

PART C – Decision under Appeal

The decision under the appeal is the Ministry of Social Development (ministry) reconsideration decision dated March 23, 2012, which applied the sanction of a reduction of the appellant's income assistance in the amount of \$25 for three months due to inaccurate reporting pursuant to section 32.1 of the Employment and Assistance Regulation (EAR). The reconsideration decision held that the appellant did not accurately report her income from her employment from February 2010 to November 2011, she continued receiving income assistance while she was not eligible for it, and she failed to take the necessary steps to ensure the accuracy or completeness of the information before providing it, as set out in section 15.1 of the Employment and Assistance Act (EAA).

PART D – Relevant Legislation

Employment and Assistance Act – EAA – Section 11
Employment and Assistance Act – EAA – Section 15.1
Employment and Assistance Regulation – EAR – Section 32.1
Employment and Assistance Regulation – EAR – Section 33

PART E – Summary of Facts

The evidence before the ministry at the reconsideration decision included:

- Overpayment Chart indicating assistance for April 2010 through January 2012;
- Overpayment notification dated February 14, 2012 indicating that the appellant received \$1,400 income assistance for which she was not eligible signed by the appellant on February 14, 2012;
- Ministry's decision dated February 14, 2012;
- Request for Reconsideration dated March 17, 2012.

The appellant in her request for reconsideration stated that she does not dispute she received income. The appellant submitted the income of \$1,400 was from 2010/2011 and should be considered "obsolete and forgiven". The appellant further stated that she felt violated and discriminated by the ministry in regards to her rights. The appellant stated that repaying the \$1,400 is a "double punishment" and it is unfair. The appellant said that she agrees and is willing to declare all her monthly income from January 2012. The appellant further submitted that she should have a right to receiving a certain amount of cash in order to maintain a stress free living condition. Furthermore, the appellant admitted that she was dishonest to the ministry for not reporting her income from employment.

The panel admits the appellant's written submission in support of information and records before the minister at the time of the reconsideration pursuant to section 22 (4) of the EAA.

The ministry in the reconsideration decision determined that the appellant was employed and did not report her employment income to the ministry from February 2010 to November 2011 as required by the legislation. The ministry confirmed from sources that the appellant had been employed and had not reported her employment income to the ministry as required. The ministry stated that the appellant was aware of the requirement that she must submit her monthly reporting stub to the ministry; however, the appellant indicated "no" to the question "if there were any employment changes? And "0" beside employment income. Therefore, the ministry applied sanction to the appellant's file. The ministry concluded that the appellant's income assistance cheque would be reduced by \$25, as a first occurrence, for a period of three calendar months. The ministry further stated that two reconsideration packages for over payment and sanction application were sent to the appellant; however, the appellant only returned one of the packages and spoke to the sanction only. As such, the reconsideration decision is regarding to the application of sanction only.

The panel finds that;

- The appellant admitted receiving income assistance in the amount of \$1,400 for which she was not eligible;
- The reconsideration decision is on the issue of sanction only.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry reasonably applied the sanction of a reduction of the appellant's income assistance in the amount of \$25 for three months pursuant to section 32.1 of the EAR due to inaccurate reporting of income, receiving income assistance when she was not eligible for it, and failing to take necessary steps to ensure accuracy and completeness of information before providing it, as set out in section 15.1 of the EAA.

Section 11(1) of the EAA states:

For a family unit to be eligible for income assistance, a recipient, in the manner and within the time specified by regulation, must

- (a) submit to the minister a report that
 - (i) is in the form prescribed by the minister, and
 - (ii) contains the prescribed information, and
- (b) notify the minister of any change in circumstances or information that
 - (i) may affect the eligibility of the family unit, and
 - (ii) was previously provided to the minister.

(2) A report under subsection (1) (a) is deemed not to have been submitted unless the accuracy of the information provided in it is affirmed by the signature of each recipient.

Pursuant to Section 15.1 of the EAA, the minister may take action under subsection (2) if the minister determines that

- (a) income assistance, hardship assistance or a supplement was provided to or for a family unit that was not eligible for it,
- (b) the income assistance, hardship assistance or supplement was provided to or for the family unit on the basis of inaccurate or incomplete information provided by the applicant or recipient
 - (i) under section 10 (1) (e) [*information and verification*], or
 - (ii) in a report under section 11 (1) [*reporting obligations*], and
- (c) in the minister's opinion the applicant or recipient failed to take the necessary steps to ensure the accuracy or completeness of the information before providing it to the minister.

(2) In the circumstances described in subsection (1), the minister may reduce the income assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

(3) The periods prescribed for the purposes of subsection (2) may vary with the number of determinations made under subsection (1) in relation to a family unit.

(4) If a family unit that is subject to a reduction under section 14.1 of the *Employment and Assistance for Persons with Disabilities Act* qualifies for income assistance or hardship assistance under this Act before the period prescribed for the purposes of section 14.1 (2) of that Act expires, the reduction is deemed to have been imposed under subsection (2) of this section.

Section 32.1 of the EAR states that If the minister determines under section 15.1 (1) of the Act that the minister may take action under section 15.1 (2) of the Act in relation to a family unit, the income assistance or hardship assistance provided to or for the family unit may be reduced by \$25 for

- (a) a first determination, for the next 3 calendar months for which income assistance or hardship assistance is provided to or for the family unit, starting with the first calendar month
 - (i) following the calendar month in which the minister made the determination, and
 - (ii) for which income assistance or hardship assistance is provided to or for the family unit,
- (b) a second determination, for the next 6 calendar months for which income assistance or hardship assistance is provided to or for the family unit, starting with the first calendar month
 - (i) following the calendar month in which the minister made the determination, and
 - (ii) for which income assistance or hardship assistance is provided to or for the family unit, and
- (c) a third or subsequent determination, for the next 12 calendar months for which income assistance or hardship assistance is provided to or for the family unit, starting with the first calendar month

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- (i) following the calendar month in which the minister made the determination, and
 - (ii) for which income assistance or hardship assistance is provided to or for the family unit.

Section 33(1) of the EAR deals with monthly reporting requirement and states that for the purposes of section 11 (1) (a) [*reporting obligations*] of the Act,

(a) the report must be submitted by the 5th day of each calendar month, and
(b) the information required is all of the following, as requested in the monthly report form prescribed under the Forms Regulation, B.C. Reg. 315/2005:

- (i) whether the family unit requires further assistance;
- (ii) changes in the family unit's assets;
- (iii) all income received by the family unit and the source of that income;
- (iv) the employment and educational circumstances of recipients in the family unit;
- (v) changes in family unit membership or the marital status of a recipient.

The ministry relies on the reconsideration decision which stated that the ministry obtained confirmation from variety of sources that the appellant had been employed and had not reported her employment income to the ministry as required. The ministry stated that the appellant was aware of the requirement that she must submit her monthly reporting stub to the ministry; however, the ministry stated that the appellant indicated "no" to the question "if there were any employment changes? And "0" beside employment income.

In the Notice of Appeal, the appellant argued that she should have a right to receiving a certain amount of cash in order to maintain a stress free living condition. Furthermore, the appellant admitted that she was dishonest to the ministry for not reporting her income from employment. The appellant also argued that repaying the \$1,400 and the reduction in assistance (sanction) are "double punishment".

The appellant submitted inaccurate reports to the ministry of her income and did not report changes to her employment circumstances. The panel finds that the appellant was in receipt of income assistance for which she was not eligible, as set out in the Overpayment Notification signed by the appellant on February 14, 2012. Respecting section 11(1) of the EAA to be eligible for income assistance, a recipient must submit a report to the minister as prescribed and notify the minister of any change in circumstances. The appellant failed to inform the ministry of her income and did not report changes to her employment circumstances.

Section 15.1 of the EAA states that the minister may take action under subsection (2) if the minister determines that

- (a) Income assistance was provided to or for a family unit for a family unit that was not eligible for it,
- (b) the income assistance was provided to or for the family unit on the basis of inaccurate or incomplete information provided by the applicant or recipient;
- (c) in the minister's opinion the applicant or recipient failed to take the necessary steps to ensure the accuracy or completeness of the information before providing it to the minister.

Subsection (3) states the periods prescribed for the purposes of subsection (2) may vary with the number of determinations made under subsection (1) in relation to a family unit.

In this case, the appellant admitted to inaccurately reporting her income to the ministry. Therefore, the panel finds that the ministry reasonably determined that the appellant did not accurately report her income from her employment from February 2010 to November 2011 and she continued receiving income assistance while she was not eligible for it and failed to take the necessary steps to ensure the accuracy or completeness of the information before providing it.

The appellant argued that the reduction in assistance (sanction) is a "double punishment" but the legislation provides for the sanction where the ministry has determined that the requirements of section 15.1 of the EAA have been met. Therefore, the panel finds that the ministry reasonably applied the sanction of a reduction of

the appellant's income assistance in the amount of \$25 for three months, due to inaccurate reporting pursuant to section 32.1 of the EAR.

The panel finds the ministry's decision with respect to applying sanction due to inaccurate reporting of income was a reasonable application of the applicable legislation in the circumstances of the appellant and, therefore, the panel confirms the decision.