

Reasons for Decision:

Order #AP2021-0141

On July 29, 2020, <name removed> filed an appeal of the decision of the Director, Central Region to close their income assistance file and assess an overpayment. The decision was communicated in letters dated <dates removed>.

The decision letters did not provide a reason for the closure and overpayment.

At the hearing, the Department told the Board that it closed <name removed>' file because they received money from the Canada Emergency Response Benefit (CERB) in excess of their basic needs. Specifically, <name removed> received \$4,000 in <month removed> and \$2,000 in <month removed>.

The Department noted <name removed> declared the income to the Department through their monthly income declaration. However, they declared the <month removed> income after <month removed> benefits were issued, so the Department assessed an overpayment for <month removed>.

The \$4,000 in CERB income resulted in an income carry-forward to <month removed> benefits. When combined with the \$2,000 in CERB benefits received in <month removed>, <name removed>' income again exceeded their basic needs. As their income exceeded their needs in two consecutive months, the Department closed their file.

The Department advised that <name removed> will be eligible to reapply for assistance once their CERB benefits end.

<name removed> was assisted at the hearing by their spouse, <name removed>. The spouse told the Board that <name removed> had a disability, and used to work part-time for their parents. The nature of their disability was such that their employment at their parents' was limited to single tasks of a simple nature.

Unfortunately, <name removed>' parent was diagnosed with cancer, and faced with operating restrictions during the current public health emergency, their parents decided to close their business.

The spouse told the Board that the parent made CERB applications for all their employees. The spouse asserted that the parent was unaware of the consequences of applying for CERB for assistance recipients.

The spouse stated they did not know <name removed> had received the CERB payment until they reviewed their bank statements. They contacted the Department as soon as they realized that <name removed> was receiving CERB benefits. The spouse also contacted the Canada Revenue Agency (CRA) in an attempt to return some of the money.

The parent passed, and the appellant applied for CERB again to raise money to attend their funeral. The spouse stated they also spent the funds on items they could not afford with their assistance, such as rent, food and clothing.

The spouse stated <name removed> believed that they should receive CERB benefits because many other people were receiving the benefits. The spouse explained that the nature of their disability was such that they were unable to understand the consequences of their action.

The spouse expressed confusion over how long they and <name removed> had to wait before they could reapply for assistance.

In response to a question from the Board, the spouse stated <name removed> conceded that the Department's calculations were correct. The spouse advised the Board that <name removed> received another \$2,000 CERB payment in <month removed>, because the closure of their assistance file left them unable to pay their rent.

The Department clarified that <name removed> could reapply for assistance effective the month after their last CERB payment. If they received CERB in August, they would be eligible in September, subject to the Department's usual eligibility review process, including the submission of bank statements.

The spouse asserted that they have reapplied for assistance and have not been advised of a decision yet. The Department responded that there was no note on <name removed>' file indicating an application had been submitted. The Department committed to investigating the status of the couple's application after the hearing.

The Board has heard a number of CERB-related appeals. The Board is aware that there are eligibility criteria for CERB, and that CERB applicants must attest that they meet these criteria.

The Board accepts the spouse's evidence that <name removed>' parent played a significant role in their original application for CERB, and that the nature of <name removed>' disability is such that they did not comprehend the consequences of their action.

However, the Department's work incentive provisions are contained in *The Manitoba Assistance Act Regulation*, with limited scope for discretion. The Department's determination that CERB payments will be treated as employment income eligible for the work incentive provisions provides the most favourable treatment of income to

assistance recipients. There is no provision in the *The Manitoba Assistance Act* or the *Regulation* to simply ignore the income.

After careful consideration of the written and verbal evidence submitted to it, the Board determines that the Department administered <name removed>' file according to the legislation, regulation and policy. The Board confirms the decision of the Director to close <name removed>' file and assess an overpayment.

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