. While it takes a fair bit of work to ensure personal information is removed from the decisions before they are posted, it is well worth the effort because it provides an open and transparent source of information on how the Board does its work for anyone who wishes to know.

While the Board as a whole only meets once or twice a year, we have strived to achieve consistency in our decision making without constraining the discretion panels need to do their work. We have an excellent group of people on the Board who work hard, try to be fair, reasonable and timely, and who, perhaps most importantly are a collegial bunch that get along well. My thanks goes out to the Board members for all their work and support over the past year.

**Allan Fineblit, Q.C.**  
**Chairperson**

# History, Jurisdiction and Process

## History

### Manitoba Health Appeal Board

- On March 31, 1993, the amalgamation and integration of the Manitoba Health Services Commission and the Department of Health was finalized with the proclamation of *The Health Services Insurance and Consequential Amendments Act*.
- On April 1, 1993, the former Manitoba Health Services Commission ceased to exist as a corporate entity and its staff and operations were amalgamated with the Manitoba Department of Health.
- At the same time, the proclamation of the *Act* established the Manitoba Health Board to hear and determine a wide range of specific appeals, including review of Authorized Charges for personal care homes, eligibility/coverage for Insured Benefits, licences for operation of a laboratory or a personal care home and other matters prescribed by regulation.
- In June 1998, the *Act* was amended to change the name of the Board to the Manitoba Health Appeal Board.
- In 2001, the Minister of Health assigned the Manitoba Health Appeal Board as the authority to hear appeals under the new Manitoba Hepatitis C Compassionate Assistance Program.

### Appeal Panel for Home Care

- On May 26, 1994, the Minister of Health announced two new committees for the Continuing Care program; one of which was the Appeal Panel for Home Care. The Panel consisted of seven members and its mandate was to hear appeals from people who disagreed with decisions regarding their eligibility for, or changes to, home care service. It reported directly to the Minister of Health and was not legislated.

### Amalgamated Manitoba Health Appeal Board

- In May 2006, the Appeal Panel for Home Care and the Manitoba Health Appeal Board were amalgamated under the Manitoba Health Appeal Board, which assumed responsibility for hearing Home Care appeals.

## **Previous Changes to Legislation**

- On November 17, 2008, the Manitoba Health Appeal Board Regulation (M.R. 175/2008) was enacted to formalize an individual's right to appeal decisions made by a regional health authority with respect to eligibility for and/or the type or level of Home Care services.
- On January 9, 2009, the Minister of Health formally assigned the Manitoba Health Appeal Board the duty to conduct appeals regarding home care services brought pursuant to Manitoba Health Appeal Board Regulation 175/2008.

## Jurisdiction

The Manitoba Health Appeal Board is an independent quasi-judicial administrative tribunal established by *The Health Services Insurance Act*. Sections 2(1), 9, 10, 57(4), 57(5), 58, 61, 85.1(1) 85.1(2), 112.1, 113(1)(dd), 118.2(1), 118.2(3), 118.2(4), 118.3 and 127(1) of *The Health Services Insurance Act* specifically refer to the Board.<sup>1</sup>

In general, the Board is responsible for:

- a) hearing and determining appeals as specified under *The Health Services Insurance Act* and its regulations, *The Emergency Medical Response and Stretcher Transportation Act* and the Charges Payable by Long Term Patients Regulation made under *The Mental Health Act*;
- b) performing any other duties assigned by any act of the Legislature or any regulation;
- c) performing any other duties assigned by the Minister.

Specifically, the Board hears a wide range of appeals, including decisions where a person has been:

- assessed an authorized charge (daily rate) in a personal care home, a hospital or other designated health facility and is dissatisfied with a review decision made by Manitoba Health;
- refused registration as an insured person under *The Health Services Insurance Act*;
- denied entitlement to a benefit under *The Health Services Insurance Act* (for example, out-of-province medical services, transportation subsidies, plastic surgery);
- refused an approval to operate a laboratory or a specimen collection centre, or conditions have been imposed on their approval, or their approval has been revoked;
- refused an approval to operate a personal care home, or conditions have been imposed on their approval, or their approval has been revoked;
- refused a licence to operate an emergency medical response system or a stretcher transportation service or had the licence suspended or cancelled;
- refused a licence to act as an emergency medical response technician, stretcher attendant or ambulance operator or had the licence suspended or cancelled;
- denied financial assistance under the Manitoba Hepatitis C Compassionate Assistance Program;
- issued a decision by a regional health authority regarding eligibility, type or level of service under the Manitoba Home Care Program and is dissatisfied with the decision;

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<sup>1</sup>Sections 1, 12, 13 and 20(3) of *The Emergency Medical Response and Stretcher Transportation Act* also make reference to the Board's powers to hear appeals under this legislation. The provisions in this *Act* are closely aligned with the provisions set out in *The Health Services Insurance Act* related to the Board's authority and mandate.

- issued a decision by a regional health authority assessment panel in relation to an application for personal care in a personal care home and is dissatisfied with the decision.

## Board Membership

Section 9 of *The Health Services Insurance Act* states the Board must consist of not less than five members appointed by the Lieutenant Governor in Council. Board members' terms are specified in the appointing Order-in-Council and each member continues to hold office until he/she is reappointed, a successor is appointed or the appointment is revoked.

During the fiscal year April 1, 2014 to March 31, 2015, the Board consisted of the following members:

1. Allan Fineblit, Q.C., B.A., LL.B., Chairperson
2. Richard Kennett, B.A., B.Ed., M.Ed., Vice-Chairperson
3. Kristine Barr, B.A., LL.B.
4. Patrick Caron
5. Bonnie Cham, M.D., FRCPC
6. Denyse T. Côté, B.A., LL.B.
7. June Marion James, O.M., M.D., FRCPC
8. Claudette Labossière, LPN
9. Howard Mathieson, B.A., B.Ed.
10. Alan M. McLauchlan
11. Jagjit Polly Pachu, RCT (Advanced)
12. Rhonda Wiebe, B.Ch.Mus., B.A., M.Div (inc.)



## Board Biographies

### **Allan Fineblit, Q.C., Chairperson**

Appointed March 16, 2011

*Mr. Fineblit was appointed as Chairperson of the Board effective May 1, 2012.*

Allan is a lawyer with the firm of Thompson Dorfman Sweatman. He is the former CEO of the Law Society of Manitoba, the regulatory body for the practice of law in Manitoba. Allan is a member of the Board of Directors of the Canadian Lawyers Insurance Association, a Board member of End Homelessness Winnipeg and is a Past Chair of the Board of Trustees of the United Way of Winnipeg. He currently Chairs the Canadian Bar Association Entity Regulation Working Group and the Federation of Law Societies of Canada national Discipline Standards Committee. Allan is also on the selection committee for the Winnipeg Citizens Hall of Fame.

