

Since August 1, 2015, the Social Services Appeal Board has published selected decisions on its website. To ensure the privacy of individuals is protected, personal information is redacted from the original Reasons for Decision before the document is posted on the website.

Recently, the Board has heard a number of complex appeals of significant issues. The Reasons for Decision are lengthy and detailed, and attempts to redact personal information render the decision difficult to understand. The Board has agreed to post summaries of these complex decisions, rather than redacting the original Reasons for Decisions.

Summary - Reasons for Decision:

Order #AP1617-0225

The appellant appealed that the appellant was denied eligibility for the Community Living disABILITY Services Program (CLDS).

In order to be eligible for services under the Community Living disABILITY Program, an individual must be deemed to be a Vulnerable Person under the Vulnerable Persons Living with a Mental Disability Act (further referred to as “The Act”).

Under the Act, a vulnerable person is defined as:
an adult living with a mental disability who is in need of assistance to meet his other basic needs with regard to personal care or management of his or her property.

The Act then defines “mental disability” as:
Significantly impaired intellectual functioning existing concurrently with impaired adaptive behavior and manifested prior to the age of 18 years, but excludes a mental disability due exclusively to a mental disorder as defined in Section 1 of The Mental Health Act.

The appellant applied for CLDS in <date removed>. The appellant’s application was submitted by the appellant’s marketAbilities worker. The application was supported by a psychological assessment completed in <date removed>. In this document the psychologist has indicated that there was significant variability in his intellectual skill set, but concluded that the appellant does not meet the assessment criteria to determine that the appellant has a mental disability. The psychologist does state that lack of verbal expressive skills and anxiety affect the appellant’s abilities. The psychologist subsequently completed the Assessment of Intellectual Functioning form and provided a clinical conclusion that the appellant did not meet the DSM IV criteria for mental retardation (intellectual disability). The psychologist also indicated that he had no reservations in meeting this clinical conclusion.

After receiving this information the CLDS Program determined that the appellant did

not meet the eligibility criteria for this program.

At the hearing the appellant and the appellant's family indicated that they have exhausted all the available programs and supports that can help the appellant, and are very concerned for the appellant's future when the appellant's family is no longer able to care for the appellant. The family advised that the appellant was diagnosed at <text removed> with <condition name removed>, now known as <condition name removed>. The appellant was heavily medicated at a young age, but was weaned off this medication. A referral for psychiatric services has been made, but the family indicated that the appellant had cursed at the psychiatrist and was not willing to seek these services. The appellant has expressed to the appellant's family that the appellant will not participate in any more programs, groups, therapy etc. The family indicated that they had an altercation with the appellant the previous day over the appellant's unwillingness to attend the appeal hearing, and the RCMP needed to be called. The appellant had completed a course at <text removed> College and has been quite depressed with the appellant's inability to find a job. The appellant's only goal at this point in time is to get a job, however the information from the psychologist indicates that this is not likely without a high degree of supports.

The family's focus is on getting the appellant into an independent living situation where the appellant will have the tools and supports to live on the appellant's own or in a supportive environment. The family indicated that they do not dispute the clinical diagnosis, but were hoping that based on the appellant's high needs, an exception could be made under extenuating circumstances.

After carefully considering the written and verbal information the Board has determined that the appellant does not meet the eligibility criteria required to receive services as a vulnerable person under the Community Living disABILITY Program. The legislation provides services under this program to a very specific target population, those who have been diagnosed with mental retardation under the Diagnostic and Statistical Manual IV. The reference to mental retardation is an outdated term which is now referred to as intellectual disability. The legislation is not meant to provide services to persons who have difficulties with independent living due to any other diagnosis or disorder.

The Board has repeatedly expressed its concerns to the Minister in its advisory capacity that there is a significant portion of the population who cannot access the essential services they require due to a gap in the legislative scheme. However, the Board does not have the authority to grant eligibility to a person who does not meet the eligibility criteria as outlined in The Vulnerable Persons Living with a Mental Disability Act. The Vulnerable Persons Living with a Mental Disability Act does not provide for discretion in determining eligibility, and therefore the Board must conclude that the evidence does not show that the appellant has significantly impaired intellectual functioning existing concurrently with impaired adaptive behavior and manifested prior to the age of 18 years. Therefore the decision of the Director is confirmed.

DISCLAIMER

These are electronic copies of the Reasons for Decision issued by the Social Services Appeal Board. These written reasons have been edited to protect the personal information of individuals by removing personal identifiers.