

Manitoba
Social Services Appeal Board

**Annual Report
2002-2003**



Family Services and Housing

September 2003

His Honour Peter Liba
Lieutenant-Governor
Province of Manitoba

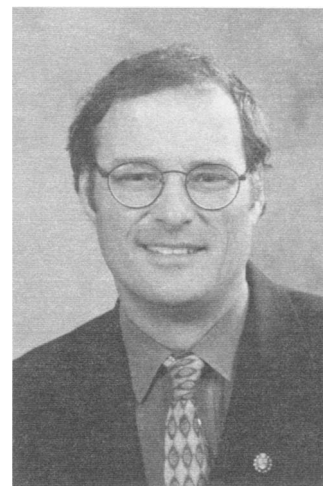
May It Please Your Honour:

I have the pleasure of presenting herewith the Annual Report of the Social Services Appeal Board for the year 2002/2003.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Drew Caldwell". The signature is written in a cursive style with a long, sweeping underline.

Drew Caldwell
Minister, Family Services and Housing





**Social Services
Appeal Board**

7th Floor, 175 Hargrave Street
Winnipeg MB R3C 3R8
CANADA

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September 2003

Honourable Drew Caldwell
Minister of Family Services and Housing
357 Legislative Building

Dear Sir:

Attached please find the Annual Report for the Social Services Appeal Board for the fiscal year ending March 31, 2003.

I trust the contents accurately reflect the work of the Board in carrying out its mandate concerning appeals considered and with respect to its advisory responsibilities.

This report is the first Annual Report since *The Social Services Appeal Board Act* was proclaimed in February 2002.

Respectfully submitted,

A handwritten signature in black ink that reads "Schellenberg".

David Schellenberg
Chairperson



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Board Membership

The Social Services Appeal Board (SSAB) consists of 15 members who are appointed by the Lieutenant Governor in Council. Members must represent the social, economic, and cultural diversity of the Province. They must also exhibit knowledge of the social programs and services that have the right of appeal to the appeal board. Members cannot be employees of a Minister responsible for an Act in which the right of appeal is granted. Each member is appointed for a term of two years and may be reappointed for two further two-year terms.

Staff are employed by Family Services and Housing to support the activities of the Board.

Board Members during the 2002/2003 fiscal year:

Chairperson: David Schellenberg

Vice-chairs: Rose Buss
Jan Chaboyer

Members: Barbara Carroll
Pat Chimney
Robert Doherty
Isabel Dowbiggin
George Dyck
Kelley Gibbings
Paula Keirstead
Leslie King
Rachel Massicotte
Linda Shewchuk
Robert Smith
Cindy Stroppa

Social Services Appeal Board Staff:

Heather Hamelin, Director
Donna Jacobs, Assistant Director
Linda Bothorel, Administrative Assistant
Karen McKane, Administrative Secretary

Legal Counsel: Lawrie Cherniak

Historical

The Board was first established in 1959 by *The Department of Welfare Act*. In 1974 that Act was repealed and the Board continued under provisions within *The Social Services Administration Act*. Over time, more and more programs were added and removed from the responsibilities of the appeal board.

The Social Services Appeal Board Act

On February 18, 2002, *The Social Services Appeal Board (SSAB) Act* was proclaimed. Highlights of the changes introduced by this legislation include:

An Extension of the Time Period to File an Appeal

Previously, the time frame for filing an appeal varied from 10 to 30 days, depending on the subject that was being appealed. Now, every individual has 30 days in which to submit a request for an appeal.

A 6-Day Notification Period

Under the *SSAB Act*, both the appellant and the Department must be given 6 days written notice of the date and location of the appeal hearing. Under the previous legislation, parties received notification three days in advance of the hearing.

The Ability to Issue a Summons

The Appeal Board now has the ability to summon witnesses and documents to a hearing.

Reconsideration

Under the new legislation, either party to an appeal or the Board may ask for a reconsideration of the Board's decision.

An Expedient Decision

The parties must be advised of the Board's decision, in writing, within 15 days of the hearing. Reasons for the Board's decision should be provided with the decision letter, as well as notice that an appellant may appeal to the Court of Appeal on a point of law or jurisdiction.

Annual Report

The Social Services Appeal Board is required to annually report on its activities of the previous fiscal year.

Jurisdiction of the Social Services Appeal Board

The Appeal Board is the independent appeal body for the majority of programs and services provided by the Department of Family Services and Housing, as well as municipal assistance programs administered by the municipalities. The Board reports directly to the Minister of Family Services and Housing.

The Social Services Appeal Board is a quasi-judicial board that operates under the principals of natural justice rather than the application of common law. Quasi-judicial involves deciding a dispute by ascertaining the facts and any relevant laws, but depends ultimately on the exercise of an executive discretion rather than the application of law.

According to *The Social Services Appeal Board Act*, the Board has the ability to determine its own administrative policies and procedures. A series of information bulletins have been established in order to provide this information to the public.

The Board's decision cannot be overturned by the Minister's office. Only the Board, through a reconsideration of its decision, or the Court of Appeal, may overturn a decision.

There are several different areas that can be appealed. These are summarized below:

Adoption Agency Licensing

Under Section 9 of *The Adoption Act*, an individual may file an appeal with the Appeal Board if the Director refuses to issue a licence for an adoption agency. An individual may also file an appeal if a licence that was previously issued is suspended, cancelled or revoked.

Child Care Facility Licensing

A person who is refused a licence for the operation of a child care facility other than a foster home or whose licence is suspended, cancelled or refused renewal may appeal this decision to the Appeal Board under Section 8(5) of *The Child and Family Services Act*.

Child Day Care Licensing and Subsidies

Section 20 of *The Community Child Day Care Standards Act* allows the Board to hear appeals on the following four issues:

- the refusal to issue a licence to a child day care facility;
- the suspension or revocation of a child day care facility licence;

- the imposition of terms or conditions on a child day care facility licence; or
- the denial or alteration of a child day care subsidy.

Financial Assistance Programs

Employment and Income Assistance Program

Individuals who feel a decision was unfair under the Employment and Income Assistance (EIA) program may appeal to the Appeal Board for the following reasons:

- a) the person was not allowed to apply or re-apply for income assistance or municipal assistance;
- b) the person's request for income assistance or municipal assistance was not decided upon within a reasonable amount of time;
- c) the person's application for income assistance was denied;
- d) the amount of income assistance or municipal assistance was cancelled, suspended, varied, or withheld;
- e) the amount of income assistance or municipal assistance provided was insufficient to meet the person's needs.

The right to appeal decisions made with respect to the EIA program and the Municipal Assistance program is provided under Section 9 of *The Employment and Income Assistance (EIA) Act*.

55-PLUS Junior Component

The Junior Component of the 55-PLUS Program gives the right to appeal if an applicant is told that he or she is not eligible to receive benefits under the 55-PLUS Program. An appeal may also be filed if an individual disagrees with the level of benefits that he or she is receiving under the Program. The right to appeal for these reasons is given under Section 9 of the "Income Supplement for Persons Not Eligible for Old Age Security Benefits, (55-PLUS) Regulation" under *The Social Services Administration Act*.

Manitoba Prenatal Benefit

If an individual disagrees with the assessment or re-assessment of their Manitoba Prenatal Benefit, the individual can appeal this decision under Section 12 of the "Manitoba Prenatal Benefit Regulation" under *The Social Services Administration Act*.

Residential Care Facility Licensing

A person may appeal the Department's decision to deny, suspend or cancel a license for a residential care facility. An individual may also file an appeal with the Appeal Board if a letter of approval relating to a residential care facility is cancelled or suspended. The right to appeal these decisions is granted under Section 13 of *The Social Services Administration Act*.

Vocational Rehabilitation Services Program (Eligibility)

The Appeal Board hears appeals regarding the Vocational Rehabilitation Services Program. An appeal may be filed when the Director refuses an application on the grounds that the applicant does not meet the eligibility criteria for enrolment. The right to appeal this decision is granted within Section 6 of the "Vocational Rehabilitation of Disabled Persons Regulation" under *The Social Services Administration Act*.

Vulnerable Persons Living with a Mental Disability Program (Eligibility and Individual Care Plan)

The Appeal Board is also responsible for hearing appeals regarding *The Vulnerable Persons Living with a Mental Disability Act*. Section 16 of the Act allows individuals to appeal when a person's eligibility for entrance into the program is in question, or there is a dispute concerning the individual support services plan.

Financial Information

The Annual Budget of the Social Services Appeal Board in 2002/2003 was \$360,500.

This amount is broken down into \$215,200 for staff salaries and benefits, and \$145,300 for operating costs.

The board members' per diem payments are paid from operating expenses. In the 2002/03 fiscal year, the amount spent on board per diems was \$49,620.

Actual Expenditures* **09-1C Social Services Appeal Board**

Expenditures by Sub-appropriation	Actual 2002/03 \$000	FTE	Estimate 2002/03 \$000	Variance Over(Under)
Total Salaries and Employee Benefits	244.1	4	215.2	33.9**
Total Other Expenditures	105.6		145.3	(45.9)**

* Amounts are expressed as thousands of dollars

** Due to computer coding requirements, the Board per diems are actually entered in as a salary expense which results in an over expenditure in salaries and under expenditure in operating costs each year.

