

**PART C – Decision under Appeal**

The decision under appeal is the Ministry of Social Development and Social Innovation (Ministry) reconsideration decision dated June 4, 2014 finding the Appellant was not eligible for income assistance pursuant to section 10 of the Employment and Assistance Act (EAA) and section 32 of the Employment and Assistance Regulation (EAR) because he failed to provide the information requested by the Ministry.

**PART D – Relevant Legislation**

Employment and Assistance Act (EAA) section 10  
Employment and Assistance Regulation (EAR) section 32

## PART E – Summary of Facts

On July 7, 2014, prior to the hearing, the Ministry faxed a 6 page submission dated July 7, 2014, to the Tribunal. The Tribunal provided this document to the Appellant and panel members prior to the hearing and at the hearing it was confirmed that it was received by the Appellant and both members of the panel. The document was a summary of information included in the reconsideration decision with the addition of three dates, June 23, June 24 and July 3, 2014 and the associated facts which took place after the reconsideration decision.

At the hearing, the Ministry provided a copy of a letter dated June 20, 2014 with an attached "Confirmation of Earnings" sent by a Ministry investigator to a past employer of the Appellant. The document had been completed and returned to the Ministry on July 3, 2014. The Appellant had no objections to allowing the Ministry to provide the document. This document was not before the minister at the reconsideration hearing.

The Appellant requested a recess for 30 minutes to enable him to pick up and bring to the hearing one of the documents requested by the Ministry. This request was granted. The Ministry had no objections to allowing the Appellant to be granted the recess.

The evidence before the Ministry at reconsideration was as follows:

The Appellant is a sole recipient with no dependants.

- Ministry letter dated April 14, 2014 requesting information pursuant to section 10 of the EAA.
- Ministry letter dated May 8, 2014 requesting information pursuant to section 10 of the EAA.
- Ministry letter dated May 21, 2014 indicating that without the requested information, the appellant's eligibility could not be determined and therefore the Appellant was no longer eligible for assistance.
- The Appellant did not respond to either the April 14 or May 8, 2014 letters.

Documentation requested in both the April 14 and May 8, 2014 letters and not provided by the Appellant included:

- Contact FMEP and provide payment scheduled for all children from January 1, 2010 to present.
- Court orders for custody for all children FMEP payment orders for all children.
- Current lease rental agreement and utility bills from January 1, 2010 to present
- Statements for all bank accounts, sole or joint, for the period of January 1, 2010 to present; have bank complete bank profile letters
- Statements for all investments, RRSPs, pension funds and any other assets
- Income Tax Assessments for 2008, 2009, 2010, 2011, 2012 with attachments (T4s) from 2008 to 2013.
- Transfer papers and insurance for all vehicles
- School registration for the Appellant's children
- Indicate where [named person] has lived since October 2010

At the hearing the Appellant indicate that he had just completed a 90 day recovery program and that he had been unable to reply to the Ministry's requests for information while he was participating in the

program. He indicated that he had not 'done things properly' and he had now provided all the requested information except one item, the bank statements. He had attempted to pick those up during the recess but was unable to do so.

At the hearing, the Ministry confirmed that, as of July 3, 2014, the Appellant had provided all requested documentation except for the bank statements. The Ministry indicated that once all the documents are received, assistance may be granted on a 'go forward' basis.

#### Admissibility of Additional Evidence

- The July 7, 2014 document

The panel determined that part of the information contained in this document was admissible under s.22(4) of the EAA as it was in support of the records before the minister at reconsideration. The admissible part was the "Summary of Facts" up to and including June 4, 2014.

The additional information relating to June 23, 24 and July 3, 2014, (noted in the July 7, 2014 document from the Ministry) described documents the Appellant had provided since the reconsideration hearing and they are not admissible under s.22(4) of the EAA as they are not in support of the records before the minister at reconsideration. These documents were two of the requested documents that the Appellant had provided to the Ministry after the reconsideration decision and were not before the minister at reconsideration.

## PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the Ministry's decision finding the Appellant is not eligible to receive income assistance until the Minister's direction is complied with pursuant to section 32 (1) of the EAR because he failed to comply with the direction of the Minister by not providing all of the requested information pursuant to section 10 (1)(e) and (4) of the EAA.

In the Appellant's Notice of Appeal dated June 16, 2014, he indicated that he had provided all information that had been requested.

The relevant legislation is section 10 of the Employment and Assistance Act (EAA) and section 32 of the Employment and Assistance Regulation (EAR).

### Information and verification

**10** (1) For the purposes of

- (a) determining whether a person wanting to apply for income assistance or hardship assistance is eligible to apply for it,
- (b) determining or auditing eligibility for income 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 income 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 income 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 income assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

### Consequences of failing to provide information or verification when directed

**32** (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 income 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 income assistance or hardship assistance

of the dependent youth's family unit lasts until the dependent youth complies with the direction.

Section 10(1)(e) of the EAA sets out that the Minister may direct a recipient to supply information within the time and in the manner specified by the Minister and section 10(4) sets out that if a recipient fails to comply with the direction, the Minister may declare the recipient ineligible for income assistance for the prescribed period.

On appeal, the Ministry's position was that despite several written requests, the Appellant did not provide all of the requested information, and by not meeting the requirement set out under section 10 of the EAA, the Minister declared him ineligible for income assistance under section 10(4) of the EAA.

The Ministry indicated that they contacted the Appellant by letter on two occasions, April 14 and May 8, 2014 indicating that his file had been selected for a review and that information was being requested under section 10 of the EAA to determine current eligibility and auditing past eligibility for assistance pursuant to section 32 (1) of the EAR.

The panel finds that the Appellant has not submitted the requested information.

The panel finds that the Ministry reasonably concluded that the Appellant did not meet the requirement of 10 of the EAA as he had not provided the requested information and that the Ministry reasonably concluded that the Appellant was not eligible for income assistance pursuant to section 10(4) because of his failure to comply with the Minister's direction under section 10(1)(e).

Section 32 of the EAR sets out that for the purposes of section 10 (4) of the EAA, the period for which the Ministry may declare the recipient ineligible for assistance lasts until the recipient complies with the Ministry's direction.

On May 21, 2014, the Ministry sent a letter indicating that because the requested information had not been provided, the Appellant was no longer eligible for assistance pursuant to section 32(1) of the EAR and that his file would be closed on June 18, 2014.

The panel finds that the Ministry reasonably concluded that the period for which the Appellant was ineligible for assistance lasts until he complies with the direction pursuant to section 32 of the EAR as he did not comply with the Minister's direction under section 10(1)(e) of the EAA.

The panel finds the Ministry's determination that the Appellant did not provide requested information pursuant to section 10 of the EAA and is therefore not eligible for income assistance was a reasonable application of the applicable enactment in the circumstances of the Appellant. The panel found that the legislation, section 10 of the EAA and section 32 of the EAR, clearly set out the requirement in situations like that of the Appellant. As he did not provide the information requested, he was ineligible for income assistance until such time as he provides the information requested by the Minister.

Accordingly, the panel confirms the Ministry's reconsideration decision.