

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision dated June 12, 2014 which held that the appellant was denied disability assistance as the appellant did not provide information requested by the Ministry pursuant to section 10 of the Employment and Assistance for Persons with Disabilities Act (“EAPWDA”) and section 28 of the Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”).

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 requested that an observer be permitted to sit through the hearing. It was made clear to the appellant that it would be only with his permission that the ministry observer be allowed. The appellant stated that he was fine with the ministry observer attending the hearing.

The appellant also requested to be permitted to record the hearing; however, he was informed that the hearings are not public and for that reason he would not be allowed. The appellant was compliant.

The evidence before the Ministry at reconsideration was as follows:

1. Letter dated March 12, 2014 addressed to the appellant from the ministry ("Letter One") which advised the appellant that his file had been selected for review for the purpose of determining his current eligibility or auditing his past eligibility for assistance pursuant to EAA section 10.

The following documentation was listed as needed by March 21, 2014:

- Rent receipt(s), Mortgage payment(s), and/or utility bills; Rent receipts from February 1, 2014 to date.
- Pay statements for all income (earnings, Employment Insurance, Canada Pension Plan, or any other income) for the period of January 1, 2013 to date.
- Record of employment from all employers during the period of January 1, 2013 to date.
- Statements for all bank accounts, sole or joint, for the period of January 1, 2014 to date and bank profile(s). All bank docs should bear bank stamp.
- Statements for all investments, RRSPs, pension funds and any other assets.
- Income Tax Notice of Assessment for year - 2012.

The appellant was informed that he could request an in-person interview to discuss this information or he may be contacted at a later date to set up an appointment if further clarification of information is needed. The letter indicated that the appellant would be advised in writing of any decision that results in changes to his eligibility and will be offered the opportunity to meet to discuss the decision and request a reconsideration of the decision. A phone number was provided by the investigative officer (IO) whose name appeared at the bottom of the letter should the appellant have questions or require further information.

2. Letter dated March 21, 2014 from the appellant to the ministry's IO which states:

- The appellant is unsure from whom he received the letter and cannot send information to just anyone who writes him a letter.
- The appellant requests a meeting in-person if anything is required from him.
- He requests that the IO have government identification.
- He indicates that his cell phone number is on file and asks the IO to call and set up a meeting with him.

3. A letter dated March 28, 2014 addressed to the appellant from the ministry ("Letter Two") which contained the same information as "Letter One" with a request for the documentation by April 4, 2014.

4. A letter dated April 10, 2014 addressed to the appellant from the ministry ("Letter Three") which differed from the previous 2 letters in that it referred to section 10 of the EAPWDA and indicated that "if a person is directed to provide verification of information and does not comply, they may be declared ineligible for assistance." The letter indicated that if the information requested is not provided by the appellant by April 22, 2014, the ministry may be unable to determine his eligibility and will complete its review without his input, and may discontinue or adjust the amount of assistance or may determine that an overpayment has occurred. The appellant is encouraged to provide the requested information as soon as possible and if unable to obtain the requested documents by the date indicated, contact the IO.

5. On April 22, 2014 a subsequent letter was sent to the appellant from the ministry stating that letters dated March 12, March 28 and April 10, 2014 were sent to the appellant asking him to provide information which has

not been received and therefore the appellant is no longer eligible for assistance and his file will be closed on May 20, 2014.

6. A letter from the appellant to the ministry dated May 21, 2014 contained the following information;
- the appellant had to deal with the ministry's Prevention and Loss Division over the past few months,
 - he had not received the information he requested in his March 21, 2014 letter from the ministry ,
 - he had a conversation with the IO who wrote the letter; however, before they could discuss the information he had requested, the IO hung up the phone,
 - the appellant states that he has rights,
 - he faxed a letter to the Minister, Deputy Minister and a casework at the ministry on May 9, to which he has not had a response, he feels discriminated and disrespected by the ministry,
 - the appellant states that he has sought legal advice and was told that he has every right to ask for and receive the information he had requested before turning over any personal and financial information to anyone,
 - he was of the understanding that his permanent disability benefits would never be cut,
 - he indicates that the last letter in which is stated that he has 20 days to appeal calculated the wrong date,
 - the appellant states that the first letter asked under the wrong Act and was not signed making it invalid,
 - the second letter went to an old address, the third letter was not signed, so it was an invalid request,
 - the appellant would like a meeting with the workers involved in his case as well as the minister or deputy and
 - states that because he is hard to deal with doesn't mean he gets to be ignored.

