

### PART C – Decision under Appeal

The decision under appeal is the Ministry's reconsideration decision dated October 6, 2014, which held that the Appellant was ineligible for disability assistance under Section 13 of the Employment and Assistance for Persons with Disabilities Act because the Appellant failed to pursue all available sources of income. It was the Minister's opinion that Canada Pension Plan (CPP) income would allow the Appellant to be partly independent of disability assistance and by withdrawing the application for CPP, the Appellant failed to pursue available income. The reconsideration decision held that the Appellant will remain in eligible under Section 27 of the Employment and Assistance for Persons with Disabilities Regulation until she complies with the Ministry's request to apply for Canada Pension Plan income.

### PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA) Section 13(1) and the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Section 27.

## PART E – Summary of Facts

The evidence before the Minister at reconsideration consisted of the following:

- A letter from the Ministry to the Appellant, dated January 23, 2014, stating that the February assistance cheque would be held at the Ministry office until the early Canada Pension Plan (CPPE) application was received. A decision on eligibility would be determined once all of the documentation was reviewed.
- A hand-written note from the Appellant, dated February 12, stating that the Appellant decided to withdraw the application for early CPP. The Appellant states that she understands that the amount of the CPP will be withdrawn from the disability benefits. The letter also states that the Appellant is making efforts to get off disability and that she hopes to make contributions to her CPP in the future.
- The Employment and Assistance Request for Reconsideration Section 1 and 2, dated August 26, 2014, detailing that the Ministry mailed the Early Canada Pension Plan application package on November 5, 2013 and noted that the Appellant's January cheque would be held at the Ministry office until the application was completed. On January 6<sup>th</sup>, the application package had been completed, but original documents had not yet been submitted to the Ministry's Provincial Services Contact Centre (PSCC-CPP), although the original documents had been mailed to Service Canada, the Ministry requested that verification that Service Canada received the documents be faxed to PSCC-CPP. On January 23<sup>rd</sup>, after a review of the CPPE application, the Ministry service worker released the February cheque to the Appellant, but held the March cheque until the original documents (which the Appellant said were at her home) were submitted to the Ministry and the application package was received by PSCC-CPP. On March 11<sup>th</sup>, a Ministry worker advised the Appellant that the April cheque would also be held until the CPPE application was received by the Ministry. On March 20<sup>th</sup>, the Ministry notes that they received a letter from the Appellant stating that she wished to withdraw the CPPE application. On April 16<sup>th</sup>, the file was closed because the Appellant had not responded to the Ministry signals for the CPPE documents. Because the Appellant did not supply the requested documents and withdrew the CPPE application, the Appellant was therefore ineligible for Assistance.
- An Employment and Assistance Request for Reconsideration Section 3, dated September 19<sup>th</sup>, containing a paragraph by the Appellant requesting reconsideration because the Appellant requires help with debt and asking that assistance be retroactively reinstated for compassionate reasons because written notice of the decision was not received until August 26. The Appellant notes that she is disabled and looking for another means of income. The amount that the Appellant would have received from CPP is greater than the amount that the Appellant received from disability assistance and therefore CPP seems redundant.
- The notice of appeal, dated October 17<sup>th</sup>, containing a hand-written paragraph by the Appellant stating that the Appellant was aware of the denial of assistance on August 21 and that the last assistance cheque was received in February 2014.

The Appellant submitted additional information to the Employment and Assistance Appeal Tribunal after the submission deadline for the hearing. The panel chair did not accept the late submission as the additional information only confirmed that the CPP application documents were not submitted, a fact that is not in dispute, and is the reason for the denial of assistance, the issue under appeal. As such, there is no impact to not accepting the late submission and acceptance of the late submission would cause unreasonable delay. The panel chair also noted no reasons were provided for the lateness of the submission.

The panel finds that the Appellant did not pursue income available, specifically the early Canada Pension application, within the timeframe outlined by the Ministry in their communications with the Appellant. The panel also finds that the Appellant did not fully complete the application for the early Canada Pension income and ultimately withdrew the application. Both the Ministry documents and the February 12<sup>th</sup> note written by the Appellant confirm that the application was not completed and was withdrawn by the Appellant. The Appellant states that the application seems redundant and requested reconsideration for compassionate reasons and to pay down debt.

## PART F – Reasons for Panel Decision

The issue is whether the Ministry's reconsideration decision that the Appellant was ineligible for disability assistance because the Appellant failed to pursue all available sources of income is reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the Appellant.

The legislation provides the following:

### Employment and Assistance for Persons with Disabilities Act (EAPWDA) Section 13

**13** (1) The minister may take action under subsection (3) if, within 2 years before the date of application for disability assistance or hardship assistance or at any time while disability assistance or hardship assistance is being provided, an applicant or a recipient has done either of the following:

(a) failed to accept or pursue income, assets or other means of support that would, in the minister's opinion, enable the applicant or recipient to be completely or partly independent of disability assistance, hardship assistance or supplements;

(b) disposed of real or personal property for consideration that, in the minister's opinion, is inadequate.

