

Reasons for Decision:

Order # AP1516-0176

The appellant appealed that the appellant's medical eligibility under Section 5(1)(a) of The Manitoba Assistance Act was denied. The specific decision under appeal was the decision of <date removed>.

The appellant had been denied medical eligibility in <date removed> based on the completion of a Disability Assessment Report from the appellant's doctor. The first assessment form stated that the primary diagnosis was <reference removed> and secondary diagnosis of <references removed>. The doctor had provided no objective findings for any of these conditions, and had not indicated the frequency or severity of symptoms. The doctor did not indicate any referrals to specialists or other health care professionals. In the section regarding work activity, the doctor had not indicated either "able to work" or "unable to work" but had checked off that there was a temporary limitation of functions and he had also checked off 3-6 months. There was no information provided which explained what was functionally stopping the appellant from working. Other medical information included in the package reviewed for the <date removed> decision included a note from the appellant's doctor dated <date removed> stating, "modified duties recommended, <unknown> walking distances. Avoid activities that might result in <reference removed>". A note from the doctor <date not legible> stated that the appellant needed to be off work for four weeks. The medical panel denied the appellant's eligibility stating there was insufficient information provided.

The appellant provided a note from the doctor dated <date removed> which states that the appellant has past medical history of <reference removed> and the appellant is on <reference removed>. The letter states that the appellant has pain in <reference removed>, and the <reference removed> is swelling as well. The appellant is under investigation for possible <reference removed>. The doctor recommended that the appellant be off work for approximately three months until the appellant's <reference removed> symptoms have significant improvement.

The medical panel reviewed this information and found the appellant not eligible for disability benefits, but recommended that the appellant's work expectations be waived for three months. The medical panel noted that this was a new medical condition not mentioned on the previous medical report. The medical panel was again requesting objective functionality data when it became available.

The appellant had completed a Self-Report when the Disability Assessment from the doctor was completed. On this form the appellant had indicated that the two areas where the appellant has a lot of difficulty are with <references removed>. The areas where the appellant indicates some difficulty are <references removed>. The

appellant indicates “no difficulty” with <references removed>. The appellant comments that the appellant is not sleeping well, not eating proper and always worrying about where the appellant is going to live. The appellant states the appellant is stressed out all the time and can’t function properly and the appellant is depressed.

At the hearing the appellant advised that since the appellant was denied medical eligibility the appellant was in a cyclist/car accident and the appellant’s health has gotten a lot worse. The appellant also had the appellant’s income assistance file suspended and went a period of time with no benefits at all. The appellant provided some documentation of support. The chairperson indicated at the hearing that they could only take into consideration the information relevant to the appeal that the appellant had appealed. If the appellant wished to appeal a decision made after the last appeal the appellant would need to submit a new appeal. The appellant verbally described the appellant’s current symptoms and limitations, but the Board could not take this into consideration as these symptoms do not reflect the appellant’s symptoms at the time the decision under appeal was made.

The Manitoba Assistance Act states that in order to be eligible for disability benefits, you must be a person:

(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

After carefully considering the written and verbal information the Board has determined that at the time the Department made its decision on <date removed> the documentation was not sufficient to determine that the appellant was not capable of doing any type of work due to the appellant’s physical or mental health. The conditions of <references removed> can each vary in severity from mild to severe. In addition, in many persons, medication can control these conditions. In order to assess eligibility for disability benefits the medical panel needs objective test results as well as comments from the doctor about functionality. None of this information was provided to medical panel for consideration. The instructions to the doctor on completing the form state that the doctor should attach any test results and fill out all sections on the form. The Department did not send a new disability assessment form, as what they were seeking was proper completion of the form for which they had already paid the doctor.

The secondary information received regarding <reference removed> states that this is being investigated. The medical panel recommended deferral of work expectations until the appellant’s test results were completed. Therefore the Board agrees that none of the documentation submitted provided the objective data to demonstrate that the appellant was incapable of performing work of any type. The decision of the Director is confirmed.

The appellant has had a significant change in the appellant's physical health since the last Disability Form was completed by the doctor as well as a <reference removed>. As it has been over one year since the last one was completed, the Board orders the Department to release a new set of disability papers to the appellant.

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