

PART C – Decision under Appeal

Under appeal is the February 21, 2014 reconsideration decision of the Ministry of Social Development and Social Innovation ("the ministry") finding that Mr. S. meets the definition of dependant under sections 1 and 1.1 of the Employment and Assistance for Persons with Disabilities Act and is therefore a part of the family unit, and as the appellant has not applied for assistance on behalf of the entire family unit, the appellant is not eligible for disability assistance in accordance with section 5 of the Employment and Assistance for Persons with Disabilities Regulation.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities (EAPWDA) section 1 and 1.1

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) section 5

PART E – Summary of Facts

At the hearing the appellant agreed to the attendance of two ministry observers. The appellant left the hearing at 9:55 a.m. The appellant had signed a release of information form naming her legal counsel as her representative with authority to make decisions on her behalf, and the hearing continued.

The evidence before the ministry at reconsideration was

1. The appellant is a recipient disability assistance as a single parent. Her daughter was on her file as her dependent child from December 1995 through November 2013, and her son from May 2002.
2. The appellant's Request for Reconsideration dated February 7, 2014, to which was attached a submission in which the appellant states:
 - she has never been romantically involved with Mr. S and has never been his spouse by any definition that a reasonable lay person would understand or agree with.
 - she has been renting space in Mr. S's home for many years.
 - after 20 years of tenancy she was notified in 2010 that she was under investigation by the ministry for potentially receiving disability benefits for which she was not entitled, and that she was completely co-operative with the ministry and their investigation.
 - she was charged in 2011 with fraud.
 - she asked at that time if she should move out of Mr. S's home, but the ministry gave her no guidance.
 - she lives with enormous fear and anxiety every day, and living in a safe house with a trusted friend has been a great benefit to her all these years.
 - it was only when she received the evidence package for the legal proceeding she became aware of the extremely broad definition in the legislation defining spousal relationships for the purpose of disability benefit eligibility. Mr. S, Canadian born, university educated, had no idea the definition of spouse was so broad.
 - she is an immigrant, whose first language is not English, and suffers from numerous physical and mental health issues.
 - since the birth of her first child in 1995, who has severe multiple disabilities, her focus has been on coping from day to day.
 - at age 17 she was imprisoned in her home country as a political prisoner, during which time she was beaten, tortured, raped, shot, had her back and skull fractured, and was eventually deported to another country.
 - in 2008 she was diagnosed with clinical depression, bipolar disorder and post-traumatic stress disorder. She requires nine medications and is terrified of losing disability benefits and not being able to afford the medications, which would put her life at risk.
 - two days before the trial was to begin she was offered and accepted a plea bargain that would drop all charges against Mr. S and allow her to plead guilty to a non-criminal administrative charge and avoid imprisonment. She believed she did not intentionally do anything wrong, although she came to realize she had made some serious mistakes.
 - she understood that her non-criminal conviction for providing false or misleading information to the ministry would result in her monthly benefits being reduced by \$100 a month for one year, but two months later learned the deduction was actually \$200 a month. Again she asked the ministry for

guidance as to whether she should move out of Mr. S's house, but was given none.

- she understood when she agreed to the plea bargain that would be the end of the process, and says it seems completely unfair she was not told at the time her benefits would be cut off, and does not understand why the ministry took one year to take this action.
- she has lived by the knowledge gained from the evidence package provided in 2011 regarding the mistakes that were made that put her at risk of being considered a spouse. She states that ever since then she had been extremely cautious and conscientious to ensure that she does not take any action that puts her at risk of being considered anyone's spouse per the ministry's definition.
- her position is that she has been held to account for her past mistakes and accepted the punishment for them. She plead guilty to providing false or misleading information, but did not plead guilty to ever being Mr. S's spouse, and categorically denies she was ever his spouse.
- Mr. S has given her time to resolve this with the ministry, but has made it clear he his unable and unwilling to allow her to live in his home without paying rent, and that she and her children will be homeless if the ministry does not restore her benefits.

3. The ministry submitted 62 exhibits, accompanied by a 23 page document summarizing chronologically the results of their investigation and the related exhibits. The exhibits relate to four issues, in summary:

1) residential arrangements of the appellant and Mr. S:

Documents from 1992-2013 relating to the various residences in which the appellant and Mr. S lived, including rental receipts from Mr. S to the appellant, tenancy agreement, and Land Title documents showing both the appellant and Mr. S on title of one property and holding a mortgage together.

