

PART C – Decision under Appeal

The decision under appeal is the Ministry's decision dated November 25, 2013, which denied the Appellant's request for reconsideration on the matter of a crisis supplement for clothing. The Ministry found that the Appellant's request for a crisis supplement was denied on September 9, 2013; however the Appellant did not submit a Request for Reconsideration until November 12, 2013, after the legislated limit of 20 business days per section 71(2), EAPWDR.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA) sections 1, 5, 16.

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) section 71

PART E – Summary of Facts

Information before the Ministry at Reconsideration included:

- The Appellant's Request for Reconsideration, dated November 11, 2013.

The Appellant did not attend the hearing. After confirming that the Appellant was notified, the hearing proceeded pursuant to S 86(b) of the Employment Assistance Regulation.

In her Notice of Appeal to the Tribunal, the Appellant did not address the issue of the late submission of her Request for Reconsideration, but submitted arguments related to the original matter, the denial of a crisis supplement.

At the hearing, the Ministry stated that the Appellant's Request for Reconsideration was submitted on November 12, 2013; however, the Appellant was notified of the Ministry's decision to deny her request for a crisis supplement on September 9, 2013, therefore the Request for Reconsideration was past the 20 business day limit in the legislation. As a result, the Ministry did not conduct a reconsideration.

The Panel makes the following findings of fact:

- The Appellant was informed of the Ministry's original decision on September 9, 2013.
- The Appellant signed her Request for Reconsideration on November 11, 2013.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry's denial of the Appellant's request for reconsideration of a decision because more than 20 business days had elapsed since the Appellant was advised of the original decision, contrary to the provisions of section 71(2), EAPWDR.

Legislation

EAPWDA

Interpretation

1 (1) In this Act:

"**disability assistance**" means an amount for shelter and support provided under section 5 [*disability assistance and supplements*];

Disability assistance and supplements

5 Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

Reconsideration and appeal rights

16 (1) Subject to section 17, a person may request the minister to reconsider any of the following decisions made under this Act:

(a) a decision that results in a refusal to provide disability assistance, hardship assistance or a supplement to or for someone in the person's family unit;

(b) a decision that results in a discontinuance of disability assistance or a supplement provided to or for someone in the person's family unit;

(c) a decision that results in a reduction of disability assistance or a supplement provided to or for someone in the person's family unit;

(d) a decision in respect of the amount of a supplement provided to or for someone in the person's family unit if that amount is less than the lesser of

(i) the maximum amount of the supplement under the regulations, and

(ii) the cost of the least expensive and appropriate manner of providing the supplement;

(e) a decision respecting the conditions of an employment plan under section 9 [*employment plan*].

(2) A request under subsection (1) must be made, and the decision reconsidered, within the time limits and in accordance with any rules specified by regulation.

(3) Subject to a regulation under subsection (5) and to sections 9 (7) [*employment plan*], 17 and 18 (2) [*overpayments*], a person who is dissatisfied with the outcome of a request for a reconsideration under subsection (1) (a) to (d) may appeal the decision that is the outcome of the request to the tribunal.

(4) A right of appeal given under subsection (3) is subject to the time limits and other requirements set out in the *Employment and Assistance Act* and the regulations under that Act.

(5) The Lieutenant Governor in Council may designate by regulation

(a) categories of supplements that are not appealable to the tribunal, and

(b) circumstances in which a decision to refuse to provide disability assistance, hardship assistance or a supplement is not appealable to the tribunal.

EAPWDR

How a request to reconsider a decision is made

- 71 (1) A person who wishes the minister to reconsider a decision referred to in section 16 (1) [*reconsideration and appeal rights*] of the Act must deliver a request for reconsideration in the form specified by the minister to the ministry office where the person is applying for or receiving assistance.
- (2) A request under subsection (1) must be delivered within 20 business days after the date the person is notified of the decision referred to in section 16 (1) of the Act and may be delivered by
- (a) leaving it with an employee in the ministry office, or
 - (b) being received through the mail at that office.

The Appellant made no submission related to the issue under appeal.

The Ministry's position is that the Appellant's Request for Reconsideration was made later than the legislated limit and therefore the Ministry is unable to conduct reconsideration on the matter.

The Panel finds that the Ministry reasonably denied the Appellant's request to have the decision related to the denial of a crisis supplement reconsidered because the Appellant did not submit her Request for Reconsideration for more than double the legislated limit of 20 business days as set out in s. 71(2) of the EAPWDR.

The Panel therefore confirms the Ministry's decision as reasonably supported by the evidence.