

Since August 1, 2015, the Social Services Appeal Board has published selected decisions on its website. To ensure the privacy of individuals is protected, personal information is redacted from the original Reasons for Decision before the document is posted on the website.

Recently, the Board has heard a number of complex appeals of significant issues. The Reasons for Decision are lengthy and detailed, and attempts to redact personal information render the decision difficult to understand. The Board has agreed to post summaries of these complex decisions, rather than redacting the original Reasons for Decisions.

Summary - Reasons for Decision:

Order # AP1617-0201

The appellant appealed that the appellant's application for services from the Community Living disABILITY Services Program was denied.

In order to be eligible for services under the Community Living disABILITY Program (CLDS) an individual must be deemed to be a vulnerable person under The Vulnerable Persons Living with a Mental Disability Act (further referred to as "The Act").

Under the Act, a vulnerable person is defined as:

an adult living with a mental disability who is in need of assistance to meet his other basic needs with regard to personal care or management of his or her property.

The Act then defines "mental disability" as:

Significantly impaired intellectual functioning existing concurrently with impaired adaptive behavior and manifested prior to the age of 18 years, but excludes a mental disability due exclusively to a mental disorder as defined in Section 1 of The Mental Health Act.

The program received an application on behalf of the appellant in <date removed>. Included with the application was a school psychological assessment of the appellant completed in <date removed>. The psychologist concluded that the appellant functions overall within the extremely-below-average classification of intelligence with a full scale IQ of <text removed> which rank at the <text removed> percentile. This level of cognitive ability warrants an educational designation of <text removed>. A subsequent adaptive functioning assessment, completed by the same school psychologist was received which showed the appellant's adaptive functioning scores across home and school were not low enough to meet the criteria of impaired adaptive behaviour. The program determined that although the presence of significantly impaired intellectual

functioning had been clinically established, the appellant did not meet the diagnostic criteria of significant impaired adaptive functioning. Therefore the program determined that the appellant did not meet the eligibility criteria for the program.

The appellant attended the hearing with a former <text removed> from <text removed> School who presented on the appellant's behalf. The counsellor advised that the appellant is a very vulnerable <text removed> year old. The appellant comes from a dysfunctional broken home and is very naive and unable to live on <text removed> own. The appellant also suffers from depression and is currently living with <text removed>. Both of the appellant's parents do not acknowledge that the appellant has impairment and have put a lot of pressure on the appellant. The counsellor advised that the appellant received daily constant support throughout <text removed> time in school, and continues to work with the appellant on a regular basis. The counsellor finds that the adaptive testing result is not accurate and does not reflect the appellant's true level of functioning. Although the appellant appeared to be doing well it was only with daily support. As part of the adaptive assessment the evaluator gathered information from the appellant's parent who has unrealistic expectations of the appellant's abilities as well as one of the appellant's teachers who was likely not aware of the level of support that the appellant received from other school staff on an ongoing basis.

The program confirmed that the adaptive testing is not a direct observation measure and that it's comprised of an individual's perception of a person's behaviours which psychologists try to put those into content. The counsellor firmly believes that the school psychologist that rated the appellant's test was not aware of the amount of support the appellant had been receiving when the sources observed the appellant. The counsellor is very concerned that if the appellant is not eligible for CLDS the appellant is at a high risk of seeking supports from an unsafe place due to the appellant's vulnerability. The appellant advised that the appellant is currently attending a school church program twice a week and works at a casual job at a major grocery store. The appellant stated that although the appellant tries the appellant's best the appellant gets frustrated easily and needs to be guided through situations all the time.

After carefully considering the written and verbal information the Board has determined that the appellant meets the eligibility criteria required to receive services as a vulnerable person under the Community Living disABILITY Services program. The Board has made this determination as they find that the test results for the adaptive functioning are highly questionable and do not accurately reflect the appellant's true functioning level which is significantly lower and likely closer to the cognitive score. The Board finds that the program may have had incomplete information from the appellant's parents and teacher who were not aware of the significant supports the appellant was receiving. The Board heard how the school counsellor, who continues to work with the appellant, has been providing supports to the appellant for several years. The counsellor provided a more accurate assessment of the appellant and how the counsellor walks the appellant through handling day to day situations on a regular basis. When the program staff was

asked if the adaptive testing results was as objective as the cognitive testing results, they responded they were more subjective and based on the information provided by those interviewed by the evaluator. The Board is not convinced of the source material for this testing and does not see the adaptive testing to be as credible as the impaired intellectual testing. Therefore, the Board orders the department to enrol the appellant in the Community Living disABILITY Services Program.