

### PART C – Decision under Appeal

In a reconsideration decision dated June 15, 2012, the Ministry of Social Development (Ministry) denied the Appellant's request for income assistance (IA) because it determined she is ineligible because she has been convicted of an offence under the Criminal Code in relation to obtaining IA through fraud.

### PART D – Relevant Legislation

Employment and Assistance Act (EAA) Section 15(1)  
Employment and Assistance Regulation (EAR) Section 35

## PART E – Summary of Facts

Preliminary Matters: At the hearing, the Appellant's Advocate presented a letter dated July 18, 2012 from a chemical dependency office confirming the Appellant's diagnosis of bi-polar disorder and ongoing maintenance therapy for a chemical dependency addiction. The Ministry did not object to the letter. The Panel finds the letter supports information regarding the Appellant's health that was before the Ministry at the time of the reconsideration decision and admits the letter under the Employment and Assistance Act, Section 22(4)(b).

In the Notice of Appeal, the Appellant explains she has successfully completed parole and treatment and is a totally different person than when she was when she committed the fraudulent act. The Panel finds this written evidence supports and is consistent with the information before the Ministry at the time of the reconsideration decision and admits the written evidence under the Employment and Assistance Act, Section 22(4)(b).

The evidence before the Ministry at the time of the reconsideration decision included:

- Two pages of newspaper clippings regarding the gunshot death of the Appellant's friend.
- Six certificates of program completions by the Appellant in 2011 and 2012.
- Two letters of support from the Appellant's counselors.
- A Final Program Performance Report from the Appellant's Parole Office.
- A letter dated June 1, 2012 from the Appellant's parole officer stating the Appellant needs money to obtain housing.
- A letter dated June 4, 2012 from a correctional programs officer confirming the Appellant's successful completion of programs while on parole.
- A letter dated May 25, 2012 from a chemical dependency office noting the Appellant needs to stay on her prescribed medications.
- A Criminal Profile Report regarding the Appellant's criminal charge.

In the Reasons for Reconsideration, the Appellant asks for a reconsideration to overturn the life time ban for IA. She admits to fraudulently writing her own doctor's note to extend her absence from work search. She details her life of drug addiction and crime, including her friend's death, resulting from it. She explains that she has been clean and crime free for 2 years and wants to stay that way. Her goal is to find employment and gain access to her daughter.

In the reconsideration decision, the Ministry confirmed on May 28, 2010 that Appellant pled guilty to fraud under the Criminal Code, resulting from a forged medical note on August 4, 2009 for which she received a 2 year sentence.

The Ministry acknowledges the Appellant has made great efforts to improve herself and her living circumstances but determines it does not have the discretion to waive her ineligibility under EAA, Section 15.

At the hearing, the Advocate stated the Appellant at the time of her conviction was struggling with her bipolar disorder and a heroin addiction. He says the Appellant pled guilty and accepted a 2 year sentence in order to get help. He states the Ministry is being over vindictive by holding to a life time ban for a charge of fraud that involved no money being lost by the Ministry. He concluded not helping the Appellant is putting her life at risk.

At the hearing, the Ministry referred to the Criminal Profile Report that detailed how the Appellant forged a medical note to excuse her from a work search or school programs and subsequent charge under the Criminal Code.

The Panel finds from the evidence presented that:

- The Appellant was convicted of fraud under the Criminal Code in May, 2010.
- The Appellant completed her sentence and parole in May, 2012.

## PART F – Reasons for Panel Decision

The issue in this case is the reasonableness of the Ministry's decision to deny the Appellant's request for IA because it determined she is ineligible because she has been convicted of an offence under the Criminal Code in relation to obtaining IA through fraud.

The relevant legislation as set out in the EAA is as follows:

*15 (1) A family unit that includes a person who is convicted of an offence under the Criminal Code in relation to obtaining money, under this Act or the Employment and Assistance for Persons with Disabilities Act, by fraud or false or misleading representation is subject to the consequence described in subsection (5) for a family unit that matches the person's family unit for the lifetime of the person, beginning with the first calendar month following the date of the conviction.*

The Ministry argues the legislation specifies that the Appellant is ineligible for IA beginning June 2010, the first calendar month following her Criminal Code conviction.

The Appellant argues that she is not the same person she was when she committed the fraud and asks for a reconsideration of the ban to help her achieve her goals.

The Panel acknowledges that the Appellant has worked hard to change her lifestyle over the past 2 years, however the legislation gives no discretion to the Ministry as far as the consequences in relation to convictions under the Criminal Code. The Panel finds the Ministry reasonably determined the Appellant is not eligible for IA under EAA, Section 15.

The Panel finds the Ministry decision was a reasonable application of the applicable enactment in the circumstances of the Appellant and confirms the decision.