

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development (the ministry) dated 01 February 2013 that declared the appellant not eligible for income assistance pursuant to section 10(4) of the Employment and Assistance Act as the ministry found that the information requested to establish the expenditure of \$9,236.93 of maintenance income the appellant had received had not been provided.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), section 10

PART E – Summary of Facts

With the consent of the parties, the appeal hearing was conducted in writing in accordance with section 22(3)(b) of the *Employment and Assistance Act*.

The evidence before the ministry at reconsideration consisted of the following:

- A vehicle transfer form showing the appellant's purchase of a vehicle at a cost of \$4000, date stamped by an Autoplan broker on 08 October 2012.
- The Family Maintenance payments summary showing payment to the appellant of \$9,236.93 on 30 November 2012.
- From the appellant's financial institution, the client profile of the appellant and a print-out of chequing account transactions from 30 November 2012 (opening balance \$1.42), with a deposit \$9236.93 on 01 December 2012 from FMEP BC (BC Family Maintenance Enforcement Program), until 22 January 2013, with a closing balance of \$3.90. (See panel note below).
- The appellant's monthly report form to the ministry, undated, with the next cheque issue date of 23 January 2013, indicating she had received or disposed of assets, and showing income received to be \$256.00 in maintenance/alimony support and \$298.00 in basic child tax benefit.
- A letter to the ministry from the appellant dated 11 January 2012. She writes that after six years of ongoing struggling in not receiving child support, she finally received a lump sum payment. (details blanked out). She states that after a lot of thinking and deciding what is in the best interests of her son and herself, she did the following: 1) paid off the debt of \$1700 to a friend, 2) purchased of vehicle for \$4000, 3) paid off a debt of \$3600 to a cousin, and 4) paid \$400 to her nanny. She did this to move on with her life debt-free to her family, will now be out of their lives for good. She states that she is still destitute and needs income assistance, as her only source of income right now is the child tax benefit. She is currently and actively seeking employment.
- From the ministry's files: Notes of conversations between the appellant and the ministry on 14 January and 22 January 2013 in which the ministry advised the appellant to provide receipts for purchases and for debts repaid and a 60 day bank statement to enable the ministry to confirm how the lump sum maintenance income was disposed.
- The appellant's Request for Reconsideration dated 24 January 2013. Attached to the request is a letter from the appellant to the ministry dated 23 January 2013. She describes her struggles as a single mother for six years without any financial or emotional support. She states that she finally found full-time employment in August 2012 but left in December 2012 due to the stress and how she was treated on the job. She refers to the one lump sum payment of over \$9000 and refers to the documentation she has supplied. She stated that she paid off the debts to those she had owed money to with full understanding that there will not be further communication or involvement with them. For that reason and that reason only she is not pursuing any receipts. She also mentions the \$4000 she paid for the vehicle. The

balance of her letter relates to her efforts to finding employment and her need for income assistance.

The appellant's Notice of Appeal was dated 06 February 2013. She refers to her need for income assistance and she has one dependent child and she is without a job. She thought paying off her debts was a good thing.

The appellant made no further submission for the hearing.

In an e-mail dated 14 March 2013 the ministry stated it would not be providing a submission, relying on the reconsideration decision.

The panel has examined the printout of chequing account transactions and notes that there is one Interact eTransfer outgoing of \$1700 dated 5 December 2012, presumably the payment of the debt owing to the friend, and one of \$400 dated 15 January 2013, presumably the payment to the nanny. The panel cannot find any single transaction involving an amount of \$3600 or anything close to it as a payment to the cousin.

The panel notes that the printout shows 3 debits of \$1000. The first is a transfer out on 04 December 2012. The others are for cheques debited on 21 December 2012 and on 22 January 2013. No explanation is provided as to the purpose of these transactions, including whether they relate to the \$3600 debt repayment or the vehicle purchase.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's decision to declare the appellant not eligible for income assistance pursuant to section 10(4) of the EAA was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant. The ministry found that the information requested to establish the expenditure of \$9,236.93 of maintenance income the appellant had received had not been provided.

The relevant legislation is from the EAA:

Information and verification

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.
- (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 position of the ministry is that the \$9236.93 maintenance payment is income that makes the appellant ineligible for January 2013 income assistance. The ministry considered that \$950 of this (an amount equivalent to the income assistance rate for which she is eligible) would be used for her support and shelter for January. This leaves income of \$8286.93 remaining. Of this \$4000 may be considered an allowable asset as set out in the employment and assistance regulation, section 11(2) for an income assistance recipient/applicant with one or more dependants. This leaves an asset of \$4286.93 that is in excess of the allowable asset limit. The ministry reviewed the chequing account transactions statement provided and noted debits consistent with the appellant's descriptions of one loan repayment of \$1700 and \$400 paid to the nanny. There were also purchases shown of \$845.43 and preauthorized debits and bills of \$541.79. This leaves \$789.71 unaccounted for. The ministry found the transactions statement did not establish the \$3600 loan repayment that the appellant described as made to a cousin. The ministry noted that in the appellant's letter of 11 January 2013 it appeared she wrote "Paid off a debt of \$600 to a cousin" then inserted a 3 before the 6.

The ministry also noted that a review of the chequing account transactions identified an additional \$2377.27 income deposited in December. This is in excess of the \$945 assistance the appellant would be eligible for in February 2013. The ministry stated that this income will also be considered in any determination of eligibility for February assistance.

On this basis, the ministry's position is that the requested information did not fully account for the expenditures of the lump sum maintenance income necessary to establish eligibility for income assistance.

The position of the appellant is that she complied with the ministry's request for information and has fully accounted for the expenditure of the lump sum maintenance payment.

The panel has reviewed all the information and the above calculations set out in the reconsideration decision. The panel notes that the appellant wrote that part of the lump sum maintenance payment was used for the purchase of a vehicle. However the information provided clearly shows that the vehicle was bought in October 2012, more than a month before receipt of the lump sum maintenance payment. There is no indication that the three \$1000 debits went to the vehicle purchase. The panel finds that the calculations performed by the ministry, including the debt repayments of \$1700 and \$400, the allowance for \$950 for December shelter and support plus purchases and bill payments of \$845.43 and \$541.79 respectively, leaving \$789.71 as unaccounted for over the asset limit of \$4000, represent a reasonable effort by the ministry to track the disposition of the lump sum maintenance payment in relation to income assistance eligibility criteria. Yet there remains outstanding the \$3600 debt repayment that cannot be substantiated, and without that, the appellant's cash assets are in excess of the asset limit.

Given the magnitude of the lump sum maintenance payment, the panel finds that the ministry was reasonable in requesting information as to the disposition of these funds pursuant to sections 10(1) and (2) of the EAA. The panel further finds that without further information as to how the lump-sum payment was disposed of in its entirety, the ministry decision declaring the appellant not eligible for income assistance under section 10(4) of the EAA, because the requested information had not been provided, was reasonably supported by the evidence. Accordingly, the panel confirms the ministry's decision.