

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (the ministry) reconsideration decision dated April 3, 2013 which found that the appellant is not eligible for income assistance under Section 10 of the Employment and Assistance for Persons With Disabilities Act (EAPWDA) for failing to comply with a direction to supply requested information and verification. The ministry also found that the appellant continues to be ineligible for income assistance pursuant to Section 28 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) because she has not fully complied with the direction since requested information remains outstanding, namely: information for the banking/ loan from another country.

PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Section 28

Employment and Assistance for Persons With Disabilities Act (EAPWDA), Sections 10

PART E – Summary of Facts

The appellant confirmed that an advocate was consulted to assist with preparation of the Request for Reconsideration but the appellant wished to represent herself on the hearing.

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

- 1) Letter dated November 6, 2012 from the ministry to the appellant which states in part that the appellant's file has been selected for review and that information may be requested in order to determine or audit eligibility for assistance; the ministry stated the following information or documentation is required by November 20, 2012:
 - (1) current rent receipt and utilities;
 - (2) pay statements or pay stubs for all income (earnings, Employment Insurance, Canada Pension Plan, or any other income) for the period of January 2011 to October 2012;
 - (3) record of employment from all employers during the period of 2011 to current;
 - (4) statements for all bank accounts, sole or joint, for the period of 6 months;
 - (5) income tax Notice of Assessment for 2010 and 2011, including T-slips (e.g. T4 slip);
 - (6) student loan documents for 2011; and,
 - (7) school registration documents from 2008 to 2012.

The letter enclosed a blank Bank Profile statement to be completed by her financial institution indicating type of holding, account number, value, and whether it is joint and with whom;

- 2) Letter dated November 28, 2012 from the ministry to the appellant which states in part that the appellant's file has been selected for review and that information may be requested in order to determine or audit eligibility for assistance; on November 6, 2012, the appellant was sent a letter requesting information and this information has not been submitted; the ministry stated the following information or documentation is required by December 10, 2012:
 - (1) current rent receipt and utilities;
 - (2) pay statements or pay stubs for all income (earnings, Employment Insurance, Canada Pension Plan, or any other income) for the period of January 2010 to November 2012;
 - (3) record of employment from all employers during the period of 2010 to 2012;
 - (4) statements for all bank accounts, sole or joint, for the period of 6 months, including cheque cashing agencies activity;
 - (5) student loan documents for 2011;
 - (6) school registration documents for 2008 to 2012; and,
 - (7) income tax Notice of Assessment for 2011, including T-slips.

The letter enclosed a blank Bank Profile statement to be completed by her financial institution;

- 3) Letter dated December 6, 2012 from an educational institution to the ministry stating in part that student loans and grants were disbursed to the appellant over the period May 11, 2011 through August 28, 2012;
- 4) Letter dated January 10, 2013 from the ministry to the appellant stating in part that on November 6, 2012 and November 28, 2012 letters were sent to the appellant asking her to provide information and these letters advised that this information is required in order to determine eligibility and that failure to comply could result in denial of assistance. The appellant was directed to provide the following information:
 - (1) all pay and income documents for 2010 including pay and other income, including student loans and awards (earnings confirmations have been received from 3 companies);
 - (2) statements for all bank accounts, sole or joint, including a named bank, cheque cashing agencies and a named Bank as the source of her student loan from another country (activity with 2 Canadian banks has been received);
 - (3) school registration documents from 2008 to 2012;
 - (4) all student loan/ award documents, including student loans from another country which are to show the amount of the awards and expenses (i.e. tuition, books, living expenses, etc.);

The ministry has not received the information requested and, therefore, the appellant is no longer eligible for assistance and her file will be closed;

- 5) Letter dated February 26, 2013 from an educational institution to the ministry stating in part that the

appellant has been a client of counseling services since November 2011 and continues to access their resources on a regular basis. The appellant indicated that she has been diagnosed by a health professional with social anxiety, post traumatic stress disorder, and attention deficit disorder. The appellant has worked very hard to cope with her illness and continues to do so through individual and group counseling through the centre; and,

6) Request for Reconsideration- Reasons prepared by an advocate on behalf of the appellant.

