

Reasons for Decision:

Order # AP1819-0148

On <date removed>, the appellant filed an appeal of the Director's decision to remove two of their children from their budget. The decision letter was dated <date removed>.

The reason given for the removal of the children from the budget was that the appellant's partner, <name removed>, no longer had custody of the two children 50% or more of the time.

The appellant and <name removed> jointly care for six children -two from the appellant's previous relationship, two from <name removed>'s previous relationship, and two from their own relationship. The Board recognizes that the appellant and <name removed> regard all six children as their children without distinction. In these Reasons for Decision, the terms "the appellant's children" and "<name removed>'s children" will be used solely to improve the clarity of the decision.

The appellant's children were not included in their budget, as the court order governing their custody arrangements granted them less than 50% custody time. <name removed>'s children were included in the budget, as the court order governing their custody arrangements granted them 50% custody time.

In <date removed>, the Department conducted a routine eligibility review session, during which the appellant and <name removed> were asked to provide their current court orders.

<name removed> provided an unsigned, undated court order developed in <year removed>, varying the original <date removed> court order. It appears the order was not finalized until <date removed>.

The Department noted the variation order reduced <name removed>'s custody time to less than 50%. The Department stated its policy is to remove children from the budget if they are present in the home less than 50% of the time, and to add a daily rate to the budget for the days the children are present in the home.

The Department stated the daily rate for the appellant's children had not been included previously in the budget, so that rate was added to the budget for the days their children are present in the home.

The appellant told the Board they and <name removed> have all six children at their house from Thursday to Sunday most weekends. With the change to the budget, they are now getting \$4.54 per day per child for the four children, which is not enough to feed

them, let alone provide any other necessities.

The appellant noted they receive a portion of the Canada Child Benefit for the four children, recognizing their role in raising them.

The appellant stated the family currently lives in a five-bedroom residence managed by<text removed>. The appellant stated <text removed> has advised them they might only qualify for a three-bedroom residence if there are only two children included in the budget. In addition to causing space difficulties when all six children are present, a smaller residence may cause issues with their respective custody arrangements.

<name removed> explained their court order was varied because they have been involved in lengthy court proceedings with their ex-partner. In an attempt to mediate the conflict, they gave up one weekend of custody, but that compromise lowered their period of custody below the 50% threshold.

Both <name removed> and the appellant stated they have care and control of the four children for more time than is granted in the court orders. <name removed> stated they have text messages from their ex-partner about the extra time. The appellant stated their two children are spending more time with them this summer because their day care is closed and their ex-partner does not have care arrangements.

<name removed> stated they have managed with the funding provided to date, but their budget has been reduced approximately \$100 per month, which is a significant amount of money for them. <name removed> has managed in part by borrowing money, but there is a limit on how much money they can borrow.

In response to a question from the Board, the Department stated the daily rate paid is for basic needs, and does not include medical needs or shelter costs. The rental subsidy provided is based on the number of individuals included in the budget. The authority for the daily rate is contained in a Departmental directive (#2006-05).

The appellant stated they did not know why the Department would not pay for shelter costs, when there is documentation that the children live at the house a significant amount of time. <name removed> added that the loss of medical coverage was important, as they are primarily responsible for ensuring the children's medical needs are met.

In response to a question from the Board, the Department stated it calculated the amount of time the appellant's children spend at the home at 10 days 12 hours per month, and the amount of time <name removed>'s children spend at the home at 10 days per month. The appellant gave a verbal accounting of the actual time the children spent at the home over an 8 month period, averaging 11.25 days per month.

The Department told the Board that it will modify the number of days paid in the budget

if documentation is provided establishing actual time in care. In <name removed>'s case, the Department would accept a letter from their ex-partner confirming time in <name removed>'s custody. <name removed> explained that, given the state of their personal relationship with their ex-partner, the appellant is unlikely to provide that letter.

<name removed> confirmed their ex-partner is also receiving assistance. The Department stated the policy is to deduct the amount being paid as a daily rate to one parent from the budget of the other custodial parent.

There are two issues before the Board in this appeal. First, the appellant and <name removed> assert that the daily rate is too low to support their children, given the children's age and the exclusion of shelter costs and medical coverage. Second, they assert the number of days paid for the four children from previous relationships is less than the number of days the children are actually present in the home.

The rate paid by the Department is a standard rate established according to a schedule. While the schedule is not established in either *The Manitoba Assistance Act* or *The Manitoba Assistance Act Regulation*, it is within the power of the Department to set standard rates.

The Department has indicated it will adjust the number of days paid if either <name removed> or the appellant provide documentation from their ex-partners regarding the actual number of custodial days. While it is unfortunate that <name removed> cannot obtain this documentation from their ex-partner, the Board cannot give more weight to their undocumented assertion than to the actual court order.

After carefully reviewing the written and verbal evidence presented to it, the Board determines the Department has calculated the appellant's budget according to the legislation and regulations, and confirms the Director's decision to remove two of their children from their budget.

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