

**Reasons for Decision:**

**Order # AP1819-0021**

<Name removed> appealed that their disability benefits were denied under Section 5(1)(a) of The Manitoba Assistance Act.

The Department advised that <name removed> was assaulted and sustained injuries to their hand, for which they had surgery on <date removed>. The Department received a Disability Assessment Report, completed by <name removed> doctor, in <date removed>. The doctor listed the primary diagnosis as <health condition removed> with a prognosis of likely to improve. The doctor stated that <name removed> would start aggressive therapy. There was a referral to a physiotherapist and a psychologist made in <date removed>. On the work activity section of the form, the doctor checked that <name removed> is not able to work for thirteen to eighteen months to heal from injuries and to attend aggressive therapy.

The medical panel denied the request and sent a letter to <name removed> on <date removed> advising of the decision. Based on the information provided by their physician indicating that they were attending aggressive therapy for the next six weeks for their <health condition removed>, work expectations were waived for the six weeks. <name removed> underwent surgery on their <text removed> in <dates removed>. The appellant advised the Department that their <text removed> was worse than before the surgeries, and requested disability status. The appellant was advised to provide a letter from their physician or surgeon for reconsideration.

New medical information was received by the Department, dated <date removed>. The Department had not made a decision on this new information at the time of the hearing. <name removed> attended the hearing with their advocate. The advocate advised that <name removed> is a <age removed> married <text removed> with seven children. A group of men attacked them with a machete on <date removed>. their <text removed> was partially severed. The appellant has since had two surgeries and attends regular aggressive therapy.

<name removed> new physician submitted a letter of support, dated <date removed>. The letter stated that they are afflicted with significant deficits surrounding their <text removed>, and will still require further surgery. As a result of the assault, they have also developed <text removed> and experiences <text removed>. The doctor further stated that in their opinion <name removed> is unable to work in any capacity for these physical and mental health reasons, for a least the next six months.

<name removed> presented to the Board the various <text removed> braces they must wear throughout the day and night. The appellant advised that they cannot bend <text removed>

removed> or do anything with <text removed>. <name removed> advised that they have an intake appointment in <date removed> with a <text removed> counseling agency for their <health conditions removed>, as they now suffers from regular<text removed>.

At the hearing, the advocate presented a list of <name removed>' appointments, which was received into evidence with no objection from the Department. The list shows that <name removed> attends therapy almost every other day. There were forty-eight appointments attended from <dates removed>.

The Manitoba Assistance Act Section 5(1)(a) states that in order to be eligible for disability benefits, you must be a person:

- (a) who, by reason of age or by reason of physical or mental ill health, or physical or mental incapacity or disorder that is likely to continue for more than 90 days
- (i) is unable to earn an income sufficient to meet the basic necessities of himself and his dependants, if any.

After careful consideration of all the written and verbal information, the Board has determined that <name removed> meets the eligibility criteria for disability benefits under Section 5(1)(a). The Board put significant weight on the supporting doctor's letter advising that <name removed> has developed <health conditions removed> because of their physical injury. The doctor reports they are unable to work for six months. The Disability Assessment Summary from their previous doctor indicated they are not able to work for thirteen to eighteen months. The Board also placed considerable weight on the schedule and frequency of <name removed>' medical appointments as well as their being on a wait list for counselling to address their <health conditions removed>. It is evident to the Board that <name removed> mental and physical health render them incapable of earning an income sufficient to meet their basic needs. Therefore, the Board has rescinded the decision of the director and orders that <name removed> be enrolled under Section 5(1)(a) effective <date removed> for eighteen months.

## **DISCLAIMER**

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