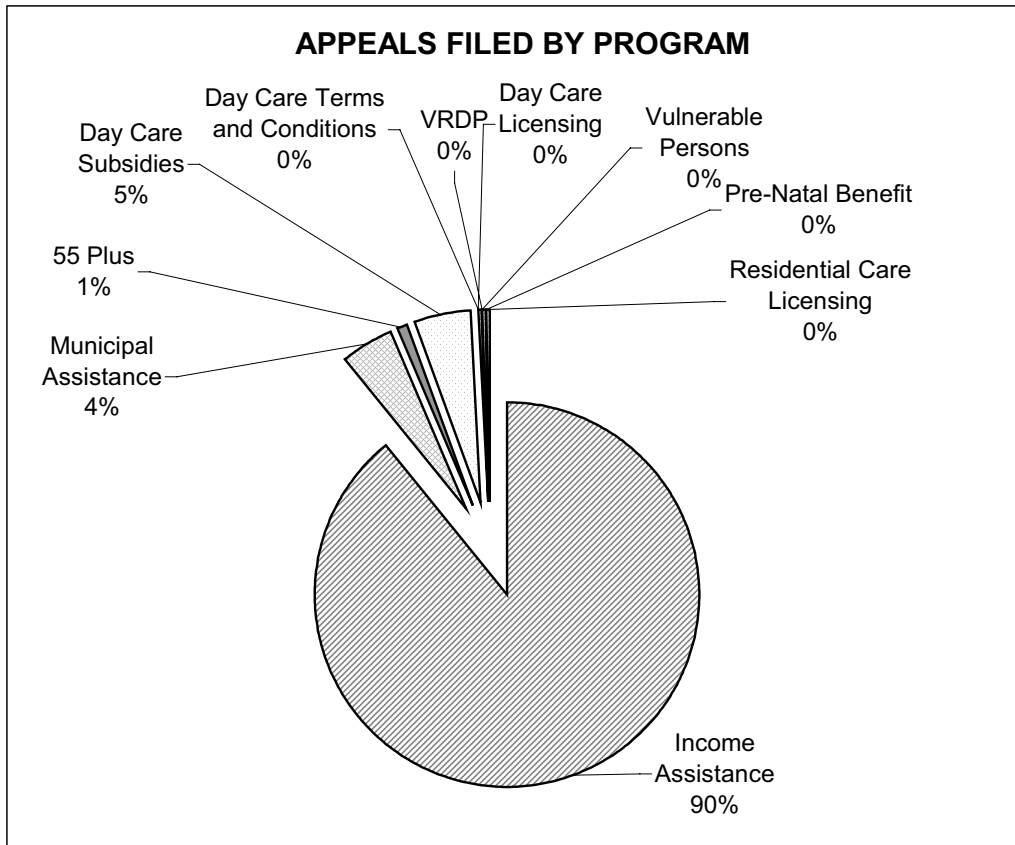
Appeal Activity

In the 2002/2003 fiscal year, there were a total of 714 appeals filed compared to 825 the previous fiscal year.

Appeals filed by Program:

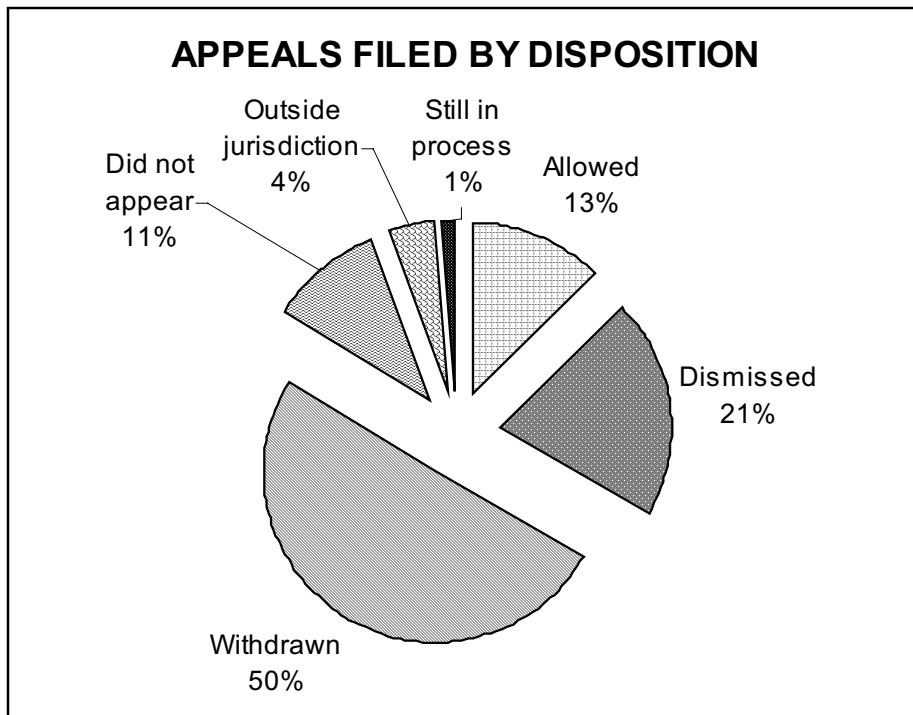
The 714 appeals broken down by program area are as follows:

Income Assistance	637
Municipal Assistance	32
55 PLUS-Junior Component	5
Day Care Subsidies	34
Day Care Licensing	1
Day Care Terms and Conditions	1
Vocational Rehabilitation for Disabled Persons (VRDP)	1
Vulnerable Persons	1
Pre-Natal Benefit	1
Residential Care Licensing	1
Adoption Licencing	0



Appeals filed by Disposition:

	<u>2001/2002</u>	<u>%</u>	<u>2002/2003</u>	<u>%</u>
Allowed	103	12	95	13
Dismissed	167	20	149	21
Withdrawn	400	48	318	45
Did not appear	87	11	66	9
Outside jurisdiction	35	4	49	7
Still in process	33	4	37	5



Withdrawn appeals:

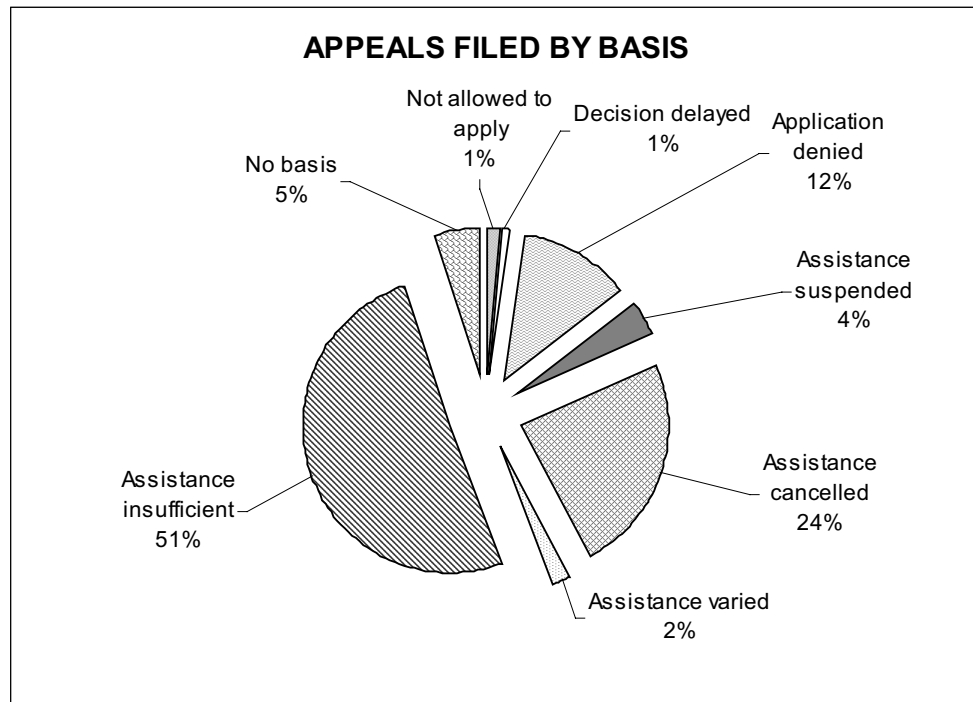
Resolved	260
Abandoned	57
Clarified	1

Thus, the **260** that were withdrawn/resolved combined with the **95** that were allowed results in **355** or **49.7%** of total appeals whose outcome was in favour of the appellants.

