

FAMILY SERVICES AND HOUSING CIRCULAR

Date: February 4, 2009

CIRCULAR NUMBER: EIA #2009-07 **Alternate Program(s): Supported Living Program, Vocational Rehabilitation Services and Child Care Program**

To: Community Social Service Supervisors/Program Managers

Subject: Responses to Social Services Appeal Board Decisions

Reference: EIA Admin Manual section 6.10: Appeals

Type: Policy Replaces: #2004-29
 Procedure
 Rate
 Information Only

Effective Date: Immediately

This revised Circular replaces Directive 2004-29 and sets out the actions required by staff of the Community Service Delivery (CSD) Division and the Disability Programs Employment and Income Assistance (DPEIA) Division in responding to Social Services Appeal Board (SSAB) decisions and requesting reconsiderations.

Approval and Tracking Form

The Employment and Income Assistance (EIA) Program Approval and Tracking Form for Responding to SSAB Decisions has been amended.

The Approval and Tracking Form is to be completed and forwarded to Service Delivery Support (SDS) and DPEIA when:

- 1) The SSAB Order confirmed a Director's decision but has attached a recommendation to the Order.
- 2) The CSSS/Program Manager is initiating a request for reconsideration

Staff no longer need to send the Approval and Tracking Form or the background information on rescinded/varied appeals (unless a reconsideration request is being considered).

In addition, staff do not need to send the background information for appeals that are confirmed with a recommendation unless this information is requested by the lead division (either SDS or DPEIA).

Appeal Process Matrix

An Appeal Process Matrix has been developed which defines the key activities of the appeal process and identifies the staff members who are responsible for those activities. This matrix

is intended to assist staff in ensuring that they are aware of their responsibilities when responding to an appeal. The matrix is intended to be used in combination with the defined policies and procedures outlined in the EIA Administrative Manual.

Appeal Report Template and Instructions

To ensure that the reports provided to the SSAB are consistent in their format, an electronic template along with accompanying instructions has been developed. This revised template is to be used by staff when preparing any reports for the SSAB.

Process for Appeal Decisions with a Recommendation

All recommendations must be discussed with DPEIA or SDS **within 5 working days of the date of the Order** using the Approval and Tracking form.

- The FSH Area Director/Regional Director (or designate) will review the decision and provide an opinion regarding the possible implementation of the SSAB recommendation.
- If required, the lead division (either DPEIA or SDS) may request a copy of the background information.
- Direction will then be provided to the FSH Area/ Regional Director (or designate) by the lead division with a copy to the other division.
- The decision will be communicated in writing by the Community Area or the Regional Office to the appellant (and if applicable implemented) **within two working days of receiving the direction.**

Requests for Reconsiderations

The appellant or the Department may request a reconsideration of an SSAB order, and the SSAB may reconsider its order on its own initiative. **Requests for reconsideration are normally based on one of the following reasons:**

- (a) The decision appears to be clearly outside or inconsistent with the relevant legislation
- (b) The discretion is outside of the normal range of discretion afforded to the designated officer within the policy.
- (c) Whether the panel process was such as to prevent or inhibit the presentation or consideration of relevant evidence.
- (d) Whether the original three-person process or decision gave an indication of bias, whether real or perceived.
- (e) It appears that an important aspect of evidence may have been factually misunderstood (this does not include a disagreement respecting interpretations or the weight given to the evidence), or
- (f) There is a question of the SSAB's jurisdiction

A request for a reconsideration of an order must be made within 30 calendar days of the original order.

a) Reconsideration Requests from Appellants

- The Department has advised the SSAB that requests from an appellant for a reconsideration of an order will not be challenged by the Department. The SSAB will, however, advise the Department when a request is received.
- When advised by the SSAB that a reconsideration hearing has been granted, the FSH Area Director/Regional Director (or designate) must provide a written response as an addendum to the initial report provided to the SSAB, within the requested timeframe.

- The FSH Area Director/Regional Director (or designate) may choose to seek the advice of DPEIA or SDS in preparing the addendum.

b) *Reconsideration Requests from the Department*

- When an appeal has been rescinded/varied and the FSH Area Director/Regional Director (or designate) wants to propose that the SSAB be asked to reconsider its order, the relevant section of the Approval and Tracking Form must be completed. It is imperative that the form and background information be sent to DPEIA and SDS **within five working days of the date of the Order** to allow time for consultations.
- Direction will be provided by the lead division completing the appropriate section of the Approval and Tracking Form and e-mailing it to the FSH Area Director/Regional Director (or designate) with a copy to the other division.
- DPEIA or SDS may initiate a request for reconsideration and will accordingly ask for background information from the FSH Area Director/Regional Director (or designate) to support a request for reconsideration. This background information will need to be sent by the FSH Area Director/Regional Director (or designate) to both DPEIA and SDS **within two working days of the request**.

Approval Process for Filing a Request for a Reconsideration of an Order

- The division with the lead will consult with the FSH Area Director/Regional Director (or designate). The Approval and Tracking Form is used to document and communicate decisions.
- If a decision is made to proceed with a reconsideration request, the division with the lead will ensure the preparation of the request and approve it for signature by the FSH Area Director/Regional Director (or designate) who will forward it to the SSAB with a signed copy to both SDS and DPEIA
- If the request for a reconsideration of an order is denied, the division that had the lead may bring the matter to the attention of his/her Assistant Deputy Minister for further consideration.