

**PART C – Decision under Appeal**

The Ministry of Social Development and Social Innovation (the ministry) decision dated 22 August 2014 determined that the appellant exceeded the 20 day time limit set by s. 71(2) of the Employment and Assistance for Persons with Disabilities Regulation for filing her request for reconsideration and therefore denied the appellant the right for a reconsideration of a decision made by the ministry on 24 June 2014.

**PART D – Relevant Legislation**

Employment and Assistance for Persons with Disabilities Act (EAPWDA), section 16.  
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 71.

## PART E – Summary of Facts

The following evidence was before the ministry at the time of reconsideration:

- The appellant was designated as a person with disabilities (PWD), taking effect on 1 April 2014 and receives disability assistance and benefits.
- On 24 June 2014, the appellant contacted the ministry to request a crisis supplement for unpaid rent as she had received an eviction notice from her landlord.
- On the same day, the ministry determined that the appellant was not eligible for a crisis supplement because she had not established the need was sudden and unexpected and denied her request; she was advised of the decision that same day.
- On 16 July 2014, the ministry noted that the appellant requested a reconsideration of the decision and a Request for Reconsideration package was prepared and signed by an employment and assistance worker on 18 July 2014.
- The package included a Request for Reconsideration form (HR0100) indicating that the date it must be submitted to the ministry by as 22 July 2014.
- The appellant completed and signed that form, dated 7 August 2014 and delivered to the ministry on 12 August 2014.

In her Notice of Appeal dated 2 September 2014, the appellant stated that the ministry “does not clearly understand what I am trying to explain. I have problems explaining myself and issues with short memory and foggy thinking.”

## PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's decision that the appellant exceeded the 20 day time limit set by s. 71(2) of the EAR for filing her request for reconsideration and was therefore denied the right for a reconsideration of a decision made by the ministry on 24 June 2014 was a reasonable application of the legislation or reasonably supported by the evidence.

The applicable legislation in this matter is s. 16 of the EAPWDA:

- 16** (1) Subject to section 17, a person may request the minister to reconsider any of the following decisions made under this Act:
- (a) a decision that results in a refusal to provide disability assistance, hardship assistance or a supplement to or for someone in the person's family unit;
  - (b) a decision that results in a discontinuance of disability assistance or a supplement provided to or for someone in the person's family unit;
  - (c) a decision that results in a reduction of disability assistance or a supplement provided to or for someone in the person's family unit;
  - (d) a decision in respect of the amount of a supplement provided to or for someone in the person's family unit if that amount is less than the lesser of
    - (i) the maximum amount of the supplement under the regulations, and
    - (ii) the cost of the least expensive and appropriate manner of providing the supplement;
  - (e) a decision respecting the conditions of an employment plan under section 9 [*employment plan*].
- (2) A request under subsection (1) must be made, and the decision reconsidered, within the time limits and in accordance with any rules specified by regulation...

And s. 71 of the EAPWDR:

- 71** (1) A person who wishes the minister to reconsider a decision referred to in section 16 (1) of the Act must deliver a request for reconsideration in the form specified by the minister to the ministry office where the person is applying for or receiving assistance.
- (2) A request under subsection (1) must be delivered within 20 business days after the date the person is notified of the decision referred to in section 16 (1) of the Act and may be delivered by
- (a) leaving it with an employee in the ministry office, or
  - (b) being received through the mail at that office.

The ministry argued that the appellant was advised of the decision denying a crisis supplement for shelter on 24 June 2014 and while she indicated she requested a reconsideration of the decision within 20 business days of the decision, she nonetheless delivered that Request for Reconsideration well after, on 12 August 2014 and therefore is not eligible for a reconsideration of the decision.

The appellant argued that the ministry did not understand what she was trying to explain and that she had problems explaining herself and was struggling with issues around short-term memory and "foggy thinking".

The panel notes that the evidence shows the appellant was advised of the ministry's decision on 24 June 2014 and that in her response, she does not dispute that date. Thus the panel finds the appellant was advised of the decision on 24 June 2014 and she contacted the ministry's office on 16 July indicating her intent to request a reconsideration of that decision. However, s. 71(1) of the

EAPWDR specifies that a client "must deliver a request for reconsideration in the form specified by the minister." The procedure section of Form HR0100-Employment and Assistance Request for Reconsideration specifies that the request must be in the form of an Employment and Assistance Request for Reconsideration form.

The ministry provided a reconsideration package (the panel notes that it includes the form specified by the minister), which was available to the appellant as of Saturday 19 July. Section 71(2) of the EAPWDR requires the request to be made within 20 business days of notification of the decision, which would mean by 22 July. However she signed and dated the form on 7 August 2014 and delivered it on 12 August 2014. Thus, the panel finds the ministry reasonably determined the appellant's request for reconsideration was not delivered within 20 business days after she was notified of the ministry's decision and reasonably determined her request for reconsideration could not be considered since it was not made within the time limits specified by regulation under s. 16(2) of the EAPWDA and 71(2) of the EAPWDR.

Therefore, the panel finds the ministry's decision was reasonably supported by the evidence and confirms the decision.