

Manitoba Ombudsman

NEWS RELEASE

750 – 500 Portage Avenue
Winnipeg, Manitoba R3C 3X1
Telephone: (204) 982-9130
Toll Free in Manitoba:
1-800-665-0531
Fax: (204) 942-7803
500 av. Portage, Pièce 750
Winnipeg (MB) R3C 3X1
Téléphone : (204) 982-9130
Sans frais au Manitoba :
1 800 665-0531
Télécopieur : (204) 942-7803

For Release: May 26, 2010

Manitoba Ombudsman releases her *Report on Manitoba's Employment and Income Assistance Program*

Manitoba Ombudsman Irene Hamilton released a report on the Employment and Income Assistance Program of Family Services and Consumer Affairs. The report contains 68 recommendations for administrative improvement.

"As a program of last resort that provides assistance to those of us who cannot meet the costs of basic necessities such as food, clothing and shelter, EIA is important to all Manitobans" said Hamilton. "It must be fair, equitable and designed to assist people to eliminate barriers that prevent them from overcoming poverty."

The investigation was initiated by a complaint from twelve community organizations whose clients include people who are participants in the EIA program. Hamilton noted that throughout the course of the investigation, full cooperation was received from Family Services and Consumer Affairs.

In its initial response to the report, the department noted that the collaborative undertaking *"resulted in a well-balanced and informed report."* The department added, *"these reviews help programs determine strengths and identify ways to improve service delivery to increase efficiency and effectiveness."*

The Ombudsman has requested a formal response from the department in accordance with subsection 37(1) of *The Ombudsman Act*, which states, *"Where the Ombudsman makes a recommendation under section 36 he may request the department, agency of the government or municipality to notify him within a specified time of the steps that it has taken or proposes to take to give effect to his recommendations."*

The Executive Summary and Ombudsman's Recommendations are attached as a backgrounder to this news release. The EIA report is available at <http://www.ombudsman.mb.ca> by clicking on "Reports and Publications" under the Ombudsman Division.

MEDIA CONTACT:

Irene Hamilton, Manitoba Ombudsman
at (204) 982-9130 or 1-800-665-0531 (in Manitoba)

BACKGROUNDER: Executive Summary and Recommendations

This report sets out the findings and conclusions of an investigation into Manitoba's Employment and Income Assistance (EIA) Program. The report contains 68 recommendations for administrative improvement.

The investigation was undertaken in response to a complaint from twelve community organizations, many of whom have clients who are also participants in the EIA Program. The complainants requested a comprehensive review of the program, and also raised specific concerns about the adequacy of the services and benefits provided by the program and questioned whether participants in the program are being treated fairly.

The Employment and Income Assistance Program operates under Manitoba Family Services and Consumer Affairs and provides service in every area of the province. EIA provides financial and other support to thousands of Manitobans every year, most of whom are unable to meet the cost of their basic needs because of some form of disability.

Our review of the EIA program was conducted in a collaborative manner, with the full support and cooperation of the program and the department.

We examined the operation of the EIA program as a part of the government's overall poverty reduction strategy, and also in light of specific stated goals for the department and the program. As stated in the Department of Family Services and Housing's 2008/09 annual report, the department is committed to:

“improving the quality of life for Manitobans through furthering the social, economic and labour market inclusion of all citizens. We strive to ensure that diversity is respected, that people feel accepted and valued, and live with dignity and security. We work with the community to support Manitoba children, families and individuals to achieve their fullest potential.”

The department has also established several goals for its programs and services, including:

- *to reduce the depth, incidence and effects of low income;*
- *to increase participation in the labour market and community;*

To receive assistance from the EIA program, people must demonstrate that they meet both financial and categorical eligibility requirements established by law. We have examined the utility and effectiveness of the categorical eligibility system and found that the program could be improved by adopting a non-categorical system that analyzes the needs of individuals and families and provides benefits in accordance with those needs rather than attempting to fit individuals into one of a number of predetermined categories.

We examined the program's treatment of people in different existing eligibility categories: the disability category for people who are not subjected to employment expectations, and the general assistance category for those who are expected to seek employment. There are many EIA participants in the disability category who can and do work. There are participants in the general assistance category who are not considered "disabled" but who cannot work and will not be able to work until various circumstances and conditions impeding their employability have been resolved.

We believe that the program could be improved if the categorical eligibility system was replaced with a system that incorporates an assessment of applicants' needs and a matching of those needs with the services and resources necessary to address them.

As part of the review of categorical eligibility we have also noted that the deferral of work expectations for single parents with children under the age of six years may in fact act as a detriment to their future prospects for employment.