2) financial dependence/interdependence:

Mr. S's employee cards from 1993-2000 showing the appellant as his spouse; Mr. S's 1995 life beneficiary designation of the appellant, shown as his spouse; Mr. S's 1993 Visa receipt for payment of the appellant's college course; 2004, 2008, 2009 motor vehicle accident reports showing the appellant as driver of a vehicle registered to Mr. S; Motor Vehicle Branch 2006 registration showing the appellant as primary operator of a vehicle registered to Mr. S.

3) social and familial interdependence:

In addition to some of the documents noted above, documents including 2010 computer printout of Mr. S's employee Dependent-Beneficiary and Health Benefit Elections screens showing the appellant as his spouse and the appellant's son as his son; 2007-2009 dental records for the appellant showing the insured as Mr. S. There are 15 witness statements by neighbours, tenants, friends and Mr. S's work colleagues describing their understanding of the family relationship between the appellant and Mr. S, largely concluding they were a couple. One witness, Mr. S's former supervisor, said at an outside-of-work function she met the appellant and daughter at a barbeque held at the home of another staff person, and the appellant, daughter and son attended with Mr. S at a memorial service for the witness' mother. There was also a witness statement by the appellant's ex-husband saying he and the appellant were divorced in 1991 and they did not have any children together.

4) parental role:

In addition to some of the documents listed above, applications for leaves of absence for

the birth of his child, for his sick child, medical appointment for his dependent child; 2001 letter from an out-of-province children's hospital to Mr. S and the appellant; 2006 school record signed by the appellant showing Mr. S as a family member; 2008-10 dental records of the appellant's son showing Mr. S as the person legally responsible and making decisions for the son's dental care.

At the hearing counsel for the appellant submitted additional documentary evidence: a March 25, 2010 interview of a social worker by a ministry investigator, a January 16, 2013 letter from a speech pathologist, and a June 25, 2014 letter from a respite care worker. All three expressed the opinion the appellant and Mr. S. were not in a spousal relationship. The appellant's counsel also submitted a binder with three case law decisions, in support of her argument.

The ministry's counsel submitted two case law documents, in support of the ministry's argument.

At the hearing oral evidence was given by the witness Mr. S. In answer to questions by the appellant's counsel and by the ministry's counsel, he said at university he met the appellant through her boyfriend/husband, who later died of leukemia. This friend told Mr. S that he was concerned that the appellant might be harassed or harmed by elements of the local community who were from the same country as the one from which the appellant had emigrated, and asked Mr. S to look out for the appellant. The appellant was pregnant at the time of her boyfriend's death. Mr. S leased an apartment jointly with the appellant, describing it as essentially hers but they shared the rent. He had a fishing charter business and spent much of his time on the boat. Later he bought a condo, the appellant was his rent paying tenant, and again he said it was more her residence than his. Mr. S purchased a house with three bedrooms up, two down in a rented suite. He said he never shared a bedroom with the appellant. He felt an obligation to help the appellant given her background. The first child was born with multiple severe disabilities. He described the appellant as "destroyed" by that event.

Mr. S said he helped the appellant with the kids so they were properly cared for. He was not involved in the relationship between the appellant and the ministry. He said the appellant had serious undiagnosed emotional problems. He "filled gaps". He put the appellant on his extended medical/dental coverage. He knew it was wrong but considered it a reasonable bending of the rules. He admitted to listing the appellant as a spouse on his life insurance. He thought a beneficiary had to be a family member, the rest of his family did not need the proceeds, and it seemed obvious to leave the money to her. He denies being the father of the appellant's son, spouse to the appellant, or being in a conjugal relationship with her.

In explaining why the appellant was shown as 99% owner on the house he bought, he said his lawyer told him he could legitimately avoid the property transfer tax by using the appellant's name as a first time owner, under a trust arrangement. When the ministry raised questions, he immediately paid the tax and took the appellant off title.

When asked about taking days off work for both children, Mr. S said, like with the medical and dental coverage, he knew he was breaking rules, but felt his compensation package provided the benefits, and he was obsessed with helping the appellant. It cost him his job and career. As to the dental group documents showing him as the father, he says he did not represent himself as a parent, the dental office just assumed it. He said he made no decision as to education or care of the children, he

had no authority to do so, but acted as an advocate or intermediary for the the appellant to get needed care for the kids. He said he always made it clear he wasn't the father or husband.