7. A cheque cashing history from the appellant's account from December 31, 2013 to May 8, 2014 with a note written by the appellant which reported that he received a cheque from an insurance company for "pain and suffering" which covered a 3 - month period (January 2014 - \$750, February 2014 - \$750 and March 2014 - \$250) while the total amount of \$1750 was shown as deposited on March 14, 2014. The appellant stated that he has always understood that he only needed to declare amounts over \$800 for a single month.

8. A Request for Reconsideration dated June 5, 2014 which indicated that the ministry responded to the appellant's concerns and the proof he had asked for on March 21, 2014 was finally given to him on June 4, 2014, 70 days later. The appellant indicated that he is still in need of assistance and requested reconsideration as the delays were not his fault.

Included with the Notice of Appeal was a second letter dated June 25, 2014 from the appellant as follows:

1. The appellant argues that the adjudicator got the legislation wrong by using ministry instead of minister and when referring to the appellant's 'family unit'. He states that he did not get clarification that a ministry worker can direct him to supply the requested information until June 4, 2014.
2. The appellant argues that the ministry made the decision to cut off his disability assistance on May 20, 2014 when he had not yet received the clarification on the Minister/Ministry issue and that because of that he was caused unnecessary stress.
3. The appellant argues that the IO did not sign the letters, not making them legitimate. Also the appellant states that the IO requested information under the wrong Act. After the IO corrected the request for information letter, he did not send the clarification that the appellant had requested in his March 21, 2014 letter.

At the hearing the appellant testified that he had sought legal advice and that he is entitled to be provided the clarification he had requested from the ministry. He stated that an unsigned letter by law is null and void and before providing the personal information requested, he wanted to be sure it was legitimate. The appellant stated that the reason that the audit came to be was because of a rent issue and someone he knows wanting to get him in trouble. He stated that he does not understand why consideration was not given to the fact that

he is disabled and that it took 70 days before he received the verification he had originally requested. His rights were not respected. The appellant indicated that he had received benefits for June however not yet for July and that he has only \$2 to his name. When asked by the panel , after receiving the verification that he requested had he since supplied any of the information that had been requested, (the appellant was referred to the letter dated April 10, 2014); he stated that he does not have identification and some of the documents requested do not apply to him such as Pay Statements, Record of Employment, Statements for Investments whereas, he does not yet have a rent receipt, his Income Tax Notice of Assessment was sent to an old address and he cannot get another one and he has not yet provided Statements from all Bank Accounts, (which took a lot of convincing to get as he did not have the required ID). He did supply his cheque cashing history. The appellant argues that the decision to close his file was made April 22, 2014 and therefore, offended his right to have access to the information he had requested.

At the hearing the ministry representative testified that a signed letter did go out originally to a former address of the appellant and that subsequent letters which were not signed were electronically sent to the 3rd party contractor to be passed on to the appellant. The ministry representative indicated that these letters are formatted and that he cannot make changes to them. He stated that he did speak with the appellant by telephone on April 1, 2014; however, after the conversation appeared to be going nowhere, he warned the appellant that he would have to disconnect the call. The ministry representative indicated that the file was turned over to a colleague who subsequently sent the appellant a signed letter on April 22, 2014. The ministry representative advised the panel that he did not know how long it took for the appellant to receive the letters from the 3rd party contractor. The ministry representative highlighted the reconsideration brochure that had been included with the letter of April 22, 2014 specifically, the part that refers to the appellant having the opportunity to request extensions on the time lines. This same information was also noted to be in the ministry's letters.

