

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated October 2, 2012, which held that the appellant is not eligible for income assistance due to failure to provide information required to determine her eligibility pursuant to Sections 10 of the *Employment and Assistance Act (EAA)*. The ministry determined that the appellant failed to provide information regarding the source of deposit activities in her bank account and that she failed to provide verification that funds were her son's and the funds were used by the appellant's son to purchase a vehicle.

## PART D – Relevant Legislation

*Employment and Assistance Act – EAA – Section 10*

## PART E – Summary of Facts

The evidence before the ministry at the reconsideration decision included:

- Information / Documentation Checklist requesting that the appellant provides bank information as discussed;
- A letter from the ministry to the appellant dated March 16, 2012 requesting a meeting on March 27, 2012. The ministry requested that the appellant brings with her the following information: ID, current rent receipt and all utility bills in her name or associated with her residence including cell phone, her last 90 days bank transactions for any accounts indicated, her children's bank information, her 2010 and 2011 tax returns and the 2011/12 student information forms completed for her children for their schools;
- A letter from the ministry to the bank requesting confirmation whether or not the appellant has accounts with the bank. The ministry requested the bank to provide the last 90 days statement of the appellant's account;
- Employment and Assistance Review signed by the appellant on March 27, 2012. The appellant agreed that it is her responsibility to provide accurate and complete information when she applies for and continue to receive assistance and that she must report all changes in her circumstance that might affect her eligibility for assistance;
- Copies of the appellant's deposit account history for years 2010, 2011 and 2012.
- Request for reconsideration dated September 18, 2012.

The bank transactions noted that the following amounts were credited to the appellant's accounts:

- December 1, 2010 - \$2000
- December 1, 2010 - \$3000
- December 21, 2010 - \$1700
- May 17, 2011 - \$195
- June 27, 2011 - \$480
- June 29, 2011 - \$500
- August 16, 2011 - \$400
- September 19, 2011 - \$700
- October 3, 2011 - \$584.31
- January 27, 2012 - \$2000
- January 30, 2012 - \$120
- April 13, 2012 - \$200
- April 23, 2012 - \$400
- May 7, 2012 - \$45
- May 24, 2012 - \$400

The documents noted the following amount were withdrawn from this account:

- December 13, 2010 - \$600
- January 4, 2011 - \$1000
- September 15, 2011 - \$1300
- October 3, 2011 - \$400
- October 12, 2011 - \$200
- October 20, 2011 - \$1000
- December 14, 2011 - \$300
- December 19, 2011 - \$300
- April 23, 2012 - \$100
- May 18, 2012 - \$400
- June 4, 2012 - \$3400

Furthermore, there are 5 transfer from this account to other accounts as follows:

- February 10, 2011 - \$600
- March 23, 2011 - \$1000
- February 3, 2012 - \$200
- March 1, 2012 - 1,500

The appellant in the request for reconsideration stated that she understands that her eligibility for assistance cannot be determined. The appellant stated that she is dissatisfied with the ministry's decision regarding her request for assistance or supplement and wishes to exercise her right to request a reconsideration of the ministry's decision. The appellant said that she opened the bank account in November 2010 for her son under her name because at the time he was under nineteen years old and that her son was living in another city and the appellant was not able to go with him to a bank to open an account for him. The appellant further submitted that the \$3400.00 in her bank account was her son's money and that he used the money to purchase a vehicle. The appellant said that she then closed the bank account.

The appellant in the Notice of Appeal submitted that "money wasn't my money and account was for my son".

The appeal hearing originally was scheduled on October 31, 2012 and was adjourned to November 29, 2012 and again to today's date on the request of the appellant in order for her to attend the hearing. The appellant consented to the attendance of 3 ministry observers at the hearing.

At the hearing, the appellant stated that she does not have any money and the money in the bank account belonged to her son. She said that her son was not living in the same city as her and she was not able to open a youth account, the same she has with her daughter. The appellant submitted that she tried to provide the information requested to the ministry but a teller at the bank told her she was not able to get her bank statements as the account was closed. The appellant said that her son had a bank account that was probably opened by his father but his girlfriend had access to the money. The appellant said that her son did not want his girlfriend to have access to his money as he wanted to save his money to buy a vehicle. He asked his mother to open an account in her name and decided to send the money to his mother to deposit in that account. The appellant said that in June 2012, she withdrew the funds and closed the account. She gave the money (\$3,400) to her son who bought a car and paid \$3,700 in cash. The appellant stated that the person who sold her son the vehicle has moved and there is no receipt available. The appellant stated that she asked her son for the vehicle registration papers but he refused to provide them and it caused problems between them because he was afraid he would get into some legal difficulties. The appellant said she did not ask her son for a letter to confirm this information either. The appellant said that her son sent her cash by mail which she deposited into the bank account. When asked that there were withdrawals from the account, she explained that she withdrew the money based on her son's request and sent it to him in cash by mail. When asked about the transfers of funds made to another bank account, the appellant stated her son probably loaned money to a friend but she just did whatever he asked, and she does not remember to whom this money was transferred.