Part of the complaint relates to the ability of Manitobans in need to access the program in a timely manner. We have concluded that there is room for improvement at the intake and application stage and that there are better ways of communicating information about the program to both the public and to participants.

We have examined the treatment of women alleged to be in undeclared common-law relationships and found that there is considerable variation in how they are treated, based on different understandings and interpretations of the applicable law and program policy. We have made recommendations that investigations of allegations of undeclared common-law relationships be conducted in an appropriate and consistent manner, and that women are treated fairly throughout this process.

Like many social benefit programs, the Employment and Income Assistance Program is characterized by extensive use of discretion. We have examined the use of discretion not only in light of its fairness to participants, but also in terms of its administrative effectiveness and the impact it has on staff workload. We have concluded that there is room for improvement and recommended that the department consider moving to a system that recognizes that there will be recurring predictable needs that can and should be met as a matter of basic entitlement, with discretionary decision making limited to circumstances that are unusual or extraordinary. We believe this will improve consistency and fairness for participants and be more efficient administratively.

We have examined an extensive body of program policy and reviewed program practice with both program staff and management. We have concluded that there has been a significant evolution in the understanding of services the program must provide if it is to be an effective part of a poverty reduction strategy. We have concluded however that this change in philosophy has not yet been fully reflected in written program policy nor effectively communicated to program staff or participants.

We have concluded that in certain instances program policy does not foster the goal of poverty reduction, and in other instances there is a gap between what is required of program participants, and the benefits and services available to them to enable them to meet those program requirements.

We have examined staff workload and concluded that while many staff have a heavy caseload and work diligently, they are hindered by the lack of consistency between program philosophy and program policy and also by extensive and often cumbersome administrative requirements that consume significant amounts of time. We concluded that it will be necessary to address these administrative and policy concerns before it is possible to determine an appropriate workload and assignment of work among EIA program staff.

We have examined whether or not people are treated fairly by the program and concluded that because of regional differences, different interpretations of policy and different management styles, there exists the possibility that people in similar circumstances will be treated differently. We have recommended a number of measures to enhance both consistency and fairness, including the implementation of service standards and a complaint resolution process.

Finally, we have concluded that the program is moving in the right direction by acknowledging that people with disabilities should not be presumed incapable of employment and by its providing specific programs such as marketAbilities to assist people with disabilities achieve their maximum employment potential. As well, the program has begun an initiative that may serve as the basis for the necessary intensive case management system to address the needs of people who are slotted into a category with employment expectations but who in reality face significant hurdles that prevent them from any sustainable labour market attachment.

The EIA program can and should be an integral part of the provincial poverty reduction strategy. We have made recommendations designed to improve fairness and administrative efficiency, but also to align the administration of this important program with the province's overall goal of poverty reduction.

As a result of the investigation we have made the following recommendations pursuant to section 36 of *The Ombudsman Act*:

- 1. It is recommended that a Pre-Intake Orientation (PIO) in digital format be developed and made available in all offices and on the internet. Staff who are knowledgeable in the application process should be available to answer any questions if an individual attends an office to access the PIO. The department should consider having alternative delivery methods available for applicants with literacy or cognitive barriers.**
- 2. It is recommended that an online version of the application be available on the department's website so applicants can see the information that is required for application.**
- 3. It is recommended that the practice of delivering the PIO at in-person group meetings be phased out.**
- 4. It is recommended that a participant who is re-applying for EIA within 6 months of previous enrollment be exempted from the PIO. It is recommended that individuals who reapply should be allowed to schedule an intake appointment directly.**
- 5. It is recommended that a general guide to the EIA program be developed that contains information applicable to the majority of participants.**
- 6. It is recommended that brochures or booklets be developed that clearly identify the applicants for which the information would be useful, for example single parents.**
- 7. It is recommended that all brochures and guides be written in plain language, with sufficient detail so participants know the range of benefits available to them. It is recommended that brochures and guides be printable from any computer.**
- 8. It is recommended that the online EIA Administrative Manual available to the public be updated immediately as program changes occur to ensure currency of information.**
- 9. It is recommended that the Pre-Intake Orientation materials and publications include the statement "You have the right to apply for EIA", and that staff communicate this message to applicants during the in-person application process.**
- 10. It is recommended that no Manitoba resident be denied the opportunity to apply for EIA benefits due to the lack of an address.**
- 11. It is recommended that anyone be able to apply for EIA without the need for prerequisite activities such as job searches and that program policy on this subject be clarified for field staff.**
- 12. It is recommended that applicants be allowed to fill in an EIA application form before they are referred to a job bank, which could form part of a participant's action plan.**