### **Richard Kennett**

Appointed October 26, 2011

*Mr. Kennett was appointed Vice-Chairperson of the Board effective March 12, 2014.*

Richard grew up in England. In 1970, he came to Winnipeg as a young teacher and worked for the Winnipeg School Division for 30 years. From 2000 to 2010, he created and managed a Manitoba Justice youth crime prevention program called “Lighthouses”. From 1992, Richard has been constantly active as a volunteer mediator and restorative conference facilitator through the Winnipeg community justice committee movement and through the agency called Mediation Services. He and his partner have been married 41 years and have two fine sons.

### **Kristine K. Barr**

Appointed May 1, 2012

Kristine completed her Law degree at the University of Manitoba in 2005 and received her call to the bar in 2006. Kristine currently practices labour law with the Canadian Union of Public Employees (CUPE) in the Manitoba regional office. Kristine chaired the Social Services Appeal Board from 2005-2012. In this capacity, she served as an executive member of the Manitoba Council of Administrative Tribunals and co-chaired the annual MCAT Conference. Kristine is committed to social justice, equality and human rights issues and has served as the National Chair of SOGIC, the Sexual Orientation and Gender Identity Section of the Canadian Bar Association. Kristine was a founder of the Teen Talk program at Klinik Community Health Centre where she previously worked as a Program Coordinator and co-ordinated the provincial teen pregnancy campaign “If you think it can’t happen to you, think again”. Kristine was an elected School Trustee with the Winnipeg School Division from 1998-2014.

**Patrick Caron**

Appointed October 26, 2011

Patrick has been with the Internal Trade Secretariat since April 2008 working on Interprovincial trade issues. He is the managing director at the Secretariat and has been managing since June 2014. He has a pan-Canadian life experience, being born in Quebec and raised in Western Canada. His post-secondary background is firstly in Political Science from University of Alberta and this was followed by Journalism/Communication at Mount Royal University. He has a few years work experience as a reporter in Rural Manitoba. Prior to working at the Secretariat he worked for 5 years at the Government of Manitoba.

**Denyse T. Côté**

Appointed March 16, 2011

Denyse is currently a lawyer with the Tax Law Services section of the Department of Justice Canada. She has been active in the union which represents lawyers from the federal public service and has previously served as a board member on the Manitoba Public Utilities Board, Community Legal Education Association, Association des juristes d'expression française du Manitoba and Centre Culturel Franco-Manitobain.

**Bonnie Cham, M.D., FRCPC**

Appointed March 16, 2011

Dr. Cham graduated from the Faculty of Medicine at the University of Manitoba in 1982. Following specialty training in Pediatrics, Hematology and Oncology (at U of Manitoba and UBC), she was appointed to the Faculty of Medicine, University of Manitoba and active staff at CancerCare Manitoba where she was involved in research and patient care until 2010. During that time she also worked as a consultant at Canadian Blood Services and was Director of the Manitoba Rh program. An interest in ethics led her to complete a Graduate Diploma in Bioethics from Monash University in 1999. She was a volunteer on the Manitoba Medical Association Ethics Committee, followed by a term as Chair of the Canadian Medical Association's Committee on Ethics from 2005-2009. She is currently the Medical Director of Clinical Ethics at Health Sciences Center.

**June Marion James, O.M., BSc, (med) M.D., FRCPC**

Appointed June 30, 2004

Dr. James is a specialist in Allergy and Immunology at the Winnipeg Clinic, and Assistant Professor in Medicine at the University of Manitoba. She is a member of the Board of St. John's College, and former President of the College of Physicians and Surgeons, and the Manitoba Allergy Society. Dr. James was named physician of the year in 2000.

**Claudette Labossière**

Appointed May 1, 2006

For many years Claudette has enjoyed working in a rural personal care home. Being a front line nurse assisting clients in her community and surrounding area has given her valuable insight into the home care system. She still remains living in a small southern Manitoba town with her husband, where they raised their three children. Claudette is presently nursing in the local long-term care facility, which cares for and houses 60 residents.

**Howard Mathieson**

Appointed June 27, 2007

Howard was employed at the University of Winnipeg from 1970 to 2000 where he was an instructor and administrator in the Collegiate Division. During his tenure he served as both an instructor and Associate Dean. He was active in University affairs and committees, notably the University Senate, its' Athletic Board and was active as a basketball coach. He also participated as a member of the Collegiate CAUT bargaining team. Following retirement he was appointed to the Public Schools Finance Board where he served prior to his appointment to the Manitoba Health Appeal Board.

**Alan M. McLauchlan**

Appointed February 1, 2014

Alan has a background in Justice from his career with the Royal Canadian Mounted Police followed by a second career as a college instructor. His expertise includes conflict resolution and restorative justice. He presently is self employed and provides training to organizations on a variety of topics including justice issues, crime prevention and restorative justice. Alan also works on expanding on his families Non Timber Forest Product company, one of the largest in Manitoba.

**Jagjit Polly Pachu**

Appointed October 26, 2011

For the past 27 years, Polly has worked as a Cardiology Technologist at St. Boniface General Hospital (SBGH) specializing in Exercise Tolerance Testing – Echo Dobutamine, Cardiac Imaging, Nuclear Testing and Electrocardiograms (EKG) and now works part-time at Victoria General Hospital in the same capacity. She was a Paramedical Technologist for Medox and Bodimetric Profiles where she provided paramedical services for life insurance companies. She was elected National President and Vice-President of the Canadian Society of Cardiology Technologists (CSCT) and she is presently the Director. She was also a former Vice-Chair for the Licence and Suspension Appeal Board as well as a Union Representative for the Manitoba Association of Health Care Professionals (MAHCP). Currently, she is an interpreter for the Immigrant Center, Vice President of the Immigrant Women's Association of Manitoba (IWAM), a member of the SBGH Workplace Safety and Health Committee and a member of the MFL Occupational Health Centre (OHC).

**Rhonda Wiebe**

Appointed May 1, 2006

Rhonda coordinates the implementing of accessibility policies across provincial government bodies through the Disabilities Issues Office. Previous to this she researched ethical frameworks for end of life decision making through the Vulnerable Persons New Emerging Team at the Faculty of Medicine, University of Manitoba. Active as an advocate of disability rights over the last two decades, she chairs the ethics committee of the Council of Canadians with Disabilities, and is a board member of several national and international disability organizations. Her education lies in the fields of music performance and religious studies, however, much of her commitment is informed by her experience as a person living with disability.

## Board Administrative Staff

The Manitoba Health Appeal Board administrative office staff, led by the Board's Administrator, manages the day-to-day business of the Board and provides administrative assistance and support to the Board in carrying out its responsibilities.

### Administrative Staff

Doreen Côté served as Acting Administrator for the Board until July 7, 2014 when Robert Sample assumed responsibility for the position of Board Administrator. Ms Côté reverted back to the position of Office Manager on July 7, 2014.

