

PART C – DECISION UNDER APPEAL

This is an appeal of a reconsideration decision ('the decision') issued by the Ministry of Social Development ('the Ministry') on March 9, 2012.

In the decision, the Ministry reduced income assistance to the Appellant by \$100 pursuant to section 27(1) EAR on the basis that, as a family unit with one dependent, she had been on income assistance for 24 months. As she was non-compliant with her employment plan, the months she should have spent pursuing the employment plan were attributed towards the count to 24 months and she was not exempt from the consequences of 27(1).

PART D – RELEVANT LEGISLATION

Employment and Assistance Regulation (EAR) Sections 27(1) & (2)

PART E – SUMMARY OF FACTS

The Appellant was not in attendance at the hearing. After confirming that the Appellant was properly notified, the hearing proceeded pursuant to Section 86(b) of the Employment and Assistance Regulation.

The evidence before the Ministry at reconsideration was as follows:

- On March 9, 2012, the Ministry issued a separate reconsideration decision which found the Appellant not in compliance with her employment plan and denied her request for income assistance. That decision is not under review here.
- A listing of the Appellant's months receiving income assistance, starting in December 2009 and ending in March 2012. Each month is listed with an increasing number next to it to permit the calculation of the 24 month time limit. December 2011, January and February 2012 were listed as 'Exempt from Time Limits.'
- The final month that the Appellant received unreduced income assistance was March 2012.

At the Hearing the Ministry described how the Ministry came to its decision regarding the 24 month time limit, namely that time spent in compliance with an employment plan does not count towards the 24 month time limit. However if a client is found not in compliance the time is counted towards the 24 months.

Under section 22(4)(b) of the Act, the Panel admitted the new evidence as it is in support of information and records which were before the Ministry at the time of its decision.

PART F – REASONS FOR PANEL DECISION

The issue to be decided is whether the Ministry's reconsideration decision, which reduced the Appellant's income assistance by \$100 pursuant to section 27(1) EAR, was reasonably supported by the evidence, or a reasonable application of the applicable enactment in the circumstances of the person appealing the decision.

The legislation relevant to this appeal is found in the Employment and Assistance Regulation (EAR) sections 27 (1) and (2).

As noted in the findings of fact, the Ministry's decision finding the Appellant non-compliant with her employment plan is not under review here. Rather, the Panel must determine if the Ministry was reasonable in reducing the Appellant's income assistance by \$100 due to the expiration of 24 months on income assistance.

Section 27 of the EAR sets out the rule for reducing income assistance for those adults with one dependent and who are involved in an employment plan:

27 (1) The eligibility of a family unit for income assistance in any calendar month is subject to the following limitations:

(c) when income assistance has been provided to or for a family unit that includes at least 2 persons, at least one of whom is a dependent child, on account of at least one recipient for a total of 24 of the previous 60 calendar months, the income assistance provided to or for the family unit for a calendar month must be reduced by \$100 for each recipient in the family unit to or for whom income assistance has been provided for a total of 24 of the previous 60 calendar months.

(2) Subsections (1) and (1.1) do not apply to the following categories of family units:

(c) family units that include at least one recipient in respect of whom income assistance has been provided to or for the family unit for 24 months, not including months excluded under subsection (3), of the previous 60 calendar months as long as

(i) each recipient in the family unit who is subject to an employment plan complies with the employment plan

The Appellant's monthly count began in December 2009. She started the employment plan in June 2011 and was deemed non-compliant in January 2012. The monthly count is shown as increasing until it reached 24 in November 2011. December 2011, January and February 2012 were exempt so the \$100 deduction was not implemented. March 2012 was not exempt so assumably the deduction was put into effect.

As the Appellant was found non-compliant with her employment plan the provisions of 27(2)(i) are not applicable to her situation. Being non-compliant with her employment plan means she is not exempt from the 24 month calculation.

Examining the listing of the months, the Panel finds the Ministry reasonably calculated the 24 month period. It started in December 2009 and continued without interruption until November 2011, which is a period of 24 months. December 2011, January and February 2012 were exempted by the Ministry but March 2012 was not. Therefore the Appellant exceeded 24 months on income assistance.

No evidence was adduced by either party regarding the Appellant's status as family unit comprised of two persons, at least one of whom is a dependent child. This is the other part of the test under section 27(1)(c), which results in income assistance being reduced by \$100 following the 24 month period. The Panel accepts the Appellant's status on the face of it.

In summary, the Panel finds the Ministry was reasonable in reducing the Appellant's income assistance by \$100. The Ministry's decision was reasonably supported by the evidence and is confirmed.