

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (the ministry)'s Reconsideration Decision dated August 21, 2013 which denied the appellant disability assistance pursuant to section 10 of the *Employment and Assistance for Persons with Disabilities Act* and section 30 of the *Employment and Assistance for Persons with Disabilities Regulation* as the appellant had failed to attend an eligibility review appointment and complete a reapplication for assistance form as requested by the minister.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act section 10
Employment and Assistance for Persons with Disabilities Regulation section 30

PART E – Summary of Facts

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

1) The appellant's Request for Reconsideration (RFR) dated August 7, 2013 in which he states that the first reapplication appointment was missed because he was attending a MCFD appointment with his daughter. He states that the second appointment was missed due to a TB scare and he was therefore not allowed to enter the ministry offices. The appellant also states that the third appointment was missed because, "told by worker everything was shut-down until this was done thought it was off new it was today???" and

2) Sections 1 and 2 of the RFR dated August 6, 2013 completed by a ministry worker, which states that the appellant's disability assistance was discontinued due to his failure to provide information to determine eligibility. The ministry states that they had received information that the appellant and his girlfriend would be living together and this was confirmed by their declaration to a family court judge on June 14, 2013. As a result, the ministry required that the appellant's girlfriend be added to his assistance case and a reapplication appointment was scheduled for June 25, 2013. The ministry added that the appellant's landlord confirmed that the appellant and his girlfriend would be living together, beginning August 1, 2013. The ministry states that the appellant did attend the appointment on June 25, 2013 but his girlfriend did not and therefore the appointment could not be conducted. A second appointment was scheduled for July 9, 2013 by telephone; however the ministry was unable to contact the appellant that day on any of the phone numbers provided. The ministry states that on July 29, 2013 the appellant contacted the ministry office to arrange another appointment which was set for July 31, 2013, however on that date the appellant was not able to be reached by telephone by the ministry. The ministry adds that because the appellant failed to provide the information required and was not available to attend the re-application appointments, they determined that he was no longer eligible for disability assistance, as per the legislation.

In his Notice of Appeal the appellant's girlfriend states that she will be advocating for the appellant and writing on his behalf because his dyslexia makes it difficult for him to read, write or spell. She states that the appellant's ADHD interferes with his memory, communication and ability to remember appointments and that she also has ADHD and has difficulties with the same things. She states that they have both overcome substance abuse and troubles into their early 20s. The appellant's girlfriend provides detail regarding the couple's baby that was born in March that they were both very excited about, but she was removed from their care before they could bring her home from the hospital. She explains that she and the appellant had made arrangements for the baby by purchasing baby items and preparing to move into a residence together. She states that they moved to a larger place based on the funds they were both receiving and the additional support they had anticipated when the baby arrived. She adds that all of these circumstances have been very difficult for them and the stress has made it even more difficult to remember appointments and feels that the reasons for missing the appointments have all been beyond their control. The appellant's girlfriend states that with the appellant no longer having any income, she is finding it very difficult to manage financially on her own and concludes that the appellant did not purposefully miss the appointments and is trying to do everything right.

The panel has considered the letter written by the appellant's girlfriend as new evidence and finds that it is admissible under section 22(4) of the Employment and Assistance Act as it is evidence in support of the appellant's original application, and evidence in support of the information and records that were before the ministry when the reconsideration decision was made.

The appellant did not attend the hearing. Having confirmed that the appellant was notified of the hearing, the panel proceeded with the hearing pursuant to EAA section 86(b).

The ministry relied on the information within the reconsideration decision and denied that there was a TB scare in the ministry offices on July 9, 2013. The ministry otherwise submitted no new information.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's reconsideration decision, which denied the appellant disability assistance pursuant to section 10 of the *Employment and Assistance for Persons with Disabilities Act* and section 30 of the *Employment and Assistance for Persons with Disabilities Regulation* because the appellant had failed to attend an eligibility review appointment and complete a reapplication for assistance form was reasonably supported by the evidence or was a reasonable application of the legislation in the appellant's circumstances.

The relevant sections of the legislation are as follows:

Employment and Assistance for Persons with Disabilities Act

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.

Employment and Assistance for Persons with Disabilities Regulation

Requirement for eligibility audit

30 (1) For the purposes of auditing eligibility for assistance or ensuring a recipient's continuing compliance with the Act and the regulations, the minister may do either or both of the following:

(a) require the recipient to attend in person on the date, and at the ministry office, specified by the minister;

(b) require the recipient to complete a form specified by the minister for use under this section and deliver the form to a ministry office specified by the minister. (B.C. Reg. 84/2012)

(2) A recipient who is required under subsection (1) (b) to complete a form but who is not required to attend in person at a ministry office must deliver that form to the specified ministry office within 20 business days after being notified of the requirement to complete the form.

(3) Delivery of the form under subsection (2) may be made by

- (a) leaving it with an employee in the ministry office, or
- (b) mailing it to that office.

(4) A family unit ceases to be eligible for assistance if

- (a) a recipient in the family unit fails to attend in person at the ministry office when required to do so by the minister under subsection (1) (a), or
- (b) a recipient in the family unit fails to complete and deliver the form when required to do so by the minister under subsection (1) (b).

The position of the ministry, as set out in the reconsideration decision, is that although the appellant states that there are reasons that he missed the scheduled appointments, he did not make a reasonable effort to complete the reapplication for assistance form as requested by the ministry or attend the scheduled appointments, adding that the request for an eligibility review began in June and was not yet completed by the beginning of August. The ministry representative states that on July 9, 2013 there was not a TB scare at the ministry office and the ministry office was not closed because of any such scare, and that the appellant's appointment that day was scheduled by telephone.

The appellant's position, as set out in the RFR and Notice of Appeal is that he missed the scheduled appointments for valid reasons, beyond his control and that his ADHD causes him to have difficulty remembering appointments.

The panel notes that under section 30 of the EAPWD Regulation the recipient may cease to be eligible for assistance if they fail to attend the ministry office and complete the required form specified by the minister when required to do so. In the present appeal, the panel finds that the appellant failed to attend his appointment at the ministry office on June 25, 2013, his telephone appointment on July 9, 2013 and his telephone appointment on July 31, 2013. Although the appellant states that he missed the July 9, 2013 due to a TB scare at the ministry office, that appointment was scheduled by telephone so even if there was such an issue that would not have prevented the telephone appointment from occurring. Accordingly, the panel finds that the ministry reasonably determined that the appellant was not eligible for disability assistance pursuant to section 30 of the EAPWD Regulation.

Conclusion

In conclusion, the panel finds that the ministry's decision to deny the appellant disability assistance due to his failure to attend scheduled eligibility review appointments and complete a reapplication for assistance form as requested by the ministry, whereby making the appellant ineligible for disability assistance under section 30 of the EAPWD Regulation was reasonably supported by the evidence and a reasonable application of the legislation in the circumstances of the appellant. The panel thus confirms the ministry's decision.