

### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the ministry's) decision dated March 3, 2014 which denied disability assistance as the minister concluded that the appellant failed to provide information as required under section 10 of the Employment and Assistance for Persons with Disabilities Act (EAPWDA) and section 28 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

### PART D – Relevant Legislation

Employment and Assistance Persons with Disabilities Act (EAPWDA) section 10  
Employment and Assistance Persons with Disabilities Regulation (EAPWDR) and section 28

## PART E – Summary of Facts

### Evidence

The evidence outlined in the March 3, 2014 Decision from the ministry was the following:

- That the appellant is a sole recipient with Persons with Disabilities designation with two dependent children;
- That on November 7, 2013 the ministry advised the appellant by letter that under section 10 of the EAPWDA the ministry may request information for determining current eligibility and auditing past eligibility and that his file was selected for review; that the appellant was requested to provide the following information by November 22, 2013: identification; school registration for the appellant's two children; current phone bills; pay statements or paystubs for all income for the period of August 1, 2011 to October 31, 2013; record of employment for all employers from August 1, 2011 to October 31, 2013; Worksafe BC statement for income the appellant receives; purchase and Canadian registry documents for a fishing vessel, survey report indicating value of the vessel and insurance on the vessel, and location of the vessel such as where it is moored or dry docked; statements from all bank accounts, sole or joint, from each bank the appellant uses; bank profile listing all asset and liability account holdings, sole or joint, from each bank the appellant uses; vehicle purchase, registration, and insurance and insurance documents for the 2007 truck, 2006 dolly trailer, 1986 travel trailer and 1998 vehicle; the letter also advised the appellant that he may contact the ministry for an in person or telephone interview to discuss the information requested;
- That on November 26, 2013 the ministry sent the appellant another letter again advising the appellant that his file had been selected for review for purposes of determining his current eligibility and auditing his past eligibility; the letter also stated that the appellant was requested to provide documentation on November 7, 2013 which to date had not been received and that the appellant was requested to provide the same information outlined in the November 7, 2014 letter by December 9, 2013 with the additional request to provide all deposits/credits transactions from your bank accounts for the period listed above, and to include supporting documentation regarding the source of each credit/deposit transaction; the letter also advised the appellant that under section 10 of the EAPWDA if a person is directed to supply information and does not comply then they may be declared ineligible for assistance, that if he did not provide the requested information by December 9, 2013, that the ministry may be unable to determine his eligibility for assistance, and that if he is unable to obtain the required documents by the date requested that he contact the ministry to discuss in person or telephone interview;
- That on January 15, 2014 the ministry sent the appellant a letter advising the appellant that his file had been selected for review for purposes of determining his current eligibility and auditing his past eligibility and that under section 10 EAPWDA that the minister may direct a person to provide information to determine their eligibility and if the person does not comply then they may be declared ineligible for assistance; the letter also stated that the appellant was requested to provide documentation regarding his dependent children, income and expenses on November 7, 2013 and November 26, 2013 the letters advised the appellant that the information was required in order to determine the appellant's eligibility for assistance and failure to comply could result in denial of assistance; that the information required in the letters directed the appellant to provide are the same information listed in the November 26, 2013 letter; the letter also advised the appellant that the ministry had not yet received the requested information from the appellant, that his eligibility could not be determined and therefore he was no longer eligible for assistance;
- That on February 4, 2014 the ministry advised the appellant of the decision;
- That on February 18, 2014 the appellant submitted a request for reconsideration; and
- That on March 3, 2014 the ministry reviewed the request for reconsideration.