The appellant said that in March 2012 her son came to the city she lives in with his girlfriend. When asked why she did not change the account while her son was living close to her, she replied, "I don't know why". The appellant said that her son crashed the vehicle on October 31, 2012 and although he insured the car for about \$700, he received about \$5000 from the insurance company within one week and purchased another vehicle. When asked whether she provided any information about this accident to the ministry, she said no because, her son insured the car under the market price and did not want to have any problems with the insurance company. The appellant further stated that she provided her son's pay stubs to the ministry demonstrating that her son had a job. The appellant stated that she is reconciled with her son and she can provide her son's telephone number to the ministry so that he can be contacted to verify this information.

The panel notes that the evidence about the appellant's son living in the same city as the appellant from March 2012 is new evidence. The panel accepts the appellant's evidence as being in support of the information before the ministry under Section 22(4) of the EAA and therefore admitted the appellant's submission into evidence.

The ministry relies on the reconsideration decision stating that the evidence shows that the appellant deposited \$7300 into her account in December 2010 and an additional \$5775 between January 2011 and June 2012. The ministry further submitted that the appellant failed to provide documents in respect to her bank account activity and confirmation of the source of the income. The ministry further stated that the appellant failed to provide contact information of her son in order to verify her claims that the account belonged to her son and that he some income from cash jobs. The ministry submitted that the pay stubs were not sufficient evidence to indicate that the money in the bank account belonged to the appellant's son and only indicated that he was working. The ministry also requested that the appellant provide verification that the appellant's son purchased a vehicle with the funds from the account. The appellant met the ministry worker on many occasions and the ministry requested the information in those meetings and in writing. As such, the ministry determined that the appellant is not eligible for income assistance until the requested information is provided.

The panel finds that:

- The appellant opened the account in her name in 2010, made deposits and withdrew funds from the account and had full access to the funds in the account;
- There are deposits and withdrawals activities on same days which do not support the evidence of the appellant that she deposited the funds that she received from her son and only withdrew funds on her son's request and when he needed the money. The panel notes that on October 3, 2011, the appellant deposited \$584.31 into the account and on the same day she withdrew \$400. Also, on April 23, 2012, the appellant deposited \$400 and withdrew \$100
- The appellant was aware of the request to provide information regarding the source of income deposited into the bank account;
- The appellant failed to provide bank statements;
- The appellant failed to provide information regarding the source of income deposited into her bank account;
- The appellant did not provide contact information in order to confirm her statement that the funds in the bank account belonged to her son.

## PART F – Reasons for Panel Decision

The issue before the panel is the reasonableness of the ministry's reconsideration decision dated October 2, 2012, which held that the appellant is not eligible for income assistance due to failure to provide information required to determine her eligibility pursuant to Sections 10 of the *Employment and Assistance Act (EAA)*. The ministry determined that the appellant failed to provide information regarding deposit activities in her bank account and that she failed to provide verification that funds were her son's and the funds were used by the appellant's son to purchase a vehicle.

Pursuant to Section 10 of the *EAA* For the purposes of

(a) determining whether a person wanting to apply for income assistance or hardship assistance is eligible to apply for it,

(b) determining or auditing eligibility for income 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 income 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 income 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 income assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

The ministry's position is that the reconsideration decision is reasonable because the appellant failed to provide verification the funds in her bank account were her son's. As such, the ministry determined that the appellant is not eligible for income assistance until the requested information regarding the source of income is provided.

The appellant argues that the money was her son's and that he purchased a vehicle with that money in cash. The appellant said that she tried to provide the information requested that she provided pay stubs to show the source of the deposits was from her son and that her son refused to provide her with any information regarding the purchased of the vehicle.

With respect to Section 10 of the *EAA*, If an applicant or a recipient fails to comply with a direction under this section, the minister may declare the family unit ineligible for income assistance, hardship assistance or a supplement for the prescribed period. Based on the evidence, the panel finds that the appellant had additional funds, other than her income assistance, deposited to her account and she did not provide the information requested by the ministry to verify the source of all the deposit activities. Furthermore, the panel finds that the appellant failed to provide sufficient information regarding the source of funds deposited into her account. Although the appellant argues that her son refused to provide information regarding his vehicle purchase, the panel finds that there has been no information forthcoming from the appellant's son to date regarding the bank account or his instructions regarding the use of the funds despite their reconciliation. The panel finds that the

ministry reasonably determined that the appellant has also not provided the required verification that the funds were her son's and that they were used by him to purchase a vehicle. Accordingly, the panel finds that the ministry was reasonable in determining that the appellant failed to provide information it had reasonably requested pursuant to Section 10 of the EAA. The panel finds that the ministry's reconsideration decision was reasonably supported by the evidence and was a reasonable application of the applicable legislation in the circumstances of the appellant and confirms the reconsideration decision.