In response to questions about witness statements, Mr. S says he did not refer to the appellant as his wife, the witnesses were incorrect about a spousal relationship. One witness suffered serious head injury in a motor vehicle accident and has problems with memory and other things. Another witness was a tenant in his basement suite. Mr. S denied events described in that witness' statement, saying he had a policy of maintaining a distance from his tenants, had no social interactions with any of his tenants. He denied referring to the appellant as his wife, but he might have said "the kids", and that he did refer to the appellant as "the home boss". Mr. S said he never claimed the appellant and children on his income tax returns, which was confirmed by the ministry's investigation.

Mr. S said without his assistance the appellant would have needed additional care givers. He stepped in as a friend, it seemed unconscionable to do otherwise.

Mr. S confirmed he did attend the Toronto hospital with the appellant and her child, although he did not answer when asked who paid his airfare. He also said the appellant used and paid for the insurance on an older car he owned.

Counsel for the ministry objected to admission of the documentary evidence submitted by the appellant's counsel and parts of the witness' evidence because it was not information before the reconsideration officer. The panel found this evidence was in support of the evidence before the ministry at reconsideration, as it was provided to substantiate the statement by the appellant in her reconsideration submission denying that she was ever a spouse. Accordingly, the panel admits this evidence under section 22(4) of the Employment and Assistance Act.

PART F – Reasons for Panel Decision

The issue is the reasonableness of the ministry's decision finding the appellant ineligible for disability assistance on the bases that Mr. S meets the definition of a dependant, both under item (c) of the definition of dependant in section 1(1) of the EAPWDA and as a spouse under section 1.1 of the EAPWDR, and is therefore a part of the appellant's family, and the appellant had not applied for assistance on behalf of the entire family unit.

Relevant Legislation

EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES ACT

Interpretation

1 (1) In this Act:

"**dependant**", in relation to a person, means anyone who resides with the person and who

- (a) is the spouse of the person,
- (b) is a dependent child of the person, or
- (c) indicates a parental role for the person's dependent child;

Meaning of "spouse"

1.1 (1) Two persons, including persons of the same gender, are spouses of each other for the purposes of this Act if

- (a) they are married to each other, or
 - (b) they acknowledge to the minister that they are residing together in a marriage-like relationship.
- (2) Two persons who reside together, including persons of the same gender, are spouses of each other for the purposes of this Act if
- (a) they have resided together for at least
 - (i) the previous 3 consecutive months, or
 - (ii) 9 of the previous 12 months, and
 - (b) the minister is satisfied that the relationship demonstrates
 - (i) financial dependence or interdependence, and
 - (ii) social and familial interdependence,
 consistent with a marriage-like relationship.

EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES REGULATION

Applicant requirements

- 5 For a family unit to be eligible for disability assistance or a supplement, an adult in the family unit must apply for the disability assistance or supplement on behalf of the family unit unless
- (a) the family unit does not include an adult, or
 - (b) the spouse of an adult applicant has not reached 19 years of age, in which case that spouse must apply with the adult applicant.

Panel's Decision

Spousal relationship under section 1.1 of the EAPWDA

The panel notes that the definition of spouse set out in section 1.1 of the EAPWDA is “for the purposes of this Act.” Two people may meet the section 1.1 definition while not being considered so under the colloquial meaning of spouse or as defined in other legislation.

Subsection (1) of section 1.1 does not apply in this appeal, as the appellant and Mr. S are not married to each other, nor do they acknowledge to the minister that they are residing together in a marriage-like relationship. The ministry relied on subsection (2) of section 1.1 in its determination that the appellant and Mr. S have a spousal relationship.

There is no dispute that the residency criterion set out in paragraph (a) of subsection (2) has been met. In her reconsideration submission, the appellant acknowledges that “As evidenced in the ministry submission, I have been renting space in Mr. S's home, first for myself and later for myself and my children, for many years.” Noting the various shelter forms for residence at four different addresses dating back to 1992 in the ministry's evidence package, the panel finds that the ministry reasonably concluded that the residency criterion set out in section 1.1(2)(a) has been met.

At issue is whether the remaining two criteria set out in subsection (2)(b) of section 1.1 have been met: (i) financial dependence or interdependence consistent with a marriage like-relationship and (ii) social and familial interdependence consistent with a marriage like relationship.

