



### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the ministry's) reconsideration decision dated November 18, 2013 which held that the appellant was not eligible for income assistance because he failed to provide the requested information as required under section 10 of the Employment and Assistance Act (EAA) and section 32 of the Employment and Assistance Regulation (EAR).

### PART D – Relevant Legislation

Employment and Assistance Act (EAA) section 10  
Employment and Assistance Regulation (EAR) and section 32

## PART E – Summary of Facts

A hearing was scheduled for December 20, 2013. At the beginning of the hearing the appellant requested an adjournment. After due consideration the panel granted an adjournment. A new hearing date was set for January 13, 2014 and the appellant did not attend. After confirming that the appellant was notified, the hearing proceeded under Section 86(b) of the EAR.

### Evidence

The evidence before the ministry at the time of reconsideration was the following:

- that the appellant is a sole employable recipient with a dependent child;
- that on July 15, 2013, according to the Reconsideration Decision as the letter has no date, the ministry sent the appellant a letter advising that his income assistance cheque was being held because the appellant did not provide a birth certificate and the 2012/2013 school report card for his daughter, a bank profile and statements from all his bank accounts from April 1, 2013 to the present, and his 2011 and 2012 tax assessments and requesting that he contact the ministry;
- that on August 14, 2013 the ministry sent the appellant a letter advising him that his file had been selected for review for the purposes of determining current eligibility and auditing past eligibility, that the ministry had previously requested documentation that still had not been received, that under the EAA section 10 if he does not comply that he may be declared ineligible for assistance, that if he did not supply the requested information by August 28, 2013 that the ministry may be unable to determine his eligibility for assistance and that the ministry will complete its review without the appellant's input and may discontinue or adjust the amount of assistance or may determine that an overpayment has occurred. He was also requested to submit the following information as of August 28, 2013: the birth certificate of his daughter and a Ministry of Family Services contact, statements from all bank accounts, sole or joint from April 1, 2013 to the present and completed bank profiles, and income tax notice of assessments for 2011 and 2012 with all attachments (T4s). Further, he was asked to contact the ministry and that the letter advised the appellant that if he did not submit the documents by that date that he was requested to contact the ministry to discuss the situation;
- that on August 26, 2013 the ministry sent a letter advising the appellant that the ministry had not received the requested information from July 15, 2013 and August 14, 2013 and that these letters directed the appellant to contact the ministry and to provide the following: the birth certificate of the appellant's daughter, completed bank profile letters, and statement for all accounts from April 1, 2013 to the present, income tax assessments for 2011 and 2012 and that if he had not filed his taxes to provide all attachments (T4's), his current rental agreement, utility bills and rent receipt. Also the letter outlines that since the ministry has not received this information that his eligibility cannot be determined and therefore the appellant is no longer eligible for assistance and that his file would be closed as of September 25, 2013;
- that on September 17, 2013 the ministry sent a letter advising the appellant that his assistance cheque for October 2013 was being held because he had not provided the following information: a birth certificate for his daughter, new rent receipt, rental agreement, and current utility bills, and 2011 and 2012 income tax notice of assessments with attachments. The ministry also requested the appellant to contact the ministry and advised that if the requested information was not received by September 25, 2013 that his file would be closed;
- that on October 9, 2013 the ministry sent a letter advising the appellant that based on the information he had provided his assistance was being reduced for failing to provide documentation to verify his shelter costs from April 2012 to the present and failing to provide proof that he has a child;
- that on October 29, 2013 the ministry sent a letter advising the appellant that the ministry had

requested on August 26 and September 17, 2013 that the appellant provide bank statements from April 1, 2013 to the present, his 2011 and 2012 tax notice of assessments, his tenancy agreement with all tenants listed and where all tenants stay in a 12 foot wide mobile home, how many days his daughter stays with the appellant and with each grandparent each month, and that since the ministry has not received this information the appellant's eligibility for assistance cannot be determined, that he is no longer eligible for assistance and his file is closed;

