

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of January 20, 2014 wherein the ministry denied backdated assistance to the appellant for the six month period commencing April 2013 and ending September 2013 because, pursuant to section 28(1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), she was declared ineligible for assistance for failure to provide information as directed by the ministry. She was therefore not eligible to receive any assistance for a service provided or cost incurred before the calendar month in which she again became eligible for assistance, as set out in EAPWDR section 23(5).

PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Act (EAPWDA) Section 10

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) Sections 23, 28

PART E – Summary of Facts

The evidence before the ministry at reconsideration consisted of the following:

The appellant's request for reconsideration dated January 6, 2014, to which was attached:

1. copies of the appellant's bank statements for the period May 1, 2013 to September 30, 2013;
2. a two-page invoice from the appellant's current residence (Residence B) covering the period December 31, 2012 to January 2, 2014 indicating an outstanding balance of \$2,864.00 more than 90 days past due;
3. a two-page letter from the appellant's cousin and personal representative (PR) dated January 5, 2014. In her letter the PR asked for backdated disability assistance (DA) for the appellant for the six-month period commencing in April 2013 and ending in September 2013 and argued the following points:
 - The appellant is a woman in her sixties with Down Syndrome who is now blind and beginning to suffer from Alzheimer's. She has been receiving DA for several years.
 - In December, 2012 she moved from her former residence (Residence A) to Residence B.
 - The appellant's DA continued to be deposited into her bank account, from which Residence B automatically removed rent of \$710.00 per month. The PR believed that this rental payment arrangement was working well.
 - At the beginning of October 2013 the PR was informed that the ministry had closed the appellant's DA file in July 2013 and that Residence B had not received payment of the appellant's rent for the period April 2013 to September 2013.
 - Residence B did not inform the PR that they had not received the appellant's rent from her bank account.
 - The PR assumed that the appellant's rent was being paid because the automatic withdrawal was set up months before the ministry cancelled the automatic deposit of the appellant's DA into her bank account.
 - The ministry sent a request for information to the Residence A address, when the ministry had a note on file that the appellant had moved to Residence B.
 - The ministry asked the appellant's social worker to instruct the appellant to send information to the ministry regarding the appellant's change of address, but this did not happen.
 - When the PR asked the staff at Residence B why neither she nor the social worker were advised that the appellant's rent was six months in arrears they responded that they were unsure why it happened but advised that they had undergone a change in staff at the time the automatic withdrawals failed to transfer funds from the appellant's bank account to the account of Residence B.
 - Several people "dropped the ball" to ensure that the appellant's DA would continue.
 - Throughout the period in question the appellant's eligibility remained the same, and her DA was reinstated as soon as the problem was discovered and the required information provided to the ministry.
 - Now that the oversights have been corrected the appellant should receive her backdated DA for the months of March 2013 through September 2013.
 - The PR was advised by a ministry employee that "it is not [their] mandate to gather information to support eligibility", to which the PR argues that it should not be the

ministry's mandate to discontinue DA to those who are eligible and incompetent, due to the mistakes of others, especially when the oversights have been explained.

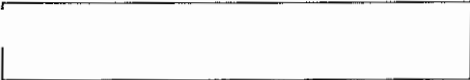
In her oral submissions at the hearing the PR argued that the ministry did not make a reasonable attempt to locate the appellant because the ministry had the appellant's new address (Residence B) on file but sent a letter to Residence A which was never received by the appellant. The PR added that she relied on the ministry to continue its practice of automatically depositing the appellant's monthly DA into her bank account, a practice that had been in place since the appellant became a recipient of DA in 2007.

