

Reasons for Decision:

Order #AP1718-0410

The appellant appealed that the appellant had a deemed income deducted from the appellant's income assistance file due to transferring ownership of two vehicles.

The appellant first applied for income assistance in <date removed>. At that time the appellant had verbally advised that the appellant had two vehicles registered in the appellant's name. The appellant provided the vehicle registration. The program advised the appellant that the program only allows vehicle ownership of one vehicle and the appellant would be required to liquidate (sell) one of the vehicles within four months of application. The appellant withdrew the appellant's application at this time as the appellant did not wish to sell either vehicle.

The appellant reapplied for assistance on <date removed>. The appellant presented two documents entitled "Letter of Gift" which indicated that the appellant gifted the two vehicles to the appellant's parent. The program determined that the appellant gave away an asset which could have been a financial resource in order to establish the appellant's eligibility for income assistance benefits.

The program determined that the value of the two vehicles totaled <amount removed>. They allowed a liquid asset exemption of \$4,000 leaving a deemed financial resource of <amount removed>. They determined a deemed income amount using an interest rate of 2.8% which amounted to <amount removed> per month. This is the amount that will be deducted from the appellant's income assistance benefits for the remainder of 2017. Depending on interest rates the amount may increase or decrease in 2018 and subsequent years.

The appellant and the appellant's parent indicated at the hearing that the appellant's parent paid for both vehicles and was advised by MPI to register the vehicles in the appellant's name as the parent did not have a valid driver's license. It was their advocate's position that the appellant could not sell the vehicles to the appellant's parent because the parent was the one who had purchased the vehicles, and it is unreasonable that the parent should have to pay for the same vehicles twice. The reason the vehicles were transferred or "gifted" was so that the legal papers reflected the actual ownership of the vehicles. At the hearing they produced a record of sale for one of the vehicles. This document was for a <year and make of vehicle>, and showed the purchaser as both <names removed>. It is their position that the Director has discretion under the legislation to determine whether the asset was improperly disposed of, and in this circumstance it is reasonable that the appellant returned ownership of the vehicles to the parent who had paid for them at the time of their purchase. They indicated that the Director failed to take into consideration the actual

background and circumstances of the vehicle ownership. They stated that the appellant never had the financial resources to purchase a vehicle and was only registered as the owner of the vehicles in order to allow the appellant to drive them and provide transportation to the appellant's elderly parents.

Section 8.3 of The Manitoba Assistance Regulation states:

Consequences of transfer of assets

- 8.3 If, at any time within five years before, or at any time after, the date of application for income assistance or general assistance, the director determines that an applicant or recipient or a dependant of an applicant or recipient has given away property or assigned or transferred any property for inadequate consideration to reduce his or her financial resources in order to qualify for income assistance or for general assistance, the director may
- (a) determine that the applicant or recipient is not eligible for shelter assistance and income assistance or general assistance; or
 - (b) reduce the amount of shelter assistance and income assistance or general assistance that would otherwise be payable by deeming
 - (i) the property given away, assigned or transferred to be a financial resource of the applicant or recipient, and
 - (ii) an amount that might reasonably have been earned as income from the property given away, assigned or transferred, or from investments of equivalent value, to be income available to the applicant or recipient.

After carefully considering the written and verbal information, the Board has determined that Employment and Income Assistance must assess eligibility for income assistance benefits based on the documentation provided to them. Families may make decisions to transfer assets for any number of reasons, but these decisions have implications both legally and financially. The Employment and Income Assistance Program did not provide the Board with any documentation to demonstrate either ownership at the time of purchase of the two vehicles in question or the vehicle registration of either of the vehicles before or after the transfer took place. The only documentation provided to the Board was the Offer to purchase for the <year and make of vehicle removed> and the letters of gift. The offer to purchase lists the appellant as a co-purchaser on the vehicle, which would mean to the Board that the appellant owned 50% of the vehicle at the time the appellant "gifted" the vehicle to the parent. The appellant and the parent advised the Board that the other vehicle was purchased in a similar manner, and the program had no documentation to demonstrate that this was not in fact what had occurred. Under Section 8.3 of the regulation the director may cancel or reduce assistance. The advocate suggested at the hearing that the director could also choose to do neither.

The Board has been convinced that the reason for the transfer of property was to establish eligibility for income assistance benefits, and this has not been denied by the appellant. The appellant's argument is that the vehicles were never actually owned by the appellant in the first place, and they took steps to reflect the actual ownership.

However, at the time the purchase agreement was signed, the family established the appellant as the legal owner of 50% of the vehicle, and this cannot be “undone” after the fact. Therefore the Board has determined that the appellant was 50% owner of two vehicles for which the appellant gifted the appellant’s half ownership to a parent, and a deemed income of 50% of the value of the vehicles minus the \$4,000 liquid asset exemption should be deducted from the appellant’s income assistance benefits. The Decision of the Director is therefore varied, and the Board orders that the deemed income be reduced by 50%.