

**PART C – DECISION UNDER APPEAL**

(State the reconsideration decision)

The decision under appeal is the ministry's Reconsideration Decision dated 21 February 2012 which determined that the appellant was not eligible for Income Assistance due to failure to provide information required to determine eligibility as required under Section 10(1) of the Employment and Assistance Act.

Note: The ministry Reconsideration Decision cites S.10 (1) of the Persons with Disabilities Act; however, during the hearing the ministry confirmed the appellant is not a Person With Disabilities but a regular Income Assistance recipient.

**PART D – RELEVANT LEGISLATION**

(State the relevant Legislation considered)

Employment and Assistance Act, S. 10(1)

**PART E – SUMMARY OF FACTS**

Please set out the facts as determined by the panel, based on the evidence at the hearing. Please note that subsection 22(4) of the Employment and Assistance Act states that, in a hearing referred to in subsection (3), a panel may admit as evidence only:

- (a) the information and records that were before the minister when the decision was being made, and
- (b) oral or written testimony in support of the information and records referred to in paragraph (a).

The appellant failed to appear at the hearing at the scheduled time and date. After verifying that the appellant had received notification of the hearing at least 2 business days before the hearing date by examining the Canada Post tracking report for the Notice of Hearing, the hearing proceeded under section 86(b) of the EAR.

The evidence before the ministry at reconsideration included:

- the ministry's original decision of 25 November 2011
- the appellant's written request for reconsideration dated 27 January 2012 wherein she states she requires more time to gather the information requested by the ministry as she has been unable to do because of complications with her pregnancy and the birth of her child in early January
- copies of letters dated 09 and 16 November 2011 from the ministry requesting information and documentation required to determine the appellants eligibility for Income Assistance
- copies of the appellant's invoices from the Province of British Columbia for monies she received for Child Care, a copy of her Residential Tenancy Agreement for the period 01 June 2011 to 31 May 2012, a copy of her 2010 Tax Return Summary, copies of three T4's from 2010, a Government of Canada Universal Child Care Benefit Statement, a 2010 T5007 Tax Slip from the Government of British Columbia, and copies of her bank statements for the period September 01, 2011 November 18, 2011.
- a copy of the ministry letter dated 25 November 2011 referencing the letters of 09 and 16 November, 2012 and requesting additional information and informing the appellant she was no longer eligible for assistance

The appellant has been a continuous recipient of Income Assistance as a single employable parent and her file has been open since June 2010. With the birth of her child in early January 2012, she is the mother of 4 children.

In her Notice of Appeal the appellant stated her reasons as follows:

"I do have more information in regards to my case and I am a single mother of 4 children! I am I need of assistance ...We are in need!"

**PART F – REASONS FOR PANEL DECISION**

(State the reasons for the panel decision)

The issue under appeal is whether the ministry's reconsideration decision determining that the appellant was not currently eligible for Income Assistance due to failure to provide information required to determine eligibility as required under Section 10(1) of the Employment and Assistance Act was a reasonable application of the applicable enactment in the circumstance of the appellant..

The relevant section of the EAA is set out below:

**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.

(2) The minister may direct an applicant or a recipient to supply verification of information received by the minister if that information relates to the eligibility of the family unit for income assistance, hardship assistance or a supplement.

(3) Subsection (1) (e) to (g) applies with respect to a dependent youth for a purpose referred to in subsection (1) (c) or (d).

(4) If an applicant or a recipient fails to comply with a direction under this section, the minister may declare the family unit ineligible for income assistance, hardship assistance or a supplement for the prescribed period.

ATTACH EXTRA PAGES IF NECESSARY

The ministry held that the appellant had not provided the following information as requested:

- a copy of her current rent receipt – noting that this was required to confirm her rent is paid in full and she is the person paying it and that the appellant's rent far exceeds her shelter allowance and her bank statements do not reflect a corresponding withdrawal
- income statements – noting the appellant had provided T4 documents but that these did not indicate the date of receipt of the income
- ROE's (Record of Employment) which are required to verify the reason for leaving employment
- a bank profile and bank statements for her new account
- confirmation of the source of all deposits to her bank account
- the ledger she kept of her disbursements for child care
- the name and contact information of her child care provider

In the letter to the appellant of 09 November 2011, the ministry requested that she provide the following information and documents:

- rental agreement with landlord contact details, current rent receipt and utility bills
- pay statements or pay stubs for all income (earnings, Employment Insurance, Canada Pension Plan, or any other income) for the period July 01 2010 to date
- Record of Employment from all employers during the period July 01, 2010
- statements for all bank accounts, sole or joint, for the period of September 1, 2011 to date
- statements of all investments, RRSP's, pension funds, and any other assets
- Income Tax Notice of Assessment for 2010

In a letter to the appellant dated 25 November 2012, the ministry, following up on letters sent 09 November 2011 and 16 November 2011, noted she had been requested to provide:

- confirmation of her shelter cost
- source of all income
- proof of all assets

and that she should also provide

- letter from family maintenance confirming that a particular individual was not living with her, and
- to provide (the) source of certain deposits in her bank account

On 27 January 2012, prior to the reconsideration decision, the appellant provided the ministry with a written explanation of the delay in her responding to the information requests and:

- copies of the monies she received from the Province for child care
- a copy of her BC Hydro utility bill,
- a note from a person stating he does not live with her but lives on his sailboat, and
- a copy of her phone bill as of December 28, 2011

The appellant informed the ministry she had been unable to collect or verify the information requested

due to complications with her pregnancy and the birth of her child in early January 2012. Consequently she had been unable to complete and submit her appeal. She requested time to acquire verification including a doctor's note. She also recounted how an effort had been made to compromise her bank account and consequently she had to set up another account but also continue her original account because of the direct deposits from the federal and provincial governments.

The panel notes that the appellant made an effort to provide the information requested by the ministry but she had provided no argument and produced no additional evidence on appeal which supports her not having provided the information requested. In the absence of such evidence and argument, the panel finds the ministry reasonably determined that the appellant was not currently eligible for Income Assistance under section 10 (1) of the EAA.

At the panel hearing, the ministry confirmed its position and stated the information requested from the appellant to determine her eligibility for Income Assistance had not been provided at the time of the reconsideration and still had not been received. The ministry representative confirmed the appellant had delivered her fourth child on January 09, 2012. The ministry informed the panel that they will renew the benefits to the appellant if they receive from her the documents and verifications they have informed her are needed.

The panel therefore finds that the ministry decision to deny the appellant Income Assistance under section. 10 (1) of the EAA was a reasonable application of the legislation in the circumstances of the appellant and confirms the ministry's decision.