During 2014-15, the Board's staff consisted of the following individuals:

Bob Sample	Administrator <sup>2</sup>
Doreen Côté	Acting Administrator <sup>3</sup>
Claudie Carbonneau Janisch	Acting Office Manager <sup>4</sup>
Doreen Côté	Office Manager <sup>5</sup>
Tracey Schaak	Administrative Assistant

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<sup>2</sup> Mr. Sample started in the position of Board Administrator on July 7, 2014

<sup>3</sup> Ms. Côté served as Acting Administrator until July 4, 2014.

<sup>4</sup> Ms. Carbonneau Janisch was assigned as Acting Office Manager until July 4, 2014.

<sup>5</sup> Ms. Côté resumed her position as Office Manager on July 7, 2014

## Sittings and Meetings

### Sittings

During 2014-15, sittings of the Board were scheduled on Thursdays with Authorized Charge appeals usually heard in the morning and Insured Benefit appeals in the afternoon. Whenever possible, hearings for Home Care and other types of appeals were also scheduled on Thursdays, with flexibility to use other week days when necessary.

Sittings of the Board are usually held at the Board's office located at 102 – 500 Portage Avenue, Winnipeg, Manitoba but on occasion, the Board will attend to other locations in Manitoba to hear appeals.

For the most part, the parties<sup>6</sup> attended in person for the hearing of appeals. However, the parties are also offered the option of participating by teleconference and many did so, particularly for appeals of Authorized Charges and for those parties who reside in rural communities. Participation via videoconferencing is another option that is available to the parties.

The Manitoba Health Appeal Board is one of the quasi-judicial tribunals that hears citizens directly in the official language of their choice. During 2014-15, there were no requests made by parties to an appeal to conduct hearings in the French language.

During 2014-15 the Board held 26 sittings for the purpose of hearing appeals and considering complex motions:

# Sittings Held	Type of Appeal
7	Authorized Charges
1	Late-filed Motions re Authorized Charges
10	Insured Benefit
6	Home Care
2	Personal Care Home Placement

*Figure 1 – Sittings Held in 2014-15*

On average, the Board heard 3 appeals at each sitting for Authorized Charge appeals. Generally, the Board heard only one appeal at a sitting for Insured Benefit and other types of appeals.

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<sup>6</sup>The "parties" are defined as the appellant (the person who the appeal is about) and the respondent (the authority who made the decision that is being appealed; i.e., Manitoba Health or a regional health authority and their representatives).

## Composition of Board Quorums/Panels

Taking into consideration the nature of each type of appeal, the Board has agreed that it will sit in quorums/panels<sup>7</sup> as follows:

Authorized Charge Appeals	3 members
Home Care Program Appeals	3 members
Insured Benefits Appeals	5 members
Hepatitis C Appeals	5 members
Other Appeals	5 members

Generally, the Board sits in panels of 5 members whenever possible for Insured Benefits, Hepatitis C and Other appeals.

Board members are scheduled on a rotating basis, utilizing their various areas of expertise as required. Due to the medical nature of Insured Benefit appeals and the complex legal issues that can arise, it has been the practice of the Board to have at least one physician, whenever possible, and one lawyer member of the Board participate on the panel for this type of hearing.

## General Business Meetings

During 2014-2015, the full complement of the Manitoba Health Appeal Board met for a general meeting on December 10, 2014 for both educational presentation purposes and to discuss and decide upon administrative and policy matters.

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<sup>7</sup>Section 9(6) of *The Health Services Insurance Act* states: "Except where provided otherwise in this or any other Act of the Legislature or any regulation respecting the board, any three members of the board constitute a quorum ..."  
Section 9(7) of the *Act* states "The board may sit in panels of at least three members."

## Appeals and Hearings

### Appeals

Appeals coming before the Board vary in nature as specifically detailed under Jurisdiction (see page 4). Overall, the appeals heard by the Board during 2014-15 related to decisions regarding payment of benefits with respect to insured medical services and/or travel subsidies, assessed authorized charges (daily rates) for residents of personal care homes and other long-term facilities, personal care home placement and Home Care services.

### Mediation

The Board's Administrator is authorized to offer a mediation process with the parties when contacted about Home Care matters to try and resolve issues before the need to proceed with the filing and/or hearing of an appeal. Specific statistical information regarding Home Care appeals can be found on pages 31-32.

### Hearings

Section 9(10) of *The Health Services Insurance Act* provides that the Board may establish its own rules of practice and procedure including rules respecting meetings and hearings, not inconsistent with this or any other act of the Legislature or any regulation regarding the Board. Accordingly, the Board has adopted standard Rules of Procedure for the hearing of appeals. All parties appearing before the Board are provided with a copy of the Board's Rules of Procedure at the time an appeal is filed, and a copy of the Rules is also available on the Board's website.

The *Act* also directs that appeals shall be conducted on an informal basis and the Board is not bound by the rules of law respecting evidence applicable to judicial proceedings.

With respect to Insured Benefit appeals, the Board has developed an Information Checklist that is provided to appellants on Insured Benefit appeals in advance of the hearing. This checklist is meant to assist appellants by making them aware of the type of information the Board may find pertinent to their position and the nature of evidence the Board is able to take into consideration on a case-by-case basis.

All parties have the right to attend hearings in person and/or to be represented by legal counsel or another person of their choice who they have designated in writing as their representative or who has the authority to act on their behalf. While some appellants choose not to appear at their hearing, they were usually represented by legal counsel or designated individuals such as advocates, family members or friends. As the respondent to the appeals, Manitoba Health and the regional health authorities have had representatives present at all hearings. Manitoba Health has also chosen to be represented at all Insured Benefit hearings by legal counsel and, on occasion, the Winnipeg Regional Health Authority has also chosen to be represented by legal counsel on Home Care appeals.

Where notice of a hearing has been duly provided but an appellant and/or representative fails to attend on the hearing date, the Board may proceed with the hearing to make a determination on the appeal based on the written material filed by both parties for the hearing and the oral presentation of the respondent. Alternatively, the Board may direct that the hearing be rescheduled to a later date.



At an appeal hearing, the appellant is allowed to present his/her case and make a submission first, followed by questions by the Board and the respondent. The respondent is then provided with an opportunity to present their case and submission, followed by questions by the Board and the appellant. All questions and answers must be directed through the Chair. The appellant is then given a final opportunity to make any last comments before the hearing concludes.

## **Recording of Hearings**

It is the practice of the Board to digitally record all hearings so that a record of proceedings can be made available if required. The recordings also assist the Board in the preparation of its reasons for decision.

Pursuant to Board policy, the recordings are maintained in CD format and are securely retained by the Administrator for a minimum period of three years. Thereafter, they are destroyed, unless there is a judicial review underway, in which case the recordings are maintained until judicial proceedings are concluded.

Parties to a hearing may request a copy of the recording. However, the Board's records are governed by the disclosure provisions set out in ***The Freedom of Information and Protection of Privacy Act*** and ***The Personal Health Information Act***. Therefore, depending on the nature of the request, a transcript of proceedings may be required so that the information can be reviewed and a determination made as to whether severing of the record is required in accordance with the legislation. The cost of the preparation of a transcript is borne by the requesting party.

