

Reasons for Decision:

Order # AP1617-0468

The appellant appealed that the appellant's income assistance has been cancelled due to receiving a lump sum payment from the appellant's Canada Pension Plan Disability (CPPD) benefits.

The program representative stated that the appellant notified them that the appellant had been approved for CPPD on <date removed>. The appellant submitted a letter advising the program that the appellant would be in receipt of a retroactive payment in the amount of <amount removed> and ongoing monthly payments of <amount removed>. The appellant was advised that all this unearned income would be considered as an available resource and that the appellant would be expected to support <text removed> for all the daily needs. The appellant was also advised that the CPPD benefits would not be exempted if the appellant placed it in the appellant's trust account. The appellant sent an email to the program on <date removed> requesting that an exception be made to allow the appellant to shelter this money in the appellant's disability trust. The appellant was advised that CPPD benefits cannot be exempted and sheltered in a trust account.

The program was advised by email from the appellant on <date removed> that the appellant had received a retroactive CPPD payment on <date removed> and transferred it directly into the appellant's trust fund. The program reviewed the appellant's request to have the funds exempted with their management team, and the Minister's designate. The original decision was upheld. The appellant's file was closed to excess unearned income as the appellant had received sufficient income to support <text removed>.

The appellant stated that the appellant's disability related trust fund is managed by two trustees. The trustees are the only ones with the power to release funds for the appellant's <text removed> treatments and medications. The appellant finds that the appellant's CPPD back-pay was for a period that the appellant's trust fund monies were waived, therefore the CPPD back pay should not be taken into account as this money went directly into the appellant's trust fund and cannot be used for any living expenses.

The appellant quoted Section 8.1.(9)(a) of the Manitoba Assistance Regulation which states: disbursements for the purchase of disability related items are not included in calculating financial resources. The appellant finds that under this clause the CPPD back-pay cannot be considered as an asset. The appellant advised that the back-pay funds have been almost depleted to cover medications. The appellant requests that this back-pay be exempted and that the monthly CPPD income not be deducted from the appellant's monthly benefits. The appellant needs to be assured the appellant's living expenses are covered to ensure that the appellant does not find <text removed> in a homeless situation as the appellant was last summer.

Section 15.2.8 of the Employment and Income Assistance Manual states:

LUMP SUM PAYMENTS - LIQUID ASSET PROVISIONS

When certain types of unearned income are received as a lump sum, all or part may be regarded as an exempted liquid asset and therefore not available for current maintenance. Examples of such types of unearned income are:

1. cash replacements for material assets lost and not to be replaced. Loss might be a result of sale, transfer, fire or theft;
2. lump sum compensation for injury, disability, retirement or death, as long as the lump sum is not part of an ongoing stream of pension income. Funeral costs normally have first claim on items such as death benefits and life insurance, and so such lump sum payments received by survivors receiving income assistance should be reduced accordingly prior to applying provisions noted; and
3. inheritances and windfalls not subject to some other facet of policy such as some parts of trust policy.

Unearned income in lump sums, other than the kinds noted above, are not subject to whole or partial exclusion from available resources under liquid asset exemption provisions. These other sources of lump sums might be maintenance, training allowances, insurance for income lost and various kinds of ongoing private and public pensions such as the Canada Pension Plan.

After carefully considering all the written and verbal information presented at the hearing the Board has determined that the Department has properly administered the appellant's eligibility for income assistance. Financial eligibility for income assistance benefits is calculated by comparing the financial resources a person has available to them to a basic needs budget. Section 8.1.(9) refers to Eligibility disbursements from a trust which is not related to CPPD payments. Regardless if the appellant deposited the CPPD back pay into the appellant's trust fund, the appellant was in receipt of the money which is an available resource to support <text removed>. The appellant made the choice to deposit the funds into the trust rather than use them to support <text removed>.

The Manitoba Assistance Regulation Section 8 states that some financial resources are exempted. However the Regulation does not provide for any exemption on Canada Pension Plan benefits. The appellant's CPPD benefits are therefore considered an ongoing financial resource which is subject for deduction. Therefore the decision of the Director has been confirmed and the appeal is dismissed.

The Board encourages the appellant to re-apply for income assistance as it heard that the program just requires proof of the depleted CPPD back pay funds in order to assess eligibility.

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