

**PART C – Decision under Appeal**

The decision under appeal is the Ministry of Social Development's (Ministry) reconsideration decision dated July 20, 2012 which found that pursuant to section 11(2) of the Employment and Assistance Regulation (EAR), as a sole applicant with assets valuing more than \$1,500, the Appellant is not eligible for income assistance. Further, the Ministry found that the Appellant has not made every effort to sell the assets and that undue hardship will not occur without the hardship assistance, so determined that the Appellant is ineligible for hardship assistance pursuant to section 46 of the EAR.

**PART D – Relevant Legislation**

Employment and Assistance Regulation, Sections 11(1)(b), 11(2) and 46

## PART E – Summary of Facts

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

1. A vehicle owner's certificate for a 2002 Pontiac automobile registered in the Appellant's name.
2. A report from "VMR Canadian Used Car Prices" providing car pricing guidelines for the 2002 Pontiac automobile.
3. An ICBC Vehicle Transfer form for a 1995 Ford \_\_\_\_\_ dated June 28, 2012 disclosing the Appellant as the purchaser at a price of \$3,000.
4. A KIJIJI printout dated June 27th, 2012 reporting an asking price of \$2,500 for a 1995 Ford \_\_\_\_\_
5. A report from "VMR Canadian used Car Prices" providing car pricing guidelines for the 1995 \_\_\_\_\_
6. A vehicle owner's certificate for a 1998 Chevrolet \_\_\_\_\_ registered in the Appellant's name.
7. A report from "VMR Canadian used Car Prices" providing car pricing guidelines for the 1998 \_\_\_\_\_

In the Request for Reconsideration, the Appellant states that the 1998 Chevrolet \_\_\_\_\_ is registered in her name but belongs to her daughter. She further states that the reason for the 1998 Chevrolet \_\_\_\_\_ being registered in her name is because her daughter could not afford to pay for the insurance if the car was registered in the daughter's name. The Appellant also notes that she is trying to sell her other assets.

At the hearing, the Appellant stated that she is currently unable to work because both of her shoulders are damaged and she is waiting for surgery on one her shoulders. She has not worked enough in the past to qualify for EI benefits and has no money for food. She advises that she is living in a house where her ex-husband is paying the mortgage but because she is physically unable to work she has no money coming to her from any source. The Appellant further stated that she has reduced the asking price for the 1995 \_\_\_\_\_ automobile from \$2,500 to \$2,000 but has not yet received any enquiries from any potential buyer. At the hearing the Appellant provided evidence in the form of a transfer and ownership documents providing proof that the 1998 Chevrolet \_\_\_\_\_ had been transferred from her ownership effective July 20, 2012. Pursuant to section 22(4) of the EAR as being in support of the information that was before the Ministry at reconsideration, this evidence was accepted by the panel.

At the hearing, the Ministry restated their position as outlined in the Appeal documents, specifically that the Appellant owns 3 vehicles, a 2002 Pontiac \_\_\_\_\_ (used as the Appellant's primary vehicle), a 1995 Ford \_\_\_\_\_ (currently uninsured), and a 1998 Chevrolet \_\_\_\_\_ (used by the Appellant's daughter). The Appellant has applied for assistance as a single applicant with no dependents. As such, under section 11(2) of the EAR, a sole recipient who has no dependent children is limited to a total asset value of \$1,500. Section 11(1)(b) of the EAR essentially states that the primary vehicle, the 2002 Pontiac \_\_\_\_\_, is exempt from the asset calculation in section 11(2) of the EAR provided that the value does not exceed \$5,000. The Ministry has determined that the 2002 Pontiac \_\_\_\_\_ is

assessed at no more than \$3,825 in value, and is therefore exempt.

The Ministry said that the asset value of the Appellant pursuant to section 11(2) of the EAR is approximately \$4,125, specifically for the 1995 Ford valued at \$2,500 plus the 1998 Chevrolet valued at \$1,625, and therefore exceeds the \$1,500 asset limit for the Appellant's family unit. Evidence provided at the hearing confirms that the 1998 Chevrolet had been transferred from her ownership effective July 20, 2012. The 1995 Ford was valued at \$2,500 as at the date of reconsideration and was reduced to \$2,000 at the date of the hearing.

The Ministry also said that the Appellant is not eligible for hardship assistance pursuant to section 46 of the EAR. Evidence before the Ministry is that the Appellant's family unit does not include one or more dependent children, or include only persons who have reached 65 years of age or persons who have persistent multiple barriers to employment. The Ministry has further concluded that the information provided by the Appellant does not establish that she has made and continues to make every effort to sell the assets, and that undue hardship will occur without the hardship assistance.

**PART F – Reasons for Panel Decision**

The issue to be decided is “did the Ministry reasonably conclude that the Appellant is not eligible for income or hardship assistance as a result of having assets valued at more than the allowable limit.”