## Decisions of the Board

After the conclusion of an appeal hearing, the Board meets in-camera to discuss the evidence and submissions and to make a decision. The only non-Board member privy to these in-camera discussions is the Administrator who does not participate in the decision making, but is available to answer Board questions.

After considering the merits of the written and oral evidence and submissions by the parties, in making a decision<sup>8</sup> on an appeal, the Board may confirm, set aside or vary the decision in accordance with the provisions of *The Health Services Insurance Act* and regulations or refer the matter back to the person authorized to make the decision for further consideration with the Board's instructions.<sup>9</sup>

The Board's decision with reasons is prepared in written format and issued to all parties generally within four weeks after the hearing date.

### Judicial Review

Unless otherwise provided for in any act or regulation, the decisions of the Board on appeals are final. However, as is the case with most quasi-judicial administrative tribunals, an application for judicial review of the Board's decision may be made to a court.

There were no applications for judicial review filed in the Manitoba Court of Queen's Bench by an appellant in 2014-2015.

### Canadian Legal Information Institute (CanLII)

The Board started to post redacted appeal decisions on the CanLII website ([www.canlii.org/en/mb/](http://www.canlii.org/en/mb/)) in 2015. Identifying information is removed from all decisions prior to posting. The Board has decided to post appeal decisions for the following purposes: transparency, fairness, educational and research value.

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<sup>8</sup>Section 9(9) of *The Health Services Insurance Act* states: "A decision or action of the majority of the members of the panel or of the majority of the members of the board constituting a quorum is a decision or action of the board."

<sup>9</sup>The powers of the Board on appeal is set out in Section 10(5) of *The Health Services Insurance Act*.

# FINANCIAL INFORMATION 2014-15

In 2014-15, the annual operating budget for the Manitoba Health Appeal Board was \$259,000, and the annual salaries budget was \$181,000.

## Operating Budget

The annual operating budget expenditures were \$122,387 for an under expenditure of \$136,613.

<b>Operating Budget: 2014-15 Manitoba Health Appeal Board</b>			
<b>Description</b>	<b>Estimate</b>	<b>Actual</b>	<b>Variance Over (Under)</b>
OTHER FEES <sup>10</sup> :	\$106,000		
Board Remuneration (per diems)		\$45,813.00	
Miscellaneous Services <sup>11</sup>		<u>\$39.00</u>	
Total Other Fees		<u>\$45,852.00</u>	(\$60,148.00)
OTHER EXPENDITURES	\$153,000	\$76,535.00	(\$76,465.00)
<b>TOTAL</b>	<b>\$259,000</b>	<b>\$122,387.00</b>	<b>(\$136,613.00)</b>

Board members are paid a per diem when they attend hearings:

Chair: \$256.00 per half day and \$446.00 per full day  
 Members: \$146.00 per half day and \$255.00 for a full day  
 Physician Members: paid based on specialty and location at the sessional rates established for medical practitioners.

Board members are also paid a per diem for pre-hearing preparation, decision writing, and duties unrelated to hearings (e.g., attendance at a meeting):

Chair: \$74.33 per hour  
 Members: \$42.50 per hour  
 Physician members: at the current hourly sessional rate

Members are also reimbursed for reasonable travel and out-of-pocket expenses incurred in carrying out their responsibilities in accordance with government established rates.

<sup>10</sup> "Other fees" would include board remuneration, transcription services, interpreter fees and protection and security.

<sup>11</sup> Staff identification cards.

## Salaries Budget

The actual salary expenditures were \$198,255 for an over expenditure of \$17,256.

<b>Salaries Budget: 2014-15 Manitoba Health Appeal Board</b>				
<b>Description</b>	<b>FTE<sup>12</sup></b>	<b>Estimate</b>	<b>Actual</b>	<b>Variance Over (Under)</b>
Staff Salaries	3 FTE	\$167,000	\$166,572	(\$428)
Employee Benefits	3 FTE	\$14,000	\$31,684	\$17,684
<b>Total</b>		<b>\$181,000</b>	<b>\$198,255.00</b>	<b>\$17,256</b>

Compared authorized budget to actual salaries, MHAB salaries were \$17,256 over spent due to employee benefits:

- \$12,000 in staff turnover allowance – MHAB was fully staffed for the fiscal year 2014-15. Therefore, it did not meet staff turnover allowance. This is a standard accounting practice used by the department.
- \$5,256 deficit due to shortage of funding authorized by the Treasury Board.
- The deficit in Salaries Budget was offset by being under spent in the Operating Budget.

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<sup>12</sup> Full time equivalents

# Board Activities 2014-15

## Sittings and General Meetings

A review of the appeals received, the Board's sittings and general meetings held in the current and past three fiscal years indicates the following:

Appeals Received				
Type	2014-15	2013-14	2012-13	2011-12
Authorized Charges	86	72	68	75
Request for Waiver of Authorized Charge	1	0	0	2
Insured Benefits	24	30	28	28
Hepatitis C Compassionate Assistance Program	0	0	0	1
Home Care Program	8	5	5	9
Personal Care Home	4	4	3	2
Other Appeals	1	1	1	0
<b>Total</b>	<b>124</b>	<b>112</b>	<b>105</b>	<b>117</b>

Figure 2 – Review of Appeals Received

As can be seen by the chart in Figure 2 above, the number of appeals received by the Board increased from 112 in 2013-14 to 124 in 2014-15.

Appeals Heard by Board				
Type	2014-15	2013-14	2012-13	2011-12
Authorized Charges	27	35	46	33
Request for Waiver of Authorized Charges	0	0	0	2
Insured Benefits	11	17	23	23
Hepatitis C Compassionate Assistance Program	0	0	0	1
Home Care Program	7	2	6	5
Personal Care Home	2	0	1	0
Other Appeals	0	0	0	0
<b>Total<sup>13</sup></b>	<b>47</b>	<b>54</b>	<b>76</b>	<b>64</b>

Figure 3 – Comparison of Appeals Heard

As can be seen by the chart in Figure 3, the number of appeals heard by the Board during 2014-15 has decreased by seven from the number of appeals heard in the previous fiscal year.

<sup>13</sup>This total does not include the appeals that were withdrawn or struck off the Board's hearing schedule during the fiscal year. Information rationalizing appeals that were withdrawn or struck off starts at page 24 of the report.

The number of appeals heard in 2014-15 is less than the total number of appeals received for the following reasons:

- Some appellants withdrew their appeals because the respondent (Manitoba Health, Healthy Living and Seniors (MHHS) or a regional health authority) changed its decision to the satisfaction of the appellant. The majority of decisions were changed based on additional information that was submitted by the Appellant during the appeal process. Examples: MHHS approved a request for benefits, MHHS Residential Charges Unit amended its initial review decision and lowered the daily residential charge
- Prior to a hearing being scheduled, some appellants withdrew their appeals because they decided not to pursue the matter any further.
- Appellants and respondents have a right to file a brief (written argument and evidence) on the appeal issues. The parties are given a specified number of weeks to submit their briefs and this process takes several weeks from the time the appeal is received. As a result, appeals received late in the fiscal year might not be heard until the following fiscal year.
- Appellants were unable to proceed for a number of reasons and the appeal was carried forward to the next fiscal year – e.g., health-related reasons, appellants are away on vacation, or they require additional time to gather their evidence.
- Appellants submitted new information to the respondent and the respondent was in the process of reviewing the new information.