13. It is recommended that the department develop and communicate a policy regarding the role of the program's Job Centre.
14. It is recommended that the term "unreasonable" in reference to job termination, be clearly defined in policy for EIA staff, and clearly explained to EIA participants.
15. It is recommended that the use of the term "irresponsible" in relation to job termination be discontinued in any program communication or policy.
16. It is recommended that first-time applicants be exempted from unreasonable job termination expectations as they would not have been familiar with EIA policy prior to application.
17. It is recommended that the department clarify written policy to explicitly require staff to complete and document the detailed analysis required to support a finding that a termination or refusal of employment is "unreasonable" pursuant to the existing definition and guidelines.
18. It is recommended that the EIA application form be amended to include an area where an applicant may declare a disability, impairment or medical condition.
19. It is recommended that applicants receive the Disability Assessment Report forms without the need for a doctor's note.
20. It is recommended that program staff encourage applicants to complete the Self-Report form.
21. It is recommended that a policy be written addressing in what circumstances an applicant can be temporarily enrolled in a disability category pending a disability panel recommendation on eligibility for the disability category.
22. It is recommended that policy be amended to require Directors to make decisions regarding disability eligibility except in circumstances where medical information in support of an application is unclear or contradictory, in which case a Director should consult with a Disability Assessment Panel.
23. It is recommended that the process for developing client action plans ensures the full participation of participants, and reflects all issues identified in each participant's employability assessment.
24. It is recommended that all participants receive a copy of their signed client action plan, regardless of the participant's personal circumstances.
25. It is recommended that the department develop a plan to provide intensive case management for people with multiple persistent barriers, to assess all barriers to employment and what supports are necessary to overcome those barriers. It is recommended that barriers should include social barriers, in addition to temporary disabilities or illness.
26. It is recommended that a comprehensive assessment tool be developed and used to assess each applicant to ensure that invisible barriers to employment are disclosed. It is recommended that staff receive training in the comprehensive assessment tool.

27. It is recommended that program policy around work expectations be revised to reflect the need to assist participants in identifying and overcoming barriers to employment.
28. It is recommended that the program consider how to foster employment readiness for disability participants and sole support parents who are currently exempted from employment expectations, and address any barriers arising from disability or family responsibility, such as deficiencies in education or the lack of child care.
29. It is recommended that the definition of disability be clarified in program policy to distinguish between people whose disability will permanently prevent them from obtaining self-sustaining employment, and those who are temporarily precluded from meeting the cost of their basic necessities because of a temporary disability or illness.
30. It is recommended that for people who are permanently disabled and exempted from employment expectations, such as those in the Supported Living Program and those eligible for CPP disability benefits, long term disability benefits be paid in amounts sufficient to meet the cost of their basic necessities, which would include predictable recurring needs arising from their disabilities.
31. It is recommended that instead of the current categorical eligibility system, the department consider adopting a system that focuses on a comprehensive assessment at intake, identifying all needs and barriers to full societal and labour market integration, and the provision of intensive case management for those participants who require it.
32. It is recommended that the department institute a formal, documented process for reviewing and making recommendations for periodically updating basic and shelter rates, income and asset exemptions, and other income assistance allowances in a logical and equitable manner. It is recommended that in that process, program staff be consulted.
33. It is recommended that the rate-setting process be documented and made available to the public.
34. It is recommended that the department determine whether participants are required to use benefits allocated for basic necessities to supplement benefits allocated for rent, and if so, how frequently and to what extent this occurs.
35. It is recommended that the department review all EIA policies to ensure they are supportive of both the department's stated commitment to poverty reduction and to specific program goals. The review should include a mechanism for consulting with program delivery staff in all regions of the province.
36. It is recommended that program policy be streamlined, and that outdated or duplicate policy be deleted. The department should review policy and consider separately identifying financial administration procedures. The department should undertake a review to ensure that SAMIN facilitates the implementation of program policy, and not restrict or dictate it.
37. It is recommended that the department review the definition of basic necessities to ensure that support is provided for the communication and transportation needs of participants consistent with program goals and the requirements imposed upon participants.

38. It is recommended that the department consider including in any policy that sets out requirements or expectations on participants, a mechanism for determining their capacity to meet those expectations, what additional supports would be necessary to meet those expectations, and a plan to provide those supports.

39. It is recommended that the requirements of program policy for staff take into consideration limitations that result from staff workload, and be consistent with staff qualifications and training.

40. It is recommended that program policy include a clear statement of program philosophy, and all policies should be consistent with that philosophy.

41. It is recommended that program philosophy determine discretionary decision making, and that program philosophy and policy be highlighted and included in staff training.

