

# Welfare rights seen growing

## Ruling a precedent, Alberta agency says

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EDMONTON — Albertans denied welfare under the Progressive Conservative government's stiff social reforms will see their appeal rights widened under a recent court decision, lawyers and other officials say.

"I think this decision points to holes in our system and to what's needed to be done to help protect people," said Brian Bechtel, head of the Edmonton Social Planning Council. "My hope is it will be viewed by the [Social Services] department as a precedent, especially given the very aggressive approach to benefit denial which currently exists."

Mr. Bechtel and lawyers said yesterday that the decision this week by Mr. Justice Mel Binder of the Court of Queen's Bench will curtail some of the powers of government-appointed citizens panels, which decide appeals from those denied or cut off from welfare.

In a judicial review released Monday, Judge Binder ruled that the panel failed to provide adequate reasons for upholding a decision to halt payments earlier this year to Theresa McBryan, an Edmonton-area woman. Social Services stopped assistance to the 51-year-old woman because of poor attendance at job-training programs and for missing a meeting with her caseworker.

The government began enforcing job-training attendance in 1993, just after Premier Ralph Klein took office and launched an effort to slash Alberta's welfare rolls through benefit cuts and a tougher enforcement regime.

Judge Binder ruled that Ms. McBryan be given another hearing and that she be allowed to cross-examine her caseworker, who ordered the benefits be cut, and the head of the privately run job-training program in which Ms. McBryan was enrolled. Ms. McBryan's doctor should also be allowed to testify about health conditions that prevented her from working.

He also strongly recommended that citizens panels summarize in detail the reasons behind their decisions and was critical of the fact that no transcripts of the hearing exist.

Mr. Bechtel said the hearing process Ms. McBryan went through is similar to those faced by others. The process is too loose and informal, he said, and doesn't follow established legal processes.

The woman's lawyer, Shirish Chotalia, said yesterday that unless the government is more flexible about its enforcement code, the ruling will embolden others who have been cut off to come forward.

Ms. Chotalia said her client had made many efforts to find work over the last decade, including taking a two-year graphics course at a local college in 1992-93. Earlier this year, she was required to take another retraining program, but missed some classes because of a bad back and a sinus condition, Ms. Chotalia said. The department cut off her \$394 monthly stipend in February, forcing her to live in the garage of a friend outside Edmonton.

Mr. Bechtel urged the government to review the system and re-establish confidence in the appeal process.

He noted that a study released last December by the council and the Edmonton Food Bank found that 63 per cent of those who were denied welfare said they did not appeal because they lacked faith in the process.

"This legal decision would suggest that those people were right to question the likelihood of getting a fair hearing," he said.

Mr. Bechtel said Alberta's welfare caseload has been substantially reduced since the government tightened welfare requirements but added that some of that reduction stems from arbitrary decision making.

A spokesman for Alberta's Social Services Department said he did not see the need to review the government's practices.

Bob Scott, speaking on behalf of Social Services Minister Lyle Oberg, said the McBryan case is an isolated incident. More than 2,500 panel hearings took place last year, none of which were successfully challenged, he said.

Ms. Chotalia, however, said she believes the challenge was the first by a welfare claimant. Most people who are denied benefits or have them taken away do not have the financial resources to launch an appeal.

Ms. Chotalia said Ms. McBryan could not afford her services but that she took on the case to publicize the issue and let Albertans know that Social Services decisions can be reviewed by the courts.