Financial dependence or interdependence

In the reconsideration decision the ministry notes that in 1992 the appellant was added to Mr. S's medical and dental plan as his spouse and in 1995 she was added as his spouse beneficiary for his employer sponsored life insurance plan. The ministry further notes that in 1996 the appellant and Mr. S purchased a property together and were both listed on the mortgage. In 2006 the appellant advised a ministry worker that she pays for Mr. S's car insurance. The position of the ministry is that these circumstances indicate a pattern of being financially interdependent as they share assets and pay for things for each other, such as medical and car insurance. The ministry argued that the appellant has not spoken to or disputed any of the documentary evidence and there is no indication that their financial relationship has changed and that this financial interdependence is not consistent with the landlord – tenant relationship or one of mere friends. The ministry is satisfied that the pattern of financial interdependence and the declaration of being spouses on financial documents establishes that the appellant's and Mr. S's relationship demonstrates financial dependence or interdependence consistent with a marriage-like relationship, thus meeting the criterion of spouses under section 1.12)(b)(i).

The appellant disputes this finding. At the hearing, Mr. S testified that when he enrolled the appellant and the children in his employer sponsored health and dental plans he thought he was only “bending” the rules, not “breaking” them and he now regrets doing so. He stated that he was motivated by the inadequacy of dental care provided by the ministry and wished to make sure that the appellant and

her children had dental care up to Canadian standards. Purchasing the house together, with the appellant being shown as having a 99% interest, was suggested to him by a lawyer as a way of avoiding the property transfer tax, with the appellant as a first-time buyer. He explained that the appellant was unlikely to ever be in a position to claim this exemption on her own. When this transaction was questioned by the ministry, he paid the taxes in full and the property is now in his name only. As to the insurance policy, he stated that the rest of his family is doing well financially and would not need the proceeds from the policy in the event of his death and that the money would better go to someone who truly needs it, namely to the appellant. He acknowledged that the appellant at one point had use of his car, but it was an older model second car and she paid the insurance. Mr. S argued that these arrangements reflected his concern for the well-being of the appellant and her children, particularly taking into account the appellant's fragile mental and emotional health and the disabilities of one of the children, and his promise to his late friend to look after the appellant.

Panel findings

The panel notes that in enrolling the appellant as his spouse for his employer sponsored medical and dental plans, Mr. S certified that all statements were true and complete. Through enrolling the appellant in these plans, Mr. S provided the appellant with long-term healthcare benefits. In doing so, the panel finds that the ministry was reasonable in considering these ongoing financial ties to be consistent with providing for a spouse in a marriage-like relationship. The complex financial maneuver to avoid the property transfer tax in the purchase of their residence involved Mr. S assigning 99% of the property to the appellant as trustee of a trust. Considering the financial risks involved, the panel views this transaction as demonstrating a financial bond and interdependence between the two as consistent with a marriage-like relationship. In terms of Mr. S providing a car for the use of the appellant, with her paying the insurance, the panel finds it reasonable that the ministry would consider such an arrangement demonstrating financial dependence or interdependence consistent with a marriage-like relationship.

In her submission at reconsideration the appellant states that she has lived by the knowledge gained from the evidence package provided in 2011 regarding the mistakes that were made that put her at risk of being considered a spouse. She states that ever since then she has been extremely cautious and conscientious to ensure that she does not take any action that puts her at risk of being considered anyone's spouse per the ministry's definition. The panel notes that neither the ministry nor the appellant have provided a detailed description or analysis of how their household finances are managed, including who pays for food, hydro, municipal services, telephone and cable and the children's clothing and school supplies. The appellant had every opportunity to provide such information at reconsideration, including what might have changed since 2011. Without such information, and considering the above analysis of the evidence, the panel finds that the ministry reasonably determined that the relationship between the appellant and Mr. S demonstrates financial dependence or independence consistent with a marriage-like relationship.

Social and familial interdependence

In the reconsideration decision, the ministry notes that Mr. S took a day off work for the birth of a child and that this date corresponds with the date the appellant's daughter was born. From 1996 – 2003 Mr. S took 30 days of medical leave from work for a dependent child. The ministry notes that only the

appellant's children live in the home with her and Mr. S and that taking time off work to care for a person's child is not consistent with the landlord/tenant relationship. The ministry goes on to cite other documentary evidence, including 15 witness statements explaining how these witnesses have seen the appellant and Mr. S present as a couple in the community.