In her Notice of Appeal, the appellant wrote that her explanation for why she disagrees with the ministry reconsideration decision will follow, that she is receiving help to complete it. The panel notes that no further documents were provided by the appellant prior to or at the hearing.

In her Request for Reconsideration, the advocate wrote that the appellant is a 4th-year student at an educational institution and has been a Person With Disabilities (PWD) since 2010. She has been diagnosed with avoidant personality disorder, social phobia, depression, and attention deficit disorder and is currently seeking counseling at the educational institution. On January 31, 2013, the appellant and the advocate attended a conference call with the ministry and the ministry requested financial statements from the appellant for a bank in another country. The appellant was unwilling to provide these statements as she felt sufficient information had been provided. The ministry was provided with a letter dated December 6, 2012 from the educational institution which was related to the information the ministry was requesting from the Bank in another country. The appellant has stated that this loan is through the federal government of another country, not directly through the Bank, and this was explained to the ministry. The appellant has provided the information requested of her other than the financial statements for the Bank in another country.

At the hearing, the appellant stated that she believes she has supplied all the information that the ministry requested, that she has done everything required. Her school provided a letter to the ministry listing the student loans and grants given to her school. The appellant stated that none of the money is given to her, it is paid from the federal government of another country to the school. The appellant acknowledged that if there is any money left over after payment of tuition and student fees, the school sends her a cheque. The appellant stated that she has reviewed her bank statements with the ministry to show the amounts deposited into her account so the ministry is aware of the funds she received. The appellant stated she is not involved because the school contacts the federal government and they send the school money and whatever is left over is paid to her.

The appellant stated that the request for information about her "loan from another country" does not make sense because the ministry has considered these funds an "asset" and not a loan, in another appeal regarding an overpayment. The appellant stated that as an asset, there are no exemptions available and there are no terms that the ministry would need to know about. The appellant stated that she also has the right to privacy and she will not disclose her social security number. The appellant stated that she has already made efforts to get the information that the ministry requested and she should not be put to a "wild goose chase" coming up with more and more information. The appellant explained that the November 6, 2012 letter from the ministry was sent to her mother's address and it was forwarded to her. The November 28, 2012 and the January 10, 2013 letters from the ministry were sent to her address and she received them and had discussions with the ministry about them.

The ministry relied on its reconsideration decision, including evidence that the appellant is a single recipient with PWD designation and she has been in receipt of assistance from December 2008 to December 2012. At the hearing, the ministry stated that there is another appeal involving an overpayment for the BC grant monies received by the appellant. The ministry stated that the loan from another country has not been determined to be an asset because the ministry does not have sufficient information regarding the loan. The ministry stated that the overpayment appeal is a separate matter and not relevant to the issues on this appeal.

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's decision, that the appellant is not eligible for disability assistance under Section 10 of the Employment and Assistance Act (EAPWDA) for failing to comply with a direction to supply requested information, and continues to be ineligible for disability assistance pursuant to Section 28 of the Employment and Assistance Regulation (EAPWDR) because she has not fully complied with the direction since requested information remains outstanding, namely: information for the banking/ loan from another country, is reasonably supported by the evidence or a reasonable application of the applicable enactment in the appellant's circumstances.

Sub-section 10 of the Employment and Assistance Act (EAPWDA) provide that:

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.

Section 28(1) of the Employment and Assistance Regulation (EAPWDR) provides that:

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 appellant's position is that she has supplied all the information that the ministry requested, that she has done everything required. The appellant argued that her school provided a letter to the ministry, dated December 6, 2012, listing the student loans and grants given to her school. The appellant argued that although any money left over after payment of tuition and student fees is sent to her, she has reviewed her bank statements with the ministry to show the amounts deposited into her account so the ministry is aware of the funds she received. The appellant argued that the request for information about her "loan from another country" does not make sense because the ministry has considered these funds an "asset" and not a loan in another appeal regarding an overpayment. The appellant argued that she also has the right to privacy and she has already made efforts to get the information that the ministry requested and she should not be put to a "wild goose chase" coming up with more and more information.