Basis of Appeal:

Of the **714** appeals filed during the 2002/03 fiscal year, the basis for appeal are listed below:

Not allowed to apply	10
Decision delayed	5
Application denied	88
Assistance suspended	28
Assistance cancelled	171
Assistance varied	14
Assistance insufficient	362
No basis	36



Allowed Appeals:

For the 2002/2003 fiscal year, there were **95** appeals allowed. Disposition of the allowed appeals is as follows:

Provincial Income Assistance	80
Municipal Assistance	12
Day Care Subsidy	2
Vulnerable Persons	1

Reason for Appeals:

Of the **714** appeals received for the fiscal year 2002/2003, most common issues are listed below:

Non-cooperation with employment expectations	71
Medical eligibility	97
Financial resources	75
Shelter costs	51

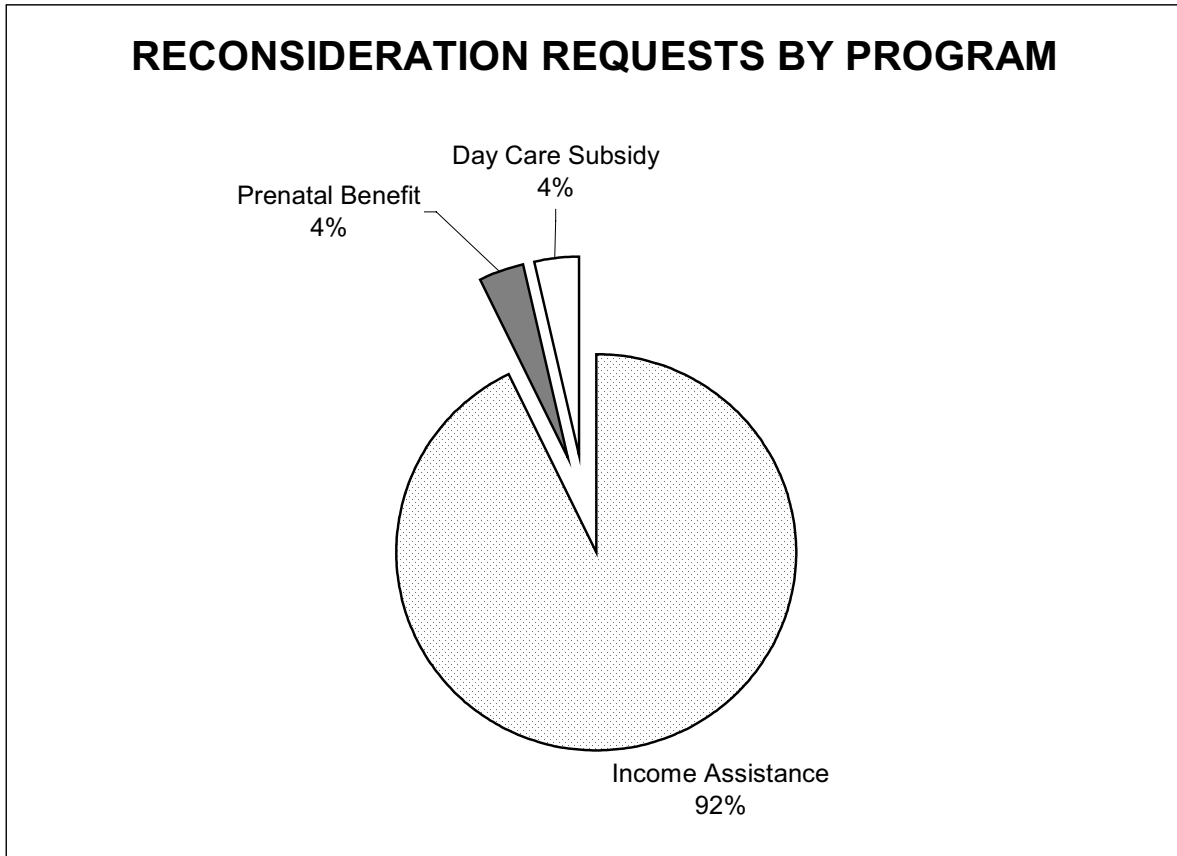
These four main reasons apply to **294** appeals, or **41.1%** of the total.

Requests for Reconsideration:

Total requests received	28
From appellant	25
From respondent	3

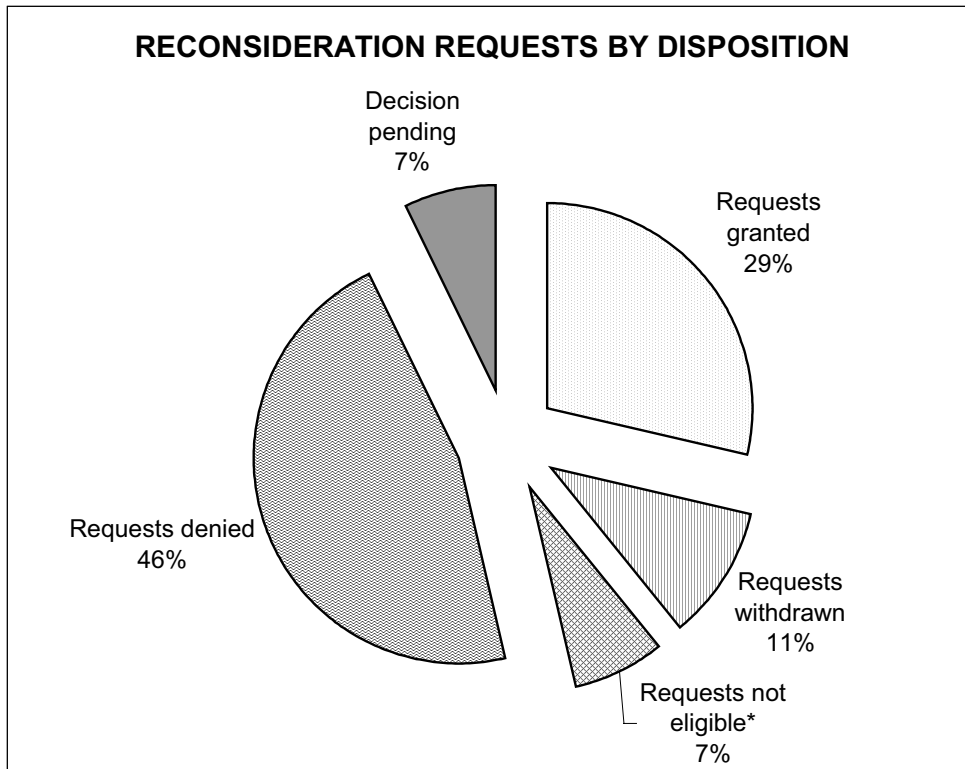
Reconsideration Requests by Program:

Income Assistance	26
Prenatal Benefit	1
Day Care Subsidy	1



Disposition of Reconsideration Requests:

Requests granted	8
Requests withdrawn	3
Requests not eligible*	2
Requests denied	13
Decision pending	2



*Appeals were filed prior to implementation of the new Act and therefore were not subject to reconsideration by the Board.

Of the Requests Granted:

Decision Upheld	5
Decision Varied	1
Decision overturned	0
Request withdrawn	1
Decision Pending	1

Advisory Capacity

In addition to hearing appeals, the other mandate of the Social Services Appeal Board is to act in an advisory capacity to the Minister of Family Services and Housing. The Board meets on a quarterly basis to discuss issues which have arisen during the course of hearings, or have been brought to the attention of the Board through letters, phone calls, etc. After a detailed discussion concerning these issues, the Board will follow up these meetings with a letter to the Minister outlining opportunities for change within the various programs of the Department. The Minister meets regularly with the Board to discuss the Department initiatives and exchange ideas. In addition the Minister may solicit feedback from the Board on specific issues.

The following is a summary of the issues brought to the attention of the Minister during the 2002/2003 fiscal year.

The Board expressed concern over the income assistance rates for basic needs and shelter costs. Although some financial allowances have increased over the years, the base rates have remained unchanged for approximately a decade. In addition, many of the amounts released for specific special needs items, such as beds, have also remained unchanged during this time. As a result, a person on income assistance has a continually decreasing buying power. Although many issues still need to be addressed, the Department has made progress in several areas. In 2000 the school supplies allowance for income assistance participants was increased by \$20 per child to \$60 for children in Kindergarten to Grade 6, \$80 for students in grades 7 and 8, and \$100 for students in Senior 1 to 4. Since July 2000, the Department has been progressively restoring the National Child Benefit (NCB) to families on assistance, and effective January 2004, the entire NCB will be fully restored for all children in families receiving income assistance. The Department also recently announced that, effective January 2004, income assistance rates will be increased by \$20 per month per adult for single adults and childless couples in the general assistance category, and for all adults in the disability category.

The Board also expressed concern with the use of the medical panel to determine eligibility for disability benefits. At present, the medical panel relies on written information provided by a medical practitioner to determine someone's level of employability. The Board supports the government's position in the White Paper entitled *Full Citizenship: A Manitoba Provincial Strategy on Disability*, and recommended to the Minister that functionality rather than a medical doctor's assessment of employability, be used to support an individual's application for disability.

The Board is highly supportive of a move into a one-tier income assistance system. The Board has witnessed several cases where an appellant has been caught between the jurisdiction of the province and municipality, where both have denied eligibility. There have been situations where an individual has not applied for assistance due to the stigma and ostracizing in the community which would result. Many municipalities still have the practice of issuing vouchers as the only form of assistance. This practice labels the individual to the local merchants as a person who is in receipt of financial assistance, and also reduces that person's buying power by limiting them to one store. The Board feels that a one-tier income assistance system would help to reduce or eliminate some of these issues that have been raised in smaller communities.

The Board is also concerned with the practice of verbally assessing someone's financial situation and advising of their ineligibility for assistance. The Board feels that verbal assessments may discourage individuals from completing an application form for assistance, even though they are still entitled to do so. Without a formal application an individual cannot appeal the Department's decision to the Appeal Board.