- on November 1, 2013 the Request for Reconsideration section 3 outlines the appellant's reasons for reconsideration are because he has had a 4 year old daughter in his care since birth and he believes that he has been truthful and cooperative in the investigation;
- an H&R Block letter dated October 31, 2013 to the appellant regarding his 2012 personal tax return;
- the appellant's Canada Revenue Agency T5007 which is a statement of the appellant's 2012 benefits to a total of \$9,690.95;
- the appellant's bank profile and account information both dated September 11, 2013;
- an untitled letter signed by the appellant and two other people on October 10, 2013 which states that the letter is to verify the costs of rent of \$550.00 for the appellant and his daughter and that the appellant and his daughter share a room as well as stating where the other people stay;
- a ministry Shelter Information form for the appellant dated September 25, 2013 which outlines the appellant's portion of the rent of \$550.00; and
- a birth certificate application for the appellant's daughter and another birth certificate application for the appellant's daughter from another province.

#### **Additional Evidence**

In the Notice of Appeal dated November 26, 2013 the appellant states that he is waiting for his 2011 tax return. There was no additional evidence provided by the appellant in writing.

At the hearing, the ministry provided additional oral evidence as follows: that the ministry contacted the First Nation Band office who would hold the membership record for the appellant's daughter and found out that there was no record of his daughter under the name provided, that the appellant used the wrong form to apply for a birth certificate because the birth occurred in another province rather than B.C., and that the ministry contacted the grandparents of the daughter and was informed verbally that the daughter stays with the grandmother 12-15 days per month and the grandfather 3-4 days per month.

Although the ministry stated at the hearing that it had this information at the time of reconsideration, it appears nowhere in the appeal record, nor is it mentioned in their reconsideration decision. The panel concludes that the information is new evidence and not additional evidence or testimony in support of the information and records before the minister at the time of the reconsideration decision. Therefore, in accordance with section 22 of the EAA, the panel finds the evidence inadmissible.

## PART F – Reasons for Panel Decision

### Issue to be Decided

The issue under appeal is whether the ministry's reconsideration decision, which denied the appellant income assistance because he failed to provide the requested information as required under section 10 of the EAA and section 32 of the EAR is reasonably supported by the evidence or whether it is a reasonable application of the applicable enactment in the circumstances of the appellant.

### Legislation

The applicable EAA legislation is as follows:

#### 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.

The applicable EAR legislation is as follows:

#### *Consequences of failing to provide information or verification when directed*

**32** (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.

Section 10 (2) of the EAA provides that 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. Section 10 (4) provides that if the recipient fails to comply with this request that the minister may declare the family unit ineligible for income assistance for the prescribed period.

Section 32 (1) of the EAR provides that for the purposes of section 10 (4) as noted above, the period for which the minister may declare the family unit ineligible for assistance lasts until the recipient complies with the direction.



**Ministry's Position**

The ministry is satisfied with some of the information provided by the appellant such as the identification of the appellant's daughter, bank profiles, and a statement of his accounts, shelter information and proof that the appellant filed his 2012 income tax return. However, the ministry argues that the appellant has not provided all the documentation requested by the ministry such as the appellant's 2011 income tax notice of assessment and written information as to when the appellant has his daughter and when each grandparent has her each month. As a result, the ministry determined that the appellant was not eligible for assistance until he provides the required information.

**Appellant's Position**

The appellant argues that the reason he requests reconsideration is because he has had a 4 year old daughter in his care since birth and he believes that he has been truthful and cooperative in the investigation.

**Panel Decision**

The panel finds that while the appellant provided some of the requested information as required under section 10 (2) of the EAA, the appellant did not provide the ministry with the appellant's 2011 income tax notice of assessment and written information as to when the appellant has his daughter and when each grandparent has her each month. Because the appellant failed to provide requested information for the purposes of section 10 of the EAA, the panel finds that the decision of the ministry declaring the appellant ineligible for income assistance was supported by the evidence and a reasonable application of the enactment in the circumstances of the appellant.

Accordingly, the panel confirms the ministry's decision.