Below is a chart comparing total sittings and meetings over the past 4 years.

<b>Sittings and General Meetings</b>			
<b>Fiscal Year</b>	<b># of Appeal Sittings</b>	<b># of General Meetings</b>	<b>Total Appeal Sittings/ General Meetings</b>
2014-15	26	1	27
2013-14	31	1	32
2012-13	44	1	45
2011-12	41	2	43

*Figure 4 – Comparison of Number of Sittings and General Meetings Held*

Below is a chart providing the average time it takes for an appeal to be heard (from the date the appeal was received), and the time it takes for a decision to be distributed to the parties (from the date the appeal was heard).

<b>Appeals Heard by Board Average Timelines (in calendar days)</b>		
<b>Type</b>	<b>Appeals Received to Appeals Heard</b>	<b>Appeals Heard to Decision</b>
Authorized Charges	81 days	12 days
Insured Benefits	125 days	23 days
Home Care Program	69 days	16 days
Personal Care Home	62 days	15 days

*Figure 5 – Average Timelines (Appeals Received – Appeals Heard – Decision)*

The number of days shown in the “Appeals Received to Appeals Heard” column is determined by a number of factors.

Delays moving files forwards include ongoing discussions and communications between the parties in an effort to resolve the appeal issue, the need to obtain additional evidence, the availability of medical providers, requests for adjournments of hearings or requests to postponing the scheduling of a hearing, appellants deciding to withdraw the appeal and illness that prevents participation in the appeal process.

Appeals are often heard quite soon after receipt of the Notice of Appeal form, sometimes as quickly as 21 days for Insured Benefits appeals and 15 days for Authorized Charge appeals.

## Late-Filed Requests

The following is the relevant legislation with respect to late-filed requests considered by the Board:

### Appeals

Section 10(2) of *The Health Services Insurance Act* states:

#### **Notice of Appeal**

An appeal under this Act or the regulations shall be commenced by a notice of appeal, setting out the grounds for appeal, which must be mailed or delivered to the board not more than 30 days after the date on which the appellant receives notice of the decision that is appealed or within such further time as the board permits.

### Requests for Review

Section 6.2(1) of the *Personal Care Services Insurance Regulation 52/93* provides that if a person is unable to pay an authorized charge because of extenuating circumstances, he/she may request Manitoba Health to review the amount of the authorized charge.

However, pursuant to Section 6.2(1.2) of the regulation, if the request is submitted more than one year after the authorized charge was first charged to the person, the request must be forwarded to the Manitoba Health Appeal Board for consideration as to whether the request for review should be accepted by Manitoba Health.

In addition, pursuant to Section 6.2(1.3) of the regulation, if Manitoba Health does not accept a request for review, it must refer the request to the Board for further consideration. If the Board approves the request for review, the matter is referred back to Manitoba Health to proceed with the review.

### Motions

When the Board is considering whether it will permit a late-filed appeal or a request for review that has not been accepted by Manitoba Health to proceed, it is the Board's practice to consider these types of motions (matters) on one of its regularly-scheduled sitting dates for appeals.



## Statistics

### REQUEST FOR LATE-FILED MATTERS

#### Request for Late-filed Matters Received

During 2014-15, the Board received the following late-filed matters:

Insured Benefit appeals	2	
Authorized Charge appeals	16	
Requests for Review	16	
Home Care appeals	2	
Other: Operation of a Lab	1	
		37

Motions Brought Forward  
from 2013-14:

Authorized Charge appeals	4	
Request for Review	1	<u>5</u>
Total Motions		<u>42</u>

#### Motions Heard and Decided

During 2014-15, the Board heard and decided the following 36 late-filed motions:

#	Type of Matter	Board Decision
	Insured Benefit appeals	2 granted
	Authorized Charge appeals	15 granted
	Request for Review	17 granted
	Home Care appeals	2 granted
<b>Total</b>		<b>36</b>

*Figure 6 – Late-filed Motions Heard and Decided in 2014-15*

One late-filed motion regarding an Authorized Charge was withdrawn during 2014-15 as Manitoba Health amended its review decision to the satisfaction of the appellant.

In addition to the motions that were heard, five motions were pending at the end of the fiscal year and carried forward to 2015-16 (2 late Authorized Charge Appeals, 2 late Requests for Review, and 1 appeal regarding the Operation of a Lab).

## APPEALS

The following is a statistical summary of appeals received and heard for 2014-15.

### ***Authorized Charge Appeals***

The Board received 86 Authorized Charge appeals, which is an increase from the previous fiscal year's total of 72.

#### *Number of Appeals Received and Processed*

Number of Appeals received in current fiscal year		86
Number of Appeals brought forward from prior fiscal year		<u>14</u>
		100
Less:		
Number of Appeals Heard by the Board	27	
Appeals closed in 2014-15 without going to hearing:		
Number of appeals withdrawn by appellant	8	
Number of appeals returned to Manitoba Health as appellants deceased prior to hearing <sup>14</sup>	1	
Number of appeals struck-off by Administrator <sup>15</sup>	2	
Number of appeals filed prematurely <sup>16</sup>	6	
Number of Appeals withdrawn as Manitoba Health amended its review decision	<u>37</u>	
	81	
Number of appeals carried forward to next fiscal year <sup>17</sup>		<u>19</u>

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<sup>14</sup> Pursuant to Manitoba Health's policy, if it is informed that an appellant dies while an appeal is in process and has not yet been heard, the authorized charge (daily rate) will be adjusted to the previous year's assessed rate, or the current minimum rate if assessed the minimum rate in the previous rate year, or if the appellant is a new resident in personal care. If the estate of the appellant is not satisfied with Manitoba Health's adjusted rate, it may continue on with the appeal before the Board.

<sup>15</sup> Pursuant to the Board's Rules of Procedure (No. 9), where an appellant fails to advance his/her appeal within six months after the initial filing date, where deemed appropriate, the Board's Administrator has the discretion to strike off the appeal. Thereafter, requests to revive the appeal require the Board's approval.

<sup>16</sup> Appeals filed prior to Manitoba Health making a decision on a Request for Review; as a result, there was no decision from which to appeal.

<sup>17</sup> Appeals were carried forward for the following reasons: appellants had not yet obtained and/or submitted financial documents or other relevant evidence for their appeal hearing, the appellants or their representative were not available to attend a hearing prior to the end of the fiscal year; the respondent was in the process of reviewing new documents that were submitted by the appellant.