42. It is recommended that policy on common-law unions be clarified to include a minimum time frame to address the permanence of a relationship and to ensure the consideration of all three factors (financial interdependence, familial interdependence and residency) when assessing the existence of a common-law relationship.

43. It is recommended that policy be clarified by articulating the role of case counsellors in the common-law determination process and clarifying when matters would be referred to the area investigator.

44. It is recommended that policy be amended to eliminate the practice of home visits by investigators.

45. It is recommended that an investigative policy be developed, considering other programs such as those in British Columbia and Ontario, including a package of investigative tools to assist staff in reaching the appropriate conclusions when investigating alleged common-law unions. Tools should include:

- Clear and concise policy regarding the investigative process
- Investigative checklists or standards to achieve consistent investigations and appropriate outcomes
- Questionnaires to assist staff and participants determine common-law relationships
- Standardized forms when conducting interviews that would document which parties were present, the duration of the interview, questions and responses, and the nature of the discussion

46. It is recommended that a position be assigned responsibilities for the duties formerly performed by the Manager of Investigations, to ensure quality assurance audits are conducted, training plans are established for investigative staff and investigative tools are developed to achieve a consistent approach to investigations.

47. It is recommended that information about common-law unions be published in a plain language document available to all participants that defines “common law relationship” and explains how to talk to a case counsellor about changes in relationships, similar to an Ontario document titled, “Do you live with someone who might be seen as your spouse?”

48. It is recommended that policies around investigations include the principles of natural justice and that investigative staff receive training in the area of the requirements of natural justice as it relates to investigations conducted by the program.

49. It is recommended that the department write a policy setting out both service standards and a complaint resolution process.

50. It is recommended that the department communicate this policy to staff and the public on the department's website and incorporate the policy into program materials.

51. It is recommended that all complaints received and the actions taken to try and resolve them be recorded in a database.

52. It is recommended that information about complaints, both the subject matter and the number by region, be reviewed and analyzed for quality assurance and training purposes.

53. It is recommended to the Social Services Appeal Board, that an expense policy that addresses the costs associated with participating in the appeal process be adopted, and included in its *Policy and Procedure Manual*.

54. It is recommended that the department consider funding attendance costs associated with an appeal to the Social Services Appeal Board through the EIA program, pursuant to an expense policy adopted by the Social Services Appeal Board.

55. It is recommended to the Social Services Appeal Board, that it issue decisions on requests for an extension of time in the form of an Order of the Board that may be appealed to the Manitoba Court of Appeal.

56. It is recommended that the department consider entering into an agreement with Legal Aid Manitoba to provide advocacy services for program participants requiring legal information and advice in dealing with the program or in appealing program decisions to the Appeal Board.

57. It is recommended that the department review whether there is a benefit to the clear segregation of duties between a case counsellor and a financial worker to try and relieve workload pressures, with case counsellors responsible for on-going case management, and financial workers responsible for all financial administration matters.

58. It is recommended that the department clearly communicate its philosophy, such as the current shift toward services designed to enhance self-sufficiency and independence from the program, to both staff and participants.

59. It is recommended that the department consider the incorporation of its pilot Job Connections Initiative with participants who have barriers to employment, throughout the system as part of the poverty reduction strategy articulated by government.

60. It is recommended that the practice of file reviews by supervisors for quality assurance and consistency be continued, with the department setting a target percentage of all files and ensuring supervisors have the time necessary to complete those reviews.

61. It is recommended that the department consider adjusting case loads to account for factors that affect the time needed to provide service, such as providing services in a language other than English, or travelling significant distances.

62. It is recommended that the department adopt a clear policy that outlines the frequency of significant contact between a participant and the program, and sets out the circumstances where a home visit might be appropriate. Prior to a home visit, staff should set out the purpose of the visit for the participant and schedule the visit in advance.

63. It is recommended that the department begin planning to replace SAMIN with an updated, user-friendly information system.

64. It is recommended that the department assess whether administrative savings could be achieved from moving from a system with ad hoc consideration of discretionary expenditures for items that are basic needs to a system with fixed benefit levels that reflect the cost of those predictable non-continuous needs, in particular in the long-term disability and employment-ready categories.

65. It is recommended that any expenditure reductions achieved through streamlined administration and the refinement of eligibility categories be re-invested in the system.

66. It is recommended that the department review the spending authority levels of Regional Directors and Area Directors to determine if they should have “minister’s designate” level, currently restricted to staff of Service Delivery Support.

67. It is recommended that the department adopt a Code Manual to provide guidance to staff on the purpose and appropriate use of needs codes for discretionary decisions.

68. It is recommended that all staff receive a written policy on discretionary decision making, setting out the process staff are expected to follow and incorporating the program’s expectations around fairness.