

Reasons for Decision:

Order # AP1819-0505

On <date removed>, the appellant filed an appeal related to the Director's decision to suspend their benefits effective <date removed>. The decision letter was dated <date removed>.

The decision letter stated <name removed>'s benefits were suspended until they provided confirmation of all Canada Pension Plan (CPP) funds received, including funds spent and cheques not cashed. The letter requested copies of bank statements, cashed cheques and any other documents necessary to confirm their receipt and use of funds.

<name removed> filed two appeals related to the suspension of their benefits. On <date removed>, the appellant appealed the suspension of benefits <text removed>. After the suspension was lifted, <name removed> filed an appeal on <date removed> of the Department's deduction of two CPP cheques from their November benefits <text removed>.

On <date removed>, the Board held a hearing on <name removed>'s first appeal concerning the suspension of benefits. At the hearing, <name removed> and the Department agreed the suspension was no longer an issue, and agreed to discuss the November deduction.

The Board issued a ruling on the November deduction, and suggested the appeal issue in <text removed> was moot.

After receiving the Board's decision, <name removed> disputed the Board's suggestion the first appeal was moot, and requested a hearing be held on the suspension of benefits.

<name removed> was accompanied at the hearing by their lawyer. Their lawyer noted the Department's request for documentation came at the same time as the notice of suspension of benefits. The appellant did not have an opportunity to supply the missing documents prior to suspension.

<name removed>'s lawyer advised the Board that the appellant's eligibility for CPP Retirement benefits was the subject of an ongoing court case between <name removed> and the Department. The lawyer noted the Department had assessed an overpayment for previous benefits received, and a payment plan was in place.

<name removed>'s lawyer stated that, in the appellant's view, if the Department had

suspended their benefits in a proper manner, the CPP benefits they received in September and October would have been added to their overpayment, rather than being deducted from their November benefits.

<name removed> asserted their November benefits were suspended without proper notice or just cause. The appellant stated they were not aware of the suspension until they did not receive their benefits at the end of October.

<name removed> stated they asked the Department why their benefits had not been paid. The Department provided them with the copy of the letter sent on <date removed>. <name removed> asserted neither the appellant nor their lawyer received the letter.

<name removed> asserted that, even if they had received the letter when it was sent, the Department provided them insufficient time to produce the documentation prior to the cut-off date for November benefits. The appellant claimed that, by suspending their benefits before they had an opportunity to provide the documents, the Department assumed they were not going to comply.

<name removed> stated they told the Department to send all correspondence related to the CPP issue through their lawyer. The appellant stated they did not withhold information about the CPP cheques from the Department, since they instructed their lawyer to advise the Department they have cashed some of the cheques. At the hearing, <name removed>'s lawyer acknowledged they had not done so.

<name removed> also made a number of broad assertions of persecution and abuse by the Department, for which they provided no evidence.

The Department told the Board it first learned <name removed> had received CPP Retirement benefits when a tape match with Service Canada showed a lump sum payment had been made to <name removed>. The Department contacted <name removed> about the lump sum payment, and they advised they have given the money to their lawyer to be held in trust. The Department agreed to take no action because of the pending court case.

The Department stated it had no knowledge <name removed> had accessed their CPP benefits until they disclosed that fact to the Department in October, <year removed>. The Department's policy is to request verification of income and expenses when it learns that a recipient has another source of income. <name removed>'s worker consulted with the Department's leading program specialist, who advised that the Department's protocol is to suspend benefits until the requested documentation is received.

The Department met with <name removed> on <dates removed>. However, <name removed> did not submit the necessary documents until <date removed>. When the

Department received the bank statements, they were date-stamped <date removed>.

The Department told the Board it released <name removed>'s benefits when they provided the information.

The Department stated <name removed> told them they had the necessary documents on <date removed>, but they indicated they would submit the documents through their lawyer. <name removed> confirmed that they had the documents in their possession on <date removed>, and that they indicated to the Department on <date removed> that they have the documents but wanted to submit them through their lawyer.

In response to a question from the Board, the Department stated there is no set time frame for requesting bank statements. Bank statements are usually requested when an issue arises. In <name removed>'s case, the Department requested their statements because it knew they had received a large sum of money, but did not know the exact amount or the timing of the receipt.

In response to a question from the Board, the Department stated the letter sent to <name removed> was system-generated, and the creation date cannot be edited. The Department stated there is no requirement to send letters by registered mail, and the Department does not normally communicate with clients through lawyers.

In closing, <name removed> stated they did access CPP benefits in violation of the agreement between their lawyer and the Department, but asserted they did not do so in bad faith. The appellant asserted none of the funds went to support their basic needs. The appellant needed to access the funds on an emergency basis to make court-ordered repairs to their house.

The Board recognizes that <name removed> advised the Department verbally that they had accessed their CPP benefits. However, by <name removed>'s own admission, they knew they were not supposed to access the funds, and they did not provide detailed accounting of the funds to the Department.

The Board acknowledges the Department had the option of requesting the information without suspending <name removed>'s benefits. It could have given <name removed> a deadline to provide the documentation, and then suspended their benefits if they did not comply by the deadline. However, the Department stated its administrative practice in this type of case is to suspend benefits while waiting for the documentation. The Board does not typically rule on the Department's administrative practices.

In any event, <name removed> had the means to receive their benefits by <dates removed>, because they had the necessary documents in their possession on <date removed>. <name removed> chose to submit the documents through their lawyer. While that was their right, the Board cannot hold the Department responsible for the consequences of <name removed>'s choice.

After carefully reviewing the verbal and written evidence presented to it, the Board determines that the Department correctly administered <name removed>'s file. The Board confirms the Director's decision to suspend their benefits pending receipt of the requested documentation.

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