The withdrawal of thirty-seven authorized charge appeals demonstrates a level of client satisfaction with the work done during the appeal process. Manitoba Health amended review decisions based on additional financial information that was provided during the appeal process. Much of the financial information clarified income, thereby allowing Manitoba Health to reconsider the daily rate charge.

Disposition of Authorized Charge Appeals Heard

The disposition of the twenty-seven appeals heard by the Manitoba Health Appeal Board in 2014-15 is as follows:

Disposition	Number	%
Appeals denied	1	4
Appeals allowed to minimum charge	13	48
Appeals allowed to other rate	13	48
<b>Total</b>	<b>27</b>	100%

Figure 7 – Disposition of Authorized Charge Appeals

Breakdown of Authorized Charge Appeals Received by Regional Health Authority

The following figure shows the breakdown by regional health authority (RHA) of the eighty-seven Authorized Charge appeals received in 2014-15:

RHA	Appeals
Interlake-Eastern	8
Northern	7
Prairie Mountain	15
Southern Health-Santé Sud	8
<b>RHA Subtotal</b>	<b>38</b>
Winnipeg	48
<b>Total</b>	<b>86</b>

Figure 8 – Breakdown by RHA of Appeals Received

Authorized Charge appeals from regional health authorities other than Winnipeg number 38 or 44.2% of the total appeals, while appeals from the Winnipeg Regional Health Authority number 48 or 55.8% of all appeals. The percentage of appeals from regions outside of Winnipeg has slightly decreased from 44.4% in 2013-2014, and the percentage of Winnipeg appeals has slightly increased from 55.6%.

Manitoba Health maintains a Provincial Bed Map of licensed personal care homes in the province. As of March 31, 2015, it showed that there were 5,561 beds (57%) in Winnipeg and 4,153 personal care home beds (43%) outside Winnipeg, with a total of 9,714 beds in the Province.

Of the total number of personal care home beds in the Province, only .9% of the residents appealed their daily rate to the Manitoba Health Appeal Board. Of those appeals, there were 11.6% more appeals from residents within the City of Winnipeg than in areas outside of Winnipeg.

## ***Request for Waiver Appeals***

During 2014-15, the Board received one appeal with respect to Manitoba Health's decision to deny a request for waiver, which was pending at the end of the fiscal year and carried forward to 2015-16.

## ***Insured Benefit Appeals***

The vast majority of Insured Benefit appeals relate to Manitoba Health's denial of requests for funding benefits for medical services received outside Manitoba and Canada. Individuals denied registration as an insured person may also appeal.

### *Number of Appeals Received*

The Manitoba Health Appeal Board received 24 Insured Benefit appeals in 2014-15, which is a decrease from the previous fiscal year's total of 30.

### *Types of Insured Benefit Appeals Received*

It is to be noted that there can be more than one issue involved in one Insured Benefit appeal. For example, an appellant may appeal Manitoba Health's denial to pay benefits as well as a travel subsidy related to a medical service that was provided out of the province.

### *Appeals Heard*

During 2014-15, the Board held 11 hearings for Insured Benefit appeals, which is a decrease from the previous year's total of 17.

<b>Insured Benefit Appeals Heard</b>				
2014-15	2013-14	2012-13	2011-12	2010-11
11	17	23	23	31

*Figure 9 – Comparison of Appeals Heard*

### *Average Length of Appeal Hearings on Insured Benefits*

The average length of an Insured Benefit hearing in 2014-15 was approximately 1.7 hours<sup>18</sup>, which is a slight increase from 1.5 hours in the previous fiscal year.

### *Disposition of Insured Benefit Appeals Heard in 2014-15*

The disposition of the 11 Insured Benefits appeals heard by the Board is as follows:

<b>Disposition</b>	<b>Number</b>	<b>%</b>
Appeals approved	1	9
Appeals denied	10	91
<b>Total</b>	<b>11</b>	<b>100%</b>

<sup>18</sup>This time period does not include the Board members' pre-hearing preparations (1½ hours) but does include the Board's deliberation time.

The report shows that 91% of Insured Benefits Appeals were unsuccessful last year. There are several possible explanations for why this occurred. For example, as the number of appeals decline, percentages become less statistically significant and anomalies are more common. Also, the Board observed a significant number of appeals being resolved without the necessity of a hearing.

Ultimately however, each case must be decided on its own merits. In that regard it is worth keeping in mind that many of the Insured Benefits appellants presented very sympathetic facts and circumstances. The Board is a creature of statute and has no inherent jurisdiction. It is bound by the law and while Board members often felt a great deal of sympathy for the appellant's position, they were unable to allow the appeals because the facts did not meet the criteria set out in the relevant legislation.

In addition to the above-noted appeals that were heard, 13 Insured Benefit appeals were closed prior to a hearing being held for the following reasons:

Withdrawn as Manitoba Health approved payment	5
Withdrawn by Appellant for other reasons	5
Board did not have jurisdiction to hear appeal	2
Abandoned	<u>1</u>
<b>Total</b>	<b><u>13</u></b>

As noted in Figure 10 below, at the end of the 2014-15 fiscal year, 10 Insured Benefit appeals were pending:

Insured Benefit Appeals Summary		
Appeals brought forward from 2013-14	10	
Appeals received during 2014-15	<u>24</u>	
Total number of appeals		34
Less:		
Appeals heard and decided	11	
Appeals closed without going to a hearing	<u>13</u>	
Total number of appeals closed		<u>24</u>
Number of Appeals carried over to 2015-16		<u>10</u>

*Figure 10 – Summary of Insured Benefit Appeals*

The following analysis compares the matters involved in Insured Benefit appeals heard over the past five years:

Type of Insured Benefit Appeal	2014-15	2013-14	2012-13	2011-12	2010-11
Cardiology	--	1	--	1	--
Consultation	4 <sup>19</sup>	4 <sup>20</sup>	6 <sup>21</sup>	1 <sup>22</sup>	5 <sup>23</sup>
Diagnostic Tests	--	2 <sup>24</sup>	5 <sup>25</sup>	3 <sup>26</sup>	9 <sup>27</sup>
Disputing Amount of Benefit Paid	--	--	1	3	3
Drug Costs (related to treatment)	--	--	--	--	1
Ears/Nose/Throat	--	--	--	--	2
Experimental Treatment/Drug Study	3 <sup>28</sup>	1 <sup>29</sup>	3 <sup>30</sup>	1 <sup>31</sup>	2 <sup>32</sup>
Gender Issues	--	--	1	--	3
Gynecology/Obstetrics	--	--	1	1	--
Mental Health/ Addictions	1	--	--	--	3
Morbid Obesity (eg., bariatric surgery)	--	--	--	1	--
Morbid Obesity/Plastic Surgery (eg., removal of excess skin)	2	2	2	3	5
Neurology	--	--	--	--	1
Oncology	--	--	1	2	1
Ophthalmology	--	1	2	1	2
Orthopedics	4	1	2	2	4
Plastic Surgery	--	1	2	2	4
Urology/ Nephrology	--	--	1	1	--
Other	--	4 <sup>33</sup>	1 <sup>34</sup>	1 <sup>35</sup>	8 <sup>36</sup>
Travel Subsidy	4	5	2	1	6
Registration Issue	--	--	--	--	1