The Board recommended that an information booklet which outlines the benefits available to recipients of the Employment and Income Assistance program be developed to provide easily accessible information. Recently, the Department developed a series of information bulletins to provide some of this information to participants.

It was noted that rental rate guidelines only extend up to a six-person family, and as a result, many families in excess of six persons have additional rental costs to pay. The Board believes that, as it is extremely difficult for large families to find appropriate accommodation, the Department should consistently allow for additional rental allowances above the six-person rental rate.

Several recommendations to the Minister have been made with respect to overpayments that are assessed to income assistance recipients' files. The Department is currently reviewing some of its overpayment practices.

The Board would also like to see the Department establish a policy whereby funds are provided to cover the costs of over-the-counter medications prescribed by a doctor.

The Board also recommended the Minister review legislation to enable greater flexibility in backdating effective dates for childcare subsidy and prenatal benefits.

Selected Overviews and Case Summaries

Employment and Income Assistance/Municipal Assistance

Program:	Employment and Income Assistance
Basis of Appeal:	Income Assistance Insufficient
Appeal Detail:	Medical Eligibility
Decision:	Allowed

The most frequently appealed issue concerns the denial or cancellation of a person's medical eligibility under subsection 5(1)(a)(i) of *The Employment and Income Assistance Act*. The Department's current process for determining eligibility for this category involves receiving information from a person's medical practitioner (doctor), and, submitting this medical information along with a recommendation to the medical panel. The medical panel consists of a medical doctor and one EIA staff person who review the information presented by the doctor and case coordinator and make a decision as to the person's eligibility for medical benefits. The length of time for which this eligibility is to be instated is also determined at this time.

According to subsection 5(1) of *The Employment and Income Assistance Act*, a person will qualify for benefits as a person with a disability:

- (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;

Therefore, a diagnosis in and of itself does not qualify a person for disability, but rather it must be documented that the illness or incapacity will last longer than 90 days and renders a person incapable of being gainfully employed. Information from doctors is often very brief and based on limited contact with the individual.

The following example demonstrates how the verbal testimony of the appellant can provide a clearer picture of how an individual's health is affected on a day to day basis. This information persuaded the Board to determine that despite the lack of supporting documentation from his doctor, the man was indeed currently not capable of employment.

Case Details

The appeal involved a man enrolled on the EIA program as a sole support parent. He had submitted medical information for eligibility under subsection 5(1)(a)(i) of The Employment and Income Assistance Act as a person with a disability. The appellant’s medical information indicated that he suffered from neck and back pain, was HIV and Hepatitis C positive.

The doctor commented that he had a limited ability to do manual work and had limited education and skills. The doctor further recommended that he obtain physiotherapy for his neck, back and right shoulder and noted that a liver biopsy would be completed in the future.

The medical panel that reviewed the medical assessment determined that he was not eligible for disability benefits as his neck, back, and shoulder difficulties would not prevent him from gainful employment. The Department’s report also commented that there was no information that indicated the HIV and Hepatitis C conditions were currently affecting his ability to work.

At the hearing, the appellant advised that his health was continuously deteriorating. He indicated that he was frequently nauseous and had lost eleven pounds in three weeks. He indicated that he often felt very weak, and small amounts of physical exertion left him exhausted. Being a single father with very little energy was causing him to have a hard time coping. He had been on antidepressants up until two months previous.

Decision

When the Board reviewed the Department’s decision they felt that the verbal testimony provided by the appellant at the hearing contained information not available in the medical assessment. The Board felt that because the appellant was having a very hard time coping with basic tasks in his daily routine, he would be unable to maintain gainful employment. Therefore, the Board allowed this appellant’s appeal for a period of three months in order for him to obtain the results from additional medical tests in progress and receive additional information specific to his conditions.

Program: Municipal Assistance
Respondent: Chief Administrative Officer
Basis of Appeal: Municipal Assistance Denied
Decision: Allowed

Under the Employment and Income Assistance and municipal assistance programs, non-compliance with work expectations is another issue that gives rise to several appeals. All municipal assistance recipients, general assistance recipients, and sole-support parents with children over the age of six are expected to seek employment, to accept any reasonable job offer, and not to terminate any reasonable employment. All recipients are also required to comply with any employment enhancement measures (such as employment preparation training, educational upgrading, rehabilitative programming, etc.) to reduce any barriers to employment.

Case Details

The appellant was a man with a common-law spouse. The appellant applied for municipal assistance after he had quit employment with a local restaurant. The Municipality denied his application for assistance as he had quit employment that he may have reasonably held.

In the appellant's written appeal and at the hearing, the appellant described the working conditions at the restaurant. According to the appellant, the employer would grant time off and then cancel at the last minute, not pay salaries in a timely or regular manner, expect the appellant to make deliveries and pick-ups to Winnipeg without proper compensation for gas, and expect employees to be on constant call rather than post a shift schedule. The appellant also stated that, verbal abuse, unsafe working conditions, and a lack of workers compensation coverage made the working conditions unacceptable. The Municipality indicated that based on the conversation they had with the employer, the appellant's job was still available to him and therefore, they did not feel he had a need for municipal assistance.

Decision

When reviewing the decision of the municipality, the Board looked at whether it was reasonable to expect the appellant to work under the conditions described in writing and at the hearing. Although there was only the appellant's testimony to substantiate the appellant's claims, the fact that he had put these complaints in writing both to the Employment Insurance Office, and to the Labour Board convinced the Board to put significant weight on the appellant's testimony. The Board believed that given the working conditions, it was reasonable that he quit his employment. Therefore, the Board ruled that the Municipality should enroll him on municipal assistance and allowed the appeal.

Program: Employment and Income Assistance
Respondent: Director, Employment and Income Assistance
Basis of Appeal: Income Assistance Denied
Decision: Dismissed

Another issue, which frequently arises, involves the assessment of a person's financial resources and liquid assets. The Employment and Income Assistance (EIA) program is a program of last resort, which means that a person must use all other available means of support prior to enrolling on the program. When an applicant owns property that is not essential to his or her residence (i.e. they do not live on that property), the property is considered to be an excess asset. The program allows up to four months to convert property into cash to be used for that person's maintenance. If it can be demonstrated that the applicant has taken reasonable measures to attempt to convert the excess asset into cash, the Director of EIA has the discretion to extend the four-month period.

Case Details

This appeal involved a single man who re-enrolled for Employment and Income Assistance (EIA) under the Persons with Disabilities category. On his application he declared his vacant rural property which had an estimated value of \$4,500.00, along with a building on the property valued at an additional \$5,100.00. He had been the owner of this property since 1976; however, he indicated that the property actually belonged to his mother who is in care. Therefore, a verbal agreement existed between them.

In the Department's assessment of this case, they had reviewed the history of the appellant while previously on EIA, as he had declared his excess property in the past. He had been advised at that time that because he was not residing on the land, it was considered excess property. The Department had requested that the appellant provide verification that the property was in fact listed for sale, along with a copy of his rental agreement and a letter from Canada Pension Plan Disability Benefits (CPP), in order to determine financial eligibility. While he provided the rental agreement and the letter from CPP, he failed to provide a copy of the required listing agreement. As a result, the Department denied assistance.

At the hearing, the appellant advised that while the property in question was in his name, it actually belonged to his mother and was therefore not his to sell. However, he had attempted to list the property in the past and believed it to be still listed with a real estate company. He further indicated that he had resided in a home on this property up until November 2001 after which time the home was destroyed by fire.

Decision

When the Board reviewed the Department’s decision it was their opinion that the evidence presented supported that the appellant was in fact the legal owner of the property. As such, the Department acted according to who was in legal possession of the property irrespective of any verbal agreement that may have been in place. According to *The EIA Act*, property that is owned, but not resided on, is considered a financial resource known as “real property” and must be used toward the individual’s financial support. Therefore, the Board ruled that the appellant’s application for income assistance had been administered appropriately and his appeal was dismissed.

Program: Municipal Assistance
Respondent: Chief Administrative Officer
Basis of Appeal: Municipal Assistance Cancelled
Decision: Allowed

The definition of a family unit is often discussed at appeal hearings. Most often, this issue is raised when an anonymous phone call indicates to the Department that a single woman with children is residing with a common-law spouse. According to Section 5(5) of *The Employment and Income Assistance Act*:

Where two persons who are not legally married to each other are living together under circumstances that indicate to the director or a municipality that they are cohabiting in a conjugal relationship, they shall, for the purposes of the Act and the regulations, be treated in the same manner as two persons who are legally married, and any application by either or both of them for income assistance, general assistance or municipal assistance shall be dealt with in every respect in that manner.

The Department has developed the following guidelines in order to determine whether a common-law relationship exists. Two of the following three conditions must be met:

1. The two people reside at the same address;
2. The two people have financial interdependence; and/or
3. The two people are known in the community as a couple.

The following sample demonstrates how the issue of common law relationships is reviewed in a hearing.

Case Details

The appeal involved a young woman who applied for municipal assistance as a single person, however she listed her boyfriend as residing with her. She claimed herself as a single person and solely signed the application form. They were both on the lease and were rent sharing the accommodation. She was a student who was in the process of completing her grade 12.

