

Reasons for Decision:

Order #AP1718-0160

The appellant appealed that the appellant's request for income assistance was not decided in a reasonable time. The appellant applied for income assistance benefits on <text removed>, and at the time the appellant filed the appeal on <date removed> no decision had been made. The appellant had made application for sole support parent with the appellant's children.

It is the program's position that they did not have the information they needed to confirm that the appellant was eligible for assistance. The program stated that it required confirmation that the spouse was not residing in the home. The appellant's income assistance application was kept open so that this information could be provided.

The program had done previous investigations and determined that the appellant had been in a common-law relationship. An overpayment had been assessed previously due to an undeclared common-law relationship which has been recovered in full. The appellant made an application on <date removed>, but withdrew the application when pressed about the status of the appellant's relationship.

When the appellant applied on <date removed>, the program indicated that the appellant admitted the appellant had previously been untruthful about the status of a relationship. The appellant stated the appellant had a huge fight with <text removed> partner two weeks previous to the application, and the appellant told the partner to go. The appellant provided copies of the appellant's bank statements which showed deposits of funds in small amounts totalling <amount removed>. The appellant indicated that <text removed> rent had not been paid, and the funds the appellant did have were used to pay off <text removed>. The appellant also provided a letter from Legal Aid dated <date removed> confirming the appellant had applied for Legal Aid and was awaiting the assignment of a lawyer. The appellant advised the program that the relationship was an abusive one, and the appellant is trying to make a plan to get away from <text removed>.

The program attempted to verify some information regarding the ex-common law partner's address, but was unable to do so. It therefore determined that it could not verify that the appellant was eligible for assistance as a sole support parent. In addition to the information the appellant gave in the application for assistance, the program cross referenced with information given in the application for child care subsidy, and there was conflicting information regarding date of separation and the amounts of child maintenance received.

When the appellant filed the appeal, the appellant included letters from a counsellor at <text removed> indicating the appellant had been seeking counselling since <date

removed>, and that the appellant had disclosed that the appellant and the appellant's partner separated on <date removed>. The appellant also provided verification dated <date removed> that a lawyer has been appointed to seek custody of the appellant's children and other relief. There was also a note from a doctor that on <date removed> the appellant advised that the appellant had "kicked the partner" out of the home.

At the hearing, the appellant and an advocate advised that the appellant and the appellant's ex-partner officially separated on <date removed>. They indicated that the appellant is not aware of the ex-spouse's current address. The appellant has asked the ex-spouse, and the ex has stated that it is none of the appellant's business. They stated that the relationship was tumultuous for a long time, but the appellant hoped it would improve. The appellant wanted to pursue an education and felt the appellant had to lie to the child care subsidy program and EIA to get the resources needed to put the children into child care so the appellant could return to school, as the appellant's ex-common law spouse would not assist with this. The appellant sought the help of a counsellor to assist in becoming emotionally independent and taking the steps needed. They stated that the appellant is now pursuing legal actions to obtain custody of the children, child maintenance, and any legal entitlements the appellant may have to the appellant's business assets. They also stated that the appellant is currently facing eviction as <dates removed> rent have not been paid.

After carefully reviewing the written and verbal information the Board has determined that the appellant has provided sufficient documentation to establish eligibility as a sole support parent effective <date removed>. The Board was convinced by the letters provided by Legal Aid and the lawyer that the appellant has taken the legal steps to sever the relationship. The Board understands that due to the appellant's misrepresentations of circumstances in the past, the program would require that the appellant verify everything. However, the Board does not find it reasonable that the appellant is required to provide verification of the ex-spouse's current address, as this is information that the appellant may not have any valid means of obtaining. The Board is also concerned that the program did not provide anything in writing to the appellant outlining what information the appellant was required to provide in order to establish eligibility. The Board also determined that the health and well-being of the appellant's children needed to be given priority and therefore the appellant should have been given the benefit of the doubt in order to ensure the children had shelter and food.

The Board notes that the program has the option of assessing an overpayment if it is later determined that the common-law spouse was still in the home at the time that the appellant was enrolled on income assistance. Once the information submitted with the appeal was provided, the Board was satisfied, on a balance of probabilities, that the appellant had established eligibility and should have been enrolled. Therefore, the Board orders that the appellant be enrolled under Section 5(1)(c) effective <date removed>. Any income the appellant received subsequent to <date removed> will need to be declared to the program as it will affect the appellant's income assistance entitlement.

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