

## Office of the Superintendent - Pension Commission

### Policy Bulletin #14

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## Financial Hardship Withdrawals from Locked-in Retirement Accounts (LIRAs) and Life Income Funds (LIFs)

**Reference: Section 21.3.2 of The Pension Benefits Act, Division 12, Part 10 of the Pension Benefits Regulation, Section 14.1 of The Garnishment Act and Section 59.3 of The Family Maintenance Act.**

A Locked-in Retirement Account (LIRA) or Life Income Fund (LIF) owner may withdraw an amount from their LIRA or LIF under prescribed grounds for financial hardship under The Pension Benefits Act (Act) and Pension Benefits Regulation (regulation).

Financial hardship withdrawals may only be made in respect of a LIRA or LIF that is locked-in under Manitoba's Act and regulation.

An applicant may apply to the administrator of a LIRA or LIF for permission to make a lump sum financial hardship withdrawal of all or a part of the account balance in the LIRA or LIF on any of the following grounds of financial hardship:

- (a) low expected income;
- (b) medical expenses;
- (c) rental arrears;
- (d) mortgage arrears.

If the applicant does not qualify under one of the four grounds for financial hardship, the administrator cannot authorize the unlocking of any money due to financial hardship. The Government of Manitoba does not approve financial hardship applications. Questions or concerns regarding financial hardship applications should be directed to the administrator.

The applicant is not entitled to make more than one application per calendar year in respect of the same ground of financial hardship. The applicant may choose more than one reason per application.

### **Low expected income**

Low expected income is an eligible ground for a financial hardship application if the applicant's total expected income from all sources, before taxes, for the one-year period after the date the financial hardship application is signed is equal to or less than 2/3 of the YMPE for the calendar year in which the application is signed, not including the amount of the withdrawal. "YMPE" means the Year's Maximum Pensionable Earnings as defined in the Canada Pension Plan.

The maximum withdrawal based on an application in respect of low expected income is the amount determined based on the following formula:

$$A = 0.75 \times (2/3 \times B - C) + D$$

In this formula,

A is the maximum amount that may be withdrawn;

B is the YMPE for the year in which the financial hardship application is signed;

C is the applicant's expected total income from all sources, before taxes, for the one-year period after the date the financial hardship application is signed, not including the amount of the withdrawal;

D is the amount of tax payable on the withdrawal.

The following examples illustrate the step-by-step calculation for determining the amount available for withdrawal under the Low Expected Income ground of financial hardship unlocking:

**Example 1:**

- LIRA or LIF fund holder is completing and signing the Financial Hardship Withdrawal Application Form on January 1, 2022
- LIRA or LIF fund holder's expected total income from all sources, before taxes, for the one-year period after the date the Financial Hardship Withdrawal Application Form is signed, not including the amount of the withdrawal = \$15,000.00

B = YMPE for 2022 = \$64,900

C = Expected Total Income = \$15,000

D = Amount of tax that will be withdrawn = \$1,500

$$\begin{aligned} A = \text{Maximum amount of withdrawal} &= 0.75 \times [(2/3 \times B) - C] + D \\ &= 0.75 \times [(2/3 \times \$64,900) - \$15,000] + \$1,500 \\ &= (0.75 \times \$28,266.67) + \$1,500 \\ &= \$21,200 + \$1,500 \\ &= \$22,700 \end{aligned}$$

**Example 2:**

- LIRA or LIF fund holder is completing and signing the Financial Hardship Withdrawal Application Form on January 1, 2022
- LIRA or LIF fund holder is expected total income from all sources, before taxes, for the one-year period after the date the Financial Hardship Withdrawal Application Form is signed, not including the amount of the withdrawal = \$45,000.00

B = YMPE for 2022 = \$64,900

2/3 of YMPE for 2022 = \$43,266.67

C = Expected Total Income = \$45,000

Since the expected total income from all sources, before taxes of \$45,000 is greater than the 2/3 of the YMPE ( $\$64,900 \times 2/3 = \$43,266.67$ ), a withdrawal cannot be made under the Low Expected Income ground for Financial Hardship.

## **Medical expenses**

Medical expenses are an eligible ground for a financial hardship application if the expenses

- (a) have been incurred or will be incurred by the applicant, the applicant's cohabiting spouse or common-law partner or a dependant;
- (b) relate to goods or services of a medical or dental nature;
- (c) are certified by a physician or dentist as being necessary to treat a medical condition or disability; and
- (d) are not covered by an insurance or benefit plan of the applicant, the applicant's cohabiting spouse or common-law partner or the dependant.

For purposes of this reason

- "dentist" means an individual licensed to practise dentistry in Manitoba or another Canadian jurisdiction,
- "physician" means an individual licensed to practise medicine in Manitoba or another Canadian jurisdiction,
- "dependant" means a person who is dependent on the applicant or the applicant's cohabiting spouse or common-law partner on the day the applicant applies for the withdrawal.