**Relevant Legislation:**

EAR section 11(1)(b)

**Asset limits**

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

(b) one motor vehicle generally used for day to day transportation needs if

(i) the equity in the motor vehicle does not exceed \$5000,

(ii) the motor vehicle has been significantly adapted to accommodate the disability of a recipient in the family unit;

(iii) the motor vehicle is used to transport a disabled dependent child, or

(iv) the motor vehicle is used to transport a disabled foster child, if the child is in the care of the applicant or recipient;

EAR section 11(2)

(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 \$1500, 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;

(b) a sole recipient has no dependent children and has assets with a total value of more than \$1500;

(c) an applicant has one or more dependants and the family unit has

(i) assets with a total value of more than \$2500, 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 \$250;

(d) a recipient has one or more dependants and the family unit has assets with a total value of more than \$2500;

(e) an applicant or a recipient

(i) receives accommodation and care in a private hospital or a special care facility, other than an alcohol or drug treatment centre, or is admitted to a hospital for extended care, and

(ii) has assets with a total value of more than

(A) \$3000, if the applicant or recipient has no dependants, or

(B) \$5000, if the applicant or recipient has one or more dependants.

EAR section 46

**Family units that have excess assets**

46 The minister may provide hardship assistance to a family unit that is not eligible for income assistance because the assets of the family unit exceed the applicable limit under section 11

(2) [*asset limits*] if

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

(b) the applicant provides the type of security specified by the minister for the repayment of the hardship assistance,

(c) the applicant satisfies the minister that

(i) the assets that caused the family unit to be ineligible are not immediately available to meet the

family unit's basic needs, and

(ii) every effort has been made and continues to be made to sell the assets, and

(d) the family unit

(i) includes one or more dependent children, or

(ii) includes only persons who have reached 65 years of age or persons who have persistent multiple barriers to employment.

The Ministry's position is that the Appellant owns 3 vehicles, a 2002 Pontiac \_\_\_\_\_ (used as the Appellant's primary vehicle), a 1995 Ford \_\_\_\_\_ (currently uninsured), and a 1998 Chevrolet \_\_\_\_\_ (used by the Appellant's daughter). The Appellant has applied for assistance as a single applicant with no dependents. As such, under section 11(2) of the EAR, a sole recipient that has no dependent children is limited to a total asset value of \$1,500. Section 11(1)(b) of the EAR essentially states that the primary vehicle, the 2002 Pontiac \_\_\_\_\_, is exempt from the asset calculation in section 11(2) of the EAR provided that the value does not exceed \$5,000. The Ministry has determined that the 2002 Pontiac \_\_\_\_\_ is assessed at no more than \$3,825 in value, and is therefore exempt.

The Ministry has determined that asset value of the Appellant pursuant to section 11(2) of the EAR is approximately \$4,125, specifically for the 1995 Ford \_\_\_\_\_ valued at a minimum of \$1,900 plus the 1998 Chevrolet \_\_\_\_\_ valued at a minimum of \$1,625, and therefor exceeds the \$1,500 asset limit for the Appellant's family unit. Evidence provided at the hearing is that the 1998 Chevrolet \_\_\_\_\_ has been transferred from her ownership effective July 20, 2012. With the value of the 1995 Ford \_\_\_\_\_, valued at \$2,500 as at the date of reconsideration, and reduced to \$2,000 at the date of the hearing, remains in excess of the \$1,500 asset limit permitted by legislation.

The panel finds that the undisputed documentary evidence establishes that the Appellant has equity, at the date of reconsideration, in two vehicles totalling \$4,125 and has equity, at the date of the hearing, in one vehicle with a minimum value of \$2,000 (the current asking price for the 1995 Ford \_\_\_\_\_). Additionally, the panel finds that the evidence establishes that the Appellant's equity in the 1995 Ford \_\_\_\_\_ can be converted to cash and as such falls within the meaning of an asset under section 1 of the EAR. The panel also finds that, as the Appellant is a single applicant without any dependent children, the applicable asset limit for the Appellant is \$1,500 pursuant to section 11(2) of the EAR. Therefore, the panel finds that the Ministry reasonably determined that the Appellant is ineligible for income assistance pursuant to section 11(2) of the EAR because she has assets in excess of the allowable limit of \$1,500.

The panel finds that the Appellant is not eligible for hardship assistance pursuant to section 46 of the EAR because the Appellant's family unit does not include one or more dependent children, or include only persons who have reached 65 years of age or persons who have persistent multiple barriers to employment, and the Appellant has not demonstrated that she has made and continues to make every effort to sell the 1995 Ford \_\_\_\_\_, or that undue hardship will otherwise occur.

The Panel finds that the Ministry's reconsideration decision is reasonably supported by the evidence and confirms the decision.