In the municipality’s review and assessment of the application form, it was determined that she would be temporarily assisted, on an emergency basis, until they could clarify her living arrangements with respect to her boyfriend. The Municipality assisted her on a couple of occasions, but did not have further contact with her until Child and Family Services intervened asking if the municipality could provide her with assistance.

When she provided an update of her situation to the Municipality, she informed them that although she continued to reside with her roommate, they were no longer a couple, just friends. The Municipality once again assessed the situation based on the new information and sent a letter informing her that she and her partner would have to make a joint application, in order to remain on assistance. As no joint application was made, her assistance was cancelled.

At the hearing, the appellant advised the Board that she received no financial support from her roommate, verified that they both dated other people and purchased their own groceries, etc. She indicated that they remained together to share the accommodations as housing was difficult to obtain in the small town.

Decision

Upon reviewing the municipality’s decision, it was the Board’s opinion that the Municipality had no evidence to support any financial interdependence, or that they presented themselves in the community as a couple. The only information that the municipality had to establish a common-law relationship was the appellant’s description of the relationship, which had changed. Therefore, the Board allowed this appeal and ordered the Municipality to backdate her assistance to the month in which she lodged the appeal.

55 PLUS A Manitoba Income Supplement

Program: 55 PLUS
Respondent: Director, 55 PLUS Program
Basis of Appeal: 55 PLUS eligibility Denied
Decision: Dismissed

The 55 PLUS Program provides quarterly income supplements to low-income Manitobans who are 55 years of age and over. The program has two components. The first, or the Senior Component, is available for persons who are eligible to receive certain levels of benefits from the federal Old Age Security programs. Persons in this category are primarily 65 years of age and over do not have the right to appeal decisions with respect to their eligibility.

The second, or Junior Component, is for persons 55 years of age and over who do not receive either Old Age Security Benefits or assistance from a municipality or province. Because eligibility is income based, a yearly application for benefits is required. The level of benefits is determined by a prorated formula and there is very little room for discretion in determining a person’s eligibility for benefits, except in circumstances where a person’s income or circumstances varies from year to year.

The following example illustrates how the question of a yearly income can be assessed for eligibility.

Case Details

This appeal involved a couple who resided in the rural area. The couple had previously been eligible for the 55 PLUS program, but based on a review of their previous year’s income tax, they were found ineligible for the program in the current year.

The appellant indicated that their situation was unique in that they were unable to sell their crop in the year 2000 until the following fiscal year. Therefore the amount of income reported in 2001 was artificially inflated. The Department, however, indicated that the additional income from the late crop sale did not solely affect their eligibility for 55 PLUS benefits. Even once this additional income was subtracted from the total, their income still exceeded the allowable income for 55 PLUS benefits.

Decision

When reviewing the decision of the Department, the Board looked at whether this amount of income alone would have affected their eligibility. The Department had verified during the hearing that they also calculated eligibility, without this carry over of income, and found them ineligible. As such, the Board found that the Department correctly determined eligibility in accordance with existing legislation and policies. The appeal was therefore dismissed.

Vocational Rehabilitation Services

Program: Vocational Rehabilitation Services
Respondent: Director, Vocational Rehabilitation Services
Basis of Appeal: Vocational Rehabilitation Services Denied
Decision: Dismissed

The Vocational Rehabilitation program assists eligible adults with a disability to pursue and secure gainful employment by providing vocational training, education, and support services. Individuals can appeal if they are denied services from Vocational Rehabilitation Services, but they may not appeal their specific level of funding.

The following example illustrates one example of how eligibility for the program is determined.

Case Details

This appeal involved a man who applied for Vocational Rehabilitation Services (VRS) in order to help him obtain employment. Several years previous he had laser eye surgery which improved his vision but left him with difficulties such as shadows, starbursts, double vision, and severe headaches.

The Department explained that the eligibility criteria in the VRS Operating Manual states that the disability must be verified “by a licensed medical practitioner in the case of a physical disability or vision disability.” Further, it was explained by VRS that their program contracts with the Canadian National Institute for the Blind (CNIB) for a range of vocational rehabilitation services to people with vision impairments. One of the services offered includes helping individuals determine eligibility for VRS. The basic criterion is that the applicant must have a significant visual impairment as defined by CNIB. In this case, the appellant submitted information from his physician, which did not indicate a significant visual impairment. While the Department understands that these visual impairments are virtually undetectable, it does not diminish the reality that the quality of his vision is impaired. However, his situation fell outside the current program eligibility criteria and was therefore denied for VRS.

Decision

Upon reviewing the Department’s decision, it was the Board’s opinion that the evidence confirmed he was assessed through the CNIB and that based on quantitative analysis, he was found to be able to read at a 20/20 vision level. However, CNIB does not have any means of determining eligibility for VRS based on qualitative vision analysis. As such, the Board ruled that VRS correctly determined eligibility in accordance with existing legislation and policies and the appeal was dismissed.

Healthy Child – Prenatal Benefit

Program: Healthy Child – Prenatal Benefit
Respondent: Director, Healthy Child Manitoba
Basis of Appeal: Prenatal Benefit Insufficient
Decision: Dismissed

The Healthy Baby Prenatal Benefit and Community Support Program assists low income pregnant women to meet their extra nutritional needs during pregnancy. The program is unique in that it is available to recipients of provincial or municipal income assistance or aboriginal persons living on reserve. Benefits are available to women at the beginning of the month when their fourteenth week of pregnancy occurs. Benefits are calculated based on the previous year's income tax information, although exceptions can be made if a woman's circumstances have changed significantly.

The following example illustrates an appeal where the effective date of benefits was appealed:

Case Details

The appeal involved a couple who applied for the prenatal benefit while they were expecting the birth of their child. The couple was appealing the effective date at which the prenatal benefit had started being paid. They learned of the prenatal benefit when the woman was already into her 22nd week of pregnancy. According to the Manitoba Prenatal Benefit Regulation "payments begin in the month in which the applicant is 14 weeks pregnant or when a complete application with all necessary information as set out in section 2, whichever occurs last". The Healthy Child office received the application on September 18, 2002 and her prenatal benefit was approved for the months of September 2002 to January 2003.

At the hearing the appellant indicated that because they were not aware of the program until September 2002, he did not believe that the effective date of the benefit was fair to them. He asked the Board to have the effective date of the benefit backdated to the allowable 14th week of pregnancy, as he did not feel they should be penalized for their lack of knowledge of the program. He argued that the family made sacrifices in order to ensure that his wife had adequate nutrition throughout her pregnancy, and the additional funds could be used to make purchases they had to go without in order to provide this nutrition. The Department indicated that they make every attempt to reach all pregnant women in Manitoba to ensure they are aware of the program. Efforts such as a large newspaper campaign, inserts into the Child Tax Credit and National Child Benefit Program, promotional kits that were sent to every doctor's office, and every municipality, Band and employment and income assistance offices, as well as hospitals, pharmacies and community health care centers. The Department indicated that it was unfortunate this couple did not become aware of the program until later in the pregnancy, but that the regulations were very clear on

how to determine an eligibility date. As such, the commencement date for the benefit was determined in accordance with the legislation.

Decision

The Board reviewed the Department’s decision and agreed with the Director of Healthy Child Manitoba that the legislation does not leave any room for discretion. Therefore, the Board concurred with the Director’s decision and dismissed the appeal. However, as a result of this hearing the Board submitted a recommendation to the Minister of Family Services and Housing requesting that a review of the legislation be conducted to determine whether the Director should have the discretion to back-date applications for the prenatal benefit.

Reconsideration

Under *The Social Services Appeal Board Act*, the appellant or the Department may apply for a reconsideration of the Board’s decision. The following example demonstrates a request for a reconsideration initiated by the Director of the Employment and Income Assistance program:

Program: Employment and Income Assistance
Basis of Appeal: Income Assistance Insufficient
Decision: Allowed
Request for Reconsideration initiated by Department
Original Decision upheld

Case Details

This case involved a young single-parent that had received a lump sum back payment from the National Child Benefit Program (NCB) in the amount of \$836.64. Of this amount, the Department had deducted the amount of \$532.28 from her income assistance budget. The Board allowed the appellant’s appeal stating that because a portion of this back payment represented a time when she was not on assistance, it should be treated as a liquid asset and the exemption should be applied. The Board had ordered the Department to reimburse the appellant the amount of \$266.14.

The Department requested the Board to reconsider its decision on the basis that the Board incorrectly treated the NCB monies received by the appellant as an asset rather than income. The Department further argued that the NCB supplement portion should remain a financial resource when received by an applicant irrespective of when it was earned or accumulated.

