

### PART C – Decision under Appeal

The decision under appeal is the Ministry's Reconsideration Decision dated March 8, 2012 in which the Ministry determined:

1. That the Appellant was ineligible for income assistance for the month of January 2012 pursuant to section 11(2)(a)(i) of the Employment and Assistance Regulations because he had assets with a total value that exceeded \$1,500.00; and
2. That the Appellant was ineligible for income assistance for the month of February 2012 pursuant to sections 11(2)(a)(i) and 11(2)(a)(ii) of the Employment and Assistance Regulations because he had assets with a total value that exceeded \$1,500.00 and because he had cash assets in an amount equal to or greater than the sum of the amount he would otherwise be eligible for under section 28 of the Employment and Assistance Regulations and \$150.00.

### PART D – Relevant Legislation

Employment and Assistance Regulations (EAR) section 1 (definition of "asset" and "cash assets") and sections 11 and 28

Employment and Assistance Regulations (EAR) Schedule A, sections 1, 2 and 4

## PART E – Summary of Facts

The evidence before the Ministry at the time of the Reconsideration Decision consisted of copies of the following:

1. The Appellant's Request for Reconsideration dated February 27, 2012;
2. An undated document entitled "Assisting Clients with Reconsideration – Quick Reference Guide";
3. An ICBC "Owner's Certificate of Insurance and Vehicle License" indicating the Appellant's ownership of a 2004 motorcycle;
4. A business card from a motorcycle dealership with the Appellant's name and social insurance number written on it as well as a handwritten notation referring to the 2004 motorcycle;
5. A cheque issued by a motorsports dealership and made payable to the Appellant in the amount of \$2,600.00 and dated February 23, 2012;
6. A bill from a cable provider addressed to the Appellant and marked "Final Notice" and dated February 11, 2012; and
7. A bill from a cable provider dated February 16, 2012 and addressed to the Appellant.

The Ministry relied on the Reconsideration Decision and did not introduce any new evidence. In the Appellant's Notice of Appeal, he states that he is indebted and in need. He states that he cannot land a job because of his criminal record for which he recently applied for a pardon.

Along with his Notice of Appeal, the Appellant submitted a medical note from a family physician dated March 19, 2012. The Panel reviewed this material and determined that it was additional evidence. This note asks that the Appellant be considered for medical disability as he has schizophrenia and he hasn't been able to hold a job due to disorganized thought. The note does not comment or shed light on the issue of the Appellant's eligibility for income assistance on the basis of his having assets or cash assets in excess of the legislative limits. After reviewing this note, the Panel determined that it was not admissible pursuant to section 22(4) of the Employment Assistance Act as it was not in support of the information and records that were before the Ministry at reconsideration.

The Appellant is a single applicant for income assistance whose file was opened by the Ministry on January 26, 2012. For a single applicant, the maximum income assistance rate is \$610.00, the cash asset limit is \$760.00 and the asset limit is \$1,500.00. When the Appellant applied for income assistance, he advised the Ministry that his primary vehicle was a 1997 motor vehicle with an estimated value of \$1,600.00. He further advised the Ministry that he owned a 2004 motorcycle with an estimated value of \$4,700.00. The Appellant was advised by the Ministry on January 26, 2012 that he was not eligible for income assistance for the month of January 2012 because he had assets with a total value exceeding \$1,500.00.

On February 2, 2012, the Ministry directed the Appellant to provide to it confirmation of the value of the 2004 motorcycle and on February 13, 2012, the Ministry directed the Appellant to provide to it confirmation of proceeds from the sale of his home. On February 14, 2012, the Appellant indicated to the Ministry that the value of the 2004 motorcycle had been estimated at \$3,700.00 and the Ministry directed the Appellant to provide confirmation of that quote which he did. The Appellant also advised the Ministry as to how the proceeds from the sale of his home had been spent.

