

**Reasons for Decision:**

**Order #AP1819-0503**

The appellant is appealing the decision of the Department to deny the backdating of the appellant's 55 Plus benefits.

The program representative stated that the appellant was not re- issued 55 Plus benefits until <date removed> due to an incomplete re- application. The program received the appellant's re-application on <date removed>. A letter was sent on <date removed> advising that a certified Option C print-out from Canada Revenue Agency (CRA) of the appellant's <year removed> income tax return was required to assess eligibility.

On <date removed>, the program received a statement of benefits printout which was not the required document requested. The program closed the appellant's file on <date removed> due to the program's not receiving the requested document. The program received the Option C print-out, as requested, on <date removed>. The file was reopened and approved effective <date removed> in accordance with Section 5 (3) of the Social Services Administration Act, which states: "Where an applicant is eligible for benefits, payments will commence in the benefit quarter in which the completed application is received."

The appellant's advocate attended representing the appellant, who attended via teleconference. The advocate stated that for several years the appellant has reapplied for 55 plus benefits with no problems. The appellant submitted the application, with a copy of their income tax return, the exact same way they had in the past. When the appellant received the <date removed> letter requesting a certified Option C print-out, it was the first time the program has ever requested it. The advocate called CRA to obtain the Option C form and received a form from CRA which was immediately sent to the program in <date removed>.

The appellant then received a letter dated <date removed> advising that their file was closed and the requested information had not been received.

The advocate called the program to inquire about the file closure and was advised the program received a statement of benefits, not the Option C printout. The appellant has been submitting this application over the last few years, and there has never been a delay or error. The appellant has never been requested to submit an Option C printout prior to this, so did not know or understand that CRA sent an incorrect form.

The advocate also notes that the income tax information included with the <date removed> re-application is the same information that has been sent for years, and eligibility has been approved based on that information in the past.

The advocate advised they looked online at the program's criteria, and there is no instruction on the application form or check list that advises one must send in a specific Option C form.

After carefully considering the written and verbal information presented at the hearing, the Board has determined that the Program should have backdated the appellant's 55 Plus benefits.

At the hearing, the program representative advised that in the past, they have requested the Option C forms directly through CRA. There was no notification provided by the program or caution that applicant's must now request the information themselves.

The Board finds that the program did not communicate this appropriately, which would cause confusion for an applicant who has been sending in re-applications for many years with the same information and found eligible each time. The Board also finds that there was a significant delay in advising the appellant about the difference and assisting them with what was required. The program representative cited heavy workloads in regard to communication and delays in processing, which the Board finds are not the fault of the applicant.

As there is no legislative requirement of an Option C print-out, the Board finds the program has discretion to review individual situations. In this particular situation, the Board finds that the lack of communication from the program added to the delay in processing the appellant's application in a timely manner.

Therefore, the decision of the Director has been varied, and the Board orders the Department to backdate 55 Plus benefits for the appellant to <date removed> and to provide a deficit payment.

## **DISCLAIMER**

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