Decision

When the Board reviewed the request for reconsideration, the Board was persuaded by *The Employment and Income Assistance Act and Regulations*, as well as the case of *Miller v. Manitoba (Family Services, Employment and Income Assistance)*, leave to appeal granted [1996] M.J. No. 582, decision [1997] M.J. No. 344(C.A.), in which “income” under the Act and Regulations is intended to refer to some regular payment rather than a single lump sum payment. The Board also noted that the Director, in Directive #2000-15, March 25, 2000, followed this decision by treating one-time federal pay equity lump sum payments as liquid assets. The definition of ‘financial resources’ in the Act includes “allowances, pensions, insurance benefits, and income from business farming or any other source received by an applicant...” The concept of income appears to be related to the concept of regular payments in respect of a business, and the other descriptors-“allowances, pensions, insurance benefits” all have that same aspect of regular payments. Since part of this payment is a single lump sum payment in respect of time that the claimant was not receiving assistance, the Board held that part of the payment is not ‘income’ under the Act and Regulations. Therefore, the Board upheld its original decision to treat the NCB payment as a ‘liquid asset’, since it is not the kind of income contemplated as non-exempted in section 8 (1)(b) of the Regulation. Thus, the application for reconsideration resulted in the Board affirming its original decision.

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CHAPTER S167

THE SOCIAL SERVICES APPEAL BOARD ACT

(Assented to July 6, 2001)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

DEFINITIONS AND PURPOSE

Definitions

1 In this Act,

"appeal board" means the Social Services Appeal Board referred to in section 3; (« Commission d'appel »)

"designated Act" means

- (a) *The Adoption Act*,
- (b) *The Community Child Day Care Standards Act*,
- (c) *The Employment and Income Assistance Act*,
- (d) *The Social Services Administration Act* or a regulation under that Act,

CHAPITRE S167

LOI SUR LA COMMISSION D'APPEL DES SERVICES SOCIAUX

(Date de sanction : 6 juillet 2001)

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative du Manitoba, édicte :

DÉFINITIONS ET OBJET

Définitions

1 Les définitions qui suivent s'appliquent à la présente loi.

« **comité** » Comité d'appel de la Commission d'appel. ("panel")

« **Commission d'appel** » La Commission d'appel des services sociaux indiquée à l'article 3. ("appeal board")

« **fonctionnaire désigné** » Personne qui, en vertu d'une loi désignée, peut rendre une décision ou donner un ordre à l'égard duquel la loi désignée prévoit un droit d'appel à la Commission d'appel, ou la personne à qui est délégué un tel pouvoir. ("designated officer")

(e) *The Vulnerable Persons Living with a Mental Disability Act*,

(f) any other Act or regulation designated as a designated Act in the regulations; (« loi désignée »)

"designated officer" means a person who has authority under a designated Act to make a decision or order for which there is a right of appeal under the designated Act to the appeal board, or the person to whom that authority is delegated; (« fonctionnaire désigné »)

"minister" means the minister appointed by the Lieutenant Governor in Council to administer this Act; (« ministre »)

"panel" means a panel of the appeal board. (« comité »)

Purpose

2 The purpose of this Act is to give Manitobans a fair, impartial and informal appeal process from decisions relating to various social services and programs.

« loi désignée »

a) *La Loi sur l'adoption*;

b) *la Loi sur les garderies d'enfants*;

c) *la Loi sur l'aide à l'emploi et au revenu*;

d) *la Loi sur les services sociaux* ou ses règlements d'application;

e) *la Loi sur les personnes vulnérables ayant une déficience mentale*;

f) tout autre loi ou règlement désigné par règlement. ("designated Act")

« ministre » Le ministre chargé par le lieutenant-gouverneur en conseil de l'application de la présente loi. ("minister")

Objet

2 La présente loi a pour objet de mettre à la disposition des Manitobains et Manitobaines un processus d'appel des décisions ayant trait à différents programmes et services sociaux qui soit informel, juste et impartial.

APPEAL BOARD

Social Services Appeal Board

3 The Social Services Advisory Committee, which was established under *The Social Services Administration Act*, is continued under this Act as the Social Services Appeal Board.

Members

4(1) The appeal board is to consist of 15 members appointed by the Lieutenant Governor in Council.

Who can be a member

4(2) The members of the appeal board must, in the opinion of the Lieutenant Governor in Council,

(a) be representative of the regional, economic and cultural diversity of Manitoba;

COMMISSION D'APPEL

Commission d'appel des services sociaux

3 Le Comité consultatif des services sociaux, établi en vertu de la *Loi sur les services sociaux*, est maintenu en vertu de la présente loi sous l'appellation de Commission d'appel des services sociaux.

Composition

4(1) La Commission d'appel se compose de 15 membres nommés par le lieutenant-gouverneur en conseil.

Membres

4(2) De l'avis du lieutenant-gouverneur en conseil, les membres de la Commission d'appel :

a) représentent la diversité régionale, économique et culturelle du Manitoba;

(b) be knowledgeable about social services and programs under designated Acts; and

(c) not be employees under the control of a minister responsible for a designated Act.

Two-year terms

4(3) Each member is to be appointed for a term of two years, and may be reappointed for two further two-year terms.

Reappointing a member

4(4) A member who has served for three terms may be reappointed for a further term, but only if at least one year has passed since the end of his or her last term.

Member continues to hold office

4(5) A member continues to hold office until he or she is reappointed, a successor is appointed or the appointment is revoked.

Remuneration and expenses

5 The members of the appeal board are to be paid remuneration and expenses at rates set by the Lieutenant Governor in Council.

Chair and vice-chair

6(1) The Lieutenant Governor in Council must designate one of the members of the appeal board as chair and one or more members as vice-chairs.

Duties of vice-chair

6(2) A vice-chair has the authority of the chair if the chair is absent or unable to act, or when authorized by the chair.

Staff

7 Any employees required to enable the appeal board to carry out its responsibilities may be appointed in accordance with *The Civil Service Act*.

Responsibilities of the appeal board

8 The appeal board has these responsibilities:

(a) to hear and decide appeals under designated Acts;

(b) at the minister's request, to advise and make recommendations about matters that relate to social services and programs in Manitoba;

b) sont bien informés des services et programmes sociaux que prévoient les lois désignées;

c) ne sont pas au service d'un ministre responsable de l'application d'une loi désignée.

Mandat de deux ans

4(3) Les membres sont nommés pour un mandat de deux ans et peuvent ensuite l'être pour deux autres mandats de deux ans.

Nomination après trois mandats

4(4) Le membre qui a terminé trois mandats peut être nommé de nouveau pour un autre mandat, pourvu qu'au moins une année se soit écoulée depuis la fin de son dernier mandat.

Continuation des mandats

4(5) Les membres exercent leur charge jusqu'à ce qu'ils soient nommés de nouveau, qu'un successeur leur soit nommé ou que leur nomination soit révoquée.

Rémunération et indemnités

5 Les membres de la Commission d'appel reçoivent une rémunération et des indemnités aux taux que fixe le lieutenant-gouverneur en conseil.

Présidence et vice-présidence

6(1) Le lieutenant-gouverneur en conseil désigne parmi les membres de la Commission d'appel un président et au moins un vice-président.

Fonctions du vice-président

6(2) En cas d'absence ou d'empêchement du président ou sur autorisation de ce dernier, la présidence est assumée par un des vice-présidents.

Personnel

7 Le personnel nécessaire à l'exercice des attributions de la Commission d'appel peut être nommé conformément à la *Loi sur la fonction publique*.

Attributions

8 La Commission d'appel :

a) entend et juge les appels interjetés dans le cadre des lois désignées;

b) conseille le ministre et lui fait des recommandations, à sa demande, sur toute question se rapportant aux services et aux programmes sociaux du Manitoba;

(c) on its own initiative, to advise and make recommendations to the minister about social services provided under the designated Acts;

(d) to perform any other duties assigned to it by an Act or regulation or by the minister.

Procedural rules

9 The appeal board may establish its own rules of practice and procedure and must make them available to the public.

Posting information about appeals

10 A designated officer must post information about the right to appeal to the appeal board, and about the appeal process, in a visible public location in any office in which decisions are made that can be appealed under a designated Act.

c) peut, de sa propre initiative, conseiller le ministre et lui faire des recommandations à l'égard des services sociaux fournis en vertu des lois désignées;

d) exerce toute autre fonction que lui attribue une loi, un règlement ou le ministre.

Règles de procédure

9 La Commission d'appel peut établir ses propres règles de procédure, auquel cas elle les rend accessibles au public.

Affichage de l'information — appel

10 Les fonctionnaires désignés affichent l'information qui se rapporte au droit d'interjeter appel à la Commission d'appel ainsi qu'à la procédure d'appel dans un endroit public bien en vue situé dans un bureau où sont rendues des décisions pouvant faire l'objet d'un appel en vertu d'une loi désignée.

PANELS OF THE APPEAL BOARD

Board to sit in panels

11(1) The appeal board must sit in panels of three members when hearing appeals.

Assigning members to panels

11(2) The chair is to assign members to sit on panels.

Chair of panel

11(3) The chair or a vice-chair is to preside over a panel, or the chair may designate another member of the appeal board to preside.

Who is not eligible to be a member of a panel

11(4) A member of the appeal board is not eligible to sit on a panel if he or she

(a) is a relative of a party; or

(b) is not able to be impartial and independent about the outcome of the appeal.

Quorum

11(5) A quorum for a panel is the three members referred to in subsection (1).

COMITÉS DE LA COMMISSION D'APPEL

Commission d'appel en comité

11(1) La Commission d'appel siège en comité de trois personnes pour entendre les appels.

