

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (Ministry) dated July 22, 2014 in which the Ministry determined that the Appellant is not eligible for disability assistance due to having assets in excess of the allowable limit under Section 10 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Sections 1, 10



PART E – Summary of Facts

Information before the Ministry at reconsideration included:

- Copies of eight money orders payable to the Appellant dated July 15 to December 20, 2013, totaling \$19,000.
- The Appellant's Request for Reconsideration, dated July 3, 2014, with a letter to the Ministry from the Appellant.

At the hearing, the Appellant confirmed in his oral evidence that the money orders in question are payable to him, but stated that the money actually belongs to his family and not to him. The Appellant stated that his brother sent the money to him via another person, and it is intended to be used for the education of his brother's children who are in another country. He stated that he did not want this money and it came to him unexpectedly.

The Ministry responded that the money orders are payable to the Appellant and he could cash them at any time. The Ministry stated that regardless of who purchased them, they are the Appellant's assets, as defined by the legislation.



PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry's reconsideration decision dated July 22, 2014 in which the Ministry determined that the Appellant is not eligible for disability assistance due to having assets in excess of the allowable limit under Section 10 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

Legislation

EAPWDR

Definitions

1 (1) In this regulation:

"**asset**" means

- (a) equity in any real or personal property that can be converted to cash,
- (b) a beneficial interest in real or personal property held in trust, or
- (c) cash assets;

"**cash assets**" in relation to a person, means

- (a) money in the possession of the person or the person's dependant,
- (b) money standing to the credit of the person or the dependant with
 - (i) a savings institution, or
 - (ii) a third partythat must pay it to the person or the dependant on demand,
- (c) the amount of a money order payable to the person or the dependant, or
- (d) the amount of an immediately negotiable cheque payable to the person or the dependant;

Asset limits

10 (2) A family unit is not eligible for disability assistance if any of the following apply:

- (a) a sole applicant or sole recipient has no dependent children and has assets with a total value of more than \$5 000;
- (b) an applicant or recipient has one or more dependants and the family unit has assets with a total value of more than \$10 000.

The Appellant's position is that although the money orders are payable to him, they are not his assets. The Appellant argued that the money orders were given to him. He stated that he was at the bank when the money orders were purchased and that they are to be used for the education of his brother's children. He argued that although he could cash the money orders he will not because the assets belong to his family, not to him.



The Ministry's position is that disability assistance is an income and asset tested program, and the fact that the Appellant has over \$5,000 in money orders payable to him makes him ineligible for disability assistance. The Ministry noted that the asset limit for the Appellant's family unit is \$5,000.

The Appellant's advocate argued that the Panel should consider the Appellant's capability to make decisions, noting that he has an appointment with a mental health team in the near future. The Ministry argued that the issue of mental capability is outside the issue under appeal and is covered by different legislation. The Panel notes that no evidence has been submitted by either party relating to the Appellant's mental state or his ability to make decisions.

The Panel notes that the legislation does not provide the Ministry to exercise any discretion with respect to assets in the form of money orders payable to a person by virtue of the section 1(1) definition of cash assets. The Appellant's evidence confirmed that he was present at the bank when the money orders were purchased and that he also confirmed that he insisted on at least three of them having a note that they could only be cashed by him.

The Panel finds that the Ministry reasonably determined that the money orders totalling \$19,000 payable to the Appellant are assets as defined by Section 1, EAPWDR and that the amount of the assets exceeds the legislated limit of \$5,000 for the Appellant's family unit as stated in Section 10, EAPWDR.

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