The evidence outlined in the Request for Reconsideration section 2 from the ministry stated the following:

- That the ministry received information that the appellant may have been employed and may have purchased a vessel; that the appellant had not declared any earned income or change to his assets,

that during third party checks the ministry noted that the appellant owned and insured a 2007 truck, a 1976 travel trailer, a 2006 dolly trailer and a 1998 vehicle; and that Transport Canada confirmed the appellant was the registered owner of a registered vessel;

- That on November 26, 2013 the appellant submitted partial information and documentation and specifically banking activity for the period August 2011 to October 2013, a valid driver's license, insurance and registration for the 2007 truck, 1986 trailer, a class 1 learner's license, a transfer document for the vehicle that was not endorsed by ICBC; and that at the same time the ministry discussed with the appellant the remaining required information;
- That on December 3, 2013 the appellant attended the ministry office and submitted a WCB cheque stub dated November 2013 to confirm his rate of income, page 1 of 2 of a bill of sale for the vessel, certificate of Registry letter and certificate dated December 8, 2011 issued by Transport Canada; that the ministry discussed with the appellant the remaining documents and reviewed the letter dated November 26, 2013; and that the appellant stated he understood and that he planned to move to another area for more affordable rent and family supports;
- That the appellant provided no additional information; and
- That on January 15, 2014 section 10 of EAPWDA was invoked and the appellant's assistance benefits were discontinued; that the ministry sent a letter on this date to the appellant that cited section 10 of the EAPWDA and that listed the updated information still required as follows: school registration information for his dependent children; current phone bills; paystubs or pay statements for all income earnings from Employment Insurance, Canada Pension Plan or any other income including WCB or Worksafe BC income for the period August 1, 2011 to October 31, 2013; purchase documents for the vessel as only page 1 of 2 were received, an explanation with documentation to fully disclose the purchase of the vessel, verification of vessel location, including moorage or dry lock; the bank account activity statements for October 2011, November 2011, and December 2011; all deposits and credits to the appellant's bank account (s) for the period of August 2011 to October 2013 and supporting documentation regarding the source of each credit/deposit transaction; vehicle purchase documents for the 2007 truck and the 1986 trailer, and vehicle purchase and registration or transfer documents (endorsed by ICBC) for the 1998 vehicle; and that the information is still required.

The evidence outlined in the Request for Reconsideration section 3 from the appellant stated the following:

- That the appellant has severe work related PTSD, he has injuries to his hands which handicaps him from writing and causes continuous pain which also affects his abilities to concentrate and function in social situations, that he becomes frozen when he experiences stress and this denial of benefits has been very stressful for the appellant;
- That the appellant has provided most of the information except the registration and receipt for the vessel because the advocate is assisting the appellant to get this information from Transport Canada and that the vessel was a gift and was stolen;
- That the appellant submitted bank statements for the past two and a half years, that there are some additional deposits due to a gift from family and a few cash deposits, confirmation of the dependent's attendance at school, the 2007 truck certificate of insurance and registration, and that the 1998 vehicle is no longer in the appellant's possession as he sold it and the person has not yet transferred it to his name.

#### **Additional Evidence**

In the March 13, 2013 Notice of Appeal the appellant states that all the information has been provided and he answered all questions, that the investigator did not take into account the verbal information regarding newspaper accounts of the vessel being lost and that she left out the verbal testimony that there is only the truck left.

The appellant provided the following additional oral evidence at the hearing:

- That the reason the appellant was not able to provide all the information in timely manner was due to his health and he needed the assistance of an advocate of which he now has;

- That he has now submitted the school registration information for his dependent children;
- The reason that he has not submitted a record of current phone bills is because he does not and did not have a phone;
- That the appellant is in the process of requesting paystubs or pay statements for all income earnings from WCB or Worksafe BC for the period August 1, 2011 to October 31, 2013;
- That the appellant would like to sign a release to allow the ministry to retrieve page 2 of the purchase document provided from Transport Canada as it is a Transport Canada internal document and it cannot be released to the appellant and that he explained how he was given the vessel by a friend for a purchase price of one dollar;
- That the appellant has submitted all deposits/credits transactions from his back accounts, for the period August 1, 2011 to October 31, 2013, including October 2011, November 2011, December 2011, and explained that the specific deposits related to a gift from family and bottle collecting;
- That he has provided the purchase documents for the 2007 truck and 1998 vehicle as required; and
- That the 1986 trailer purchase documents are no longer available locally as records are not kept beyond one year and the price of the trailer was \$400 and comparable from current Craig's list are approximately \$700 with additional equipment.

