



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision dated January 10, 2014, which denied the appellant Income Assistance (IA) because he failed to provide monthly reports as required by section 11 of the *Employment and Assistance Act* (EAA) in conjunction with Section 33 of the *Employment and Assistance Regulation* (EAR). Specifically, the appellant failed to submit his reporting cards by the 5th of each preceding month to be eligible for income assistance for the months of July, August, September and part of October 2013 and is therefore found to be ineligible for income assistance for those months.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) - Section 11
Employment and Assistance Regulation (EAR) - Section 33

PART E – Summary of Facts

The appellant did not attend the hearing, rather he had his son act as his advocate.

The information before the ministry at the time of reconsideration consisted of the following:

- 1) A letter dated May 16, 2013 from Human Resources and Skills Development Canada which states that the appellant's application for Old Age Security (OAS) benefits was received on April 18, 2013 and that there is a four month backlog to process the application;
- 2) A letter dated June 20, 2013 and signed by the appellant inquiring about the status of his OAS benefits application;
- 3) A fax cover page from the appellant addressed to the ministry, which included the appellant's case number and indicated that the following 2 pages (the letters listed previous) are regarding the appellant's OAS application.

A Request for Reconsideration signed and dated December 24, 2013 which included a 3-page letter signed and dated December 23, 2013 in which it is stated that:

- During the May 14, 2013 meeting with the ministry, the appellant was not informed by his interpreter (as he does not have good command of English and relies on interpreters or his son who resides out of town) that he could come to the office to pick up his cheque, nor was his son told in a subsequent phone call;
- The ministry asked for proof that the appellant applied for OAS which was provided but the appellant was not informed if his application with the ministry would be approved;
- The ministry states that it left a voice message on May 24, 2013, however the appellant did not receive that message and argues that written notification, which is common practice for communication with governmental offices, was not given. A letter could have been forwarded to the appellant's son who would have taken care of the ministry's concerns;
- On June 21, 2013, the appellant faxed the June 20, 2013 letter [listed above], to the ministry, however, the family member who prepared the letter misunderstood the situation and referred to the appellant's OAS benefits application rather than his income assistance application. But the fax was addressed to the 'Social Development Office' and included the appellant's 'SR' number, name and date of birth and its purpose was to inquire about the status of the appellant's income assistance application;
- In August 2013, the appellant's son contacted the ministry's office 3 times and was told 3 times that the ministry would call him back but never did. August was when the appellant's file was closed but he did not receive written notification of this;
- On September 24, 2013, the appellant's son was told over the phone that the appellant's file had been closed at the end of August. With his son, the appellant visited the ministry office the same day and was advised to come back October 1, 2013. When he returned, the appellant was asked to provide evidence that he tried to contact the ministry office. On October 7, 2013, the appellant's son faxed the June 20, 2013 which was previously faxed on June 21, 2013;
- On October 9, 2013 the appellant visited the ministry office and was advised to complete a new application for assistance despite providing proof that he did try to contact the ministry office prior to his file being closed. The same day the appellant's son received a phone call from a ministry supervisor regarding possible reconsideration of the appellant's old application being reinstated;

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- October 16, 2013 the appellant submitted his new application for income assistance and followed up a couple of times;
 - On October 30, 2013 a ministry representative called the appellant's son to apologize on behalf of the ministry for the manner in which the appellant's case was handled but that no reconsideration of the old application was possible and new income assistance would begin October 22, 2013;
 - The appellant states that the timeline above shows that there was miscommunication between the appellant and the ministry office, no notification was given in writing and the ministry failed to follow up after the appellant's son had contacted the ministry office 3 times. The appellant appreciates the income assistance he is receiving now but requests that he also receive income assistance for the period of May – October 2013.

A Notice of Appeal signed and dated January 22, 2014 in which the appellant:

- states that he did not receive a monthly [reporting form] before October 22, 2013 without which he could not provide a report for any month between July and October; and
- requests that the panel refer to his letter dated December 23, 2013.

At the hearing the advocate representing the appellant, relied on the appellant's December 23, 2013 letter, to which he added that the appellant:

- does not agree with the reconsideration decision because he was not given any reporting cards and therefore could not submit the reporting cards by the 5th of every month.
- only found out about reporting cards in late September when he took the initiative to speak with the ministry.
- did not personally prepare the letter dated June 20, 2013 or the fax cover page that accompanied it therefore there was some confusion regarding which application was the subject of the letter. Nonetheless, it still provides proof that he tried to contact the office regarding the status of his application;
- was not aware that he qualified for income assistance in May, 2013, and contacted the ministry via fax on June 20, 2013 to inquire. Therefore he did not know to collect his cheque;
- does not speak or understand English and therefore did not understand the phone message left by the ministry and would have preferred if the ministry communicated to him in writing;
- received written notification in December 2013 advising him to submit his report card by the 5th to be eligible for his January 2014 income assistance. However, the ministry did not provide written communication to him in May 2013;
- was not told about any reporting criteria.