Désignation des membres

11(2) Le président désigne les membres qui siègent aux comités.

Président du comité

11(3) Le président ou un des vice-présidents préside les séances des comités. Il est permis au président de désigner un membre pour en assumer la présidence.

Personne ne pouvant être membre d'un comité

11(4) Il est interdit à un membre de la Commission d'appel de siéger à un comité :

a) si l'une des parties et lui sont parents;

b) s'il n'est pas en mesure de faire preuve d'impartialité et d'indépendance quant à l'issue de l'appel.

Quorum

11(5) Le quorum d'un comité est formé des trois membres que vise le paragraphe (1).

Jurisdiction of panel

11(6) In considering and deciding an appeal,

(a) a panel has all the jurisdiction of the appeal board and may exercise the board's powers and perform its duties; and

(b) a decision of a majority of the members of a panel is the decision of the appeal board.

Compétence du comité

11(6) Dans le cadre d'un appel :

a) le comité a la compétence de la Commission d'appel et peut exercer les attributions de celle-ci;

b) la décision rendue par la majorité des membres du comité constitue la décision de la Commission d'appel.

APPEAL TO THE APPEAL BOARD**Filing an appeal**

12(1) A person who has a right to appeal a decision or order to the appeal board under a designated Act may commence an appeal by filing a notice of appeal with the board.

Time limit for filing

12(2) A notice of appeal must be filed within 30 days after the date of the decision or order, unless the designated Act specifies a different time limit.

Extending the time limit

12(3) The appeal board may extend the time limit for commencing an appeal, and may do so either before or after the time limit expires.

Reasons

12(4) A notice of appeal must be in writing and must state the reasons for the appeal.

Parties

13(1) The parties to an appeal are the person who has a right to appeal to the appeal board and the designated officer under the designated Act.

Parties to be present

13(2) The appellant and the designated officer or a delegate of the designated officer must be present at the hearing or, if subsection 19(2) applies, must be able to communicate with each other and the appeal board simultaneously.

Advocates

14 At the appellant's request, another person may communicate with the appeal board at any time on the appellant's behalf and may be present with the appellant at the hearing.

APPEL À LA COMMISSION D'APPEL**Appel**

12(1) Quiconque a le droit, en vertu d'une loi désignée, d'interjeter appel à la Commission d'appel d'une décision ou d'un ordre peut le faire en déposant un avis d'appel à la Commission.

Délai pour interjeter appel

12(2) L'avis d'appel est déposé dans les 30 jours qui suivent la date de la décision ou de l'ordre, sauf si la loi désignée prévoit un délai différent.

Prolongation du délai pour interjeter appel

12(3) La Commission d'appel peut prolonger le délai accordé pour interjeter appel, que ce délai soit expiré ou non.

Motifs

12(4) L'avis d'appel est par écrit et indique les motifs de l'appel.

Parties

13(1) Sont parties à un appel la personne qui a le droit d'interjeter appel à la Commission d'appel ainsi que le fonctionnaire désigné qu'indique la loi désignée pertinente.

Présence des parties

13(2) L'appelant et le fonctionnaire désigné, ou son délégué, doivent être présents à l'audience ou, si le paragraphe 19(2) s'applique, doivent pouvoir communiquer l'un avec l'autre ainsi qu'avec la Commission d'appel de façon simultanée.

Représentation

14 Toute personne peut, à la demande de l'appelant, communiquer avec la Commission d'appel en son nom et être présent à l'audience avec lui.

Notice to the designated officer

15(1) On receiving a notice of appeal, the appeal board must promptly give a copy of it to the designated officer.

Designated office must forward documents

15(2) On receiving the notice of appeal, the designated officer must promptly give the appeal board

- (a) all of the documentary evidence on which the designated officer made the decision or order being appealed;
- (b) any documents that the designated officer is specifically required to provide to the board under the designated Act; and
- (c) any other documents the designated officer thinks might be relevant to the appeal.

Hearing date

16(1) For each appeal, the appeal board must arrange the earliest possible hearing date. The hearing must not be commenced more than 30 days after the board receives the notice of appeal, unless the board at the request of the appellant, grants an extension.

Notice

16(2) Unless the parties agree to a shorter period of notice, at least six days before the hearing the appeal board must give the parties written notice of the date, time and place of the hearing.

Parties may examine evidence

17 The appeal board must give each party a reasonable opportunity to examine and copy any information that has been submitted to the board for the purpose of the hearing.

Powers and duties of the board

18 The appeal board must inform itself fully of the facts concerning each appeal. For that purpose, the board

- (a) may require the attendance of witnesses and the production of documents in addition to the witnesses called by the parties and the documents produced by the parties; and
- (b) has the powers of a commissioner under Part V of *The Manitoba Evidence Act*.

Avis au fonctionnaire désigné

15(1) Dès réception d'un avis d'appel, la Commission d'appel en remet rapidement une copie au fonctionnaire désigné.

Documents à produire

15(2) Dès réception de l'avis d'appel, le fonctionnaire désigné fait parvenir rapidement à la Commission d'appel :

- a) la preuve documentaire sur laquelle il s'est fondé pour rendre la décision ou donner l'ordre faisant l'objet de l'appel;
- b) les documents qu'il est expressément tenu de fournir relativement à l'appel suivant la loi désignée;
- c) tout autre document qui, à son avis, peut être pertinent.

Date d'audience

16(1) La Commission d'appel fixe, pour chaque appel, une date d'audience qui soit la plus rapprochée possible. L'audience commence au plus tard 30 jours après la réception par la Commission de l'avis d'appel, sauf si celle-ci accorde, à la demande de l'appellant, un délai plus long.

Avis

16(2) La Commission d'appel avise les parties par écrit de la date, de l'heure et du lieu de l'audience au moins six jours avant celle-ci, à moins que les parties ne conviennent d'une période de préavis plus courte.

Examen de la preuve par les parties

17 La Commission d'appel donne à chaque partie l'occasion d'examiner et de reproduire les renseignements qui lui ont été présentés aux fins de la tenue de l'audience.

Attributions de la Commission d'appel

18 La Commission d'appel s'informe de tous les faits ayant trait à chaque appel. Pour ce faire, elle :

- a) peut exiger la comparution d'un témoin qui n'a pas été appelé et la production d'un document qui n'a pas été produit par une partie;
- b) a les pouvoirs d'un commissaire nommé en vertu de la partie V de la *Loi sur la preuve au Manitoba*.

Hearing process: rules of evidence do not apply

19(1) The appeal board is not bound by the rules of evidence that apply to judicial proceedings.

Hearing by teleconference

19(2) A hearing may be held by means of a conference telephone call, or by another method of communication that permits the appeal board and the parties to communicate with each other simultaneously.

Closed hearing if appellant requests

19(3) The hearing is to be closed to the public if the appellant asks for it to be closed; otherwise it is to be open to the public.

Adjournment

19(4) The appeal board may adjourn a hearing when it considers it appropriate to do so.

ORDER OF THE APPEAL BOARD

Order of the board

20(1) Unless the designated Act states otherwise, after a hearing the appeal board may, by written order,

- (a) confirm, vary or rescind the order or decision of the designated officer;
- (b) make any order or decision that the designated officer could have made; or
- (c) refer the matter back to the designated officer for further consideration by the designated officer in accordance with any direction of the appeal board.

Reasons

20(2) The appeal board must give written reasons for its order.

Time limit for making order

20(3) The appeal board must make its order within 15 days after the hearing ends.

Non-application des règles de preuve

19(1) La Commission d'appel n'est pas liée par les règles de preuve s'appliquant aux poursuites judiciaires.

Conférence téléphonique

19(2) Il peut être procédé à une audience au moyen d'une conférence téléphonique ou d'un autre moyen de communication permettant à la Commission d'appel et aux parties de communiquer entre elles simultanément.

Demande de huis clos

19(3) Les audiences se déroulent à huis clos si l'appelant en fait la demande; autrement, elles sont accessibles au public.

Ajournement

19(4) La Commission d'appel peut, si elle l'estime opportun, ajourner une audience.

ORDONNANCE DE LA COMMISSION D'APPEL

Ordonnance de la Commission d'appel

20(1) Sauf indication contraire de la loi désignée, la Commission d'appel peut, par ordonnance écrite :

- a) confirmer, modifier ou annuler l'ordre ou la décision du fonctionnaire désigné;
- b) donner l'ordre ou rendre la décision que le fonctionnaire désigné aurait pu donner ou rendre;
- c) renvoyer l'affaire au fonctionnaire désigné afin que celui-ci la réexamine conformément aux directives qu'elle estime opportunes.

Motifs

20(2) La Commission d'appel indique par écrit les motifs de l'ordonnance qu'elle rend.

Délai pour rendre une ordonnance

20(3) La Commission d'appel rend son ordonnance dans les 15 jours qui suivent la fin de l'audience.

Order given to the parties

20(4) The appeal board must give the parties a copy of the order and inform them of their right to appeal a question of law or jurisdiction to The Court of Appeal.

Method of giving the order

20(5) The order must be given to the parties personally or by regular lettermail or by another method acceptable to the appeal board and the parties.

