



### PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (“the ministry”) dated November 4, 2013, which found the appellant ineligible for income assistance for failing to complete the eligibility audit as required under Section 10 of the *Employment and Assistance Act* and Section 34 of the *Employment and Assistance Regulation*.

### PART D – Relevant Legislation

*Employment and Assistance Act (EAA)* Section 10

*Employment and Assistance Regulation (EAR)* Section 34.

## PART E – Summary of Facts

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

The evidence before the ministry at reconsideration included the following documents:

- Letter from the Ministry dated August 13, 2013. This letter stated that the appellant was selected for review to confirm eligibility for assistance. A telephone eligibility interview was scheduled for September 11, 2013 at 1:00pm, and a list of documents was requested. The letter also stated that failure to attend the interview might result in delayed or discontinued assistance.
- Letter from the Ministry dated September 11, 2013. This letter reiterated that the appellant was selected for review to confirm eligibility. A telephone eligibility interview was scheduled for October 2, 2013 at 3:00pm, and a list of documents was requested. The letter stated that if the appellant did not contact the ministry by October 2, 2013, the appellant's assistance would be discontinued.
- Letter from the Ministry dated October 2, 2013. This letter stated that because the appellant did not attend the previously scheduled eligibility interviews, the appellant was no longer eligible for assistance. This letter stated that the appellant's file would be closed on October 30, 2013.
- The appellant's Request for Reconsideration dated October 23, 2013. The appellant states that he is currently recovering from a drug problem. He wrote that he was in the methadone program and still lacking ambition, energy, and responsibility due to his recovery.

As this was a written hearing, the appellant and the ministry provided additional written submissions.

The appellant's written submission was the Notice of Appeal dated November 13, 2013. In the 'reasons for appeal' section of the Notice of Appeal, the appellant stated that, "someone can just steal my mail then I get kicked off welfare", and he reiterated that he was still trying to recover from his addiction problems, and that he just doesn't understand.

The ministry's written submission, emailed on December 16, 2013, stated that the reconsideration summary of November 4, 2013 could function as the ministry's written submission. The ministry did not list any objections to the appellant's written submission.

The panel determined that the additional documentary evidence was admissible under Section 22(4) of the EAA as it was in support of the records before the minister at reconsideration.

## PART F – Reasons for Panel Decision

The issue is whether the ministry's decision finding the appellant ineligible for income assistance for failing to complete the eligibility audit under Section 10 of the EAA and Section 34 of the EAR is reasonably supported by the evidence or a reasonable application of the applicable legislation.

The relevant legislation is set out below:

### ***Employment and Assistance Act: 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.

(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 income 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 income assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

### **Employment and Assistance Regulation: Requirement for eligibility audit**

**34** (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.

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- (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 ministry argues that because the appellant did not submit any documentation nor attend two scheduled interview appointments, the ministry determined that the appellant was ineligible for income assistance for failing to complete the eligibility audit under Section 10(4) of the EAA and Section 34 (4) of the EAR. The ministry was not satisfied that the appellant had factors beyond his control that prevented attendance at the eligibility audit or that prevented the submission of the requested documents.

The appellant's position is that he was in a methadone program to recover from drug addiction. He lacked energy, drive and responsibility because of his recovery. In the Notice of Appeal, he further stated that he was trying to recover from his addiction problem and did not understand the ministry's decision. He suggested that he could be kicked off welfare if his mail was stolen.

The panel notes that appellant did not attend two scheduled interview appointments nor submit any of the requested documents. The panel notes that the appellant has stated that he lacked the energy, drive and responsibility to comply with the ministry's request. This speaks to the appellant's state of mind and mental health, but these difficulties have not been confirmed by a medical professional. Without such confirmation, the panel finds that there is insufficient evidence from the appellant to show that he was unable to comply with the ministry's requests. In addition, the panel finds that the appellant's statement that "someone can just steal my mail then I get kicked off welfare" is not a definitive statement that the appellant's mail was actually stolen. Because of the ambiguity of this statement and no additional evidence to show that the mail was stolen, the panel finds that it is also not a sufficient justification for the appellant being unable to comply with the ministry's requests. The panel finds that the ministry's determination to deny assistance under Section 10(4) of the EAA and Section 34 (4) of the EAR for failing to submit the requested documents under Section 10 of the EAA and failing to complete the eligibility audit appointment under Section 34 of the EAR was a reasonable application of the legislation.

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