

PART C – Decision under Appeal

The decision under appeal is the Reconsideration Decision of the Ministry of Social Development and Social Innovation (the ministry) dated January 23, 2014 in which the ministry determined that the appellant was not eligible for further income assistance (IA) because she failed, pursuant to Section 34 of the Employment and Assistance Regulation (EAR) and Section 30 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), to attend at the ministry office when required to do so for the purpose of auditing her eligibility for income assistance.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) Section 34  
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Section 30

## PART E – Summary of Facts

The appellant is a single female who has been a recipient of IA since May 2012. On January 1, 2014 she was approved for a Persons With Disabilities (PWD) designation.

The written evidence before the ministry at the time of the Reconsideration Decision consisted of the following documents:

1. Letter to the appellant from the ministry dated November 8, 2013 advising her that her IA benefits were being held at the ministry office because she had missed two appointments to complete an eligibility review, and asking her to book an appointment with the ministry as soon as possible;
2. Letter to the appellant from the ministry dated December 5, 2013 advising her that she was no longer eligible for IA because she had missed three appointments to review her ongoing eligibility on:
  - i. October 3, 2013 in City A (rescheduled to October 9, 2013 and again rescheduled to October 18, 2013)
  - ii. November 19, 2013 in City B
  - iii. December 4, 2013 in City B.
3. Request for Reconsideration dated January 9, 2014 including a handwritten comment by the appellant in which the appellant stated that:
  - she moved to City B in September 2013;
  - her file was not transferred from City A to City B until November 2013, and she therefore did not receive notice of her October 3<sup>rd</sup> appointment;
  - she had a doctor's appointment in City A on December 3, 2013;
  - she called the ministry on December 4, 2013 to advise that she could not attend her appointment that day;
  - she has a head injury, Post Traumatic Stress Disorder and anxiety and has just received PWD eligibility;
  - she did not know how to obtain her bank statements;
  - she went to [a community employment assistance provider] and had bank statements for September 2013 to January 09, 2014 printed;
  - she has rent receipts from September 2013 to January 2014;
  - all other requested documents are at the ministry office; and
  - she has been completely confused by this issue and does not believe she was given correct information by the ministry's receptionist.

Attached to the appellant's Request for Reconsideration were rent receipts for the period September 1, 2013 to January 31, 2014, indicating that the appellant has paid rent in the amount of \$300.00 per month for September, October and November 2013 and \$200.00 per month for December 2013 and January 2014.

The appellant did not submit additional written evidence prior to or at the hearing, but stated orally that she did not understand that she was required to attend at an eligibility review until she had submitted all her outstanding paperwork to the ministry. She found it difficult to communicate with ministry through its toll free number, but now has established a helpful person-to-person relationship with a ministry worker in City B as well as the assistance of an advocate. The appellant added that she has a brain injury and doesn't always understand instructions quickly.

[REDACTED]

The appellant stated that she attended the ministry office for the appointment on October 18, 2013 and when she presented the pink appointment slip to the front desk receptionist, she was told that there was no record of her appointment in the computer, so she left more of her documents with the receptionist at that time, but did not meet with a ministry worker. The appellant admitted that she did not appear for her rescheduled eligibility review on November 19<sup>th</sup>, and did not provide a reason for her failure to attend. She insisted that she had called the ministry prior to her December 4<sup>th</sup> eligibility review to advise that she could not attend and had recorded the name of the individual that she had spoken to. She stated further that she has now submitted all of the documents that the ministry requested.

The ministry relied on the evidence contained in the Reconsideration Decision, summarized as follows:

- The ministry scheduled an eligibility review on October 3, 2013 at City A.
- The appellant attended at the ministry office in City B on October 3, 2013 and a ministry worker rescheduled her eligibility review to October 9, 2013 in City B.
- On October 9, 2013 the appellant advised the ministry that she had a medical appointment the same day. Her eligibility review was rescheduled to October 18, 2013.
- The appellant did not attend her scheduled eligibility review appointment on October 18, 2013.
- On November 8, 2013 the ministry wrote to the appellant informing her that she was required to attend an eligibility review appointment.
- On November 18, 2013 the appellant attended at the ministry office and assured the ministry worker that she would attend her rescheduled eligibility review appointment on November 19, 2013.
- On November 19, 2013 the appellant did not attend for her eligibility review.
- On November 26, 2013 the appellant attended at the ministry office stating that she was confused because she thought she had to provide all outstanding documents for her eligibility review. The appellant promised to obtain all required documents and the ministry rescheduled her eligibility review appointment to December 4, 2013.
- The appellant did not appear for her December 4, 2013 appointment.
- On December 5, 2013 the ministry mailed a letter to the appellant informing her that she was no longer eligible for assistance because she had failed to attend her eligibility appointments on October 3, 2013, November 19, 2013 and December 4, 2013.

