

**PART C – Decision under Appeal**

The decision under appeal is the Ministry's Reconsideration Decision dated February 3, 2012 which held that the Appellant did not indicate any changes regarding his circumstances or information affecting his eligibility for income assistance until October 5, 2011. As a result the Ministry is unable to issue a benefit for increased shelter costs for June, July and August 2011 as directed under section 11 of the Employment and Assistance Act (EAA) and section 33 of the Employment and Assistance Regulation (EAR) because the required information was not reported in the form prescribed by the minister within the time specified.

**PART D – Relevant Legislation**

Employment and Assistance Act (EAA), Section 11  
Employment and Assistance Regulation (EAR), Section 33

## PART E – Summary of Facts

### Information before the Ministry at Reconsideration included:

- A copy of a letter from the Appellant to the Ministry dated January 20, 2012 informing the Ministry about the change in his marital situation and an update of his health and related financial issues.
- A copy of court order dated June 15, 2011 ordering \$400.00 per month payments to be made by the Appellant and his spouse.
- A Request for Reconsideration dated January 13, 2012
- Documentation dated January 12, 2011 where the Appellant was found to be eligible for Income Assistance.
- Information that on September 29, 2011 the Appellant advised the Ministry of a second mortgage for \$400.00 and that he was having difficulty meeting those monthly payments.
- On October 5, 2011 the Appellant submitted a copy of a court order, date stamped by the Supreme Court on June 15, 2011, to pay a second mortgage on his home for \$400.00 per month. The Appellant's file was updated to reflect this amount and was issued a top up for September and October 2011 shelter.

### At the hearing the Appellant

- Stated that he had obtained an unsigned and undated court order document after the court case on May 17, 2011.
- Stated that he presented this to a Ministry worker before the end of May, 2011.
- Stated that he was unable to obtain a receipt from the second mortgage holder until November 21, 2011.
- Acknowledged that he did not, for the months of June, July and August 2011, complete the section in the MSD81 form (the form prescribed by the minister) that communicates a change in address or shelter costs.
- Acknowledged that when he made a monthly \$400.00 payment at the bank he received a receipt of that payment. The Appellant stated that he did not realize that he could have used that receipt as evidence when completing the monthly form MSD81 for June, July or August 2011.

### At the hearing, the Ministry

- Provided internal records of all contacts between the ministry and the Appellant from May to October 2011. This evidence was in support of the documentation considered by the Ministry at Reconsideration and was accepted by the Panel.
- Provided a copy of s.26 of the Employment and Assistance Regulation (EAR) which states in s.26(5) that a family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested. The ministry was contacted by the Appellant on September 29, 2011 and therefore qualified for assistance for September, 2011.

**PART F – Reasons for Panel Decision**

The issue in this appeal is the reasonableness of the Ministry's decision to deny the Appellant income assistance because the Appellant did not notify the Minister in the form required and within the time specified in order to qualify for income assistance benefits for June, July and August 2011.

Legislation:

Employment and Assistance Act:

**Reporting obligations**

11 (1) For a family unit to be eligible for income assistance, a recipient, in the manner and within the time specified by regulation, must

- (a) submit to the minister a report that
  - (i) is in the form prescribed by the minister, and
  - (ii) contains the prescribed information, and (B.C. Reg. 263/2002)
- (b) notify the minister of any change in circumstances or information that
  - (i) may affect the eligibility of the family unit, and
  - (ii) was previously provided to the minister.

(2) A report under subsection (1) (a) is deemed not to have been submitted unless the accuracy of the information provided in it is affirmed by the signature of each recipient.

**Employment and Assistance Regulations:****Division 5 - Amount and Duration of Income Assistance****Effective date of eligibility**

26(5) A family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested.

**Monthly reporting requirement**

- 33 For the purposes of section 11 (1) (a) [*reporting obligations*] of the Act,
- (a) the report must be submitted by the 5th day of each calendar month, and
  - (b) the information required is all of the following, as requested in the monthly report form prescribed under the Forms Regulation, (BC Reg. 334/2007)
    - (i) whether the family unit requires further assistance;
    - (ii) changes in the family unit's assets;
    - (iii) all income received by the family unit and the source of that income;
    - (iv) the employment and educational circumstances of recipients in the family unit;
    - (v) changes in family unit membership or the marital status of a recipient.

The panel finds that while the Appellant was in possession of evidence supporting his qualification for assistance, he failed to complete form MSD81 in a manner which would communicate this evidence to the ministry. The panel finds that the Appellant did communicate the information to the Ministry on September 29, 2011 and delivered the evidence to the ministry on October 5, 2011 and was provided assistance to the maximum amount provided by legislation.

Additionally, the panel finds that the evidence establishes that the Appellant did not comply with the requirements of s.11 of the EAA and s.33 of the EAR in that he did not submit to the minister a report that is in the form and within the time prescribed by the minister and he did not notify the minister of any change in circumstances for June, July and August 2011.

The Panel finds that the ministry's reconsideration decision is reasonably supported by the evidence and confirms the decision.