

### PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the “ministry”) dated 03 December 2014 which held that the appellant was not eligible for income assistance because the ministry determined that the appellant did not provide all the information directed by the minister under section 10 of the Employment and Assistance Act. The ministry found that a letter from an educational institution provided by the appellant did not meet the requirements of the ministry’s information direction and therefore, under section 32 of the Employment and Assistance Regulation, the appellant is not eligible for income assistance until he complies with the direction.

### PART D – Relevant Legislation

Employment and Assistance Act (EAA), section 10  
Employment and Assistance Regulation (EAR), section 32

## PART E – Summary of Facts

The documentary evidence before the ministry at reconsideration included the following:

1. From the ministry's files:

- The appellant was a recipient of income assistance from 2012 to February 2014 and from May 2014 to October 2014.
- A 2-page letter from a ministry Investigative Officer (IO) to the appellant dated 17 July 2014 which confirms that the appellant is currently a recipient of income assistance and which notes that his file has been selected for review to determine his current eligibility or to audit his past eligibility for assistance, as per section 10 of the EAA. The letter lists a number of areas in which the appellant is directed to submit information to the ministry, including "Provide registration for school at (a specified educational institution)." The letter states that the appellant is to provide the requested information by 31 July 2014.
- A 2-page letter from the IO to the appellant dated 17 August 2014 directing the appellant to submit the same information specified in the previous letter. The appellant is directed to provide the required information by 26 August 2014 and the letter advises that if the information is not provided by that date, the ministry may be unable to determine the appellant's eligibility (for income assistance). The letter advises the appellant that the ministry will complete its review (with or) without his input and may discontinue or adjust the amount of his assistance or may determine that an overpayment has occurred.

2. The appellant's Request for Reconsideration signed the appellant on November 4, 2014, attached to which are:

- A 1-page fax from the appellant's advocate to the ministry dated 13 November 2014, advising that the appellant's Request for Reconsideration is ready for adjudication and that the appellant has no further documentation to submit. The letter lists nine sets of documents, including a letter from the appellant's educational institution, which are attached.
- A 3-page letter from the appellant's advocate to the ministry dated 13 November 2014. The advocate states that the appellant is of no fixed address and resides in his car. The advocate notes that this presents significant challenges for the appellant with respect to obtaining communication from the ministry and in adequately conducting administrative activities with respect to his personal affairs. The advocate advises that in addition to living in very chaotic circumstances resulting from homelessness, the appellant is unable to afford additional costs associated with obtaining documents. In respect of the ministry's request that the appellant provide school registration records, the advocate states that the appellant was unable to provide such records as he was de-registered. The advocate refers to a letter from the educational institution that clarifies the appellant's standing with the school and references a letter of October 28, 2014.
- A 1-page letter from the educational institution addressed "to whom it may concern," dated 28 October 2014. The letter states:  
"Please accept this letter as confirmation that [the appellant] is not currently registered at [the educational institution] and did not receive any funding through a government student loan as a student [of that institution]."

The appellant's *Notice of Appeal* was dated December 18, 2014. The appellant states that his reason for appeal is: "It [the reconsideration decision] is patently unreasonable."

After reconsideration and before the hearing, the appellant's advocate submitted a letter dated 13 January 2015 from the educational institution. The letter states:

"This letter is to confirm that [the appellant] was admitted to but did not attend our full-time Bachelor of Arts [name of subject matter] program. As such we are unable to produce a transcript for this student as no courses were completed."

At the hearing, the appellant's advocate made a presentation that went to argument (See Part F, Reasons for Panel Decision, below).

In answer to questions from the advocate, the appellant stated that he had not attended any classes at the educational institution and that he had not received a Canada student loan. He further stated that he had gone to the educational institution to request registration documents and was told that none were available for him. Asked whether he had ever registered at the educational institution, he stated that he had registered but subsequently deregistered before classes started.

The ministry representative stated that the ministry's direction to provide registration information at the educational institution was prompted by a Canada student loan data match. She said that when the appellant was interviewed by the IO, he stated that he had registered but had not attended any classes and had withdrawn. The purpose of the ministry's direction to the appellant to provide school registration information was to verify his student status.

The ministry representative stated that on receipt of the 13 January 2015 letter before the hearing, she spoke by telephone with the educational institution official who wrote the letter and was advised that the appellant was currently registered in a program of studies at the educational institution with a start date of 19 January 2015 but had not attended any classes, and that he was in receipt of a Canada student loan, with a recent first installment of \$4270.

The ministry stood by its position at reconsideration.

#### Admissibility of evidence

The appellant's advocate submitted that the 13 January 2015 letter from the educational institution should be admitted as evidence as it is in support of the 28 October 2014 letter. He argued that the ministry's testimony regarding the appellant's current registration and Canada student loan status not be admitted because this is not related to the present appeal.

The ministry had no objection to the admissibility of the 13 January 2015 letter as long as the new information regarding his current registration status was also admitted. Otherwise the ministry objected to the admissibility of the letter.