At the hearing the ministry representative responded to the appellant's oral argument with the following information:

- The ministry has no record of the call the appellant claims she made to inform the ministry that she could not attend her December 4, 2013 eligibility review.
- The denial of eligibility for IA was due to the appellant's failure to attend in person as requested by the ministry for the purpose of auditing her ongoing eligibility, not her failure to submit all of the documents that the ministry had requested of her.
- To date the ministry has not received the bank statements it requested from the appellant.

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## PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry decision which determined that the appellant was not eligible for further income assistance because she failed, pursuant to Section 34 of the Employment and Assistance Regulation (EAR) and Section 30 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), to attend at the ministry office when required to do so for the purpose of auditing her eligibility for income assistance (IA).

Because the appellant was approved for PWD designation prior to the Reconsideration Decision both EAR and EAPWDR are applicable. The relevant sections are as follows:

### EAR:

#### Requirement for eligibility audit

- 34** (1) For the purposes of auditing eligibility for assistance or ensuring a recipient's continuing compliance with the Act and the regulations, the minister may do either or both of the following:
- (a) require the recipient to attend in person on the date, and at the ministry office, specified by the minister;
  - (b) require the recipient to complete a form specified by the minister for use under this section and deliver the form to a ministry office specified by the minister.
- (2) A recipient who is required under subsection (1) (b) to complete a form but who is not required to attend in person at a ministry office must deliver that form to the specified ministry office within 20 business days after being notified of the requirement to complete the form.
- (3) Delivery of the form under subsection (2) may be made by
- (a) leaving it with an employee in the ministry office, or
  - (b) mailing it to that office.
- (4) A family unit ceases to be eligible for assistance if
- (a) a recipient in the family unit fails to attend in person at the ministry office when required to do so by the minister under subsection (1) (a), or
  - (b) a recipient in the family unit fails to complete and deliver the form when required to do so by the minister under subsection (1) (b).

### EAPWDR:

#### Requirement for eligibility audit

- 30** (1) For the purposes of auditing eligibility for assistance or ensuring a recipient's continuing compliance with the Act and the regulations, the minister may do either or

both of the following:

- (a) require the recipient to attend in person on the date, and at the ministry office, specified by the minister;
  - (b) require the recipient to complete a form specified by the minister for use under this section and deliver the form to a ministry office specified by the minister.
- (2) A recipient who is required under subsection (1) (b) to complete a form but who is not required to attend in person at a ministry office must deliver that form to the specified ministry office within 20 business days after being notified of the requirement to complete the form.
- (3) Delivery of the form under subsection (2) may be made by
- (a) leaving it with an employee in the ministry office, or
  - (b) mailing it to that office.
- (4) A family unit ceases to be eligible for assistance if
- (a) a recipient in the family unit fails to attend in person at the ministry office when required to do so by the minister under subsection (1) (a), or
  - (b) a recipient in the family unit fails to complete and deliver the form when required to do so by the minister under subsection (1) (b).

The appellant argues that she did not receive notice that she was required to attend in person for an eligibility review on October 3, 2013 because she had moved from City A to City B and her file had not yet been transferred to City B. She does not dispute that she failed to attend her rescheduled eligibility review on November 18, 2013, but insists that she called the ministry prior to her rescheduled eligibility review on December 4, 2013. She adds that she suffers from a brain injury and Post Traumatic Stress Disorder and that she has difficulty "getting" (understanding) things quickly, and throughout her dealings with the ministry she believed that she had to submit all requested documentation prior to attending in person for an eligibility review.

The ministry argues that although the appellant was advised orally by a ministry worker on October 3, 2013, November 18, 2013 and November 26, 2013 and by a letter from the ministry dated November 8, 2013 that she was required to attend in person at the ministry office for the purpose of conducting an eligibility review as required by Section 34 of the EAR and Section 30 of the EAPWDR she failed to attend her scheduled appointments on the following dates:

- October 3, 2013 (rescheduled at the appellant's request to October 9, 2013 and rescheduled again at the appellant's request to October 18, 2013);
- November 19, 2013;
- December 4, 2013.

As a consequence of her failure to attend her eligibility review appointments she was declared ineligible for assistance pursuant to Section 34(1)(a) of the EAR and Section 30 of the EAPWDR.

[Redacted]

Panel Decision

The panel finds that the appellant failed to attend in person at the ministry office for an eligibility review despite repeated requests to do so on October 3, 2013 (rescheduled to October 9, 2013 and again rescheduled to October 18, 2013), on November 19, 2013 and on December 4, 2013 as required by Section 34(1) of the EAR and Section 30(1) of the EAPWDR. Because the appellant failed to attend as requested on five separate occasions she ceased to be eligible for assistance pursuant to Section 34(4) of the EAR and Section 30(4) of the EAPWDR.

Accordingly the panel concludes that the ministry's decision to deny assistance to the appellant because she failed to attend at the ministry office when required to do so for the purpose of auditing her eligibility for income assistance was a reasonable application of the applicable legislation in the appellant's circumstances, and confirms the decision.