

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision dated 1 May 2013 in which the Ministry determined that the appellant was not eligible for disability assistance as of April 2013 due to failing to provide the information requested by the minister under section 10(1) and (4) of the Employment and Assistance for Persons with Disabilities Act.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA), section 10.
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 28.

PART E – Summary of Facts

The appellant was not in attendance at the hearing. After confirming that the appellant was notified, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation.

The evidence before the Ministry at reconsideration included:

- The appellant was a recipient of disability assistance since October 2011.
- A letter dated 6 March 2013 to the appellant indicating the ministry required the following information under s. 10 of the EAPWDA by 12 March 2013:
 - Current rent receipt and utility bills;
 - Pay statements or pay stubs for all income (earnings, Employment Insurance, Canada Pension Plan, or any other income) for the period of 1 January 2012 to present;
 - Record of employment from all employers during the period of 1 January 2012 to present;
 - Statements for all bank accounts, sole or joint, for the period of 1 November 2012 to present (if appellant had a bank account that was then closed or otherwise no longer in use, he was asked to request a 'bank profile' from his financial institution);
 - All information pertaining to any monies received since 2010 as part of any settlements;
 - Statements for all investments, RRSP's, pension funds and any other assets;
 - Income Tax Notice of Assessment for 2010 and 2011;
 - Most current valid contact phone number.
- However, this letter was not provided to the appellant other than by the ministry at a meeting on 7 March 2013 when it could not be printed but the list of requested information was written down and the appellant was provided with the phone number of the ministry's investigating officer (IO) responsible for this matter.
- In a phone conversation shortly after, the appellant indicated to the IO he did not have a lawyer and had no knowledge of any settlement.
- The IO then contacted the lawyer he had been informed was dealing with the appellant's matters who confirmed he knew the appellant and that he would be able to provide the requested information to the ministry provided the appellant signed a release of information agreement.
- A letter dated 13 March 2013 was sent to the appellant requesting the same information as in the letter of 6 March 2013 plus: "Please provide a letter from Lawyer [name and phone number] regarding the status of any recent or pending settlements. Alternatively you may also sign a release form at [the lawyer's] office authorizing him to disclose, to the Ministry all information regarding any recent or pending settlements." The letter further informs the appellant he is no longer eligible for assistance for having failed to provide the requested information and that his file is closed as of 31 March 2013.
- On 26 March 2013, the appellant indicated to the ministry at a meeting that his lawyer requested a \$25 fee to facilitate the release of information agreement in order to allow his office to provide the ministry with the information they had and that could pertain to the appellant's eligibility for disability assistance. Since the appellant's April benefit had been retained and he had no funds to pay that amount, a \$25 cheque was issued by the ministry to the appellant as an advance for his April benefits in order to pay the lawyer. Later the same day, the appellant went back to the ministry's office indicating that he had seen his lawyer, had given him the funds, had authorized him to provide information to the ministry and asked for his April cheque.
- Later the same day the IO contacted the appellant's lawyer who confirmed he had met with the appellant earlier that day but that the appellant had not given him the funds nor did he instruct him

to provide any information to the ministry but rather the opposite.

- On 27 March 2013, the appellant called the ministry's office to request his April benefits but the IO advised him of his conversation with his lawyer, to which the appellant indicated the lawyer had made false statements. The appellant was also informed his eligibility for disability assistance could not be determined at that time.
- On 1 May 2013, the reconsideration officer contacted the appellant's advocate who indicated they had lost contact with the appellant and that no new information would be submitted.
- The same day, the reconsideration officer contacted the IO who indicated that previously he had received information that the appellant may have received or was expected to receive a substantial financial settlement and that was the reason why the ministry required the additional information in order to audit the appellant's eligibility for assistance but that this information had not been provided.

In his Notice of Appeal dated 13 May 2013, the appellant indicates that he was not allowed to share any of that information about what happened in or out of court because of a court order. In a new Notice of Appeal dated 21 May 2013, the appellant further indicates that under s. 10 he has further information regarding his eligibility for continued disability assistance as the assets in question are held in trust.

At the hearing, the ministry indicated that the \$25 cheque was made to the appellant and that the information required was standard information that was needed in assessing any application for disability assistance. The ministry also indicated the appellant had responded in part to its information requirements: he provided his shelter information, he indicated he had no pay stub as he had no employment, that he had no investments, that he did not file any income tax return as he had no income other than assistance, he provided a current phone number and he said he had received no funds from any settlement but he did not provide any particulars allowing the ministry to verify his allegations.

The panel determined the additional oral evidence was admissible under s. 22(4) of the Employment and Assistance Act as it was in support of the records before the minister at reconsideration.

PART F – Reasons for Panel Decision

The issue under appeal is whether the Ministry's decision that the appellant was not eligible for disability assistance due to failing to provide the information requested by the minister under section 10(1) and (4) of the EAPWDA, was either a reasonable application of the legislation or reasonably supported by the evidence.

The relevant legislation providing the authority to the minister to request this type of information can be found at s. 10 EAPWDA that states:

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...

(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...

The duration of time during which a person who fails to provide the requested information is determined at s. 28 of the EAPWDR:

28 (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 ministry argues that it cannot assess the appellant's eligibility for disability assistance as he failed to provide all the information as requested on several occasions. The information provided is incomplete and does not allow the ministry to verify its accuracy.

The appellant argues that he cannot provide the information about a potential settlement as a court order prevents him from sharing that information. He further argues that the assets in question are in trust.

The panel finds the evidence shows the appellant did not respond to some of the ministry's requested information, in particular that information in respect of a potential settlement and that the appellant was less than truthful in his dealing with the ministry in this matter. He initially denied he had a lawyer and then, when confronted with the fact that the IO had contacted same, finally admitted he had one. Then, given the money to obtain a release of information agreement from his lawyer, he did not pursue the matter with him, did not give him the \$25 fee for the agreement and instead, instructed

him not to share that information with the ministry. Thus, the panel finds the ministry reasonably determined the appellant had not provided the information and documents requested under s. 10(1) of the EAPWDA and, consequently, reasonably determined the appellant ineligible for disability assistance as of April 2013 under s. 10(4) of the EAPWDA and that in accordance with s. 28 of the EAPWDR, ineligibility lasts until the appellant complies.

Therefore, the panel finds the ministry's decision was reasonably supported by the evidence and confirms the decision.