*Figure 11 – Issues Involved in Insured Benefit Appeals*

<sup>19</sup> Consultation re: ankle pain; orthopedics (2); muscle weakness

<sup>20</sup> Consultation re: nephrology; gastroenterology (2); lyme disease

<sup>21</sup> Consultation re: oncology; dopa responsive dystonia; right medial groin pain; pulmonary arterial hypertension; allograft cartilage replacement of ankle (experimental treatment); fibromuscular dysplasia

<sup>22</sup> Consultation re: Stereotactic Body Radiation Therapy

<sup>23</sup> Consultation re: neurology (2); oncology (2); unknown condition

<sup>24</sup> Diagnostic tests re: lyme disease; CAT scan

<sup>25</sup> Diagnostic tests re: oral biopsy; CT scan; MRI & Pet Scan; dopa responsive dystonia; heart catheterization with nitric oxide

<sup>26</sup> Diagnostic tests re: cancer; MRI; upper GI Endoscopy

<sup>27</sup> Diagnostic Tests re: gynecology/obstetrics; oncology (3); ophthalmology; orthopedics; unknown condition (2); urology

<sup>28</sup> CCSVI; M6 artificial disk replacement (2)

<sup>29</sup> Hyperbaric Oxygen Treatment

<sup>30</sup> Chronic cerebrospinal venous insufficiency (CCSVI) (2); Gender Issues

<sup>31</sup> Intacs

<sup>32</sup> Intacs; Hyperbaric Oxygen Treatment

<sup>33</sup> Dermatology; Air Ambulance; Requesting payment for hotel accommodations; Gastroenterology

<sup>34</sup> Requesting payment for hotel accommodations and meals

<sup>35</sup> Pain Rehabilitation Program

<sup>36</sup> Air and/or ground ambulance (2); dental (2); physiotherapy; podiatry; prosthetic device; requesting payment for hotel accommodation, meals, taxi and busfare

The following table shows the reasons/grounds for appeal which were presented at hearings in the 2014-2015 fiscal year and the three prior fiscal year periods:

Reasons/Grounds for Appeal Insured Benefit Appeals Heard				
	2014-15	2013-14	2012-13	2011-12
Adequate Care Available In Canada	8	7	9	7
Cosmetic / Not Medical	2	4	4	5
Disputing Amount of Benefit Paid	0	0	1	3
No Prior Approval By Manitoba Health	8	4	8	5
No Referral By Appropriate Specialist	8	8	11	6
Other	0	1 <sup>37</sup>	0	1 <sup>38</sup>
Procedure An Excluded Service	1	0	2	3
Pre-existing Condition/No Sudden Illness	1	1	3	1
Transportation Subsidy	4	5	2	1
Services Rendered In Private Facility/Not A Hospital	1	2	3	8
Treatment Experimental/Emerging	3	1	4	1

Figure 12 - Reasons/Grounds for Insured Benefit Appeals Heard

### ***Manitoba Hepatitis C Compassionate Assistance Program Appeals***

Manitobans who became infected with Hepatitis C (HCV) after receiving a transfusion of blood or blood products before January 1, 1986 or between July 1, 1990 and September 28, 1998 in Manitoba may be eligible for a one-time payment of \$10,000 through the Manitoba Government's Hepatitis C Compassionate Assistance Program.

Persons who apply for and are denied financial compensation through this program have the right to appeal the decision to the Board.

#### ***Appeals Received***

In 2014-2015, the Manitoba Health Appeal Board did not receive any appeals regarding a decision of the Manitoba Hepatitis C Compassionate Assistance Program to deny financial assistance.

<sup>37</sup> Air Ambulance an excluded service

<sup>38</sup> Six-month claim period expired

Since the inception of the Manitoba Hepatitis C Compassionate Assistance Program in 2001, the Board has received 41 appeals, the outcomes of which are as follows:

	<u>Number</u>	<u>%</u>
Appeals heard & denied	10	24.4
Appeals heard & allowed	3	7.3
Appeals rejected <sup>39</sup>	1	2.4
Appeals withdrawn/abandoned <sup>40</sup>	<u>27</u>	<u>65.9</u>
<b>Total Number of Appeals Received</b>	<u>41</u>	<u>100%</u>

## ***Home Care Program Appeals***

### *Number of Appeals*

In 2014-15, the Board received eight new appeals from decisions related to the provision of home care services in the province, which is an increase of three from 2013-14.

### *Number of Hearings*

During 2014-15, the Board held seven hearings, which is an increase of five from the previous fiscal year.

### *Disposition of Home Care Program Appeals*

The seven appeal hearings held in 2014-15 were disposed of as follows:

Appeals approved	2
Appeals varied	1
Appeals denied	3
Appeal heard & withdrawn <sup>41</sup>	<u>1</u>
<b>Total</b>	<u>7</u>

In addition to the appeals that were heard, one appeal was closed because there had been no decision made by the regional health authority. There was one Home Care appeal pending at the end of the fiscal year.

<sup>39</sup>One appeal was rejected by the Board as being ineligible for provincial assistance under the Hepatitis C Program.

<sup>40</sup>Six appeals were approved for payment by the Manitoba Hepatitis C Compassionate Assistance Program before hearings could be scheduled; 19 appeals were abandoned or withdrawn as the appellants did not choose to pursue their appeal; 1 appeal was heard, adjourned and approval for payment was made by the Manitoba Hepatitis C Compassionate Assistance Program.

<sup>41</sup>During the hearing of this appeal, the Regional Health Authority offered to provide a level of service to the satisfaction of the appellant and the appeal was withdrawn.



The Home Care appeals heard over the past five years were disposed of as follows:

<b>Disposition of Home Care Appeals Heard</b>					
<b>Disposition</b>	2014-15	2013-14	2012-13	2011-12	2010-11
Allowed/ Allowed In Part	3	0	2	2	1
Denied	3	0	3	3	3
Withdrawn	1	1	0	0	1
Heard & Adjourned	0	0	0	0	0
Referred Back	0	1	0	0	0
Motion Heard - Appeal Dismissed	0	0	1	--	--
<b>Total</b>	<b>7</b>	<b>2</b>	<b>6</b>	<b>5</b>	<b>5</b>

*Figure 13 – Disposition of Home Care Appeals Heard by Year*

*Breakdown by Regional Health Authority of Home Care Appeals*

The following is the breakdown by regional health authority of the eight Home Care appeals received in 2014-15 in comparison to the appeals received in the four prior fiscal years:

<b>RHA</b>	<b>Appeals 2014-15</b>	<b>Appeals 2013-14</b>	<b>Appeals 2012-13</b>	<b>Appeals 2011-12</b>	<b>Appeals 2010-11</b>
Interlake-Eastern	0	0	0	1	1
Northern	0	0	0	0	0
Southern Health	0	2	0	1	0
Prairie Mountain Health	0	0	0	0	2
<b>RHA Subtotal</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>3</b>
Winnipeg	8	3	5	6	8
<b>Total</b>	<b>8</b>	<b>5</b>	<b>5</b>	<b>8</b>	<b>11</b>

*Figure 14 – Breakdown by RHA of Appeals Received*

As noted in Figure 14, 100% of the Home Care Program appeals received in 2014-15 were from Winnipeg.

