

PART C – Decision under Appeal

The decision under appeal is the Ministry's Reconsideration Decision dated January 4, 2012 which held that the minister is not able to approve the Appellant's request to waive the reduction sanction pursuant to Section 15.1 of the Employment and Assistance Act (EAA) and Section 32.1(1)(a) of the Employment and Assistance Regulation (EAR). The Appellant did not report any income received on the form prescribed and within the time specified under Section 10(1)(e) and 11 of the EAA and Section 33 of the EAR. As a result the Ministry has imposed a reduction sanction of \$25.00 applied for 3 calendar months commencing December 1, 2011.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 10(1)e), 11 and 15.1
Employment and Assistance Regulation (EAR), Section 32.1(1)(a) and 33

PART E – Summary of Facts

Information before the Ministry at Reconsideration included:

- A copy of the monthly reporting form dated August 2, 2011 prepared by the Appellant (form MSD81).
- A letter from the Appellant's advocate dated December 13, 2011 arguing that Section 32.1 of the EAR allows discretion in the application of sanctions as a consequence for not providing accurate or complete reporting.
- A copy of a letter from the Appellant dated December 12, 2011 expressing his disagreement with the existing legislation regarding the amount of money Income assistance provides.
- Information that the Appellant has been on income assistance since August 2009 as a single employable person.
- A review of the Appellants file by the Ministry where it was determined that the Appellant's employment income in 2010 was greater than \$6,000 and the fact that the Appellant acknowledged that he did not declare this income to the Ministry even though he was aware that he was required to do so.
- The file history of the Appellant includes an admitted fraud in 2001 where an overpayment of \$8,338.27 was calculated and added as a debt to the Appellant's file, based on undeclared employment earnings.
- The Appellant was approved for Persons with Disabilities Designation effective December 1, 2011.

At the written hearing the Panel

- Reviewed the information that was before the ministry at reconsideration and noted that the Appellant had a previous history of fraud, the Appellant was aware of his reporting obligations and of the monthly reporting procedure and did not dispute the finding that he did not report income in 2010 that was greater than \$6,000.
- Reviewed the reporting requirements as set out in Sections 10(1)(e) and 15.1 of the EAA and Section 33 of the EAR and reviewed the consequences of non-compliance outlined in Section 15.1 of the EAA and Section 32.1(1)(a) of the EAR.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry's decision not to approve the Appellant's request to waive the reduction sanction imposed under Section 15.1 of the EAA and Section 32.1(1)(a) of the EAR because the Appellant did not report any income received on the form prescribed and within the time specified under Section 10(1)(e) and 11 of the EAA and Section 33 of the EAR.

Legislation:

Employment and Assistance Act: Information and verification

10 (1) For the purposes of

- (a) determining whether a person wanting to apply for income assistance or hardship assistance is eligible to apply for it,
 - (b) determining or auditing eligibility for income assistance, hardship assistance or a supplement,
 - (c) assessing employability and skills for the purposes of an employment plan, or
 - (d) assessing compliance with the conditions of an employment plan,
- the minister may do one or more of the following:
- (e) direct a person referred to in paragraph (a), an applicant or a recipient to supply the minister with information within the time and in the manner specified by the minister;
 - (f) seek verification of any information supplied to the minister by a person referred to in paragraph (a), an applicant or a recipient;
 - (g) direct a person referred to in paragraph (a), an applicant or a recipient to supply verification of any information he or she supplied to the minister.

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.

Consequences for providing inaccurate or incomplete information

15.1 (1) The minister may take action under subsection (2) if the minister determines that

- (a) income assistance, hardship assistance or a supplement was provided to or for a family unit that was not eligible for it,
- (b) the income assistance, hardship assistance or supplement was provided to or for the family unit on the basis of inaccurate or incomplete information provided by the applicant or recipient
 - (i) under section 10 (1) (e) [information and verification], or
 - (ii) in a report under section 11 (1) [reporting obligations], and
- (c) in the minister's opinion the applicant or recipient failed to take the necessary steps to ensure the accuracy or completeness of the information before providing it to the minister.

(2) In the circumstances described in subsection (1), the minister may reduce the income assistance or

hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.
 (3) The periods prescribed for the purposes of subsection (2) may vary with the number of determinations made under subsection (1) in relation to a family unit.

(4) If a family unit that is subject to a reduction under section 14.1 of the *Employment and Assistance for Persons with Disabilities Act* qualifies for income assistance or hardship assistance under this Act before the period prescribed for the purposes of section 14.1 (2) of that Act expires, the reduction is deemed to have been imposed under subsection (2) of this section.

Employment and Assistance Regulations:

Consequences for providing inaccurate or incomplete information

32.1 If the minister determines under section 15.1 (1) of the Act that the minister may take action under section 15.1 (2) of the Act in relation to a family unit, the income assistance or hardship assistance provided to or for the family unit may be reduced by \$25 for

- (a) a first determination, for the next 3 calendar months for which income assistance or hardship assistance is provided to or for the family unit, starting with the first calendar month
 - (i) following the calendar month in which the minister made the determination, and
 - (ii) for which income assistance or hardship assistance is provided to or for the family unit,
- (b) a second determination, for the next 6 calendar months for which income assistance or hardship assistance is provided to or for the family unit, starting with the first calendar month
 - (i) following the calendar month in which the minister made the determination, and
 - (ii) for which income assistance or hardship assistance is provided to or for the family unit, and
- (c) a third or subsequent determination, for the next 12 calendar months for which income assistance or hardship assistance is provided to or for the family unit, starting with the first calendar month
 - (i) following the calendar month in which the minister made the determination, and
 - (ii) for which income assistance or hardship assistance is provided to or for the family unit.

Monthly reporting requirement

33 (1) 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 the Appellant was aware of his obligations to report his earnings from employment and he failed to report these earnings on the form required (MSD81) and within the time required by legislation.

The panel finds that the evidence establishes that the Appellant did not comply with the requirements of Section 10(1)(e) and 11 of the EAA and Section 33 of the EAR in that he did not submit to the minister the amount of his employment income that is in the form and within the time prescribed by the minister.

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