In her oral submission the ministry representative relied on the reconsideration decision and explained the sequence of events that led to the ministry's declaration in April 2013 that the appellant was ineligible for DA due to her failure to provide information as requested. The sequence of events is as follows:

- On February 26, 2013 a ministry worker received an email from the appellant's Community Living BC (CLBC) social worker who advised the ministry that in December 2012 the appellant had moved from Residence A to Residence B, and provided the mailing address of Residence B.
- It is not usual practice for the ministry to accept or reply to e-mail communications, but because CLBC is a familiar and helpful liaison between the ministry and developmentally challenged adults in this instance the ministry worker replied by e-mail and directed the social worker to require the management of Residence B to send the appellant's rental agreement to the ministry on the appellant's behalf. The ministry worker then placed a "signal" on the appellant's file to indicate that the appellant had been requested to provide additional information relating to her DA eligibility.
- When a file is placed on "signal" the ministry's computerized payment system triggers a cancellation of the automatic monthly payment into a recipient's bank account and changes the payment method from automatic bank deposit to an individual cheque, which is held at the ministry office until the recipient attends at the office and provides the requested information.
- The appellant's May 2013 DA cheque was held at the ministry office for verification of her tenancy agreement. Because the appellant did not appear and the requested information was not provided the DA cheque was cancelled.
- The appellant's June and July DA cheques were also cancelled due to the appellant's failure to attend the ministry's office to pick up the cheque and verify the requested information.
- On July 19, 2013 the ministry's computer system automatically closed the appellant's DA file because the appellant had not attended the ministry office to retrieve her DA for two consecutive months.

The ministry representative stated that the ministry works on a "shared caseload" system. Once a "signal" was placed on the appellant's file requiring additional information, responsibility for the appellant's file shifted from the original ministry worker who received the change of address email to another department. The ministry representative added that the ministry does not have the capacity to check into why a DA recipient has not appeared at the ministry office to pick up her monthly DA cheques.

In closing the ministry representative reiterated the ministry's position that the appellant was ineligible for DA because she failed to provide information related to her ongoing eligibility and as a result she



was declared ineligible for assistance in April of 2013. Pursuant to Section 23(5) of the EAPWDR she was not eligible for any assistance in respect of services provided or costs incurred until October 2013, the calendar month in which assistance was requested.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's decision wherein the ministry denied backdated assistance to the appellant for the six month period commencing April 2013 and ending September 2013 because, pursuant to section 28(1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), she was declared ineligible for assistance for failure to provide information as directed by the ministry. She was therefore not eligible to receive any assistance for a service provided or cost incurred before the calendar month in which she again became eligible for assistance, as set out in EAPWDR section 23(5).

The relevant legislation is set out in the EAPWDA and EAPWDR:

EAPWDA

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.

(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.

EAPWDR:

Effective date of eligibility

23 (5) A family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested.

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.

The appellant's PR argues that the ministry failed to take reasonable steps to locate the appellant before declaring her ineligible for DA for failing to provide information regarding her new tenancy. The PR argues further that because the appellant's disability did not change during the period in which she was declared ineligible for DA she should receive backdated DA payments for the six month period commencing April 2013 and ending September 2013.

The ministry argues that the appellant failed to submit her new tenancy agreement as directed by the ministry and therefore, pursuant to section 28(1) of the EAPWDR, she became ineligible for assistance until she complied with the ministry's direction, and because she did not collect her DA cheques for two consecutive months her file was closed. The ministry argues further that the appellant was not eligible for assistance in respect of a service provided or a cost incurred before she again requested assistance in October 2013.

This panel recognizes that a series of missteps by the persons and agencies that support and care for the appellant occurred, and that these missteps led to the appellant's failure to provide the requested information as directed by section 10 of the EAPWDA, resulting in the ministry's declaration of her ineligibility to receive DA under section 28(1) of the EAPWDR and subsequent closure of her file. However, as the appellant did not provide the required information until October 2013 this panel finds that the ministry reasonably concluded that the appellant was not eligible for assistance in respect of any service provided or cost incurred between April 2013, the month she was declared ineligible, and October 2013, when she was determined eligible. Pursuant to section 23(5) of the EAPWDR she is therefore not eligible to receive backdated assistance for the period commencing April 2013 and ending September 2013.

Accordingly this panel finds that the ministry's decision to deny the appellant backdated DA for the six-month period commencing April 2013 and ending September 2013 is a reasonable application of the applicable legislative enactments in the appellant's circumstances and confirms the decision.