

**Reasons for Decision:**

**Order # AP1819-0263**

<name removed> appealed that their income assistance benefits were cancelled due to excess assets.

The Department reported that <name removed> applied for Employment and Income Assistance in <date removed>. The appellant resides in Winnipeg and advised the Department that they are a part owner of a family cottage with their parent in Winnipeg Beach valued at <amount removed>. <name removed> provided the <year removed> property tax bill and insurance policy that confirms their name is on the property's title.

The appellant was advised that the Department considers their part ownership to be an excess asset as it was not their primary residence. As the financial resources are not immediately available for use, the Department's policy can allow eligibility of benefits with excess property for a period of up to four months to allow time for assets to be converted. A letter was sent to <name removed> advising of this decision in <date removed>.

A further extension was granted as <name removed> advised the Department that they would be using the property as their primary residence and their friend was going to winterize the cabin for them to live in. Another extension was provided to allow time for <name removed> to get the work done on the cabin. A reminder letter was sent on <date removed> advising that their benefits would be suspended after <date removed> if arrangements were not made to either move to the cabin as their primary residence or sell their portion of the asset.

On <date removed>, <name removed> advised the Department that they were going to remain at their rental address in Winnipeg for another month.

After several extensions were granted to avoid undue hardship pending the liquidation of the asset or using it as their primary residence, <name removed>'s file was closed effective <date removed> due to excess assets, as no action was taken.

<name removed> attended the hearing with their sibling. The appellant stated that their late sibling bought the cabin prior to their death and left it to the family. All family members own the cabin, however only their and their parent's names are on the title as it was too costly to add everyone. <name removed> said their parent would never sign off on selling any portion of the cabin, as it is to remain in the family.

The sibling stated that their late sibling made it clear that the cabin is for all family members and <name removed>'s name was put on the title, and their parent is too ill to go there any more.

<name removed> said they asked their income assistance worker if they were to gift their portion of the cabin to their child, would their benefits be re-instated, and was told it was too late.

Section 14.1.3 of the Employment and Income Assistance Administrative Manual states:

#### Excess Property Defined

Any real property owned by the applicant or participant which **is not essential to his or her residence** shall be considered excess property. Generally, this shall include any land owned by the applicant or participant which can be sold separately from the home property.

The Manitoba Assistance Regulation Section 8.3 states:

#### Consequences of transfer of assets

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 finds that The Department has not provided <name removed> all their options. <name removed> advised that they did ask whether they could gift their portion of the property to their child and was told it was too late. The Department stated at the hearing that, as <name removed> legally owns the cabin with their parent, they have an available asset. However, the Department could consider that ownership to be deemed income and a deduction of annual interest could be deducted from their monthly benefits.

Therefore, the Board has varied the decision of the director and orders the Department to re-enrol <name removed> effective <date removed> for four months. This will allow

time for <name removed> to have their name removed from the title to the property and the Department to consider deeming the income.

## **DISCLAIMER**

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