

INCOME ASSISTANCE ACT
R-037-2018
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INCOME ASSISTANCE REGULATIONS, amendment

The Commissioner, on the recommendation of the Minister, under section 16 of the *Income Assistance Act*, R.S.N.W.T. 1988,c.S-10, and every enabling power, makes the annexed amendments to the *Income Assistance Regulations*.

1. Sections 26 to 56 of the *Income Assistance Regulations* and the headings preceding them are repealed and replaced by:

APPEALS

Appeals to Appeal Committee

- 26.** An Officer who makes a decision shall, in writing,
- (a) advise the applicant of the right to appeal; and
 - (b) provide the applicant with clear instructions respecting appeal procedures.
- 27.** (1) An applicant or their representative may, within seven days after receiving a decision, appeal the decision by sending written notification to
- (a) the chairperson of the Appeal Committee; and
 - (b) the Director.
- (2) The notification referred to in subsection (1) must set out clearly the reasons for the appeal and the remedy sought.
- (3) If an applicant is unable to provide the notification under subsection (1) in writing, the Officer shall
- (a) refer the applicant to a person who will assist in the preparation of the notification; or
 - (b) if no such person is reasonably available to assist the applicant, assist the applicant in the preparation of the notification.
- (4) A person assisting in the preparation of a notification under subsection (1) shall
- (a) accurately include anything that the applicant states they want included in or with the notification; and
 - (b) not include anything in or with the notification without the applicant's consent.
- (5) An Officer assisting in the preparation of a notification under subsection (1)
- (a) shall act in an impartial manner; and
 - (b) in particular, shall not provide the applicant with an opinion about the merits of the appeal or of anything the applicant states they want included in or with the notification.
- 28.** (1) Within 30 days after receiving notification that an applicant requests an appeal, the chairperson of the Appeal Committee shall hold a meeting of
- (a) the Appeal Committee; and
 - (b) the applicant, their representative, or both.
- (2) The chairperson shall provide the applicant and the members of the Appeal Committee at least three days' notice before the hearing of an appeal.
- (3) A meeting under subsection (1) may be held in person, by telephone, or by another technology that allows for a simultaneous voice conversation.

(4) Despite this section and sections 29 and 31, the Director may direct that assistance be provided to the applicant as requested in the applicant's notification, in which case the appeal proceedings are terminated.

29. (1) The Appeal Committee may, in its proceedings, require the applicant and the Officer to provide such documents and other information as are necessary to determine the eligibility of the applicant.

(2) If the applicant does not provide documents and other information requested under this section, the Appeal Committee may

- (a) proceed with the appeal without the documents and other information; or
- (b) despite the time limit in subsection 28(1), delay the proceedings until the documents and other information have been provided.

30. (1) Subject to this section, when an applicant has been given notice of a hearing under subsection 28(2) and they fail to appear, the proceedings continue in their absence.

(2) If, prior to a hearing, the applicant requests the chairperson of the Appeal Committee to reschedule the hearing and the request is reasonable under subsection (4), the chairperson shall, despite the time limit in subsection 28(1),

- (a) reschedule the hearing for a later time; and
- (b) provide new notice of the hearing in accordance with subsection 28(2).

(3) If, after a hearing held in the absence of the applicant pursuant to subsection (1), the applicant requests the chairperson of the Appeal Committee for a new hearing and the request is reasonable under subsection (4),

- (a) the chairperson shall, despite the time limit in subsection 28(1),
 - (i) schedule a new hearing, and
 - (ii) provide notice of the new hearing in accordance with subsection 28(2); and
- (b) if a ruling by default has been entered, the Appeal Committee may issue a new ruling in accordance with 30(1) following the new hearing.

(4) For the purposes of this section, a request is reasonable only if, in the circumstances,

- (a) the reasons provided in the request are sufficient to justify an absence from the hearing; and
- (b) the request is provided in a timely manner.

31. (1) The Appeal Committee, after examining the documents and other information and hearing such testimony as it considers necessary,

- (a) shall issue a ruling, in writing, either
 - (i) dismissing the appeal, or
 - (ii) directing that assistance in an amount stated in the ruling be provided; and
- (b) may issue other rulings as may be necessary to resolve the appeal.

(2) A ruling under subparagraph (1)(a)(ii) may only provide for assistance in an amount that is

- (a) at most the amount requested in the notification; and
- (b) at least the amount provided for in the decision of the Officer.

(3) The chairperson of the Appeal Committee shall forward copies of orders under subsection (1) to the applicant, the Officer and the Director.

32. When the Appeal Committee directs that assistance be provided to the an applicant, the Officer shall provide assistance in accordance with the ruling for the date of the ruling until

- (a) financial or other circumstances of the applicant materially change; or
- (b) the Appeal Board varies the ruling.

Appeals to Appeal Board

33. (1) An applicant, their representative or the Director may, within seven days after receiving a ruling of the Appeal Committee, appeal the ruling by sending written notification to the chairperson of the Appeal Board.

(2) The notification referred to in subsection (1) must set out clearly the reasons for the appeal and the remedy sought.

(3) Subsections 27(3) to (5) apply to notifications under this section.

