

PART C – Decision under Appeal

In a reconsideration decision dated 20 April 2012, the Ministry declared the Appellant to be ineligible for income assistance (IA) due to the failure to provide her dependent child's birth registration papers as per Section 10 of the Employment and Assistance Act and Sections 32(1) and Section 41 of the Employment and Assistance Regulation.

PART D – Relevant Legislation

Employment and Assistance Act, (EAA) Section 10
Employment and Assistance Regulation, (EAR) Section 5, 32, and 41

PART E – Summary of Facts

Preliminary Matters:

The Advocate, on behalf of the Appellant, submitted a 6 page document as reasons for the reconsideration of the decision that he said was faxed to the Ministry on April 20, 2012. The Ministry had no objection to the document. After review of the document, the Panel finds it contains the Appellants argument and no new evidence and accepts the document as submission only.

The Advocate also submitted copies of affidavits from the Appellant, three of her friends and a medical practitioner certifying the Appellant gave birth to a son on April 27, 2010. The Appellant testified that she submitted these affidavits to the Ministry in November 2011 and copies are in her ministry file. The Ministry acknowledged the affidavits were mentioned in the Appellant's file notes. The Panel finds, although the affidavits were not part of the appeal documents, they were part of the Ministry's file at the time of the reconsideration decision and admits the affidavits under Employment and Assistance Act, Section 22(4)(b).

The Appellant has been a recipient of income Assistance (IA) since September 2003. During an interview on October 12, 2011 the Ministry learned the Appellant had a baby born April 27, 2010. This dependent child had not been added to the Appellant's file. The Appellant subsequently submitted the child's birth bracelet to confirm the child was hers but informed the Ministry that she refuses to register the child's birth with the government of Canada. On December 1, 2011, the Ministry added the child to the Appellant's file under the exception to identification requirements "for newborn infants, a copy of the registration of live birth, an application for a birth certificate or ankle bracelet from the hospital is sufficient of identification purposes for a three month period". The Ministry allowed the Appellant two additional months to obtain a birth certificate.

On February 23, 2012 the Ministry denied the Appellant further IA because she failed to provide the required document, a birth certificate. The Ministry states the Appellant has not been pursuing the acquirement of the required identification document for her dependent child.

The Ministry further explains that the Appellant was considered for assistance under the hardship legislation but found she was not eligible because she was already a recipient of IA and was not pursuing support.

In the notice of appeal, the Appellant confirms she has a son who was born on April 27, 2010 and who has lived with her since birth. She states that she is the "biological and birth mother of this child".

At the hearing the Advocate stated that the affidavits should suffice as proof of the identity of the Appellant's dependent child. He states the EAA and the EAR do not specify anywhere that a birth certificate needs to be provided for a child. The Advocate insists the Ministry policy states "One piece of identification from either the primary or secondary identification list is required for each dependent child." A birth certificate is listed as one piece of secondary identification. He argues that other documents by themselves or in conjunction with other documents are considered acceptable identification, therefore the Ministry policy recognizes that a birth certificate is not an absolute requirement for a child and that the child's identity can be proven by other documents.

The Appellant stated she refuses to register her child with the government because the act would

take away her child's freedom and he would be "pledged" to the government. She concluded that she is investigating a world citizenship for her child.

At the hearing the Ministry stated the EAA allows the Ministry to direct a recipient to supply the Ministry with information within a time and in the manner specified by the minister when determining or auditing eligibility for IA. The EAR allows the Ministry to declare the family unit ineligible for IA until the recipient complies with the direction.

From the information presented, the Panel finds:

- The Appellant has been a recipient of IA since September, 2003.
- The Appellant had a child on April 27, 2010 and this child lives as a dependent child with the Appellant.
- The Appellant submitted affidavits certifying her son's birth to the Ministry in November 2011.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry to declare the Appellant to be ineligible for income assistance (IA) due to the failure to provide her dependent child's birth registration papers as per Section 10 of the Employment and Assistance Act and Section 32(1) and Section 41 of the Employment and Assistance Regulation. The applicable parts of this legislation is as follows:

EAA 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,*

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.*

(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.*

EAR 32 (1) *For the purposes of section 10 (4) [information and verification] of the Act, the period for which the minister may declare the family unit ineligible for assistance lasts until the applicant or recipient complies with the direction.*

41 *The minister may provide hardship assistance to a family unit that is not eligible for income assistance because of the failure to provide a social insurance number or proof of identity required under section 4.1 (2) (a) (i) or 4.2 (3) (a) if*

(a) *the minister considers that undue hardship will otherwise occur, and*

(b) *the minister is satisfied that the applicant is making every effort to supply the social insurance number or proof of identity.*

The Ministry argues the Appellant failed to provide the required document, a birth certificate for her dependent child that she was directed to supply to the Ministry.

The Appellant argues that a birth certificate is not an absolute requirement for a child and that her child's identity is established by the affidavits provided.

The EAA, Section 10 allows the Ministry to direct a person to supply the Ministry with information within a time and in a manner specified by the Ministry. In this case, the Ministry accepted only the hospital birth bracelet as identification although the child was over a year old at this time, and allowed the Appellant three months to pursue the requested a birth certificate. A birth certificate is a common and accepted piece of identification readily available and routinely requested for identification and the Panel finds it was a reasonable request.

Section 10 also allows the Ministry to declare the family unit ineligible for IA if the applicant of recipient fails to comply with a specified direction. In this case, the Appellant refuses to supply the required birth certificate for her child and submits alternate proof, a number of affidavits. Although these affidavits may prove the Appellant did give birth to the child, it is not the identification requested by the Ministry. The Panel finds the Ministry reasonably found the Appellant ineligible for IA as per EAA, Section 10.

The legislation for hardship assistance is meant for family units that are not eligible for IA and are making every effort to supply proof of identification. In this case the Appellant is already a recipient of IA and refuses to pursue obtaining the requested proof of identification. The Panel finds the Ministry reasonably found the Appellant ineligible for hardship assistance as per EAR, Section 41.

The Panel finds the Ministry decision to declare the Appellant ineligible for IA was reasonably supported by the evidence and confirms the decision.