

Reasons for Decision:

Order # AP1718-0735

The appellant appealed that their income assistance benefits were cancelled due to excess assets.

The Department representative stated that the appellant's file closed due to a net lump sum payment of <amount removed> from Canada Pension Plan Disability (CPPD). The appellant then gave this money to their parent. The appellant was found ineligible after receiving this amount as they were deemed to have income sufficient to meet their needs. In addition, participants cannot gift their funds away to make themselves eligible for income assistance benefits. The Department stated that if the appellant cannot access these funds they have given to their father, their file can be reopened using the CPPD lump sum payment as deemed income and an amount would be deducted from their budget to recoup the funds. The representative advised that they spoke to the appellant's advocate and advised them of this option; however, they chose to go through with the appeal process.

The appellant attended the hearing with their advocate/mental health worker. The appellant stated they are a <age removed> <gender removed> who has had a hard life. The appellant suffers from mental health conditions and is currently staying in the psychiatric ward of a hospital. The appellant received the back payment from CPPD due to an appeal, after they were injured from a stabbing on the job. The appellant stated that their parent called in the appellant's debt and used the money to pay for such things as house taxes, dental restorative work and truck repairs. The appellant stated that they never had access to any of the funds. The appellant advised that they have an outstanding debt, since their file was closed, for their daily per diem rate at the hospital.

The advocate stated that there was a meeting prior to the appellant's file being closed, and it was explained that the appellant gave the funds to their parent. The advocate does not understand why the file had to be closed rather than calculating the funds as deemed income as soon as the Department was advised.

Section 15.2.9 of the Employment and Income Assistance Administrative Manual states: Deemed Income from Transferred or Assigned Property windfalls. The deeming of income applies as well to situations where participants dispose of liquid assets in order to retain or establish eligibility. An example of such a situation could be a participant who wins \$10,000.00 and gives away \$6,000.00 to a family member and keeps his or her allowable liquid asset of \$4,000.00. In this case, the Director may consider the \$6,000.00 as deemed income.

To establish the monthly rate of deemed unearned income that will be entered on the MUIN screen in SAMIN, the total deemed income must be multiplied by the current interest rate and then divided by 12 months. The current interest rate established is 2.8 per cent (effective <date removed>).

After carefully considering the written and verbal information, the Board finds the advocate's testimony to be credible in regard to notifying the Department in advance that the appellant had received the funds from CPPD, gave it all to their parent, and did not have access to it.

The Board agrees with the Department that as the funds were a financial resource, the appellant is expected to use those funds to meet their needs. Instead, the appellant gave over the funds to their parent. However, the Board finds that the file did not have to close; rather, the Department could have recalculated the appellant's budget taking into consideration the deemed income calculations. The Department representative explained the calculation process, and the fact that approximately <amount removed> dollars per month would be deducted, indefinitely, to re-coup the funds the appellant should have used to support their needs. Therefore, the Board has rescinded the decision of the director and orders the Department to re-enrol the appellant effective the file closure date of <date removed>.

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