



Income and
Employment Support
Appeal Board

Activity Report

2009-10

Chairperson's Message

July 9, 2010

Honourable Susan Sullivan
Minister
Department of Human Resources
Labour and Employment
P. O. Box 8700
St. John's, NL
A1B 4J6

Dear Minister Sullivan:

I am pleased to submit the Income and Employment Support Appeal Board Activity Report for 2009-2010.

The Board's mandate is to hear appeals and render decisions on behalf of any person affected by a finding or decision of an internal review respecting income or employment support and where appropriate, the *Health and Community Services Act* or the *Pharmaceutical Services Act*.

In the development of this report, careful consideration was given to the strategic directions of government as communicated in the departmental strategic plan by the Minister of Human Resources, Labour and Employment. While the Board supports the spirit and the overall intent of the strategic directions, other entities reporting to the minister will specifically address these directions.

This report covers the period April 1, 2009 to March 31, 2010. My signature below is on behalf of the Board and is indicative of the Board's accountability for the actual results reported herein.

Respectfully submitted,



Cynthia Downey
Chairperson

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INCOME AND EMPLOYMENT SUPPORT APPEAL BOARD

The Department of Human Resources, Labour and Employment has an Appeal Process to ensure that all persons who receive or request Income Support and Career and Employment Support receive fair treatment from the Department. The Income and Employment Support Appeal Board is an external body that reviews individual cases, upon request, and decisions are made in accordance with the *Income and Employment Support Act and Regulations*.

Overview

The *Income and Employment Support Act* authorizes the Lieutenant-Governor in Council to appoint an appeal board. The Income and Employment Support Appeal Board (the Board) is an independent, arm's-length body authorized to hear appeals of decisions regarding Income Support, eligibility for employment supports, and funding through the *Labour Market Agreement for Persons with Disabilities* and coverage under the *Low Income Drug Program*. The Board is governed by the *Income and Employment Support Act*.

The *Pharmaceutical Services Act (Act)*, proclaimed January 30, 2007, provides for an appeal process resulting from decisions respecting eligibility for or cancellation of benefits available under the Newfoundland and Labrador Prescription Drug Program, Low Income Drug Program. Section 41. (1) of the *Act* authorizes the Appeal Board to hear appeals resulting from decisions concerning coverage under the Low Income Drug Program as outlined in the *Act*.

The Appeal Board is comprised of a chair, vice-chair and a member - one of whom is a current or former recipient of income and/or employment support. Two alternate members are available to act in their absence. One of the alternate members is also a current or former recipient of income and/or employment support. Each member is appointed for a three year term by the Lieutenant-Governor in Council and eligible for reappointment.

The members of the Income and Employment Support Appeal Board for 2009-10:

Ms. Cynthia Downey, Chairperson
Ms. Augusta Whelan, Vice-Chairperson
Mr. Andrew Tobin, Member
Ms. Cindy Barrington, Alternate Member
Mr. George Tiller, Alternate Member

The Board members are appointed from the general public and receive remuneration in accordance with Level II of the *Treasury Board Guidelines for Rate of Remuneration for Boards, Commissions, & Agencies*. The remuneration, travel expenses and costs associated with the work of the Board are included in the Departmental budget under the General Administration activity. Costs associated with Appeal Board hearings for 2009-10 were approximately \$43,000 compared to \$51,000 in 2008-09.

The Board has an Executive Secretary who is an employee of the Department of Human Resources Labour and Employment and provides administrative support to the chairperson and members, to enable the Board to deal promptly and effectively with all appeals. The salary for this position is included in the department's budget. The Executive Secretary has no voting privileges.

Appeal Board hearings are typically scheduled for every three weeks and are generally conducted by teleconference. In 2009-10, the average waiting period for a hearing was 18 calendar days.

The Appeal Board received 79 applications for appeal resulting in 45 hearings, as compared to 71 hearings in 2008-09.

The Low Income Drug Program was introduced January 31, 2007 and did not result in appeal applications to the Appeal Board during the 2009-10 year.

Lines of Business

The Board administers one line of business, which is to deliver the following appeal process:

Those who are dissatisfied with the outcome of their request for reconsideration from the first level of appeal - an internal review - may then proceed to the second level - the Appeal Board. They must submit an Application for Appeal in writing to the Board within 60 days of receiving their decision.

