

APPEAL #

PART C – Decision under Appeal

In a reconsideration decision dated 12 March 2013, the Ministry denied the Appellant income assistance (IA) for failure to provide information that had been requested by the Ministry as per Section 10 of the Employment and Assistance Act and Section 32(1) of the Employment and Assistance Regulation.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) Section 10
Employment and Assistance Regulation (EAR) Section 32

PART E – Summary of Facts

The Appellant did not attend the hearing. After confirming that the Appellant had received notification of the hearing and waiting a reasonable time after the scheduled start of the hearing, the Panel proceeded with the hearing, pursuant to EAR, Section 86(b).

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

- A copy of the Appellant's Request for Reconsideration dated March 4, 2013.
- A letter dated January 24, 2013 from the Ministry to the Appellant requesting the following information required to determine her eligibility for IA:
 - her most recent rent receipt,
 - copies of her most recent hydro, gas and telephone bills,
 - statements for all bank accounts, sole or joint for the period of November 1, 2012 to January 31, 2013,
 - Income Tax Notice of Assessment for the Appellant in 2007 and 2009, for her spouse in 2007, 2010 and 2011
 - Family Maintenance statement of accounts from date of enrollment for 3 of her children to the current time,
 - The Appellant's T4s for the years 2007 and 2009
 - The Appellant's spouse's T4s for 2007, 2010 and 2011.

The letter also reminds the Appellant's spouse to file his taxes for 2008 and 2009 to continue his eligibility for IA. The letter concludes that the Appellant should contact the Investigative Officer (IO) if she requires an extension past January 31, 2013, the date the documents are due.

- A letter dated January 30, 2013 from the Ministry to the Appellant indicating its records show she has not yet supplied the requested information and that it is information required to determine her eligibility for IA. The letter also states her March IA will be held for her compliance and that failure to submit a the requested documentation by February 6, 2013 will result in ineligibility for IA.
- A letter dated February 6, 2013 from the Ministry to the Appellant listing the requested information, advising the information in required in order to determine eligibility and failure to comply could result in her denial of IA. The letter concludes the Ministry has not received all the requested information and therefore the Appellant is no longer eligible for IA and that her file will be closed on March 5, 2013.
- A copy of the Appellant's spouse's Employment Program of BC Action Plan.
- A copy of a program approval in a work training program for the Appellant's spouse starting March 4 through May 9, 2013 and stating he will be receiving a \$250 per week training allowance for the period.

In the Reconsideration Decision dated March 12, 2013, the Ministry states the Appellant is a recipient of IA with a spouse and 5 dependent children and her most recent file with the Ministry has been open since May 2012. It states that as of January 30, 2013 the Appellant had failed to submit any or the requested documents and had not contacted the Ministry to discuss the requested information, to request an extension, resulting in the second letter (dated January 30, 2013) being sent to the Appellant.

The Appellant contacted the Ministry on February 1, 2013 to discuss the requested documents and said she would call back on February 5, 2013. On February 6, 2013, the Appellant had not re-contacted the Ministry and the letter of February 6, 2013 was sent to the Appellant. On February 13, 2013, the Appellant contacted the Ministry and she was advised she was no longer eligible for IA. The Appellant stated she was in the process of getting the requested documentation.

On February 26, 2013, the Appellant submitted the requested Family Maintenance documents. On March 1, 2013 the Appellant's spouse told the Ministry that the Appellant was in the process of getting the requested documents.

The Reconsideration Decision concludes that the Appellant is not eligible for IA until she complies with the Ministry's request by providing all the information.

In the Request for Reconsideration, the Appellant states she is appealing the decision because she has 5 children to care for and her youngest is under 2 years, therefore she is not able to seek employment. She states her spouse has not been successful in finding employment and she cannot live off child tax alone.

In the Notice of appeal, the Appellant states she disagrees with the Ministry's decision because she is unemployed and has 5 children.

At the hearing the Ministry reviewed the letters sent to the Appellant and confirmed that the timing between the request and when the information was expected to be delivered was typical to other similar cases and that extensions are readily applied if requested. In this case the Appellant had not requested any extension.

The Ministry stated that after March 13, 2013, the date of the Reconsideration Decision, the Appellant has submitted more of the requested information, however there is still outstanding information that includes bank statements from the Appellant and her spouse, her January 2013 rental information, and some utility bills. The Ministry concluded in spite of the submission of this additional information, the Appellant has failed to provide all the information as requested and remains ineligible for IA.

The Panel finds the new verbal evidence regarding submitted information by the Appellant as supportive of the evidence in front of the Ministry at the time of the Reconsideration Decision and admits it under Employment and Assistance Act, Section 22(4)(b).

PART F – Reasons for Panel Decision

The issue in this case is the reasonableness of the Ministry's decision to deny the Appellant IA for failure to provide information that had been requested by the Ministry as per Section 32(1) of the EAR. The pertinent legislation in this case is as follows:

EAA 10 (1) For the purposes of

(b) determining or auditing eligibility for income assistance, hardship assistance or a supplement,

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.

EAR 32 (1) For the purposes of section 10 (4) [information and verification] of the Act, the period for which the minister may declare the family unit ineligible for assistance lasts until the applicant or recipient complies with the direction.

The Appellant argues both she and her spouse are unemployed with 5 dependent children and cannot live on child tax benefits alone.

The Ministry argues that the Ministry requires the requested information to determine the Appellant's eligibility and that the Appellant has not complied with the request of information, and therefore is not eligible for IA until she submits the requested information.

Section 10 of the EAA gives the Ministry authority to direct a recipient to supply information needed to determine eligibility for IA in a time and manner as determined by the Ministry. In this case, the Ministry requested information, gave the Appellant additional information on how to obtain it, and offered an in person or telephone interview to discuss the information with the Appellant in two letters.

The Appellant was also told verbally of the purpose of the request for information and the consequences of not complying with it by the date requested. The Appellant only submitted partial information to the Ministry. This information was supplied almost a month later than the requested date from the Ministry.

Furthermore, Section 32 of the EAR gives the Ministry authority to declare a family unit ineligible for assistance until the request for information is met. In this case the Ministry clearly stated the consequences of not complying with the request for information by the date outlined and the Appellant did not discuss or ask for any time extension with the Ministry.

The Panel finds the Ministry's decision to deny the Appellant IA until she complies with the request for information is a reasonable application of the applicable enactment in the circumstances of the Appellant and confirms the decision.