

PART C – Decision under Appeal

The decision under appeal is the reasonableness of the Ministry's reconsideration decision dated November 21, 2012, finding the Appellant ineligible for income assistance as she is underage.

PART D – Relevant Legislation

The relevant legislation is the Employment and Assistance Act (EAA) section 1, and the Employment and Assistance Regulation (EAR) section 5(2).

Interpretation

1 (1) In this Act:

"**child**" means an unmarried person under 19 years of age;

Applicant requirements

5 (1) For a family unit to be eligible for income assistance or a supplement, an adult in the family unit must apply for the income assistance or supplement on behalf of the family unit unless

(a) the family unit does not include an adult, or

(b) the spouse of an adult applicant has not reached 19 years of age, in which case that spouse must apply with the adult applicant.

(2) A child who is not residing with his or her parent is not eligible to receive assistance unless, after reasonable efforts by the minister to have the parent assume responsibility for the financial support of the child, the minister decides to grant income assistance to the child.

PART E – Summary of Facts

The Appellant is eighteen years old and turns 19 in January 2013. Until August 2012 she lived with her father. Her mother left the home some time ago and moved to the United States. The Appellant has not had any contact with her mother for a number of years. The Appellant's relationship with her father can be described as 'strained'.

In late August or early September the Appellant's father came home to find the Appellant drinking with a boyfriend. There was an altercation and either the Appellant's father 'kicked out' the Appellant, or the Appellant voluntarily left the home. Soon thereafter, on September 18, the Appellant applied to the Ministry for income assistance. At that meeting the Appellant told the Ministry worker that she could not live with her father as they did not get along. She indicated that although there was shouting and verbal abuse, she was not in any physical danger.

The Appellant was provided with a number of forms to complete in order to make her application for IA, including the Ministry's standard letter (Parent Letter) for the Appellant's father to complete. This letter stated that the parent of an underage applicant was responsible to support the applicant and required the parent to provide: (1) "A specific statement as to why your son/daughter is not living at home ...", (2) "An agreement from the parents to contribute monthly toward the child's maintenance," and (3) permission for the Ministry to consider the child's application for IA.

Following the interview the Ministry worker made contact with the Ministry of Children and Family Development (MCFD) as per policy. On September 19, the MCFD worker called the Ministry worker and stated that she had contacted the Appellant's father and he had told her that the Appellant could return home and he was willing to support her. As there was no communication from MCFD indicating that there were any child protection concerns, the Ministry workers knew that there were none.

On September 27, the Appellant again made contact with the Ministry but did not have her paperwork in order.

On October 9, the Ministry worker reviewed the Appellant's application with a school youth worker familiar with the Appellant. The Appellant was told that her application for IA was denied as it had been determined that she could live at home. The Appellant was offered but declined the opportunity to initiate a reconsideration decision.

The Appellant moved to another community to stay with her grandmother.

On October 25, the Appellant made another application for IA online which was processed at the Ministry's offices in the community she had moved to to be with her grandmother. Her application was denied because her previous application had been denied and her circumstances had not changed.

On October 29, the Appellant applied to have this decision reconsidered.

On November 2, the Appellant submitted the Parent Letter to the Ministry. It is dated September 27. In it, in answer to the question "My son/daughter is unable to stay at home because:" the Appellant's



father states, "When they get to a certain age they want to move out and be on there [sic] own nothing I can do so just got to wish her the best". The Appellant's father also indicated that he requested that the Ministry consider the Appellant's application for IA and gave his permission for the child to be supported outside the home. In addition, he indicated that he was willing to contribute "\$0" to the maintenance of the Appellant.

On November 21 the reconsideration decision confirmed the denial on the basis that the Appellant could live with her father.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the Ministry's reconsideration decision dated November 21, 2012 to deny the Appellant income assistance as she is underage and does not meet the Ministry's criteria for an exception to the rule that underage applicants are not eligible.

Section 1 of the EAA defines a "child" as an unmarried person under 19 years of age. Section 5(2) of the EAA states that a child who is not residing with their parents is not eligible for IA unless, after reasonable efforts by the minister to have the parent take financial responsibility for the child, the minister decides to grant IA to the child.

The Appellant is a "child". The Ministry undertakes to fulfill its duty to have the parent take financial responsibility for the child by requiring that the parent complete the Parent Letter. The Ministry argues that as there is no indication that the Appellant could not return to her father's home and be supported by him, and there is also no indication that there are any child protection concerns, that the Appellant does not qualify for an exemption from the rule that underage applicants are not eligible because they are the responsibility of their parents.

The panel finds that, although the relationship between the Appellant and her father may not be ideal, there is no indication that Appellant could not live with and be supported by her father. This being the case, the Ministry has made reasonable efforts to have the parent assume financial responsibility for the Appellant and has reasonably concluded that the Appellant does not qualify for income assistance on the basis of an exception to the rule that the Ministry does not provide IA to underage applicants.

As the Appellant is an underage applicant who does not qualify for an exemption from the rule that the Ministry does not provide IA to underage applicants, the panel finds that the Ministry's determination that the Appellant was not eligible to receive IA was a reasonable application of the applicable legislation.

Accordingly, the Panel confirms the Ministry's decision.