

**Reasons for Decision:**

**Order #AP1718-0725**

On <date removed>, the appellant filed an appeal containing seven points, related to the Director's handling of their application for disability eligibility. The seven points made cover a period of several months, culminating in the Director's decision of <date removed> to grant eligibility under Section 5(1)(a) of the Manitoba Assistance Act, and a subsequent decision on <date removed> to deny the appellant's request for reinstatement of eligibility back to the original <date removed> decision denying them eligibility.

The appellant's points of appeal can be summarized as follows:

1. Their disability eligibility was ended without just cause, and they subsequent appeal of that decision was denied out of hand;
2. The Department did not provide them with the requested medical forms in a timely manner;
3. The Department did not provide authorization for the doctor fee required for completion of the form;
4. The Department's method of receiving sensitive information was not secure;
5. The length of time the Department took to review their new documentation was unreasonable;
6. Their disability status was restored; and
7. Their request for retroactive reinstatement of benefits was denied.

With respect to the first point, the appellant filed an appeal of the Director's <date removed> denial of disability eligibility on <date removed> [AP1718-0278]. The Board dismissed their appeal on <date removed>. The appellant requested a reconsideration of that decision on <date removed>, and the Board denied their request on <date removed>. This Board finds that the appellant's appeal on this issue has already been heard and dismissed.

With respect to points two, three and four, the issues raised are administrative matters and outside the jurisdiction of the Board.

With respect to the appellant's fifth point, the Board notes the Department has made a favourable decision based on the new documentation, and the Department set the appellant's eligibility as the date on which the appellant submitted the information. This issue has been resolved in the appellant's favour and is now moot.

The Board finds that the sixth point of appeal is a statement of fact, and not a

ground for appeal.

The Board held a hearing on the appellant's seventh point concerning their request for reinstatement of benefits back to the day after their last eligibility period expired.

The Department stated the appellant's disability eligibility was denied in <date removed>, because the information provided in their application did not describe the extent to which their illness impacted their daily activities. The appellant submitted new information on <date removed>. Based on this new information, the medical review panel granted eligibility.

The Department stated it declined to reinstate eligibility prior to <date removed>, because the medical review panel had insufficient information on which to make a decision prior to that date.

The appellant recounted their daily struggles with their illness, and noted it had been present for a number of years. The appellant is currently working with a specialist, and is hopeful of an improvement in their condition. In the meantime, they require ongoing support for their medical needs.

The appellant stated their condition was chronic and prolonged, and its existence has been recognized by the Department for several years. In their view, the decision to deny them eligibility in <date removed> was a mistake, and the decision to restore eligibility in <date removed> vindicated their position that their eligibility never should have ended.

In their view, the Department, having rectified its earlier mistake, was obliged to restore their financial position by reinstating benefits back to the date of the original error.

The Department told the Board that disability eligibility always has an end date, to allow for improvements resulting from treatment. The Department can only make a decision based on the information it has before it. When the medical review panel receives new information, it makes a new decision. The new decision does not contradict a previous decision made with different information.

The appellant stated the existence of their disability has been continuous for several years. The Department's classification of their disability status is an administrative exercise, separate from the reality of their daily life. The appellant maintains that if the Department believes they met the eligibility criteria in <date removed>, and it believes they have met the eligibility criteria since <date removed>, it should draw the conclusion they were disabled between <date removed> and <date removed>.

The Board notes the evidence before it shows that no additional information was provided by the appellant to the Department between <date removed> and <date

removed>. The appellant is asking the Board to order the Department to reinstate their eligibility based on the information the Department had before it at the time of the <date removed> decision.

This is problematic for three reasons. First, the appellant appealed the <date removed> decision and lost. Second, the appellant filed a request for a reconsideration of the Board's decision and was denied. Finally, the appellant did not exercise their right to appeal to the Manitoba Court of Appeal. The appellant is requesting the Board to not only overturn the Department's decision, but to overturn two previous Board decisions. Even if this Board was inclined to do so, the appellant's request is well out of time, and the Department has not been provided an opportunity to object to an out of time request.

The only possible opening to reconsider previous Board decisions would be if the new information provided to the Department was so similar to the previously-supplied information that the Department would be hard-pressed to explain its change of heart. The Board has reviewed the information supplied by the appellant on <date removed>, and has determined that it provides sufficient new information to justify a different decision.

After careful consideration of the written and verbal evidence submitted to it, the Board has determined that the Department determined the start date for the appellant's eligibility under Section 5(1)(a) of The Manitoba Assistance Act correctly, based on the information it had before it, in accordance with the legislation and regulations. The Board confirmed the Director's decision deeming the appellant eligible for the disability category effective <date removed>.

## **DISCLAIMER**

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