In the reconsideration decision the ministry argues that the appellant has not spoken to or disputed any of the documents in the evidence package and there is no indication that the relationship between her and Mr. S has changed. The ministry notes that Mr. S has listed the appellant and her son as dependants. The ministry argues that their social and familial actions are not consistent with the landlord tenant relationship or one of mere friends. The ministry is satisfied that the pattern of familial and social interactions establishes that the appellant and Mr. S demonstrates social and familial interdependence consistent with a marriage-like relationship, thus meeting the criterion of spouses under section 1.1(2)(b)(ii).

The appellant's position, as argued by her lawyer at the hearing, is that the ministry must respect the need that persons with disabilities have for assistance from others and the diversity of relationships that can exist to meet that need. She argued that the relationship between the appellant and Mr. S could also be seen as one of brother/sister or friend/caregiver. She submitted that the ministry "cherry picked" the evidence, by not including testimony that tended to show that the two did not have a spousal relationship. In particular, she submitted the transcript of the ministry interview with the social worker who emphasized the parental role of Mr. S with the children rather than a spousal relationship with the appellant. She also submitted recent letters from a speech pathologist and from a respite worker who knew them in their home setting and which she argued demonstrated that the two did not present as spouses. With respect to the transcripts of the witness statements, she argued that the ministry's decision did not take into account the time lapse between when the witnesses knew the couple and when the statements were made, that investigators asked leading questions and that the witnesses were making assumptions based on social norms without knowing the true facts.

The appellant's counsel also argued that the ministry did not take into account that the appellant and Mr. S resided together as a result of Mr. S wishing to support a person with disabilities. Counsel cited the Thomas case in *Falkiner et al. v. Director, Income Maintenance Branch*, Court of Appeal for Ontario, [2002] O.J. No. 1771, in which the court overturned a lower court decision confirming a ministry decision that Thomas was in a spousal relationship with another person in accordance with Ontario legislation.

"Certainly persons with disabilities are capable of forming spousal relationships and capable of doing so with persons who are not disabled. But the Board should have considered whether Mr. Thomas' disability explained the social and familial aspects of his relationship with Ms. Papizzo, aspects that in another context might well amount to cohabitation. The evidence before the Board suggested that Mr. Thomas needed a caregiver and that he could not live on his own. Either may have provided a plausible alternative explanation for why he and Ms. Papizzo were together all the time. The Board never considered these alternatives. Nor did the Board consider the evidence of the parties themselves, which eloquently described not a spousal relationship but one based on friendship and need."

Panel findings

The panel will first address the appellant's argument in relation to the Falkiner (Thomas) case. First, while the definition of spouse in the Ontario legislation is similar to that in the EAPWDA, the Ontario legislation refers to "*the social and familial aspects of the relationship between the person and the applicant or recipient amount to cohabitation*" while the EAPWDA refers not to "cohabitation" but "a marriage-like relationship." In the panel's view, the Ontario decision is distinguishable from this appeal, as the EAPWDA allows for caregiver/friend relationships: it is only when the financial, social and familial aspects of that relationship, and only those aspects, are "marriage-like" that two persons residing together are considered spouses under the legislation.

In reviewing the evidence, the panel notes in particular a witness statement to which the ministry's lawyer drew specific attention at the hearing. The statement is from Mr. S's supervisor of 16 years, who stated that she was under the impression that Mr. S was married with children. She stated that she met the appellant on two occasions when Mr. S brought the appellant to a barbecue at a staff member's house and he brought the appellant and the children to the supervisor's mother's memorial service. The supervisor stated that she feels that the children are theirs and has given Mr. S time off work to deal with the daughter's medical issues. Considering this witness statement, and the related evidence concerning Mr. S taking birth-of-child leave and medical leave for the daughter, the panel considers the ministry reasonable in concluding that in one important social area, namely Mr. S's work, the appellant and Mr. S presented as spouses and parents. Considering the other witness statements, the panel's view is that overall they support the ministry's conclusion that the appellant and Mr. S present as a close couple domestically, particularly with respect to parenting. The panel also notes that although at the hearing the witness said he had a policy of maintaining a distance from his tenants, and had no social interactions with any of his tenants, that clearly is not the case with the appellant and her children. The panel therefore finds the ministry reasonably determined that the relationship between the appellant and Mr. S demonstrates a social and familial interdependence consistent with a marriage-like relationship.