Order must be given effect

21 A designated officer must give effect to the order of the appeal board.

Reconsideration of the order

22(1) At the request of a party to the appeal or on its own initiative, the appeal board may reconsider all or part of its order and may confirm, vary, suspend or rescind its order.

Time limit for making request

22(2) A written request for a reconsideration, stating the reasons for the request, must be filed with the appeal board within 30 days after the date of the board's order.

Time limit for deciding request

22(3) The appeal board must, by order, make a decision as to whether an order will be reconsidered, within 15 days after the date the request for a reconsideration is filed.

Reasons

22(4) The board must give written reasons if it decides not to reconsider an order.

Remise de l'ordonnance aux parties

20(4) La Commission d'appel donne aux parties une copie de l'ordonnance et les informe de leur droit d'interjeter appel à la Cour d'appel sur une question de droit ou de compétence.

Ordonnance remise en main propre ou par courrier

20(5) L'ordonnance est remise en main propre aux parties ou leur est envoyée par poste-lettres ordinaire ou par tout autre moyen que la Commission d'appel et les parties estiment acceptable.

Exécution de l'ordonnance

21 Le fonctionnaire désigné exécute l'ordonnance de la Commission d'appel.

Réexamen de l'ordonnance

22(1) La Commission d'appel peut, à la demande d'une partie ou de son propre chef, réexaminer, en tout ou en partie, l'ordonnance qu'elle a rendue et la confirmer, la modifier, la suspendre ou l'annuler.

Délai pour déposer une demande de réexamen

22(2) La demande de réexamen se fait par écrit, est motivée et est déposée à la Commission d'appel dans les 30 jours qui suivent la date de l'ordonnance.

Délai — décision sur la demande de réexamen

22(3) La Commission d'appel décide, par ordonnance, si l'ordonnance sera réexaminée dans les 15 jours qui suivent la date du dépôt de la demande de réexamen.

Motifs

22(4) La Commission d'appel donne par écrit les motifs de sa décision dans l'éventualité où elle décide de ne pas réexaminer une ordonnance.

APPEAL TO COURT OF APPEAL**APPEL À LA COUR D'APPEL****Appeal to Court of Appeal**

23(1) Any party to the appeal before the appeal board may appeal the board's order to The Court of Appeal on any question involving the board's jurisdiction or on a point of law, but only after obtaining leave to appeal from a judge of The Court of Appeal.

Appel à la Cour d'appel

23(1) Avec l'autorisation d'un juge de la Cour d'appel, toute partie à un appel devant la Commission d'appel peut interjeter appel à la Cour d'appel de l'ordonnance de la Commission d'appel sur une question qui touche la compétence de celle-ci ou sur une question de droit.

Time limit

23(2) An application for leave to appeal must be made within 30 days after the date of the appeal board's order, or within any further time that a judge allows.

Parties

23(3) The parties to the appeal before the appeal board, and the appeal board, are entitled to be heard on the application for leave to appeal and on the appeal itself.

Order of Court of Appeal

24 The Court of Appeal may

- (a) quash, vary or confirm the order of the appeal board; or
- (b) refer the matter back to the appeal board for further consideration in accordance with any direction of the Court.

Délai

23(2) La requête en autorisation d'appel est présentée dans les 30 jours qui suivent la date de l'ordonnance de la Commission d'appel ou dans tout délai supplémentaire que fixe un juge.

Parties

23(3) La Commission d'appel et les parties à l'appel devant celle-ci ont le droit d'être entendues au sujet de la requête en autorisation d'appel et de l'appel à la Cour d'appel.

Ordonnance de la Cour d'appel

24 La Cour d'appel peut :

- a) infirmer, modifier ou confirmer l'ordonnance de la Commission d'appel;
- b) renvoyer l'affaire à la Commission d'appel afin que celle-ci la réexamine conformément aux directives qu'elle estime opportunes.

REGULATIONS

Regulations

25 The Lieutenant Governor in Council may make regulations

- (a) designating Acts or regulations for the purpose of the definition "designated Act" in section 1;
- (b) respecting any other matter the Lieutenant Governor in Council considers necessary or advisable to carry out the intent of this Act.

RÈGLEMENTS

Règlements

25 Le lieutenant-gouverneur en conseil peut, par règlement :

- a) désigner des lois ou des règlements pour l'application de la définition de « loi désignée » à l'article 1;
- b) prendre toute autre mesure qu'il estime nécessaire ou utile à l'application de la présente loi.

ANNUAL REPORT

Annual report

26 Within six months after the end of the government's fiscal year, the appeal board must provide the minister with a report about the board's activities during that fiscal year. The minister shall lay a copy of the report before the Legislative Assembly within 15 days after receiving it if the Assembly is sitting or, if it is not, within 15 days after the next sitting begins.

RAPPORT ANNUEL

Rapport annuel

26 Dans les six mois qui suivent la fin de l'exercice du gouvernement, la Commission d'appel présente au ministre un rapport sur ses activités pendant l'exercice. Le ministre dépose une copie du rapport devant l'Assemblée législative dans les 15 premiers jours de séance de celle-ci suivant sa réception.

PROTECTION FROM LEGAL ACTION

Protection from legal action

27 No action or proceeding for damages may be brought against the appeal board or any member of the board because of anything done or omitted in good faith

(a) in the performance or intended performance of a duty under this Act; or

(b) in the exercise or intended exercise of a power under this Act.

TRANSITIONAL

Transitional: definitions

28(1) *In this section,*

"former Act" means *The Social Services Administration Act, R.S.M. 1987, c. S165;* (« ancienne loi »)

"former designated Act" means *a designated Act as it read immediately before the coming into force of this Act.* (« ancienne loi désignée »)

Appeals already commenced

28(2) *Where on the day this Act comes into force an appeal under a former designated Act to the Social Services Advisory Committee under the former Act has been commenced but not finally disposed of, the appeal shall be continued and completed in accordance with that former designated Act as if this Act had not come into force.*

CONSEQUENTIAL AMENDMENTS

29 to 32 **NOTE:** These sections contained consequential amendments to other Acts that are now included in those Acts.

IMMUNITÉ

Immunité

27 La Commission d'appel et ses membres bénéficient de l'immunité pour les actes accomplis ou les omissions commises de bonne foi dans l'exercice effectif ou censé tel des attributions que leur confère la présente loi.

DISPOSITIONS TRANSITOIRES

Définitions transitoires

28(1) *Les définitions qui suivent s'appliquent au présent article.*

« **ancienne loi** » *La Loi sur les services sociaux, c. S165 des L.R.M. 1987.* ("former Act")

« **ancienne loi désignée** » *Loi désignée telle qu'elle était libellée juste avant l'entrée en vigueur de la présente loi.* ("former designated Act")

Appels commencés

28(2) *Les appels qui sont commencés, en vertu d'une ancienne loi désignée, devant le Comité consultatif des services sociaux visé par l'ancienne loi mais qui ne sont pas terminés au moment de l'entrée en vigueur de la présente loi se poursuivent et sont tranchés conformément aux dispositions de l'ancienne loi désignée comme si la présente loi n'était pas entrée en vigueur.*

MODIFICATIONS CORRÉLATIVES

29 à 32 **NOTE :** Les modifications corrélatives que contenaient les articles 29 à 32 ont été intégrées aux lois auxquelles elles s'appliquaient.

33 NOTE: This section contained consequential amendments to *The Social Services Administration Amendment Act*, S.M. 2000, c. 31, and is not yet proclaimed.

34 NOTE: This section contained consequential amendments to *The Vulnerable Persons Living with a Mental Disability Act* that are now included in that Act.

33 NOTE : Les modifications corrélatives que contenait l'article 33 de la *Loi modifiant la loi sur les services sociaux*, L.M. 2000, c. 31, ne sont pas proclamés.

34 NOTE : Les modifications corrélatives que contenait l'article 34 ont été intégrées à la *Loi sur les personnes vulnérables ayant une déficience mentale* à laquelle elles s'appliquaient.

C.C.S.M. REFERENCE AND COMING INTO FORCE

C.C.S.M. reference

35 This Act may be cited as *The Social Services Appeal Board Act* and referred to as chapter S167 of the *Continuing Consolidation of the Statutes of Manitoba*.

Coming into force

36(1) This Act, except section 33, comes into force on a day fixed by proclamation.

Coming into force: section 33

36(2) Section 33 comes into force on the day *The Social Services Administration Amendment Act*, S.M. 2000, c. 31, comes into force.

NOTE: S.M. 2001, c. 9, except section 33, was proclaimed in force February 18, 2002.

CODIFICATION PERMANENTE ET ENTRÉE EN VIGUEUR

Codification permanente

35 La présente loi peut être citée sous le titre : *Loi sur la Commission d'appel des services sociaux*. Elle constitue le chapitre S167 de la *Codification permanente des lois du Manitoba*.

Entrée en vigueur

36(1) La présente loi, à l'exception de l'article 33, entre en vigueur à la date fixée par proclamation.

Entrée en vigueur de l'article 33

36(2) L'article 33 entre en vigueur en même temps que la *Loi modifiant la Loi sur les services sociaux*, c. 31 des *L.M. 2000*.

NOTE : Le chapitre 9 des L.M. 2001, sauf l'article 33, est entré en vigueur par proclamation le 18 février 2002.