



**PART C – Decision under Appeal**

The decision under appeal is the Ministry of Social Development and Social Innovation's (the Ministry) reconsideration decision dated December 19, 2013, which denied the appellant disability assistance because she failed to provide information requested by the Minister under Section 10 of the Employment and Assistance for Persons with Disabilities Act and Section 28 of the Employment and Assistance for Persons with Disabilities Regulation.

**PART D – Relevant Legislation**

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

## PART E – Summary of Facts

The Ministry was not in attendance at the hearing. After confirming that the Ministry was notified the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

The evidence before the Minister at reconsideration was the following:

A letter from the Ministry to the Appellant dated August 7, 2013 informing the Appellant that the Ministry was reviewing her file and requesting a number of documents including bank statements, tax information, mortgage information, proof of residence, and business information. The Ministry requested that the information be submitted by August 21, 2013.

A letter from the Ministry to the Appellant dated August 21, 2013 notifying the appellant that the documents had not yet been received and requesting their submission by September 4, 2013.

A letter from the Ministry to the Appellant dated October 1, 2013 stating that the Appellant was no longer eligible for assistance.

Two days prior to the hearing on January 29, 2014, the Appellant provided copies of the following documentary evidence:

A letter written by the Appellant and her Advocate, dated January 23, 2014, stating that the Appellant understands that her disability benefits have been discontinued due to her inability to provide the Ministry with information regarding her finances and living situation. The letter states that the Appellant was trying to fulfill the Ministry requirements, but poor health and emotional and physical abuse by her estranged husband prevented her from submitting the required documents. She states that she is in the process of obtaining the tax information, mortgage information, and proof of residence.

A letter written by the Appellant stating her current address and indicating that she is not currently living with her estranged husband.

A letter written by the Appellant's psychiatrist stating that the Appellant has been his patient intermittently since 2008 and that she suffers from a complicated combination of disorders. He states that the Appellant has extreme difficulty in making decisions and thinking through the problems that she has to address.

A letter written by the Appellant to her bank, dated January 23, 2014, requesting information on her joint mortgage with her estranged husband.

A letter written by the Appellant to the Canada Revenue Agency, dated January 23, 2014, requesting information on her tax assessments and returns since 2010.

A letter written by the Appellant, dated January 23, 2014, stating that she has been separated from her husband since 2009.

An affidavit confirming the Appellant's current living arrangement that is separate from her estranged husband.

At the hearing, the Appellant and the Appellant's advocate provided the following oral evidence:

The Appellant explained that her disability, anxiety, and depression prevented her from submitting the requested documents to the Ministry on time. The Appellant stated that she is now getting help to explain the delay and to comply with the Ministry's requirements. The Appellant explained that she is going through a divorce, and she referred to the affidavit supplied in the additional documentary evidence stating that she is no longer living with her estranged husband.

The Appellant's advocate explained that she has known the Appellant since 2008 and explained that the Appellant's mental health issues are exacerbated by a controlling and abusive husband making it difficult for the Appellant to comply with Ministry requests.

In response to questions from the panel, the Appellant stated that during the Ministry's review from August 7 to October 1, 2013, she was hospitalized several times, she was heavily medicated, there were times when she couldn't speak, and she couldn't function at all.

In addition, the Appellant explained that during the review period (August 7 to October 1, 2013), the Appellant obtained the support of a local advocacy organization, which helped her to look into a divorce and contact the Ministry representative. The Appellant states that she felt harassed by the Ministry worker and so the advocate helped her to communicate to the Ministry. The Appellant said that she submitted all of the requested information from her bank as well as her personal information. She stated that she submitted personal bank statements and some mortgage information. She wasn't able to access the mortgage information in her husband's name and this also contributed to her decline in health. The Appellant also explained that she was unable to provide proof of tenancy during the period requested by the Ministry as she was in and out of transition houses. She established a mailing address in 2011 at which she can receive correspondence. She said that she had submitted all of this material prior to the October 1, 2013 letter.

The Appellant stated that she is confused and her memory is blurry of that time, and that she had difficulty approaching the problem in a systematic way. The Appellant stated that, at that time, the Ministry would not acknowledge her health condition.

The panel determined that the additional oral and documentary evidence was admissible under s.22(4) of the Employment and Assistance Act as it was in support of the records before the Minister at reconsideration because the evidence is in support of the Appellant's claim that she was unwell during the review period, demonstrates the Appellant's ability to obtain the required information for the Ministry with the help of an Advocate, and provides a list from the Appellant of the documents that were not submitted during the review period.



## PART F – Reasons for Panel Decision

The issue under appeal is whether the Ministry's reconsideration decision dated December 19, 2013, which denied the appellant disability assistance because she failed to provide information requested by the Minister, was reasonably supported by the evidence or a reasonable application of 10 of the EAPWDA and Section 28 of the EAPWDR.

Relevant legislation: Employment and Assistance for Persons with Disabilities Act

### 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.

Employment and Assistance for Persons with Disabilities Regulation

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.

The Ministry states in the reconsideration decision that the Appellant was denied disability assistance for failure to provide the information requested by the Ministry that was required to audit the Appellant's eligibility for assistance under Section 10 of the EAPWDA. The Ministry acknowledged that the Appellant had been unwell, but argued that the Appellant had enough time and had access to an advocate during the review period. The Ministry argued that the Appellant had ample time and multiple opportunities to provide the requested information.

The Appellant argued that she was willing to provide the information to the Ministry and has recently made steps to obtain the information with the help of an advocate. At the time of her eligibility review, the Appellant stated that her disability, anxiety, and depression prevented her from submitting the requested documents to the Ministry on time. Her health issues were, and continue to be, exacerbated by a damaging relationship with her estranged spouse. The Appellant argued that she was hospitalized repeatedly during that time, taking medications, and couldn't function. She submitted some of the documents including information on her bank accounts and personal information, but had trouble accessing information in her estranged husband's name. Her memory of that time is blurry, but she was willing to comply with the Ministry's requirements and she maintains that she needs financial assistance.

The panel finds that the Ministry's determination that the Appellant was ineligible for assistance because she failed to provide the requested documents under Section 10 of the EAPWDA and Section 28 of the EAPWDR was a reasonable application of the legislation. The panel finds that the Appellant's health issues impacted her ability to comply with the Ministry's requirements, however she was able to work effectively with an advocate early in the eligibility review to gather some of the required documents. While the Appellant maintains that she provided some of the information sought by the Ministry during the review period in 2013, there is no documentary evidence that they were received by the Ministry, with the exception of information from one of the Appellant's bank accounts. The panel notes that in the October 1, 2013 letter to the Appellant, the Ministry continued to request banking information, tax information, mortgage information and proof of residency information.

The panel finds that the Appellant is currently working with an advocate to obtain the remaining documents requested by the Ministry to determine eligibility. The Panel further notes that despite the Appellant giving evidence at the hearing that she provided "all of those documents" to the Ministry with her mortgage information during the summer of 2013, her recent letter to her bank requesting mortgage information is dated January 23, 2014, and the letter requesting her tax information is dated January 23, 2014. There is no documentary evidence that this information was submitted to the Ministry during the review period in 2013. Because the Appellant was able to work with an advocate

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and was able to submit some of the required documents in 2013, the panel finds that the period from August 7, 2013 to October 1 was a reasonable period of time for the Appellant to supply the information to determine eligibility for assistance and that the Appellant had avenues available to obtain the documents in the allotted time. The panel therefore finds that the Ministry's reconsideration decision was a reasonable application of Section 10 of the EAPWDA and Section 28 of the EAPWDR.

The panel therefore confirms the Ministry's reconsideration decision.