On February 21, 2012, the Ministry advised the Appellant that he was not eligible for income assistance for the

month of February 2012 because he had assets with a total value exceeding \$1,500.00. On February 23, 2012, the Appellant sold the 2004 motorcycle and was paid \$2,600.00 and he told the Ministry he had subsequently paid his March and April rent in addition to paying back his father for a prior loan. The Ministry determined that with the sale of the 2004 motorcycle, the Appellant's circumstances had changed and he was not eligible for income assistance for the month of February 2012 because he had cash assets in excess of the legislated limits.

## PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry's Reconsideration Decision in which the Ministry determined:

1. That the Appellant was ineligible for income assistance for the month of January 2012 pursuant to section 11(2)(a)(i) of the Employment and Assistance Regulations because he had assets with a total value that exceeded \$1,500.00; and
2. That the Appellant was ineligible for income assistance for the month of February 2012 pursuant to sections 11(2)(a)(i) and 11(2)(a)(ii) of the Employment and Assistance Regulations because he had assets with a total value that exceeded \$1,500.00 and because he had cash assets in an amount equal to or greater than the sum of the amount he would otherwise be eligible for under section 28 of the Employment and Assistance Regulations and \$150.00.

Section 1 as it pertains to the definition of "assets" and "cash assets", section 11, and section 28 of the EAR provide as follows:

### "asset" means

- (a) equity in any real or personal property that can be converted to cash,
- (b) a beneficial interest in real or personal property held in trust, or
- (c) cash assets;

...

### "cash assets" in relation to a person, means

- (a) money in the possession of the person or the person's dependent,
- (b) money standing to the credit of the person or the dependent with
  - (i) a savings institution, or
  - (ii) a third party
 that must pay it to the person or the dependent on demand,
- (c) the amount of a money order payable to the person or the dependent, or
- (d) the amount of an immediately negotiable cheque payable to the person or the dependent;

### Asset limits

11 (1) The following assets are exempt for the purposes of subsection (2):

- (a) clothing and necessary household equipment;
- (b) one motor vehicle generally used for day to day transportation needs if
  - (i) the equity in the motor vehicle does not exceed \$5 000,

...

(2) A family unit is not eligible for income assistance if any of the following apply:

- (a) a sole applicant has no dependent children and has
  - (i) assets with a total value of more than \$1 500, or
  - (ii) cash assets in an amount that is equal to or greater than the sum of the amount the applicant would otherwise be eligible for under section 28 [amount of income assistance] and \$150;

### Amount of income assistance

28 Income assistance may be provided to or for a family unit, for a calendar month, in an amount that is not more than

- (a) the amount determined under Schedule A, minus

(b) the family unit's net income determined under Schedule B.

Schedule A, sections 1, 2 and 4 of the EAR provide as follows:

**Maximum amount of income assistance before deduction of net income**

1 Subject to sections 3 and 6 to 10 of this Schedule, the amount of income assistance referred to in section 28

(a) [amount of income assistance] of this regulation is the sum of

(a) the monthly support allowance under section 2 of this Schedule for a family unit matching the family unit of the applicant or recipient, plus

(b) the shelter allowance calculated under sections 4 and 5 of this Schedule.

**Monthly support allowance**

2 (0.1) For the purposes of this section, "warrant" has the meaning of a warrant in section 15.2 [consequences in relation to outstanding arrest warrants] of the Act.

(1) A monthly support allowance for the purpose of section 1 (a) is the sum of

(a) the amount set out in Column 3 of the following table for a family unit described in Column 1 of an applicant or a recipient described in Column 2, plus

(b) the amount calculated in accordance with subsections (2) to (5) for each dependent child in the family unit.

Item	Column 1	Column 2	Column 3
	Family unit composition	Age or status of applicant or recipient	Amount of support
1	Sole applicant/recipient and no dependent children	Applicant/recipient is under 65 years of age	\$235.00

**Monthly shelter allowance**

4 (1) For the purposes of this section:

"family unit" includes a child who is not a dependent child and who resides in the parent's place of residence for not less than 40% of each month, under the terms of an order or an agreement referred to in section 1 (2) of this regulation;

"warrant" has the meaning of a warrant in section 15.2 [consequences in relation to outstanding arrest warrants] of the Act.

