Manitoba

Directive #2003-17

Memorandum

Date:	April 8, 2003		
To:	EIA Directors in Winnipeg Regional Directors outside Winnipeg	From:	Pam Goulet Executive Director Adult and Children's Programs Services for Persons with Disabilities 305-114 Garry Street
		Telephone:	
Subject:	**Disability Exemption of $100,000 – Employment and Income Assistance**		

The White Paper: *Full Citizenship: A Manitoba Provincial Strategy on Disability,* announced that new exemptions were being developed to assist persons with disabilities to be able to better meet their daily living costs and improve their quality of life. As a result, new exemptions have been incorporated into the Employment and Income Assistance (EIA) Regulation, and are effective immediately. The EIA Regulation has been amended to incorporate the provisions of the exemptions.

Program contacts

To ensure that these new exemptions are appropriately handled, as there are some aspects of the exemptions which can be complex, all applicable cases should be discussed with the Program Specialists.

Who can receive these exemptions?

Adult applicants or participants enrolled under section 5(1)(a) of *The EIA Act* as persons with disabilities, or their spouses or common-law partners who also meet the criteria for disability under section 5(1)(a), can receive these exemptions. As well, children with disabilities are eligible for the exemptions regardless of their category of enrolment. Children will be eligible for exemptions as long as they meet the definition of disability that is used for eligibility for programming from Children's Special Services. As there is not a Program Specialist for this program area at this time, Children's Special Services will assess cases with children.

~~The exemption is intended to assist persons living in the community and, therefore, persons living in an institution are not eligible for the exemption (that is, those living in a hospital, Eden Mental Health Centre, Manitoba Developmental Centre, St. Amant Centre or Selkirk Mental Health Centre.)~~

Workers should advise persons with disabilities, as well as cases in other categories where there is a child with disabilities, about the new exemption for persons with disabilities at enrolment.

What is exempted?

The total amount exempted will be $100,000 in the lifetime of the participant or applicant from any source, except from employment, income supplementation or replacement/compensation of lost income. The $100,000 exemption is for each eligible individual, and not for each case.

Examples of exempted sources of income:

- inheritances
- gifts
- life insurance policies
- compensation awards (except any portion that is for replacement of income)
- money from the sale of a capital asset, such as a house, land or car.

Examples of sources of income supplementation/replacement that are not exempted:

- Canada Pension Plan
- Employment Insurance
- Workers Compensation
- private pension plans
- Registered Retirement Savings Plans (RRSPs)

In the "lifetime" of the applicant or participant means that, regardless of the number of times re-enrolled, the individual will not have more than $100,000 exempted of the capital contribution. Interest or returns from the funds are exempted, as long as the total amount available to the participant at any given time is not more than $100,000. At the end of December of each year, the balance cannot exceed $100,000. Any amount over $100,000 is considered a financial resource. Details of how property is valued are contained in the Regulation.

The capital contribution and growth of the $100,000 exemption are exempted **only** if they are placed in trust. Once the $100,000 exemption is claimed, different liquid asset provisions apply to the participant (explained below). Funds placed in a trust are exempted as long as they are expended on disability-related items for any amount as long as the amount is within the $100,000 exemption limit. A list of disability-related items on which the funds can be spent is attached. Taxes owing from the trust and costs associated with administering the trust are also exempted.

New, separate liquid asset exemptions

Individuals with resources to be exempted under the $100,000 disability exemption have a separate, liquid asset clause in the EIA Regulation which applies to them. The amounts are identical to the present liquid asset amounts, however, the difference between the two liquid asset exemptions is as follows:

- **Regular liquid asset exemption** – participants can add to their liquid asset exemption from any exempted source, such as a GST rebate, at any time as long as the maximum amount of the liquid asset exemption is not exceeded, regardless of how much they have withdrawn. Small amounts from sources listed in policy, such as inheritances, compensation payments and windfalls, do not need to be exempted under the $100,000 exemption, as long as they are within the liquid asset limit.

- **Liquid asset exemption for participants who have trust funds up to $100,000 for the disability exemption –** all funds that are part of the $100,000 exemption have to be placed in trust first, before being placed in the liquid asset exemption if there is room. Participants can only add to their liquid asset exemption, from any sources exempted in Regulation, up to the amount of their liquid asset exemption in any given year, regardless of the amount they have withdrawn from their liquid assets.

Individuals can purchase any items they wish from their liquid asset exemption, such as televisions and vacations.

Affect of the new exemptions on other exemptions or benefits

The new exemption is in addition to and separate from all other exemptions in the EIA Regulation, with the exception of the exemption available for up to $25,000 of assets held in trust on behalf of minor income assistance participants. Children are eligible for one exemption or the other and, therefore, if the $100,000 exemption is claimed for or by a child, the $25,000 exemption cannot be claimed, and the rules of the $100,000 apply.

The new exemptions do not have any affect on any existing benefit provided by the program, such as health supplies and services, optical, dental or pharmaceutical benefits, or excess rent. These items will be provided in the same manner as if a participant did not have a lump-sum exemption amount. Funds from the new exemption may be used to supplement supplies and services provided by the program, if the participant desires.

Administration of this exemption

Trust Funds

Any responsible adult may act as a trustee, such as family members, lawyers, substitute decision-makers, the Public Trustee, or a person with a trust company. Terms of the trust must be provided to the District Director, including the date of the establishment of the trust. Each person that claims the exemption must have a separate trust, even if there is more than one person with the exemption in a case.

An Annual Report of Trust Activity Form (will be forwarded to staff) must be completed to track deposits and withdrawals from the trust account, to ensure they conform to the requirements of the exemptions. The report is for the calendar year and must be provided to the Director by the end of February of the following year.

EIA will not pay for any costs associated with administering the trusts, but amounts expended on these costs will be an allowable expense, as will any taxes owing from the trust.

Individuals who currently have sources of income eligible for the $100,000 disability exemption

For individuals who currently have funds that meet the exemption requirements, the case should be discussed with the appropriate contact named above, and then the individual should be advised that the exemption is now in place and advised how to proceed with the funds.