

### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (Ministry) Reconsideration Decision dated May 29, 2012, that the appellant was not eligible for income assistance due to having assets in excess of the allowable limit of \$1,500 for a single individual, pursuant to Section 11(2)(a)(i) of the Employment and Assistance Regulation (EAR).

### PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) Section 11.

## PART E – Summary of Facts

- December 16, 2010, the Ministry opened a file on behalf of the appellant. The appellant, as a single, employable person had an asset limit of \$1,500 pursuant to Section 11(2)(a)(i) of the EAR.
- In March, 2012, a Ministry Investigative Officer, (IO) conducted a random audit of the appellant's file. The appellant indicated that he had a bank balance of about \$4,000 at that time. Upon request, the appellant provided the Ministry with a bank statement dated February 23, 2012, which showed a balance of \$4,038.02.
- On March 21, 2012, the Ministry advised the appellant that he was not eligible for income assistance due to having assets in excess of the allowable limit, for a single employable person, of \$1,500.
- On March 28, 2012, the appellant picked up the Request for Reconsideration.
- On May 11, 2012, the Request for Reconsideration for assets in excess was prepared.
- On May 25, 2012, the appellant signed this Request for Reconsideration.
- On May 29, 2012, the Ministry's Reconsideration Decision was made, finding the appellant was not eligible for income assistance due to having assets in excess of the legislated amounts.

## PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry reasonably concluded that the appellant is not eligible for income assistance as a result of having assets valued at more than the allowable limit.

Section 1 of the EAR provides that:

### Definitions

1 (1) In this regulation:

"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

- (b) money standing to the credit of the person or the dependent with
  - (i) a savings institution...

Section 11 of the Employment and Assistance Regulation (EAR) provides that:

### Asset Limits:

11(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...

At the hearing, the appellant did not provide new information. The appellant's position consisted of a statement that he does not have the money that the Ministry claims he has. He indicated that he has had significant expenses, including vehicle inspection, student loan payments, and bills to be paid. The appellant indicated that although he did have the money in his bank account on February 23, 2012, most of these funds had been depleted during the last few months.

The Ministry's position was that on the date of the original decision to deny eligibility for assistance, the appellant did have a bank balance, dated February 23, 2012, of \$4,038.02, and was therefore not eligible for income assistance due to having assets in excess of that allowable in the EAR.

The Ministry indicated at the hearing that they had information from the appellant dated May 31, 2012, two days after the Reconsideration Decision had been made, that related to his bank account. The panel chose to hear this information in order to determine if it was new information, or information in support of the information that was before the Ministry at the time of reconsideration. The information submitted on May 31, was a bank statement that showed the last 90 days, up to May 17, 2012. That bank statement showed a number of banking transactions, leading to a balance of \$1,390.37. The Ministry representative then explained to the appellant that if the panel could not consider this information as it was not available to the Ministry at the time of Reconsideration, the appellant was still able to make either a new application to the Ministry based upon his current circumstances, or a request for a re-examination of his eligibility based upon his current

circumstances.

The panel chair explained to the appellant that the panel could only consider whether or not the Ministry was reasonable in making its reconsideration decision, based upon the information that was before the Ministry at the time of reconsideration. It was explained that the panel could not determine, based upon new information, whether the appellant was or was not eligible for income assistance.

The panel determined that the information from the Ministry related to the May 31, 2012 bank statement was in fact new information that was not in support of information that was before the Ministry at the time of reconsideration, and was therefore not admissible as evidence at the Tribunal hearing as per Section 22(4) of the Employment and Assistance Act.

Having heard the statements from both the appellant and the Ministry, the panel found that the appellant did have cash assets in the amount of \$4,038.02 on February 23, 2012, and that this amount of cash asset is in excess of that allowable under Section 11(2)(a)(i) of the EAR. The panel therefore finds that the Ministry Reconsideration Decision, dated May 29, 2012, was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision.