

Reasons for Decision:

Order # AP1516-0399

The appellant appealed that a deemed income amount of <reference removed> per month was being deducted from the appellant's monthly income assistance benefits due to the transfer of the appellant's property.

It is the Department's position that the appellant applied for income assistance in <reference removed> as a single applicant who owned a home and property without an accompanying mortgage. The appellant was provided with funds for utilities, but no provision for the payment of taxes was made. The Department did not know why this had never been assessed as a need. In <reference removed> the Employment and Income Assistance Program was advised that <reference removed> had transferred ownership of the property for the sum of <reference removed> to a relative and the relative's spouse on the condition that <reference removed> is allowed to continue to reside in the home at no cost other than for utilities. The Department was aware that the appellant's relative also resided on the property in a separate dwelling.

The Department determined that the appellant gave away property which could have been sold and have the proceeds used towards the appellant's basic needs. Therefore the program determined that the provisions of the deemed income policy should be applied to the appellant's budget. The program obtained a copy of the 2015 Property Tax bill to determine the value of the appellant's home and the surrounding property.

They did not include the value of the appellant's relative's home. Therefore deemed monthly income was determined to be:

<reference removed> per month.

At the hearing the appellant's sibling explained that the property has been in the family since <reference removed> and previously belonged to their parents. When their mother died in <reference removed> the property was passed down to the appellant, and the appellant's relative jointly. It was the sibling's evidence that this meant that they jointly owned 100% of the property. The sibling also provided information from the Rural Municipality of <reference removed> which showed that the municipality had made an exception to their municipal by-laws which only allowed one residential building per property on compassionate grounds to enable the appellant to continue living there and have a relative nearby to look after and care for the appellant. This resolution was dated <reference removed> which gave permission for a building on the property to be renovated into a residential premise. This document refers to the appellant and the appellant's relative as the registered owners. The document states that at no time shall a subdivision of the property be permitted, and at no time can the

dwelling be occupied by anyone other than the appellant and if the appellant were to move out of the dwelling, the dwelling was to be demolished.

It is the appellant's position that the appellant could not legally sell interest in the property, and the appellant's relative already owned 100% of the property so did not need to purchase anything in order to have sole ownership. The appellant's relative had assumed 100% responsibility for both the financial and the physical maintenance of the property. The family indicated that the reason for the transfer was both to relieve the appellant of any financial obligation towards the upkeep of the property, and based upon their understanding of a discussion with EIA personnel, the family thought that this would increase the amount of benefits that the appellant would be eligible to receive from income assistance.

Section 8.3 of The Manitoba Assistance Regulation states:
Consequences of transfer of assets

8.3 If, at any time within five years before, or at any time after, the date of application for income assistance or general assistance, the director determines that an applicant or recipient or a dependant of an applicant or recipient has given away property or assigned or transferred any property for inadequate consideration to reduce his or her financial resources in order to qualify for income assistance or for general assistance, the director may

- (a) determine that the applicant or recipient is not eligible for shelter assistance and income assistance or general assistance; or
- (b) reduce the amount of shelter assistance and income assistance or general assistance that would otherwise be payable by deeming
 - (i) the property given away, assigned or transferred to be a financial resource of the applicant or recipient, and
 - (ii) an amount that might reasonably have been earned as income from the property given away, assigned or transferred, or from investments of equivalent value, to be income available to the applicant or recipient.

After carefully considering the written and verbal information the Board is referring this matter back to the Employment and Income Assistance Program to reconsider its decision based on the new information provided at the hearing, and additional information which needs to be provided to verify some of the verbal testimony.

In reconsidering this matter the Board would ask the Department to look at:

- Verifying ownership of the property since the appellant applied for income assistance.
- Verifying whether or not the appellant could legally have sold the property in question; both the residence and the land need to be considered separately.
- When considering the amount of "inadequate consideration" determine whether any value in kind should be attributed to the provision that this property was exchanged for free rent as long as the appellant resides there.

Section 8.4 in the Regulation infers that there is a value to deemed rent or rent in kind.

Once a new decision has been made by The Employment and Income Assistance Program, then the appellant does have the right to appeal the new decision.

The Board would also suggest that a meeting occur with the family to properly advise the appellant about all benefits that the appellant is entitled to, and assess if there are any needs which are not currently being met.

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