When an application for appeal is received, the Board shall:

- Acknowledge the appeal;
- Notify the appellant of the right to appear and to be represented;
- Arrange a date for hearing the appeal within 30 days of receiving an application;
- Give at least seven days notice of date, time and place of the hearing to the appellant and all relevant officers of the department;
- Proceed with the hearing as scheduled, unless a postponement is requested by the appellant;
- On the conclusion of the hearing, the Board will discuss and decide the case;
- A decision of the Board is communicated, in writing, within five days of the conclusion of the hearing to the appellant and copies are sent to the relevant Regional and District Offices of Human Resources, Labour and Employment.

An applicant or a recipient who is not satisfied with a ruling of the Board may appeal to the Trial Division of the Supreme Court of Newfoundland and Labrador.

Vision

Residents of Newfoundland and Labrador are treated in a fair and timely manner to ensure the maximum entitlement allowable under the Income and Employment Support Act and Regulations when making appeals to the Appeal Board.

Mission

The Income and Employment Support Appeal Board will continue to ensure the efficient and timely administration of the provincial Income and Employment Support Appeal Board process.

Activities

The Income and Employment Support Appeal Board Activity Plan for 2008-11 identified three key objectives which represent the focus of the Board and include performance measurement information (i.e., measures and indicators) to assist both the Board and the public in monitoring and evaluating success of the activity plan. The Board was successful in meeting all its performance objectives during the second year of the activity plan (2009-10). Throughout the past year, the Board ensured the efficient and timely administration of the provincial Income and Employment Support Appeal process.

The key priorities of the Board are:

- 1. Scheduling of appeals**
- 2. Notification of hearings**
- 3. Communication of decisions**

Issue: The Board shall continue to demonstrate ongoing adherence to legislative time frames pertaining to the appeal process.

Objective 1: The Board will have scheduled a hearing within 30 days of receiving the application for appeal.

Measure: Hearings scheduled within 30 days of receiving an application.

Indicator: 100% of hearings scheduled within 30 days of receiving an application.

Result: All 45 applications that were accepted for appeal had their hearing scheduled within a 30 day period.

Objective 2: The Board will have communicated notice of hearing to appellant and relevant parties at least seven days prior to hearing.

Measure: Notice of hearing communicated to appellant and relevant parties.

Indicator: 100% of notifications communicated to appellant and relevant parties at least seven days prior to a hearing.

Result: All 45 appellants and relevant parties received notification at least seven days prior to hearing.

Objective 3: The Board will have communicated in writing all appeal decisions to the appropriate parties within five days of the conclusion of the hearing.

Measure: Decisions communicated to the appropriate parties within five days of the conclusion of the hearing.

Indicator: 100% of decisions communicated to the relevant parties within five days of the conclusion of the hearing.

Result: All 45 decisions were communicated to relevant parties within five days of the conclusion of the hearing.

The Board shall continue to maintain an appeal service of excellence to respond to the changing needs of the people of Newfoundland and Labrador. The objectives and indicators stated above will also apply to the 2010-11 fiscal year and will be reported on in the 2010-11 annual report.

Appendix

The three tables below provide a comparison of Appeal Board Hearing statistics by fiscal year, region and reason for appeal.

Appeals Heard 2004-10

APPEALS HEARD	
2004-05	156
2005-06	142
2006-07	88
2007-08	78
2008-09	71
2009-10	45

Appeals by Region 2009-10

APPEALS HEARD APRIL 1, 2009 - MARCH 31, 2010				
Region	Upheld	Overtured	Total	% Upheld
AVALON	25	2	27	93%
CENTRAL	6	0	6	100%
WESTERN	9	3	12	75%
LABRADOR	0	0	0	N/A
TOTAL	40	5	45	89%

Reason for Appeals
(April 1, 2009 to March 31, 2010)

Reason for Appeal	Avalon		Central		Western		Labrador		Total
	Upheld	Overtured	Upheld	Overtured	Upheld	Overtured	Upheld	Overtured	
Income Support Entitlement	4		1		4				9
Non-eligibility	3		1		2				6
Suspension			2		2	2			6
Overpayment	10	1							11
Furniture Items	3								3
Employment Supports	1								1
Special Needs	1	1	1		1	1			5
Health Related	2		1						3
Other	1								1
Total	25	2	6		9	3			45