



PART C – Decision under Appeal

The decision under appeal is the Ministry's reconsideration decision dated December 11, 2012 which held that the appellant was not eligible for disability assistance because he did not provide information and verification as directed under the section 10 of the Employment and Assistance for Persons with Disabilities Act (EAPWDA). The Ministry held that the appellant is ineligible for disability assistance due to failing to comply with the direction to provide information and verification to the Ministry for the purposes of auditing the appellant's eligibility for assistance.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA) Sections 1, 3, and 10
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Section 28

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PART E – Summary of Facts

The evidence before the Ministry at the time of the reconsideration decision included the following:

- **February 19, 2009** letter from person X confirming that the appellant and the appellant's minor daughter Y are renting from her on a monthly basis;
- **July 13, 2012** letter from the Ministry to the appellant stating that the Ministry record indicates that the appellant is currently receiving assistance through the BC Employment and Assistance Program, that under section 10 of the EAA and the EAPWDA information may be requested for purposes of determining current eligibility or auditing their past eligibility for assistance and that the appellant's file has been selected for this purpose, further that this information is required in order to determine the appellant's eligibility for assistance and a request to drop off this information to the Ministry office by July 24, 2102;
- **July 22, 2012** rent receipt for payment of July rent by appellant in amount of \$500.00 to person X;
- **No date** letter from person X stating that she and the appellant had been living together since August 2010 and yet as of March 2011 that they are no longer together as a couple. Also states that if they had been advised by the Ministry originally how common law works that they would have amended the record a long time ago and that their land lady is not of sound mind;
- **August 16, 2012** letter from the Ministry to the appellant which states that on July 13, 2012 the appellant was sent a letter from the Ministry requesting information for the purpose of determining or auditing the appellant's eligibility for assistance as follows: identification for the appellant and the appellant's minor daughter Y, current rent receipt and utility bills: statement from land lord how long both of you have been living at this address, pay statements or pay stubs for all income (earnings, Employment Insurance , WCB or any other income) for the period of June 15, 2011 to June 29 2012, documents to confirm the status of your claim for WCB & Employment insurance for the appellant and person X, statements for all bank accounts, sole or joint, for the period of June 30,2011 to June 30, 2012 for the appellant and for person X, statements for all investments, RRSPs, pension funds and any other assets, income tax notice of Assessments for 2011 for the appellant and person X, and registration papers for your vehicles. The Ministry records indicate that the appellant has not yet submitted this information, further that this information is required in order to determine the appellant's eligibility for assistance and a request to submit the information to the Ministry office by August 24, 2102;
- **September 21, 2012** letter from Ministry to appellant states that the Ministry conducts file reviews for purpose of determining current or auditing past eligibility for assistance, that under section 10 of EAPRDA that the Ministry may direct a person to provide verification of

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information to define their eligibility and if a person does not comply that they may be declared ineligible for assistance, that on July 13 and August 16, 2012 letters were sent to the appellant asking him to provide information regarding identification, rent receipts, pay statements, update on VCB and bank information, in order to determine his eligibility and that failure to comply could result in denial of assistance; further that the Ministry has not yet received the requested information from the appellant and that the appellant's eligibility cannot be determined and that therefore the appellant is no longer eligible for assistance;

- **October 3, 2012** letter from the Ministry to the owners of the building where the appellant lives requesting confirmation of residence;
- **October 17, 2012** letter from the appellant to the Ministry in follow up to a conversation held with the Ministry to clarify the relationship between himself and person X and specifically related to the Ministry's "Marriage-like Dependency Relationship July 1, 2006" document;
- **October 22, 2012** Employment and Assistance Request for Reconsideration form with section 3 information related to the appellant's reasons for the reconsideration.

Neither party submitted additional evidence for purposes of the appeal hearing.

PART F – Reasons for Panel Decision

The issue under appeal is whether the Ministry's reconsideration decision, which held that the appellant was not eligible for disability assistance because he did not provide information and verification as directed under the section 10 of the EAPWDA, is reasonably supported by the evidence or whether it is reasonable application of the applicable enactment in the circumstances of the appellant.

The applicable legislation is as follows:

EAPWDA Sections 1, 3, and 10:

Interpretation

1 (1) In this Act:

"applicant" means the person in a family unit who applies under this Act for disability assistance, hardship assistance or a supplement on behalf of the family unit, and includes

- (a) the person's spouse, if the spouse is a dependant, and
- (b) the person's adult dependants;

"dependant", in relation to a person, means anyone who resides with the person and who

- (a) is the spouse of the person,
- (b) is a dependent child of the person, or
- (c) indicates a parental responsibility for the person's dependent child;

"dependent child", with respect to a parent, means a child, other than a child who is 18 years of age and is a person with disabilities, who resides in the parent's place of residence for more than 50% of each month and relies on that parent for the necessities of life, and includes a child in circumstances prescribed under subsection (2);

"family unit" means an applicant or a recipient and his or her dependants;

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.

EAPWDR Section 28:

Consequences for providing inaccurate or incomplete information

28.1 If the minister determines under section 14.1 (1) of the Act that the minister may take action under section 14.1 (2) of the Act in relation to a family unit, the disability assistance or hardship assistance provided to or for the family unit may be reduced by \$25 for

- (a) a first determination, for the next 3 calendar months for which disability assistance or hardship assistance is provided to or for the family unit, starting with the first calendar month
 - (i) following the calendar month in which the minister made the determination, and
 - (ii) for which disability assistance or hardship assistance is provided to or for the family unit,
- (b) a second determination, for the next 6 calendar months for which disability assistance or hardship assistance is provided to or for the family unit, starting with the first calendar month
 - (i) following the calendar month in which the minister made the determination, and
 - (ii) for which disability assistance or hardship assistance is provided to or for the family unit, and
- (c) a third or subsequent determination, for the next 12 calendar months for which disability assistance or hardship assistance is provided to or for the family unit, starting with the first calendar month
 - (i) following the calendar month in which the minister made the determination, and
 - (ii) for which disability assistance or hardship assistance is provided to or for the family unit.

The Ministry argues that as per section 10 of the EAPWDA that the appellant is ineligible for disability assistance due to failing to comply with the direction to provide information and verification to the Ministry for the purposes of auditing the appellant's eligibility for assistance. There is no information provided from the appellant to confirm that he resides in a separate self-contained residence and the ministry does not have enough information or the verification to make an informed decision in respect to the appellant's current and past eligibility.

The appellant argues that he was misinformed on several occasions as to the Ministry's legislation regarding the common law and dependency status and the time frame to submit the appeal. He argues these points in the reasons for his appeal in the December 20, 2012 Notice of Appeal form and the attached October 11, 2012 fax from the Ministry to the appellant which contained a Ministry document "Marriage-like Dependency Relationship July 1, 2006."

The appellant also argues that he informed the Ministry that he and person X were no longer a couple and that he would not be providing person X's documents to the Ministry.

Panel Decision

The panel finds that there is no evidence that the appellant provided to the Ministry the required information or verification before or after the reconsideration decision.

The panel finds that the appellant received disability benefits for a family unit of five persons since June 2011 which means that person X is considered a dependant by the Ministry and that the appellant is required to submit to the Ministry the relevant information and verification. The appellant did not provide the required confirmation that he resides in a separate self contained residence on the property and he did not submit the required information about person X and specifically her income, EI status, bank information, and car registration documents.

The panel finds that the Ministry decision that the appellant was not eligible for disability assistance because he did not provide information and verification as directed under section 10 of the EAPWDA is reasonably supported by the evidence and is a reasonable application of the applicable enactment in the circumstances of the appellant. The panel confirms the Ministry's decision.