

**Reasons for Decision:**

**Order #AP1920-0605**

On <date removed>, <name removed> filed an appeal of the decision of the Director, Westman to deny them eligibility under Section 5(1)(a) of The Manitoba Assistance Act for the period <dates removed>. The date of the decision was <date removed>.

The decision letter sent to <name removed> stated the medical review panel determined that they were eligible for disability assistance, beginning in <date removed>.

At the hearing, the Department relied extensively on the written report submitted as evidence.

The Department noted that <name removed> first applied for disability eligibility in <year removed>. The appellant was granted disability, and that eligibility was extended several times while <name removed> underwent further testing.

<name removed>'s doctor submitted a new Disability Assessment Report (DAR) in <date removed>. The doctor concluded that, while <name removed> could not perform physical labour, the appellant could perform sedentary work. The Department denied eligibility based on the doctor's statement that <name removed> could work.

<name removed> contacted the Department in the fall of <year removed> with concerns about their lack of disability eligibility. The Department told <name removed> it would reconsider if they submitted additional information.

<name removed>'s doctor completed a new DAR in <date removed>, which upgraded <name removed>'s <health condition removed> from a secondary diagnosis to the primary diagnosis. Additional detail was provided on the impact of the <health condition removed> on <name removed>'s functionality. The doctor noted <name removed> had been prescribed a new medication, which would take time to have effects.

Based on the new DAR, the Department approved disability eligibility. The Department stated it did not backdate the eligibility to <date removed> because its decision was based on the new information.

<name removed> told the Board that their original application in <year removed> was based on the fact they had surgery on both their <text removed>. The

appellant stated the <text removed> surgery was successful, and they no longer takes medication for their pain.

<name removed> asserted that all of the DARs submitted by their doctor since <year removed> were consistent, with the exception of the <date removed> DAR. The appellant stated that the <date removed> DAR was the only report that did not identify <health condition removed> as the primary issue. The appellant noted the <date removed> DAR did list <health condition removed> medications they were taking, with the notation that they would have to take them indefinitely. The appellant submitted that was sufficient information from the Department to conclude that their <health condition removed> were still an issue.

The Department responded that the previous DARs did not give any indication that MRIs or other testing had been scheduled after <year removed>.

<name removed> raised a number of concerns about the Department's procedures, suggesting they were responsible for the delay in submitting the <date removed> DAR.

In response to a question from the Board, <name removed> stated they have a <health condition removed>, which can result in <text removed>. The appellant stated the condition began approximately three years ago. The appellant told the Board their doctor is investigating whether there is a connection between their <health condition removed> and their <health condition removed>.

<name removed> stated their doctor was considering sending them for another MRI in <date removed>, once their medication has stabilized.

While the Board acknowledges <name removed>'s medical issues, it notes there was insufficient evidence in the <date removed> DAR for the Board to conclude that they were eligible for disability assistance at that time. The information subsequently provided in <date removed> was persuasive for both the Department and the Board.

Based on the verbal and written evidence presented to the Board, the Board determines that there is insufficient information to determine that <name removed> was unable to work in any capacity for more than 90 days between <dates removed>. The Board confirms the Director's decision to grant <name removed> eligibility under Section 5(1)(a) of The Manitoba Assistance Act effective <date removed>.

#### **DISCLAIMER**

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