(2) The monthly shelter allowance for a family unit to which section 15.2 of the Act does not apply is the smaller of

(a) the family unit's actual shelter costs, and

(b) the maximum set out in the following table for the applicable family size:

Item	Column 1	Column 2
	Family Unit Size	Maximum Monthly Shelter
1	1 person	\$375

The Ministry's position is that the Appellant was not eligible for income assistance in January 2012 pursuant to section 11(2)(a)(i) of the EAR because he owned a 2004 motorcycle, the value of which exceeded the prescribed asset value of \$1,500.00. Further, the Ministry submits that the Appellant is also ineligible for

income assistance in February 2012 pursuant to section 11(2)(a)(i) of the EAR because he owned a 2004 motorcycle, the value of which exceeded the prescribed asset value of \$1,500.00. The Ministry submits further that when the Appellant sold the 2004 motorcycle for \$2,600.00, his receipt of the sale proceeds caused him to be ineligible for income assistance in February 2011 pursuant to section 11(2)(a)(ii) of the EAR as he then had cash assets in an amount equal to or greater than the sum of the amount the Appellant would otherwise be eligible for under section 28 of the EAR and \$150.00.

The Appellant argues that he is indebted and in need. He submits that he cannot find a job because of his criminal record for which he recently applied for a pardon.

Section 11(2)(a)(i) of the EAR provides that a family unit is not eligible for income assistance if the sole applicant has no dependent children and assets with a total value of more than \$1,500.00. Section 1 of the EAR provides that the definition of "asset" includes equity in any real or personal property that can be converted to cash.

In the present case, at the time of the Appellant's application for income assistance on January 26, 2012, he advised the Ministry that in addition to his primary vehicle, he was the owner of a 2004 motorcycle with an estimated value of \$4,700.00. The Appellant's ownership of the 2004 motorcycle is confirmed by the ICBC Owner's Certificate of Insurance and Vehicle License. On February 14, 2012, the Appellant advised the Ministry that he had received a quote which valued the 2004 motorcycle at \$3,700.00. Given the value of the 2004 motorcycle, the Panel finds that the Ministry's determination that the Appellant was ineligible for income assistance in January 2012 and February 2012 because he had assets with a total value that exceeded \$1,500.00 was reasonable.

On February 23, 2012, the Appellant sold the 2004 motorcycle for \$2,600.00. A copy of a cheque payable to the Appellant in that amount was provided to the Panel. Section 11(2)(a)(ii) of the EAR provides that a family unit is not eligible for income assistance if a sole applicant with no dependent children has cash assets in an amount that is equal to or greater than the sum of the amount the applicant would otherwise be eligible for under section 28 of the EAR and \$150.00. Section 1 of the EAR provides that the definition of "cash asset" includes money in the possession of the person or the person's dependent, money standing to the credit of the person or the dependent with a savings institution or a third party that must pay it to the person or the dependent on demand, the amount of a money order payable to the person or the dependent, or the amount of an immediately negotiable cheque payable to the person or the dependent.

In the present case, with the sale of the 2004 motorcycle, the Appellant received \$2,600.00 by way of a negotiable cheque payable to the Appellant. The Appellant, if eligible for income assistance, would be entitled to receive monthly assistance of \$610.00 pursuant to section 28 of the EAR. As the sale proceeds of the 2004 motorcycle exceed the amount of monthly income assistance that the Appellant would otherwise be eligible for plus \$150.00, the Panel finds that the Ministry's determination that the Appellant was ineligible for income assistance in February 2012 because he had cash assets that exceeded the amount he would otherwise be entitled to was reasonable.

The Panel therefore finds that the Ministry's Reconsideration Decision was a reasonable application of the applicable enactment in the circumstances of the Appellant and the Panel confirms the decision.