34. (1) On receiving a notification under section 33, the chairperson of the Appeal Board shall

- (a) be provided with a copy of the ruling being appealed;
- (b) cause the documents that are necessary to determine the eligibility of the applicant and the reasons for the appeal to be assembled; and
- (c) designate three to five members of the Appeal Board to sit as a panel of the Appeal Board and direct the panel to hear the appeal.

(2) An appeal before a panel is presided by

- (a) the chairperson of the Appeal Board;
- (b) if the chairperson is not present, the vice-chairperson of the Appeal Board; or
- (c) if the chairperson and vice-chairperson are not present, a member of the panel designated by the chairperson.

(3) Within 30 days after receiving notification that an applicant requests an appeal, the chairperson of the Appeal Board shall hold a meeting of

- (a) the panel;
- (b) the applicant, their representative, or both; and
- (c) the Director.

(4) The chairperson shall provide the applicant, the Director and the members of the panel at least three days' notice before the hearing of an appeal.

(5) A meeting under subsection (3) may be held in person, by telephone, or by another technology that allows for a simultaneous voice conversation.

35. The panel may, in its proceedings, require the applicant, the Officer, the chairperson of the Appeal Committee and the Director to provide such documents and other information as are necessary to determine the eligibility of the applicant.

36. (1) Subject to this section, when an applicant or the Director has been given notice of a hearing under subsection 34(4) and they fail to appear, the proceedings continue in their absence.

(2) If, prior to a hearing, the applicant requests the chairperson of the Appeal Board to reschedule the hearing and the request is reasonable under subsection (4), the chairperson shall, despite the time limit in subsection 34(3),

- (a) reschedule the hearing for a later time; and
- (b) provide new notice of the hearing in accordance with subsection 34(4).

(3) If, after a hearing held in the absence of the applicant pursuant to subsection (1), the applicant requests the chairperson of the Appeal Board for a new hearing and the request is reasonable under subsection (4),

- (a) the chairperson shall, despite the time limit in subsection 34(3),
 - (i) schedule a new hearing, and
 - (ii) provide new notice of the hearing in accordance with subsection 34(4); and
- (b) if an order by default has been entered, the Appeal Board may issue a new order in accordance with 37(1) following the new hearing.

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- (4) For the purposes of this section, a request is reasonable only if, taking into account the circumstances and the prejudice that the applicant could suffer if they cannot or because they did not attend the hearing,
- (a) the reasons provided in the request are sufficient to justify an absence from the hearing; and
 - (b) the request is provided in a timely manner.

37. (1) The panel, after examining the documents and other information and hearing such testimony as it considers necessary,

- (a) shall issue order, in writing, either
 - (i) dismissing the appeal, or
 - (ii) directing that assistance in an amount stated in the ruling be provided; and
- (b) may issue other orders as may be necessary to resolve the appeal.

- (2) An order under subparagraph (1)(a)(ii) may only provide for assistance in an amount that is
- (a) at most the amount requested in the notification sent to the chairperson of the Appeal Committee under section 27; and
 - (b) at least the amount provided for in the decision of the Officer.

(3) The order of the panel is deemed to be an order of the Appeal Board.

(4) The chairperson of the Appeal Board shall forward copies of orders under subsection (1) to the applicant, the Officer, the Director and the chairperson of the Appeal Committee.

(5) Subject to subsection (4), the chairperson of the Appeal Board shall ensure that the order and the reasons for it are posted on an Internet website maintained by or for Appeal Board.

(6) Orders and reasons posted under subsection (3) must be edited or redacted in a manner such that the applicant and their home community are not identified or identifiable.

38. When the Appeal Board directs that assistance be provided to the an applicant, the Officer shall provide assistance in accordance with the order from the date of the order until financial or other circumstances of the applicant materially change.

General

39. (1) A majority of the persons appointed to the Appeal Committee constitute a quorum of the Appeal Committee.

(2) For greater certainty, the consent of the majority of the members present at the proceedings of the Appeal Committee is required before a ruling is issued.

40. (1) Three members constitute a quorum of the Appeal Board or a panel of the Appeal Board.

(2) For greater certainty, the consent of the majority of the members present at the proceedings of a panel of the Appeal Board is required before an order is issued.

(3) A panel of the Appeal Board established under section 34 has the jurisdiction and may exercise all the powers and perform all the duties of the Appeal Board under the Act and these regulations and, for that purpose, a reference in the Act or these regulations to the Appeal Board is deemed to also be a reference to a panel of the Appeal Board.

41. When an applicant requests the use of an Official Language at a hearing, the chairperson of the Appeal Committee or Appeal Board, as the case may be, shall ensure that either

- (a) the hearing is held in that Official Language; or
- (b) interpretation services are provided to the applicant in that Official Language.

- 42.** (1) Subject to subsections 37(4) and (5),
- (a) the Appeal Committee and Appeal Board shall conduct appeal proceedings in private; and
 - (b) no person shall provide their rulings or orders to persons other than those authorized to be provided rulings or orders under these regulations.

(2) For greater certainty, appeals under these regulations must be conducted in accordance with the rules of natural justice.