The ministry did not provide additional oral evidence at the hearing.

The panel determined that the additional information from the appellant was admissible under section 22 (4) of the EAA as it is in support of the information that was before the Ministry at the time of its reconsideration decision because the topics are the same as was considered at the time of reconsideration.

## 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 disability assistance as the minister concluded that the appellant failed to provide information as required under section 10 of the EAPWDA and section 28 of the EAPWDR is reasonable.

**Legislation****EAPWDA section 10**

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.

**EAPWDR section 28**

Consequences of failing to provide information or verification when directed

**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.

(2) For the purposes of section 10 (5) [*information and verification*] of the Act,

- (a) the amount by which the minister may reduce the disability assistance or hardship assistance of the dependent youth's family unit is \$100 for each calendar month, and
- (b) the period for which the minister may reduce the disability assistance or hardship assistance of the dependent youth's family unit lasts until the dependent youth complies with the direction.

**Ministry's Position**

The ministry argues that while the appellant has provided most of the required information there is outstanding information as outlined in the January 15, 2014 letter to the appellant. The ministry concluded that the appellant is not eligible for assistance until he provides all of the information requested by the ministry.

**Appellant's Position**

The appellant argues that he was not able to provide all of the information in timely manner due to his health and because he needed the assistance of an advocate of which he now has. The appellant has severe work related PTSD, injuries to his hands which handicaps him from writing and causes continuous pain which affects his abilities to concentrate and function in social situations, and he becomes frozen when he experiences stress and this denial of benefits has been very stressful.

The appellant stated that he has submitted the school registration for his children. The appellant explained that the reason that he had not submitted a record of current phone bills is because he does not and did not have a phone. The appellant stated that he has submitted all deposits/credits transactions from his back accounts, the period August 1, 2011 to October 31, 2013, including October 2011, November 2011, December 2011, and explained that the specific deposits relate to a gift from family and bottle collecting cash earnings. The appellant stated that he provided the purchase documents for the 2007 truck and 1998 vehicle as required. He explained that the 1986 trailer purchase documents are no longer available as records are not kept locally beyond one year. The appellant concluded that he has provided most of the information except his pay stubs and vessel registration. He stated that he is in the process of requesting paystubs or pay statements for all income earnings from WCB or Worksafe BC for the period August 1, 2011 to October 31, 2013. The appellant requested to sign a release to allow the ministry to retrieve page 2 of the purchase document provided from Transport Canada for the vessel as it is a Transport Canada internal document and it cannot be released to the appellant. He also explained how he was given the vessel by a friend for a purchase price of one dollar and that the vessel was subsequently stolen.

**Panel Decision**

Under section 10 of the EAPWDA in order to determine or audit eligibility the minister may request information and seek verification and if the applicant fails to provide the information then the minister may declare the family unit ineligible for disability assistance for the prescribed period. Under section 28 of the EAPWDR 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 panel finds that while the appellant provided some of the requested information as required under section 10 of the EAPWDA, the appellant did not provide the ministry with all of the required information. The panel finds that the information that was still required at the time of the reconsideration decision as outlined in the January 15, 2013 letter from the ministry to the appellant.

The appellant introduced evidence that he was prevented and unable to retrieve the page 2 of the purchase document provided from Transport Canada; however, the panel finds that the evidence is clear that the appellant is still required to provide information related to the paystubs or pay statements for all income earnings from WCB or Worksafe BC for the period August 1, 2011 to October 31, 2013.

The panel finds that the ministry reasonably concluded that the appellant failed to provide requested information for the purposes of section 10 of the EAPWDA and section 28 EAPWDR. Accordingly, the panel finds that the ministry's determination that the appellant was denied disability assistance was a reasonable application of the legislation in the circumstances of the appellant, and confirms the ministry's decision.