

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development's (the "Ministry") January 24, 2013 reconsideration decision in which the Ministry determined that the Appellant was ineligible for income assistance because she failed to provide all of the information requested by the Ministry under section 10 of the Employment and Assistance Act so that it could determine and audit her ongoing eligibility for assistance.

PART D – Relevant Legislation

Employment and Assistance Act ("EAA") Section 10.

PART E – Summary of Facts

For its reconsideration decision the Ministry had the following evidence:

1. Information from its records that:

- The Appellant was receiving income assistance as a single parent with two dependent children and her file was selected for a review on November 23, 2012.
- On November 23, 2012, the Ministry requested specific information and documents.
- The Appellant contacted the Ministry on November 29, 2012 indicating that she received the November 23, 2012 letter from the Ministry requesting the documents.

2. Ministry's November 23, 2012 letter asking for copies of utility bills (hydro, gas and phone), bank profile from her bank, one year of bank statements for all accounts, school registrations for her children (current and for a previous school), family maintenance enforcement program ("FMEP") statement of accounts for both children and a release of information from a band.

3. Ministry's November 29, 2012 letter noting the requested information had not been submitted and warning the Appellant that if she did not provide the information by December 7, 2012 the Ministry might be unable to determine her eligibility.

4. Ministry's December 7, 2012 letter repeating the request for documents and advising the Appellant that because she failed to provide the required information she was no longer eligible for income assistance; however, she could request a reconsideration of that decision.

5. On December 7, 2012, the Appellant submitted a bank profile, one month bank statements, a band release of information, rent receipt, phone bill and hydro bill, but not the FMEP statements, one year of bank statements or the school registrations.

6. On January 3, 2012, the Appellant contacted the Ministry by phone acknowledging that she understood that she was not eligible for income assistance because she failed to submit all of the requested documents, but she requested and received an extension until January 10, 2013 to submit the rest of the requested documents.

7. On January 11, 2013, the Appellant submitted the current school registrations and an FMEP statement. She did not submit the other requested documents.

In her February 4, 2013 notice of appeal the Appellant wrote that, she submitted the documents and spoke with the investigative officer over the phone regarding the bank statements.

At the hearing, the Appellant explained that she sent in all the school registration information with the first group of documents, but they were not found by the Ministry. The FMEP statements were delayed in the mail. As for the bank statements, the Appellant said she could not afford to pay the fees charged by the bank for the statements, but eventually the bank waived the fees. So she was able to submit those. She now has provided the Ministry with everything it requested.

At the hearing, the Ministry reviewed its requests for documents and advised that as of February 13, 2013 it had received all of the documents requested, including the school registrations and all of the bank statements. The Ministry also advised that it has now found the Appellant eligible for income assistance again and she will be receiving benefits starting in March 2013.

The Panel finds that the testimony of the Appellant and of the Ministry at the hearing provided additional information about the documents the Appellant had been asked to submit. Therefore, pursuant to section 22(4) of the EAA, the Panel admits all of that testimony as being in support of the evidence the Ministry had at the time of its reconsideration decision.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry reasonably determined that the Appellant was ineligible for income assistance because she failed to provide all of the information requested by the Ministry under section 10 of the EAA so that it could determine and audit her ongoing eligibility for assistance.

Applicable Legislation

The following sections of the EAA apply to the Appellant's circumstances in this appeal:

- 10 (1) 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.

The Parties' Positions

The Ministry's position is that under section 10 of the EAA it may request information from a recipient of income assistance, such as the Appellant, to determine or audit ongoing eligibility for income assistance. As of the date of the reconsideration decision, the Appellant had not provided bank statements for all of her accounts for the past year or the school registration confirmation for her children from a previous school. Because the Appellant did not provide the requested information by the time specified, the Ministry determined that the Appellant would not be eligible for income assistance until she did provide the information. At the hearing, the Ministry advised that it had received all of the requested documents as of February 13, 2013 and therefore, it has now determined that the Appellant is eligible for income assistance starting in March 2013.

The Appellant's position is that she has now complied with the Ministry's request for documents. Some documents were delayed in the mail and she had to wait until the bank waived its fees for the bank statements.

The Panel's Findings

Section 10 of the EAA specifically authorizes the Ministry to direct a person receiving income assistance to provide any requested information within the time and manner specified by the Ministry for the purposes of determining or auditing eligibility for income assistance. In this case, the Ministry initially requested specific documents in a letter to the Appellant dated November 23, 2012 and then repeated its request several times until it made its reconsideration decision. The Panel finds that as of the date of its reconsideration decision, the Ministry had not received two of the requested documents; that is, the one year of bank statements and the school registration confirmation from a previous school for both of the Appellant's children. However, at the hearing, the Ministry advised that it had received all of the requested documents as of February 13, 2013 and it has now determined that the Appellant is eligible for income assistance starting in March 2013. The Panel admitted that most recent information as evidence in this appeal. Based on this recent evidence from the Ministry, the Panel finds that it was not reasonable for the Ministry to determine that the Appellant had not complied with its request for documents under section 10 of the EAA and that therefore she was not eligible for income assistance.

Conclusion

Having reviewed all of the evidence, the Panel overturns and rescinds the Ministry reconsideration decision in favor of the Appellant because that decision was not reasonably supported by the evidence.