As the panel has found that the ministry was reasonable in determining that the two criteria in dispute set out in section 1.1(2)(b) have been met, the panel therefore finds that the ministry reasonably determined that the appellant and Mr. S are spouses under section 1.1 of the EAPWDA and that as they are spouses who reside together, Mr. S is the appellant's dependant under section 1(1)(a) of the EAPWDA.

Parental Role under 1(1) of the EAPWDA

The ministry argued that Mr. S was a dependant of the appellant as per paragraph (c) of the definition of dependant in section 1(1) of the EAPWDA. The ministry noted that in 1995, Mr. S took a day off work for the birth of his child and that the date corresponds with the birth date of the appellant's daughter. From 1996-2003 Mr. S took 30 days of medical leave from work for a dependent child. The ministry notes that only the children of the appellant live in the home that the appellant shares with Mr. S and that taking time off work to care for a person's child is not consistent with a landlord-tenant relationship, but is consistent with a parental relationship. In 2001 Mr. S received a letter addressed to both him and the appellant regarding the medical care of the appellant's daughter. In 2009 the appellant advised the ministry office that Mr. S is the next of kin for her children. In 2010 Mr. S had the appellant's son listed as his son on his Dependent Beneficiary screen and Health Benefits

Elections screen for work. The appellant's son's school has Mr. S listed as a family member and emergency contact. In addition, the appellant's son's dental records indicate that Mr. S made decisions regarding the son's dental care and listed Mr. S as "legally responsible" for the appellant's son. The ministry cited multiple witnesses who reported that Mr. S. acted as a parent toward the appellant's children. The minister is satisfied that this pattern of behaviour establishes that Mr. S indicates a parental role for one or more of the appellant's dependent children and concludes that as he and the appellant reside together, Mr. S is therefore a dependent of the appellant.

Mr. S denied being the father of either child and indicated that the assistance he offered to the appellant was to ensure that her children were safe and cared for. He felt that the appellant needed much help in caring for her children and he tried to fill the most important gaps. He explained that he took medical leave from work to assist with looking after the appellant's children when they were ill or needed medical attention. He also acknowledged that he had arranged at work for the appellant's son to be listed as his son so that the child could have access to dental benefits. He explained that he knew this was wrong, but felt a sense of obligation to look after the kids who needed help - especially because he thought the ministry was not doing enough to support the family. He acknowledged that the dental clinic which provided services to the appellant's son considered him to be the boy's father. He explained that the staff at the dental clinic must have assumed that he was the boy's father since he was covered under his dental plan. He said that he always made clear to all medical and school professionals that he was not the father of the children. Similarly, he argued that the witness statements which reported that he presented himself as the father of the appellant's children must have assumed that to be the case, but he insisted that he had not claimed to be their father. He stated he acted as an advocate and intermediary on behalf of the appellant and her children.

Panel Findings

The panel acknowledges that people commonly make assumptions about relationships between people – especially when they share a residence. Nonetheless, the panel noted that neither the appellant nor Mr. S denied that Mr. S had played a significant role in caring for the appellant's children. In the panel's view Mr. S displayed a consistent pattern of behaviour associated with caring for the appellant's children, thus indicating a parental role for these children. This was evidenced in the medical leave he took from work for the birth of a child and at times when the appellant's children were ill or required medical attention, in arranging for the appellant's son to be listed on his records at work as being his son so that the boy could receive dental care at no cost to the appellant, in making decisions about the son's dental treatment, and in being listed in school records as being a family member and emergency contact. Accordingly, the panel concluded that the ministry had reasonably determined that Mr. S had indicated a parental role for the appellant's dependent children and that as he resides with the appellant he is her dependant under section 1(1)(c) of the EAPWDA.

Conclusion

The panel has found the ministry reasonably determined that Mr. S resides with the appellant and is a dependant of the appellant, both by indicating a parental role for the appellant's dependent children, as set out in item (c) of the definition of dependant in section 1(1) of the EAPWDA, and by meeting the definition of spouse in section 1.1 of the EAPWDA, and is therefore a member of the appellant's

family unit. As the appellant had not applied for disability assistance on behalf of her entire family unit as required under section 5 of the EAPWDR, the panel finds that the ministry's decision that the appellant is not eligible for disability assistance is reasonably supported by the evidence and is a reasonable application of the legislation in the circumstances of the appellant. The panel therefore confirms the ministry's decision.