Findings of Fact

The appellant is a sole recipient with Persons with Disabilities (PWD) designation with no dependents.

PART F – Reasons for Panel Decision

The issue whether the ministry's decision which held that the appellant was denied income assistance for failing to provide information under section 10 of the EAPWDA and section 28 of the EAPWDR is reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

Relevant 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.

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 ministry argues that they had requested information from the appellant for an eligibility review and notwithstanding their repeated requests, the appellant did not submit the following documents:

- Rent receipts from February 1, 2014 to date.
- Pay statements for all income for the period of January 1, 2013 to date.
- Record of employment from all employers during the period of January 1, 2013 to date.
- Statement for all investments including RRSPs, pension funds and any other assets.
- Income Tax Notice of Assessment for 2012.

As the appellant failed to provide the requested documents, he is not eligible for disability assistance until he has complied with providing all the information requested by the ministry pursuant to section 28(1) of the EAPWD regulation.

The appellant argues that he did not receive the verification of authority he had requested for 70 days after he was originally requested to submit personal information, that the decision to close his file was made before he had received the information and the fax he had sent to the Minister, Deputy Minister and case worker on May

9, 2014 had not been responded to, resulting in the appellant feeling discriminated against and disrespected by the ministry. The appellant argues that he cannot understand why it would take so long to get information he was entitled to.

Panel's Findings

The panel acknowledges the appellant's issue with the ministry's first two letters dated March 12 and 28, 2014 which referred to legislation that he felt did not include him due to his disability designation. The panel also noted the correction in the ministry's subsequent letters of April 10 and April 22, 2014 that reiterated what had been in the previous 2 letters and did refer to the Employment and Assistance for Persons with Disabilities Legislation. The panel accepts that the ministry would use formatted letters as well as electronic correspondence and mailing particularly in the case of a 3rd party situation. Each letter offered the appellant an opportunity for an in-person or telephone interview to discuss the information and included a contact phone number. The ministry representative has testified that he did sign the original letter to the appellant however, it had been sent to a former address and that he did speak with the appellant on April 1, 2014 as indicated in the evidence. As for the appellant's request for clarification in terms of the ministry acting on behalf of the minister as well as the explanation of why he was referred to as a family unit; this did not occur until June 4, 2014 after the appellant had faxed both the Minister and Deputy Minister. The panel acknowledges that the clarification sought by the appellant who has disability designation could not have been provided to him before June 4, 2014 and not after the appellant's file was declared closed on May 20 and his disability assistance stopped. The panel also questions the role and responsibilities of the 3rd party contractor in terms of 'the timing' that the ministry correspondence would have reached the appellant as well as whether they could have assisted in some way with the verification requested by the appellant.

The panel finds that while the appellant had received the clarification he sought on June 4, 2014 and subsequently requested a reconsideration of the ministry's decision; that he has not yet supplied the information that was requested of and accessible to him, to the ministry. Although the appellant did previously submit his cheque cashing history to the ministry, he has admitted to the panel that he does not have identification and some of the documents requested do not apply to him specifically; Pay Statements, Record of Employment and Statements for Investments. The appellant admitted that he does not yet have a rent receipt, that his Income Tax Notice of Assessment was sent to an old address and he cannot get another one and that he has not yet provided Statements from all Bank Accounts which he does possess.

Section 10 of the EAPWDA and section 28 of the EAPWDR are designed to allow the ministry to conduct eligibility reviews and details the consequences for failure to provide documents. For example, one of consequences being the denial of eligibility for a set period of time or until the recipient complies with the direction.

In view of the above, the panel finds that there is sufficient evidence confirming the appellant became fully aware of the need to supply the required documentation no later than June 5, 2014 and did not provide the outstanding requested documentation as required by the ministry.

Therefore, the panel finds the ministry's determination that the appellant be denied disability assistance for a failing to provide information was reasonably supported by the evidence and confirms the decision.