

Reasons for Decision:

Order #AP1920-0051

On <date removed>, <name removed> filed an appeal against two decisions of the Director, Winnipeg West. The first decision was to deny funding for medical transportation, and was communicated in a letter dated <date removed>. The second decision was to deem <name removed> ineligible for income assistance, and that decision was communicated in a decision letter dated <date removed>.

<name removed> was accompanied at the hearing by their parent. <name removed> told the Board they were a person with disability. Their minor child also experiences medical issues.

<name removed> stated the issue under appeal is the denial of medical transportation, and the consequent closure of their file because the Department alleged their financial resources exceeded their budget needs.

<name removed> stated they attended an intake meeting with the Department, who determined they were receiving income from a Canada Pension Plan Disability (CPP-D) pension and from child support payments. <name removed> described their child support payments as unreliable, and they asserted that the Department agreed.

<name removed> asserted that the Department told them that their financial resources would be less if they assigned their child support payments to the Department, and therefore they would qualify for assistance. <name removed> stated they signed the assignment of benefits form, but the Department subsequently determined their financial resources exceeded their needs.

<name removed> also asserted that the Department told them it would meet their child's medical expenses. The appellant told the Board that the medical expenses incurred by their child and themselves and not covered by Manitoba Health exceed \$2,000.

The Department referenced the written report it submitted as evidence.

The Department stated the previous area director approved taxi transportation for medical appointments for <name removed> a number of years ago, despite the fact <name removed> was not in receipt of income assistance.

Recently, the Department centralized approval of medical transportation in a dedicated unit. The medical transportation unit undertook a review of all case files involving medical transportation, to ensure the files were compliant with Department policy. The medical transportation unit determined <name removed> was receiving transportation

funding contrary to Department policy. The Department's policy is that only program participants are eligible for taxi transportation.

As <name removed> was not an active income assistance participant, in the sense they were not receiving direct financial support, the community area office scheduled an intake appointment with them to determine their eligibility. The community area office was of the view that, if <name removed> was deemed eligible for assistance, they might also remain eligible for taxi transportation.

At intake, the Department determined <name removed>'s CCP-D pension and child support payments exceeded their budget needs. The Department advised <name removed> that they might be eligible for Rent Assist, which would compensate them in part for the loss of their taxi transportation funding.

<name removed> disputed the Department's assertion that their medical transportation file was reviewed, as previous reviews requested confirmation from their doctor. The Department responded that the medical transportation unit's reviews were done internally, and doctors were not consulted.

The Department confirmed that <name removed> was advised at intake that they could assign their child support to the Department to reduce their income. However, a supervisor in the Department overruled that decision, because Department policy requires the full amount of child support to be included in income if a court order is in place.

<name removed> asserted that the Maintenance Enforcement Office refused to collect from their child's parent. The appellant was not sure if the court order had been varied. The appellant told the Board the Maintenance Enforcement Office told them they would enforce the order if the request came from the Department.

In response to a question from the Board, the Department stated <name removed>'s CPP-D income was less than their budget needs, so if child support is excluded they would qualify for a small amount of assistance and health coverage. The appellant need for medical transportation would still need to be reviewed.

<name removed> argued that section 19(2) of The Manitoba Assistance Act prevented retroactive reductions in benefits. The Board notes that section 19(2) reads

19(2) A regulation under clause (1)(c) may be made with retroactive effect, but only to the extent that it applies to any additional benefits receivable by a recipient.

Section 19(1)(c) reads

19(1) For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant Governor in Council may make such regulations and

orders as are ancillary thereto and are not inconsistent therewith; and every regulation or order made under, and in accordance with the authority granted by, this section has the force of law; and, without restricting the generality of the foregoing, the Lieutenant Governor in Council may make regulations and orders,

(c) prescribing rules for determining the income and financial resources of applicants or recipients and providing that certain income or classes of income shall be excluded from, or included in, the calculation of the income and financial resources of an applicant or recipient;

The Board heard no evidence that the Department changed the Regulation regarding the inclusion of child support payments in income, let alone retroactively. The Board determines that section 19(2) has no bearing on the appeal.

<name removed> stated the EIA Administrative Manual provides authority to the Director to approve methods of medical transportation for reasons other than cost-effectiveness, and that the Board ought to use this authority to approve taxi transportation for <name removed>. The Board notes the Director's authority applies to transportation provided to program participants.

After careful consideration of the written and verbal evidence submitted to it, the Board determines that the Department correctly assessed <name removed>'s child support resources according to legislation, regulation and policy. <name removed>'s financial resources exceed their budget needs, and the Department was correct in determining <name removed> was ineligible for income assistance. As <name removed> is ineligible for assistance, they are also ineligible for taxi transportation for medical appointments. The Board confirmed the Director's decisions to deem <name removed> ineligible for income assistance and to deny her taxi transportation for medical appointments.

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