

Reasons for Decision:

Order # AP1718-0603

On <date removed>, the appellant appealed the decision of the Director, Employment & Income Assistance, to deny their 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 stated they had been found ineligible because their medical condition did not preclude all employment.

At the hearing, the Department relied exclusively on the written report submitted into evidence. The report itself stated the medical panel reviewed their application and determined, based on the information submitted, the appellant's condition did not preclude all types of employment. The report did not elaborate on the review panel's reasoning.

The Disability Assessment Summary provided as an attachment to the Department's report also did not elaborate on the panel's reasoning.

The appellant's advocate stated they are seeking a declaration of eligibility under Section 5(1) (a) of The Manitoba Assistance Act, effective <date removed>.

The advocate stated the appellant has high myopia, and astigmatism. They were born with these conditions, and they will degenerate over time. The advocate stated the appellant has a learning disability that affects their ability to learn English.

The appellant applied for disability eligibility on <date removed>. At the time they were unaware how the application process worked. The advocate noted the Department's <date removed> decision letter did not clarify issues for the appellant, because it gave no indication of what further information was required, or of the possibility for reconsideration of the decision.

The advocate stated the Department's follow-up meeting with the appellant, which took place on <date removed>, was focused on work expectations. The advocate noted the Department's case notes do not indicate disability eligibility was discussed.

The advocate noted the appellant's worker's comment on the Disability Assessment Summary that the appellant was not motivated to work. The advocate asserted that the appellant had been looking for work, but was unsuccessful. They stated the appellant's disability eligibility should not be affected by the fact they could not get

work.

The advocate disputed the Health Consultant's comment on the Disability Assessment Summary that the form was completed by an optometrist, who is not a medical doctor. The advocate pointed out that optometrists are primary care health professionals who can diagnose and prescribe. The appellant's doctor is a qualified medical professional capable of making the diagnosis made. On the other hand, the advocate observed the Health Consultant was an Occupational Therapist, who does not have the same training in vision conditions that an optometrist has.

The advocate referred to the Disability Assessment Report, stating the appellant's doctor identified high myopia as the primary diagnosis, and indicating the condition might get worse. The advocate stated the appellant has been referred to an ophthalmologist for assessment for surgery. The advocate stated the appellant's doctors in Israel had ruled out surgery, because of the risks involved.

The appellant told the Board they last worked in <year removed> in Israel, working part-time with children. They stated they get tired quickly because of vision strain. Their vision has deteriorated since <year removed>.

The advocate concluded by asserting the appellant met the eligibility requirements of Section 5(1)(a). The appellant has worked with the Department on training opportunities, but has been unsuccessful. The advocate noted the appellant can participate in the market ABILITIES program while they have disability eligibility.

The Board noted the appellant stated on their Self-Report they could not lift heavy objects because of their vision issues, and asked them to explain the connection between lifting and vision. The appellant told the Board their doctors advised them the strain of lifting would cause further deterioration in their vision, including blindness.

The Board asked the appellant why they stated on their original EIA application that they were available to work right away, without limitations. The appellant stated they did not remember answering those questions. The advocate stated the appellant might be able to start work soon, but in a limited capacity.

The Department stated it asked the appellant about their referrals and treatment plans at the <date removed> meeting, but they had not heard anything from their doctors. At that meeting, the appellant clearly indicated they wanted to go to Red River College for a business diploma.

The Department stated the appellant has attended school with their vision issues, and has indicated in their Self-Report they can do office and child care work.

In response to a question from the Board, the appellant stated they withdrew from Red River College because the teaching staff told them they could not complete the course full time, and they should try part time. The appellant has applied for the part-time program but has not been accepted yet.

The Board notes there is a significant difference between the appellant's description of their abilities on the EIA application and their Self-Report, and the presentation to the Board. The Board is not satisfied the appellant adequately explained the difference at the hearing.

The Board recognizes the appellant's significant vision issues limit their ability to function in the workforce. However, the appellant has worked and has attended school, albeit with inadequate accommodations. The Board notes it is common knowledge that individuals with the appellant's level of limitations have succeeded in the paid workforce.

After careful consideration of the written and verbal evidence submitted to it, the Board determined the Department assessed the appellant's application correctly based on the information it had before it, in accordance with the legislation and regulations. The Board confirmed the Director's decision deeming the appellant ineligible for the disability category.

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