

APPEAL #

### PART C – Decision under Appeal

The issue under appeal is the Ministry's reconsideration decision which upheld a decision to discontinue disability assistance to the appellant because she failed to provide verification of banking activity and employment as required by the Employment and Assistance for Persons with Disabilities Act section 3, 10 and the Employment and Assistance for Persons with Disabilities Regulation, section 28.

### PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA) section 3, 10 and the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 28.

## PART E – Summary of Facts

The appeal hearing was held in writing at the request of the appellant.

The appellant receives assistance under the EAPWDA and the EAPWDR. She receives assistance for herself, her spouse who has Persons with Disabilities (PWD) status and her dependent children. The appellant does not have PWD status.

The evidence before the Ministry at Reconsideration consisted of significant discrepancies in the amounts of income reported by the appellant to the Canada Revenue Agency (CRA) versus the income reported to the Ministry which were identified in the course of a file review initiated by Prevention, Loss, Management Services (PLMS). This evidence consists of under declaration of income in 2010 and 2011, and prior overpayments of benefits on file for 2007, 2008, 2009, and 2010.

The documentary evidence before the Ministry at reconsideration consisted of:

- three letters from the Ministry to the appellant dated July 4, 2012, July 12, 2012 and July 31, 2012, outlining the documents that were required to determine eligibility for continued assistance,

and documents provided by the appellant including:

- a hydro bill,
- telephone bill,
- tenancy agreement,
- bank profile,
- spousal bank printout,
- employment T4 slip,
- vehicle registration information for four vehicles, and,
- a letter to the Ministry dated July 9, 2012 from the appellant's parent removing her name from their joint bank account.

**PART F – Reasons for Panel Decision**

The issue under appeal whether the Ministry's decision to discontinue disability assistance to the appellant because she failed to provide verification of banking activity and employment is reasonably supported by the evidence, given that the EAWPDA section 3 and 10, and the EAPWDR section 28, require the appellant to supply and verify information in support of her eligibility for disability assistance.

**Eligibility of family unit**

- 3 For the purposes of this Act, a family unit is eligible, in relation to disability assistance, hardship assistance or a supplement, if
- (a) each person in the family unit on whose account the disability assistance, hardship assistance or supplement is provided satisfies the initial and continuing conditions of eligibility established under this Act, and
  - (b) the family unit has not been declared ineligible for the disability assistance, hardship assistance or supplement under this Act.

**Information and verification**

- 10 (1) For the purposes of
- (a) determining whether a person wanting to apply for disability assistance or hardship assistance is eligible to apply for it,
  - (b) determining or auditing eligibility for disability assistance, hardship assistance or a supplement,
  - (c) assessing employability and skills for the purposes of an employment plan, or
  - (d) assessing compliance with the conditions of an employment plan,
- 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.
- (2) The minister may direct an applicant or a recipient to supply verification of information received by the minister if that information relates to the eligibility of the family unit for disability assistance, hardship assistance or a supplement.
- (3) Subsection (1) (e) to (g) applies with respect to a dependent youth for a purpose referred to in subsection (1) (c) or (d).
- (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 disability assistance, hardship

assistance or a supplement for the prescribed period.

(5) If a dependent youth fails to comply with a direction under this section, the minister may reduce the amount of disability assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

### **Consequences of failing to provide information or verification when directed**

28 (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.

(2) For the purposes of section 10 (5) [*information and verification*] of the Act,

(a) the amount by which the minister may reduce the disability assistance or hardship assistance of the dependent youth's family unit is \$100 for each calendar month, and

(b) the period for which the minister may reduce the disability assistance or hardship assistance of the dependent youth's family unit lasts until the dependent youth complies with the direction.

The appellant's position is that she was unable to provide the information because her bank account was no longer held jointly with her parents and that they did not want her to release information that related to their financial affairs, nor did she even have access to her parent's account. She did indicate that she could provide copies of bank statements with the parents' information blacked out. She further indicated that she was unable to provide employment income information because her employer would not provide reprints of pay stubs due to the time and effort in retrieving this information for her.

The ministry's position is that the appellant was directed to provide verification of earnings from July 1 to the present, as well as a bank profile and a 4-month bank statement. A month-by-month breakdown of earnings was requested to determine ongoing eligibility for assistance as well as any overpayment that might have occurred. This verification was requested, both by letter and by telephone on four occasions from July 4, 2012 to July 31, 2012.

The ministry pointed out that while the appellant stated her employer was not willing to provide a record of the appellant's net earnings, the ministry had given the appellant the alternative option to provide this information through bank records. The ministry indicated that it could not accept her banking information with her parent's information blacked out because the ministry would not be able to confirm what information was, or was not, relevant to the client's eligibility for assistance if the document was altered. Furthermore, the ministry pointed out that the appellant had the ability to provide the bank records requested while her name was still on the joint account but the appellant chose not to provide this information.

The panel finds that the evidence shows that the appellant did not provide the bank records information while her name was still on the account, nor is there any evidence to show that the appellant was not able to provide account information from bank statements before her parents removed her name from the joint bank account. The panel therefore finds that the Ministry was

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reasonable in determining that the appellant was not eligible for disability assistance under Section 10 (4) of the EAPWDA, and the panel confirms the ministry's decision.