(2) A family unit is not eligible for disability assistance for the prescribed period if, within 2 years before the date of application for disability assistance or hardship assistance or at any time while disability assistance or hardship assistance is being provided, an applicant or a recipient has disposed of real or personal property to reduce assets.

(3) In circumstances described in subsection (1), the minister may

(a) reduce the amount of disability assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period, or

(b) declare the family unit of the person ineligible for disability assistance or hardship assistance for the prescribed period.

### Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Section 27

**27** (1) For the purposes of section 13 (3) (a) [*consequences of not accepting or disposing of property*] of the Act in relation to a failure to accept or pursue income, assets or other means of support referred to in section 13 (1) (a) of the Act, the amount of a reduction is \$100 for each calendar month for each applicant or recipient in the family unit and the period of the reduction is

(a) if the income, assets or other means of support are still available, until the failure is remedied, and

(b) if the income, assets or other means of support are no longer available, for one calendar month for each \$2 000 of the value of the forgone income, assets or other means of support.

(2) For a family unit that is declared ineligible under section 13 (3) (b) of the Act for disability assistance or hardship assistance because an applicant or recipient in the family unit failed to accept or pursue income, assets or other means of support referred to in section 13 (1) (a) of the Act, the period of ineligibility is,

(a) if the income, assets or other means of support are still available when the declaration is made, until the failure is remedied, and

(b) if the income, assets or other means of support are no longer available when the declaration is made, one calendar month for each \$2 000 of the value of the forgone income, assets or other means of support.

(3) For the purposes of section 13 (3) (a) of the Act in relation to the family unit of an applicant or

recipient who has disposed of real or personal property for consideration that, in the minister's opinion, is inadequate,

(a) the amount of the reduction is \$100 for each calendar month for each applicant or recipient in the family unit, and

(b) the period of the reduction is one calendar month for each \$2 000 of the value of the forgone consideration.

(4) For the purposes of section 13 (3) (b) of the Act in relation to the family unit of an applicant or recipient who has disposed of real or personal property for consideration that, in the minister's opinion, is inadequate, the period of the ineligibility is one calendar month for each \$2 000 of the value of the forgone consideration.

(5) For the purposes of section 13 (2) of the Act, the period of ineligibility is 2 calendar months for each \$2 000 of the value of the real or personal property that was disposed of to reduce assets.

The Ministry argues that the Appellant is ineligible for disability assistance because she failed to pursue all available sources of income, specifically the Appellant failed to pursue income by submitting an early Canada Pension Plan (CPPE) application. The Ministry argues that Canada Pension Plan income would enable the Appellant to be at least partly independent of disability assistance. When the Appellant withdrew her application for CPPE, she was failing to pursue income.

The Appellant argues that she needs temporary reconsideration because she needs help with debts, and she requests that her assistance be retroactively reinstated for compassionate reasons. She is disabled and trying to find another means of income. The Appellant argues that the amount she would have received from Canada Pension Plan is greater than her disability assistance and therefore the application seems redundant. The Appellant argues that she withdrew her CPPE application because she understands that the amount will be deducted from her disability benefits and because she is making efforts to get off of disability assistance and hopes to make pension plan contributions in the future.

The panel finds that the Ministry's determination under Section 13(1) of the EAPWDA that the Appellant failed to accept or pursue income so that the Appellant can be completely or partly independent of disability assistance was reasonable in the circumstances of the appellant. The panel found that the Appellant was given multiple notices over several months, in person from the Ministry workers as well as by mail, clearly stating the consequences of failure to submit the CPPE application, including original documents. The Appellant's February 12<sup>th</sup> letter states that she would like to withdraw the CPPE application. Therefore, the panel finds that the Appellant did fail to pursue income and that the Ministry's determination was reasonable.

The panel further finds that the Ministry's determination under Section 13(3) of the EAPWDA that the Appellant is therefore ineligible for disability assistance for the prescribed period was reasonable in the circumstances of the Appellant. Although the Appellant gives reasons for the withdrawal of the CPPE application, the panel finds that because the Appellant withdrew the application, the Ministry's determination that the Appellant was ineligible for disability assistance for the prescribed period was reasonable.

Finally, the panel finds that the Ministry's determination under Section 27(1) of the EAPWDR that if the Appellant failed to pursue income, and the income is still available to the Appellant, that the period of ineligibility persists until the failure is remedied was also reasonable in the circumstance of

the Appellant. The panel finds that there is no evidence to suggest that the Appellant is no longer eligible for CPPE income and therefore finds that the Ministry was reasonable in finding the Appellant ineligible for disability assistance until the complete CPPE application is submitted.

The panel confirms the Ministry's decision.