

PART C – Decision under Appeal

The decision under appeal is the Ministry's Reconsideration Decision dated January 13, 2012 which held that the minister is not able to approve the Appellant's request for Disability Assistance due to a lifetime sanction effective September 1, 2011 applied to the Appellant's file pursuant to Section 14 of the Employment and Assistance for Persons with Disabilities Act (EAPWDA) because on August 31, 2011 the Appellant has been convicted of one count of Fraud over \$5,000 under Section 380(1)(a) of the Criminal Code of Canada.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA), Section 14

PART E – Summary of Facts

Information before the Ministry at Reconsideration included:

- A copy of the court Sentencing record dated August 31, 2011 for 4 months incarceration and 2 years' probation for fraud over \$5,000, under Section 380(1)(a) of the Criminal Code of Canada.
- A copy of a letter from the Appellant received by the ministry on December 13, 2011 outlining the Appellant's on dependence for disability assistance and his personal circumstances.
- Evidence that the Appellant is a single person with no dependents.

The panel makes the following findings of fact:

- on August 31, 2011 the Appellant was convicted in a court of law of one count of Fraud over \$5,000, under Section 380(1)(a) of the Criminal Code of Canada.
- the Appellant is a single person with no dependents.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry's decision that the minister is not able to approve the Appellant's request for Disability Assistance due to a lifetime sanction applied to the Appellant's file pursuant to Section 14 of the Employment and Assistance for Persons with Disabilities Act (EAPWDA) because the Appellant has been convicted of one count of Fraud over \$5,000 under Section 380(1)(a) of the Criminal Code of Canada.

Legislation:

Employment and Assistance for Persons with Disabilities Act:

Consequences for conviction or judgment in relation to Act

14 (1) A family unit that includes a person who is convicted of an offence under the *Criminal Code* in relation to obtaining money, under this Act or the *Employment and Assistance Act*, by fraud or false or misleading representation is subject to the consequence described in subsection (5) for a family unit that matches the person's family unit for the lifetime of the person beginning with the first calendar month following the date of the conviction.

(2) A family unit that includes a person who is convicted of an offence under this Act or the *Employment and Assistance Act* is subject to the consequence described in subsection (5) for a family unit that matches the person's family unit, beginning with the first calendar month following the date of conviction,

- (a) after a first conviction, for a period of 12 consecutive months,
- (b) after a second conviction, for a period of 24 consecutive months, and
- (c) after a third conviction, for the lifetime of the person.

(3) If

(a) Repealed (B.C. Reg. 193/2006)

(b) a court has given judgment in favour of the government in an action for debt against a person for obtaining disability assistance, hardship assistance or a supplement under this Act, or income assistance, hardship assistance or a supplement under the *Employment and Assistance Act*, for which he or she was not eligible, unless the disability assistance, hardship assistance, income assistance or supplement was provided to or for the person in error, the minister may declare that the person's family unit is subject to the consequence described in subsection (5) for a family unit that matches the person's family unit for the prescribed period, beginning with the first calendar month following the date of the judgment.

(4) The periods prescribed for the purpose of subsection (3) may vary with the number of applicable judgments.

(5) If a family unit includes

- (a) only persons described in subsection (1) or (2), or subsection (3) if the minister has made a declaration under that subsection, the family unit is not eligible for disability assistance for the applicable period, and
- (b) one or more persons described in subsection (1) or (2), or subsection (3) if the minister has made a declaration under that subsection, and at least one other person, the amount of disability assistance, hardship assistance or a supplement provided to or for the family unit must be reduced by the prescribed amount for the applicable period.

The panel finds that the Appellant was convicted on August 31, 2011 of one count of Fraud over \$5,000 in relation to obtaining money under the EAPWDA, under Section 380(1)(a) of the Criminal Code of Canada. Therefore the panel finds that the ministry reasonably determined that pursuant to s. 14(1) of the EAPWDA the appellant is subject to a lifetime consequence effective September 1, 2011 which is the first calendar month following the date of conviction.

The panel further finds that the Appellant is a single person with no dependents and that the ministry reasonably determined as described in Section 14(5) of the EAPWDA, that the lifetime consequence the appellant is subject to effective September 1, 2011 is that he is not eligible for disability assistance.

APPEAL #

The Panel finds that the ministry's reconsideration decision of January 13, 2012 is reasonably supported by the evidence and confirms the decision