#### *Panel finding*

The panel finds that the 13 January 2014 letter from the educational institution is in support of the

records and information before the ministry at reconsideration as it tends to corroborate the statement by the appellant's advocate in his submission at reconsideration that the appellant had "deregistered" from the educational institution, implying that he had previously registered, and the testimony of the ministry representative at the hearing that the appellant had stated in an interview that he had registered but not attended any classes. Therefore the panel admits this document as evidence under section 22(4) of the *Employment and Assistance Act*.

The panel finds that the new information submitted by the ministry regarding the appellant's current school registration and Canada student loan status is not relevant to this appeal as it refers to a new situation, not to his circumstances at the time of reconsideration, and therefore it is not admitted as evidence.

## PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry decision that found the appellant not eligible for income assistance under section 32 of the EAR, because he failed to provide all the requested information as directed by the minister under section 10 of the EAR, is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant. More specifically, the issue is whether the ministry was reasonable in determining that a 28 October 2014 letter from the educational institution did not meet with the direction of the ministry to provide information on school registration at the educational institution.

The relevant legislation is the following:

From the EAA:

### Information and verification

**10** (1) For the purposes of

- (a) determining whether a person wanting to apply for income assistance or hardship assistance is eligible to apply for it,
- (b) determining or auditing eligibility for income 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 income 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 income 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 income assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

From the EAR:

### Consequences of failing to provide information or verification when directed

**32** (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 income 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 income assistance or hardship assistance of the dependent youth's family unit lasts until the dependent youth complies with the direction.

The position of the ministry, as set out in the reconsideration decision, is that it is not satisfied that the appellant has provided the requested information pertaining to his schooling at the educational institution. The letter from the educational institution dated 28 October 2014 does not demonstrate the information that school registration would (school attendance dates and course loads). To confirm the appellant's information that he cannot provide his school registration, the reconsideration officer spoke with the educational institutions registrar who advises that they will provide official transcripts for [a nominal fee] or education verification letters for [another nominal fee] or the appellant can

contact the school and get his online [administrative] account set up again (he may still have this set up) and print off an unofficial transcript for no cost. As the appellant can obtain the requested information for no cost, the minister finds this information is readily available.

As the appellant was a recipient of income assistance and student status may affect his eligibility for assistance, the ministry found the educational institution school registration information (e.g. transcript or education verification letter) is required for the purpose of determining his eligibility for assistance under section 10 of the EAA. Therefore, as the educational institution school registration information is readily available and he has assistance in obtaining this information, the ministry determined, under section 32 of the EAR, that the appellant is not eligible for assistance until he provides the requested educational institutions school registration information (e.g. transcript or education verification letter).

The appellant's position, as argued by his advocate at the hearing, is that the 13 January 2015 letter from the educational institution fully meets the information by the ministry regarding his school registration. This letter states that the appellant was admitted to but did not attend our full-time program of studies at the educational institution. Thus this letter provides verification that the appellant was registered but withdrew ("deregistered") before classes began. In the alternative, the advocate submits that the 28 October 2014 letter from the educational institution also meets the ministry's information requirement, as it states that the appellant was not registered on that date and, given that no other registration documentation was available, demonstrates that he deregistered prior to the beginning of classes.

The advocate also argued that the requirement for the appellant to submit either a transcript or an education verification letter amounts to totally different documentation than that set out in the section 10 letters of 17 July 2014 and 31 July 2014.

### Panel Decision

This is an appeal of the ministry's reconsideration decision. The issue in this appeal is whether the ministry was reasonable in determining that the information provided by the appellant at reconsideration did not meet the ministry's direction to provide school registration documents. The panel does not have the jurisdiction to determine whether new documentation provided by the appellant at appeal meets the ministry's requirements. While the 13 January 2015 letter might have satisfied the ministry's requirements, it was not provided to the ministry at reconsideration.

The ministry letter dated 17 July 2014 asks the appellant to "provide registration for school with [educational institution]" by 31 July 2014. The subsequent letter dated 12 August 2014 asks for the same information using slightly different wording: "provide school registration with [educational institution]," with a deadline of 26 August 2014. The panel considers it reasonable, given that student status is a factor in eligibility for income assistance, that such a direction to provide information include school attendance dates and course loads.

The panel notes that the 28 October 2014 letter from the educational institution states only that the appellant is "not currently a registered student" at the educational institution. While the letter goes on to state that the appellant did not receive any funding through a Canada student loan as a student at the educational institution, this information is not relevant to the issue under appeal. That the

appellant is “not currently a registered student” provides information only for a particular point in time, on 28 October 2014, some two months into the fall term. This letter does not provide any information as to the history the appellant’s registration at the educational institution, including whether he was in fact registered and subsequently withdrew (“deregistered”) and if so, whether that was before or after classes began. As the 20 October 2014 letter does not provide such information, the panel finds that the ministry was reasonable in determining that the appellant had not complied with the information requirements set out in the 17 July 2014 and 26 August 2014 letters.

Accordingly, the panel finds the ministry decision that the appellant was not eligible for income assistance under section 10 of the EAA is reasonably supported by the evidence. The panel therefore confirms the ministry’s decision.