

Reasons for Decision:

Order # AP1718-0763

On <date removed>, the appellant filed an appeal of the Director's decision to deny them eligibility under Section 5(1) (a) of The Manitoba Assistance Act. The date of the decision was <date removed>.

The decision letter sent to the appellant did not provide a reason for the denial of eligibility.

The Department stated the appellant first applied for disability eligibility in <date removed>. The appellant was denied eligibility on <date removed>. While the decision letter sent to the appellant did not provide a reason for the denial of eligibility, the Disability Assessment Summary recorded the medical review panel's reasoning, as "info provided as reviewed above should not preclude all employment i.e. sedentary".

In response to a question from the Board, the Department stated the appellant was not referred for a work assessment immediately after the <month removed> decision. The Department did intend to refer them at some point, but the absence of a treatment plan from the doctor made it difficult to plan the referral. In the fall of <year removed>, the appellant advised the Department their condition was getting worse, so their worker started working with them on a reapplication for disability eligibility.

In <date removed>, the appellant provided additional information. The medical review panel again denied their application, stating the new information still did not substantiate an inability to do any work. The panel was of the opinion that the appellant could still do sedentary work.

The Department stated the appellant's work expectations were on hold pending the outcome of this appeal.

The appellant's advocate requested they be allowed to submit additional information from their doctor. The Department objected, as it has not submitted this new information to the medical review panel. The Board declined to accept the new information.

The appellant's advocate stated the appellant identified their physical limitations as the reason they could not work at the time of their original assistance application in <date removed>. The Department did not give the appellant disability forms right away, so their doctor did not fill out the Disability Assessment Report until <date

removed>.

At the time the doctor filled out the Disability Assessment Report (DAR), they were waiting for test results, so they stated on the DAR that the appellant was unable to work for a period of three to six months. The doctor noted the appellant's issues dated back to <date removed>.

The appellant's advocate noted the <date removed> decision letter did not provide a reason for the denial of eligibility, so it was difficult for the appellant's doctor to determine what additional information to provide.

The advocate stated the appellant's doctor submitted new information in <month removed>, listing the appellant's issues as a <health conditions removed> as the result of a <reference removed>. The appellant is taking <medications removed>.

The advocate stated the appellant's doctor listed heavy lifting and snow shoveling in their <month removed> letter because their most recent work experience involved those activities. The doctor's <date removed> DAR had a broader restriction on physical activity.

The advocate stated the appellant had no history of sedentary work, and limited ability to write because of their <health condition removed>. The advocate submitted the appellant met the requirements of Section 5(1)(a), and has met those requirements since their application in <date removed>.

In response to a question from the Board, the appellant stated on a typical day they will get out of bed at 4 a.m. because of their pain-interrupted sleep. They soak in a hot bath for 30 to 45 minutes, then they make coffee and take their medications. The appellant tries to walk one block every day. They can do light housework, but is disabled by pain the next day.

The appellant stated their current physical condition is difficult for them. The appellant grew up on a farm, and has always worked hard. They cannot lift tools or drive heavy equipment, so they cannot do any of the work they have performed in the past.

In response to a question from the Board, the appellant stated they have an MRI scheduled for <date removed>, and their doctor may refer them to a back surgeon. The appellant had MRIs done in <year removed> and <date removed>.

The appellant's advocate confirmed they were requesting the Board establish the appellant's eligibility as <date removed>. The appellant has a <health condition removed> that prevents them from supporting themselves, including in sedentary work.

Based on the verbal and written evidence presented to the Board, as well as the appellant's demeanor and presentation at the hearing, the Board determined that there is sufficient information to determine that the appellant is unable to work in any capacity for more than 90 days.

The duration of the appellant's incapacity is still unknown, pending the results of their scheduled MRI. The Board finds that the appellant requires a temporary period of support until their test results and treatment plan are known. Disability eligibility will also make the appellant eligible for market ABILITIES, which will improve their prospects of employment.

The Board rescinded the Director's decision and ordered the Department to enrol the appellant under Section 5(1) (a), effective <date removed>, for a period of 9 months.

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