The ministry's position is that under Section 10(1) of the EAPWDA, the ministry may direct a recipient to supply information for the purpose of auditing eligibility for income assistance and if the recipient fails to comply with the direction the ministry may declare the family unit ineligible for assistance for a prescribed period. The ministry argued that the appellant failed to submit all the information requested by the ministry and is, therefore, ineligible for disability assistance. The ministry acknowledged that the appellant submitted information for all the requested items except the information for the banking/ loan from another country. The ministry argued that although the appellant provided a letter from her educational institution indicating the amount the institution received from the loan from another country, it was not sufficient information regarding the loan itself as it does not specify the terms of the loan, how it was disbursed and the total amount that the appellant was approved to receive. At the hearing, the ministry argued that Section 8 of Schedule B of the EAPWDR provides an exemption for some education costs and that, therefore, the type of cost for which the loan was disbursed is relevant to determining the appellant's eligibility. The ministry argued that the information has not been provided by the appellant to date and, therefore, the appellant is ineligible for assistance until she complies with the direction under Section 28 of the EAPWDR.

Pursuant to Section 10 of the EAPWA, for the purposes of determining or auditing eligibility for disability assistance, the ministry may direct a recipient to supply the ministry with information within the time and in the manner specified by the ministry. The panel finds that the letters forwarded by the ministry to the appellant dated November 6 and November 28, 2012 requested specific information from the appellant, pursuant to Section 10(1) of the EAPWDA, by the deadlines of November 20, 2012 and December 10, 2012 respectively. The appellant did not dispute that she received these letters nor that she was aware of the information that was being requested by the ministry. The ministry confirmed that all of the information stated to be outstanding in the ministry's letter of January 10, 2013 has been provided by the appellant with the exception of the banking/ loan information from another country which is to show the amount of the award and expenses (i.e. tuition, books, living expenses, etc.).

The appellant argued that she provided sufficient information regarding the loan from another country in the letter dated December 6, 2012 from her educational institution to the ministry and the breakdown of the costs is not relevant, that she should not have to provide more information and she has a right to privacy. In the December 6, 2012 letter, the educational institution described the semester for which funding was provided, the total amount disbursed from the loan from another country for the semester, and the date it was disbursed and also confirmed that none of the funds have been returned to the provider. For the purposes of determining the appellant's eligibility for disability assistance, however, the ministry required specific information about the costs for which the loan was disbursed, as set out in the ministry's letter of January 10, 2013: "...to show the amount of the award and expense (i.e. tuition, books, living expenses, etc.)" and the panel finds that this information has not been provided by the appellant to date. Section 10 of the EAPWDA gives the ministry the authority to direct a recipient to supply information and verification of information provided as long as that information relates to the eligibility of the family unit for disability assistance, as here, and this supersedes the appellant's right to privacy with respect to the related information if she wants to continue to receive disability assistance. The panel finds that the ministry reasonably determined that the appellant did not provide information as directed by the ministry pursuant to Section 10 of the EAPWDA within the time specified by the ministry.

Pursuant to Section 28 of the EAPWDR, the period for which the ministry may declare the family unit ineligible for assistance lasts until the recipient complies with the ministry's direction. The ministry acknowledged that all of the requested information had been provided by the appellant with the exception of the information for the banking/ loan from another country. Therefore, the panel finds that the information outstanding to comply with the direction by the ministry includes the information for the banking/ loan from another country, which is to show the amount of the awards and expenses (i.e. tuition, books, living expenses, etc.) as set out in the ministry's letter. The panel finds that the ministry reasonably determined that the appellant is not eligible for disability assistance, pursuant to Section 28 of the EAPWDR, until she complies with the direction to provide this information.

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