A summary of the Winnipeg/Other RHA proportions for the past five years is shown below. It indicates that percentages vary, as is to be expected with small data sets, but suggests that significantly more appeals, on a proportional basis, are generated from within Winnipeg each year.

<b>Home Care Program Appeals</b>		
<b>Fiscal Year</b>	<b>% RHAs other than Winnipeg</b>	<b>% Winnipeg</b>
2014-15	0	100%
2013-14	40%	60%
2012-13	0	100%
2011-12	25%	75%
2010-11	27%	73%

*Figure 15 – Winnipeg/Other RHAs Breakdown of Home Care Appeals*

## ***Other Appeals***

There are “Other” types of appeals that the Manitoba Health Appeal Board has been mandated to hear by other legislative acts and regulations and as assigned by the Minister of Health.

In the past, these “Other” appeals have included the following:

- emergency health transportation
- public hearings on new regional boundaries
- conditions and terms of licensing of laboratories and facilities and diagnostic services
- decisions made by a regional health authority assessment panel in relation to applications for personal care in a personal care home

The following are the “Other” appeals received by the Board in 2014-15:

### **Personal Care Home Placement Decisions by an Assessment Panel**

#### ***Number of Appeals Received in 2014-15***

The Board received four appeals in relation to assessment panel decisions and had one appeal carried over from the previous fiscal year.

#### ***Number of Hearings Held in 2014-15***

There were two hearings held during the 2014-15 fiscal year for assessment panel decision appeals. One appeal was approved, one was denied.

One of the three appeals that were closed prior to going to a hearing was withdrawn because the issue was resolved to the satisfaction of the appellant.

No personal care home placement appeals were pending at the end of the 2014-15 fiscal year.

### **Laboratory or Specimen Collection Centre Licenses under section 121 (1) of *The Health Services Insurance Act***

The Board received one appeal with respect to Manitoba Health’s decision to deny approval of an application to establish a specimen collection centre, which was pending at the end of the 2014-15 fiscal year.

The following figure details the number and type of “Other” appeals received over the past five fiscal years:

<b>Fiscal Year</b>	<b>Number of Appeals</b>	<b>“Other” Appeals</b>
2014-15	4	Personal Care Home Assessment Panel Decisions
	1	Laboratory License
2013-14	4	Personal Care Home Assessment Panel Decisions
	1	<i>The Emergency Medical Response and Transportation Act</i>
2012-13	3	Personal Care Home Assessment Panel Decisions
	1	Laboratory License
2011-12	2	Personal Care Home Assessment Panel Decisions
2010-11	4	Personal Care Home Assessment Panel Decisions
	3	<i>The Emergency Medical Response and Transportation Act</i>

*Figure 16 – “Other” Appeals Received*

## Board Member Training

During 2014-15, the Board, Administrator and administrative staff engaged in the following training and educational activities:

- April 28, 2014  
Manitoba Council of Administrative Tribunals Conference<sup>42</sup>
  - Self Represented Parties
  - Administrative Law Blast
  - Foundations of Administrative Justice
  - The Role of Experts
  - Privacy Issues
  - Ethics and Administrative Tribunals – The Importance of Civility
  
- September 16, 2014  
Manitoba Council of Administrative Tribunals
  - Running a Fair Hearing
  - Presentation by: The Honourable Mr. Justice Marshall Rothstein, Supreme Court of Canada
  
- December 10, 2014  
Manitoba Health Appeal Board Annual General Meeting
  - Subpoena Power  
Presentation by: Peter Wiebe, Registrar, Appeal Commission
  
  - Function of the Public Trustee Office in Assisting Vulnerable People  
Presentation by: Richard Sohor, Chief Financial Officer, Keri Ranson, Deputy Public Trustee, and Jodi Spitula, Residential Charge Clerk, Public Guardian and Trustee Office
  
  - PHIA Compliance – Posting Decisions On-Line  
Presentation by: Nancy Love, Senior Legislative and Policy Analyst, Manitoba Ombudsman
  
  - PHIA for Board Members  
Presentation by: Michael Harding, Acting Legislative & Policy Analyst, Legislative Unit, Manitoba Health, Healthy Living and Seniors

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<sup>42</sup>In 2005, the Manitoba Council of Administrative Tribunals (MCAT) was developed through the volunteer efforts of a group of lawyers and members of tribunals supported by resources from Justice Manitoba. It is a not-for-profit organization established to facilitate the sharing of information, experience and expertise among administrative tribunals of Manitoba.

During 2014-15, individual Board members engaged in the following education activities:

- **Manitoba Council of Administrative Tribunals**  
New Tribunal Member Training  
October 8, 2014
- **Crown Corporations Council**  
Roles and Responsibilities of Effective Boards  
March 10, 2015

## Public Communication

### Communication Activities

Strategies have been developed by the Board to communicate information to the public and appropriate service providers and agencies about the Board and its appeal process. These activities keep individuals and appropriate service providers and social agencies advised of the right to appeal certain decisions to the Board, and are a key component of an effective appeal process.

### Hearing Guide

During 2011-12, the Board developed a Hearing Guide to assist parties to an appeal understand the appeal and hearing process. The Hearing Guide is posted on the Board's website and is available in print form at the Board office.

### Brochures

During 2013-2014, there was a mass mail-out of several thousand copies of the Manitoba Health Appeal Board's brochure. Copies of the brochure (English and French) were distributed to all Regional Health Authorities, personal care homes, hospitals, CancerCare Manitoba, Access Centres, the Long-Term Care Access Centre, and numerous community agencies across Manitoba.

The contents of the brochure were included in the College of Physicians and Surgeons newsletter *From the College* in December 2013 (Vol. 49, No. 3). The newsletter is sent to every licensed medical practitioner in the Province of Manitoba.

The brochure is posted on the Board's website and is distributed to appellants and, upon request, to members of the public.

### Website

The Manitoba Health Appeal Board website became active as of August 31, 2005 and can be accessed at:

<http://www.manitoba.ca/health/appealboard>

### Canadian Legal Information Institute (CanLII)

The Board started to post redacted appeal decisions on the CanLII website ([www.canlii.org/en/mb/](http://www.canlii.org/en/mb/)) in 2015. Identifying information is removed from all decisions prior to posting. The Board has decided to post appeal decisions for the following purposes: transparency, fairness, educational and research value.