The maximum withdrawal based on an application in respect of medical expenses is the total of

- (a) the medical expenses that have been incurred;
- (b) the medical expenses that will be incurred during the one-year period after the date the hardship application is signed; and
- (c) the amount of tax payable on the withdrawal.

## **Rental arrears**

Rental arrears are an eligible ground for a financial hardship application if the applicant or the applicant's cohabiting spouse or common-law partner has received a written demand in respect of arrears in the payment of rent on the applicant's principal residence and could face eviction if the arrears remain unpaid.

A "principal residence" means a residential dwelling unit ordinarily occupied by the applicant and, if the applicant has a cohabiting spouse or common-law partner, by that cohabiting spouse or common-law partner.

The maximum withdrawal based on an application in respect of rental arrears is the total of

- (a) the arrears on the date the financial hardship application is signed; and
- (b) the amount of tax payable on the withdrawal.

## **Mortgage arrears**

Mortgage arrears with respect to a mortgage secured against the applicant's principal residence are an eligible ground for a financial hardship application if the applicant or the applicant's cohabiting spouse or common-law partner has received a written demand in respect of the arrears and could face foreclosure if the arrears remain unpaid.

A "principal residence" means a residential dwelling unit ordinarily occupied by the applicant and, if the applicant has a cohabiting spouse or common-law partner, by that cohabiting spouse or common-law partner.

The maximum withdrawal based on an application in respect of mortgage arrears is the total of

- (a) the arrears on the date the financial hardship application is signed; and
- (b) the amount of tax payable on the withdrawal.

### **Financial Hardship Application**

The applicant must file a financial hardship application with the administrator. The application must be in the form required by the Superintendent of Pensions. The Financial Hardship Withdrawal Application Form available on the Office of the Superintendent – Pension Commission website at [www.gov.mb.ca/finance/pension/pdf/finhardship.pdf](http://www.gov.mb.ca/finance/pension/pdf/finhardship.pdf) must be used for this purpose.

The Financial Hardship Withdrawal Application Form must be signed not more than 30 days before it is submitted to the administrator and include the following:

- (a) in the case of an application in respect of low expected income, a statement signed by the applicant that sets out the applicant's total expected income from all sources, before taxes, for the one-year period after the date the hardship application is signed, not including the amount of the withdrawal,
- (b) in the case of an application in respect of medical expenses, for each medical expense,
  - (i) a certification by a physician or dentist that the expense is necessary to treat a medical condition or disability, and
  - (ii) a copy of the receipt for the expense or, for an expense that has not yet been incurred, a quote for or estimate of the expense;
- (c) in the case of an application in respect of rental or mortgage arrears, a copy of the written demand the applicant or the applicant's cohabiting spouse or common-law partner received in respect of the arrears;
- (d) a copy of the written consent of the applicant's cohabiting spouse or common-law partner, or, in the alternative, a statement by the applicant that they do not have a cohabiting spouse or common-law partner.

### **Administrator's duties**

As soon as practicable after receiving the Financial Hardship Withdrawal Application Form, the administrator of a LIRA or LIF must

- (a) satisfy itself that the application is complete and meets the requirements of section 10.94 of the regulation and section 21.3.2 of the Act; and
- (b) if the administrator is satisfied that the requirements of clause (a) are met, pay the amount of the withdrawal as a lump sum, subject to any adjustment of the amount in accordance with the following.

The amount of the withdrawal must be reduced by

- (a) the amount that is or may become payable to any person under subsection 31(2) of the Act (division of pension on breakdown of relationship) at the time of withdrawal;
- (b) the amount bound by any garnishment order served on the administrator under section 14.1 of The Garnishment Act before the date of withdrawal; and
- (c) the amount bound by any order made under section 59.3 of The Family Maintenance Act to preserve assets.

The money must be paid as a lump sum and cannot be paid out in any other interval nor transferred to a Registered Retirement Savings Plan or Registered Retirement Income Fund.

## Consent of cohabiting spouse or common-law partner

If the applicant

(a) is a former member of a pension plan seeking to withdraw an amount from a LIRA or LIF to which they directly or indirectly transferred the commuted value of their pension under that pension plan, and

(b) has a cohabiting spouse or common-law partner, who is not living separate and apart from the applicant by reason of a breakdown of their relationship,

the administrator must not permit the withdrawal unless the cohabiting spouse or common-law partner consents to the withdrawal in writing, in the form required by the Superintendent of Pensions. The Spouse or Common-law Partner Consent portion of the Hardship Application Form must be used for this purpose.

For more information please contact:

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*This bulletin has no legal authority. The Pension Benefits Act of Manitoba and the Pension Benefits Regulation should be used to determine specific requirements.*