At the hearing the ministry relied on its reconsideration decision and added to that the following:

- the appellant would have received the first reporting card if he had collected his first income assistance cheque from the ministry office in May 2013;
- the requirement of collecting his first income assistance cheque from the ministry office was

explained to him via an interpreter during his intake meeting with a ministry representative;

- during the intake meeting, the reporting requirements and the fact that the first income assistance cheque would be held until confirmation of his OAS application was received, was explained;
- the ministry only has interpreters available during the intake meeting and not for phone calls to recipients;
- after collecting his first income assistance cheque, which would also contain his reporting card, the ministry's computer system automatically generates a letter to all recipients advising them to submit their reporting card by the 5th of the month for on-going assistance;
- the appellant's 3 page fax dated June 20, 2013 was confusing to interpret as the letter was not addressed to the ministry and it was regarding OAS therefore the ministry did not address it;
- the ministry does not require evidence that the appellant attempted to contact the ministry as that would not have changed the circumstances of the reporting requirements.

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PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's decision to deny the appellant IA because of a failure to provide monthly reports as required by section 11 of the *Employment and Assistance Act* (EAA) in conjunction with Section 33 of the *Employment and Assistance Regulation* (EAR) was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

The relevant legislation is as follows:

EAA Section 11:

Reporting obligations

11 (1) For a family unit to be eligible for income assistance, a recipient, in the manner and within the time specified by regulation, must

(a) submit to the minister a report that

- (i) is in the form prescribed by the minister, and
- (ii) contains the prescribed information, and

(b) notify the minister of any change in circumstances or information that

- (i) may affect the eligibility of the family unit, and
- (ii) was previously provided to the minister.

(2) A report under subsection (1) (a) is deemed not to have been submitted unless the accuracy of the information provided in it is affirmed by the signature of each recipient.

EAR Section 33:

Monthly reporting requirement

33 (1) For the purposes of section 11 (1) (a) [*reporting obligations*] of the Act,

(a) the report must be submitted by the 5th day of each calendar month, and

(b) the information required is all of the following, as requested in the monthly report form prescribed under the Forms Regulation, B.C. Reg. 95/2012:

- (i) whether the family unit requires further assistance;
- (ii) changes in the family unit's assets;
- (iii) all income received by the family unit and the source of that income;
- (iv) the employment and educational circumstances of recipients in

the family unit;

(v) changes in family unit membership or the marital status of a recipient;

(vi) any warrants as described in section 15.2 (1) of the Act.

(2) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 1 (b).]

[am. B.C. Regs. 334/2007; 400/2007, s. 5; 48/2010, Sch. 1, s. 1 (b); 85/2012, Sch. 1, s. 4.]

The Appellant's Position:

The appellant argues that he was not aware that his income assistance application had been accepted, as the ministry first wanted confirmation of his application for OAS, or that he was to collect his first income assistance cheque in May 2013 and that he was required to complete reporting cards. He attempted to contact the ministry via fax on June 20, 2013 but received no response. He followed-up again in August but the ministry did not return his phone calls. The appellant argues that the ministry knew that he could not speak English yet communicated with him verbally in English rather than in writing. If the ministry would have provided written notification that his May 2013 cheque was available for pick up, all of this would have been avoided.

The Ministry's Position:

The ministry's position is that the requirements of collecting his cheque in May 2013, (which would have included his first reporting card), and of reporting by the 5th of every month to be eligible for continued assistance were explained to the appellant via an interpreter at his intake meeting at the ministry's office. The appellant failed to submit his reporting cards by the 5th of each preceding month to be eligible for income assistance for the months of July, August, September and part of October 2013 and is therefore found to be ineligible for income assistance for those months.

The Panel's Decision:

The legislation requires that for a family unit to be eligible for income assistance, a recipient, in the manner and within the time specified by regulation, must submit to the minister a report that is in the form prescribed by the minister and contains the prescribed information (section 11 (1) (a) (i) and (ii) of the EAA), and is submitted by the 5th of each calendar month (section 33 (1) (a) of the EAR). The panel acknowledges that the appellant is not proficient in English and requires an interpreter to communicate with the ministry. However, the panel finds that the evidence demonstrates that the appellant was informed via an interpreter of the need to collect his May 2013 cheque from the ministry office and that he would be required to submit a reporting card the 5th of each month. The panel also acknowledges that the appellant did attempt to contact the ministry via fax on June 20, 2013 to inquire about the status of his income assistance application. However, the panel finds that the evidence also demonstrates that the appellant's June 20, 2013 fax to the ministry was misleading and confusing to interpret as it was regarding the appellant's OAS application therefore the ministry was reasonable not to respond.

Conclusion

The evidence establishes that the appellant failed to submit his reporting cards by the 5th of each month as legislatively required. The panel, therefore, finds that the ministry's decision which determined that the appellant is ineligible for income assistance for July, August, September and part of October 2013 was a reasonable application of the legislation and was supported by the evidence. The panel confirms the ministry's reconsideration decision.