

**Reasons for Decision:**

**Order #AP1920-0453**

On <date removed>, the appellant filed an appeal respecting the Director's calculation of their Rent Assist subsidy. The decision letter was dated <date removed>.

At the hearing, the appellant told the Board that there has only been a small change in their annual income. The appellant questioned why small changes in their annual income would cause their Rent Assist subsidy to fluctuate.

The Department indicated that the appellant's reapplication was assessed using their <year removed> income. As their annual income had increased, the appellant's subsidy amount decreased.

The Department indicated that the eligibility criteria for the subsidy is set out in the legislation.

The Board asked the Department if the increase in the appellant's Old Age Security was included in the calculation of their subsidy amount. The Department responded, stating that it uses a rollback for old age security, which only factors the amount paid in <year removed> into the subsidy calculation.

*The Manitoba Assistance Regulation 404188 provides:*

Calculating net household income

11.4(4) When calculating the annual net household income for a person who receives a benefit under the Old Age Security Act (Canada), the calculation is to be adjusted by

- (a) including the amount of the benefit that would have been paid to the person if he or she were entitled to that benefit on April 1, 2011; and
- (b) excluding any portion of the benefit payable to the person in excess of the amount included under clause (a).

The Board notes that in previous appeals the Department has included with its report, calculations that clearly include the section 11.4(4) rollback. In this circumstance, while the Department asserts that it performed the rollback as part of the calculation for the appellant's file, the Board has not been provided any evidence to suggest that the rollback was factored into the Department's calculations. Rather, in its report to the Board, the Department states it used an annual income for the calculation of the

appellant's subsidy that appears to include the full amount of her Old Age Security benefit.

After careful consideration of the written and verbal evidence submitted to it, the Board determines that the Department did not assess the appellant's application using section 11.4(4) of the regulation, and rescinds the Director's decision calculating the Rent Assist subsidy. The Board directs the Department to recalculate the appellant's subsidy for <year removed>, and for all other years in which they qualified to receive the subsidy, according to the legislation and regulations, including section 11.4(4) and to provide the appellant any retroactive subsidy that they are deemed eligible for as a result of the recalculations.

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