

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (Ministry) Reconsideration Decision dated May 12, 2014, which denied the Appellant disability assistance for failing to provide information as required under Section 10 of the Employment and Assistance for Persons with Disabilities Act. The Ministry found that the Appellant failed to provide bank statements for the dates requested and a bank profile, and determined that he is not eligible for disability assistance until he has complied.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA) Sections 10, 11

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

PART E – Summary of Facts

Information before the Ministry at reconsideration included:

- A bank statement in the Appellant's name for the period 30 September 2013 to 8 February 2014.
- A letter from the Appellant's wife, from whom he is separated, dated March 5, 2014, stating that she has nothing to do with him other than providing shelter.
- A copy of a letter from the Ministry to a landlord asking for details of tenancy, dated February 20, 2014, with a handwritten note "Moved out July 31, 2013".
- A copy of a fax transmittal to the Ministry from ICBC dated February 21, 2014, listing payments made to the Appellant for the period June 26, 2013 to January 17, 2014, totaling \$82,970.
- A copy of a letter from the Ministry to the Appellant dated April 7, 2014, advising him that he is no longer eligible for assistance because he had not provided information requested.
- A copy of a letter from the Ministry to the Appellant dated March 17, 2014, requesting a bank profile, bank statements and pay stubs from his wife's employer.
- A copy of a letter from the Ministry to the Appellant dated February 20, 2014, requesting a copy of his tenancy agreement and current rent receipt, utility bills, bank profile and statement and a monthly expenses and income statement.
- A copy of the Appellant's Request for Reconsideration dated April 27, 2014.

At the hearing, the Appellant submitted a copy of a blank bank statement, , dated December 18, 2013, in his wife's name and a copy of a bank statement in his name for the period 31 May 2013 to 8 February 2014, with a handwritten note: "No transactions on June 2013" and a note: "after this point no other transactions". Both notes were initialed with a bank stamp at the beginning and end of the statement. The Ministry objected to the admission of the December 18, 2013 document because there is no indication of activity prior to that date, and made no comment about the admissibility of the bank statement in the Appellant's name. The Panel found that the above-listed documents related to information requested by the ministry and admitted them under section 22(4)(b) of the Employment and Assistance Act as documents in support of the information and records that were before the minister when the decision being appealed was made.

In response to a question from the Panel, the Appellant stated that the account in his wife's name had always been in his wife's name alone and that he had not made any changes to the document other than to remove transaction information to protect privacy; he removed no references to himself. The Appellant stated that the initialed comments on the statement are to confirm that there were no transactions in the month of June, 2013.

With reference to the requirement for a bank profile, the Appellant stated that the same information is contained in his bank statement, and that he previously provided a bank profile to the Ministry when he dealt with another branch of his bank. At that time the Ministry provided him a blank copy of a bank profile, but this time they did not, so he did not have it completed. He stated that he considered the bank statement he provided to be the same (or contain the same information) as the bank profile requested by the Ministry. With respect to the payments from ICBC, the Appellant stated that the information contained in the appeal record is not accurate; he received very little money after the fees were paid to his lawyer, and he was not in receipt of assistance for two years. The Appellant stated that he thought that since he was disabled, he did not have to declare the ICBC settlement for the period when he was not in receipt of assistance.

The Appellant stated that he attended the Ministry's office on April 7, 2014 to discuss the matter of documents and to get an appointment, but he was instead asked for documents and was not given an appointment for an opportunity to clarify the matter. He stated that he provided what was available, but could not provide documents from his wife.

The Ministry submitted a blank bank profile form. The Appellant objected to the admission of this document because it was not provided to him with the request for documents from the Ministry. The Panel found that this document pertained to the ministry's request for information; it is one of the documents the Appellant was instructed to submit. The Panel admitted the bank profile form under section 22(4)(b) of the Employment and Assistance Act as a document in support of the information and records that were before the minister when the decision being appealed was made.

The Ministry stated that the legislation (EAPWDA section 10) requires an applicant or recipient to provide information for the purpose of determining eligibility, and failure to do so may result in the person being declared ineligible for assistance. The Appellant was required to provide bank statements, a bank profile and other information, but did not. As a result, the Ministry was unable to determine the Appellant's eligibility and declared him ineligible for assistance under section 28 of the EAPWDR until the requested information is provided. The Ministry stated that the Appellant was required to provide bank statements for the period June, 2013 to present, but provided statements from September, 2013 and failed to provide a bank profile. The Ministry stated that a bank profile contains information not included on a bank statement, such as associated accounts, investments and other information.

In response to questions from the Panel, the Ministry responded that there are two different dates for information requested for the Appellant's bank accounts because the Ministry had incomplete information. When information was obtained concerning the ICBC settlement, more financial information came to light. In response to a question from the Appellant, the Ministry stated that it is not possible to say whether the appellant has now satisfied the requirement to provide information; and he may reapply for assistance.

The Panel makes the following findings of fact:

- The Appellant was requested to provide a bank profile, bank statements for the period June, 2013 to the present for his account and his wife's account, pay stubs, copy of tenancy agreement, utility bills and a monthly expenses and income statement.
- The Appellant provided all of the above-listed information except a bank profile.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry's reconsideration decision dated May 12, 2014, which denied the Appellant disability assistance for failing to provide information as required under Section 10 of the Employment and Assistance for Persons with Disabilities Act. The Ministry found that the Appellant failed to provide bank statements for the dates requested and a bank profile, and determined that he is not eligible for disability assistance until he has complied.

Legislation

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.

(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.

Reporting obligations

11 (1) For a family unit to be eligible for disability 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.

EAPWDR

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 Appellant's position is that he has now complied with the Ministry's requirement to provide information. He argued that the information requested on the bank profile form is provided on the bank statements; therefore he has provided all of the information requested. The Appellant argued that the Reconsideration Decision states that he is ineligible for assistance until he has complied with the direction to provide documents, and he has now complied and provided the documents.

The Ministry's position is that the Appellant has not fully complied with the request for information.

The Panel notes that the Ministry's request for information includes a requirement for a bank profile to be completed. The panel finds that the Appellant's argument that the same information is included in the bank statements he provided is not supported by the evidence; the ministry explained that the bank profile asks for information about mortgages, loans and credit, investments, business services and international services that are not included on the bank statements provided by the Appellant. Based on the evidence that the Appellant has not provided a bank profile, the Panel finds that the Ministry reasonably determined that the Appellant is and will continue to be ineligible for disability assistance in accordance with section 10, EAPWDA and section 28 of the EAPWDR until he fully complies with the Ministry's request. The Panel therefore finds that the Ministry reasonably concluded that the Appellant has not complied with the Ministry's reporting requirements.

The Panel confirms the Ministry's decision as reasonably supported by the evidence.