

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (the Ministry)'s reconsideration decision dated March 10, 2015 that found that the appellant was not eligible for income assistance pursuant to section 10(4) of the *Employment Assistance for Persons with Disabilities Act* (EAPWDA) from November 2014 to February 2015 as the appellant had not complied with the October 2014 direction of the ministry under section 10(2) of the EAPWA to supply the requested documentation until March 5, 2015.

Pursuant to section 28(1) of the *Employment Assistance for Persons with Disabilities Regulation* (EAPWDR), the period of ineligibility for failing to comply with a direction under section 10(4) (EAPWDA) lasts until the applicant or recipient complies with the direction. The ministry found that although the information was requested in October 2014, and was available at the time of the request, the appellant failed to provide the requested information until March 5, 2015.

PART D – Relevant Legislation

Employment Assistance for Persons with Disabilities Act (EAPWDA) section 10
Employment Assistance for Persons with Disabilities Regulation (EAPWDR) section 28

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration included:

- October 9, 2014 - Letter from the ministry to the appellant requesting the statements of adjustments for the sale of two properties and updated shelter information for appellant's new address.
- March 5, 2015 - Phone Log of conversation between Ministry and advocate requesting Statements of Adjustment
- March 5, 2015 - fax from Appellant's advocate that included the statement of adjustments from a notary regarding the sale of two properties (5 pages) and (6 pages) and information regarding the purchase of a third property (3 pages)
- March 10, 2015 - Phone Log of conversation between Ministry and advocate requesting bank statements
- fax from Appellant's advocate that included bank transactions from March 1 to November 30, 2014
- Letter from notary dated September 24, 2014 with attached Form A Feehold Transfer and State of Title Certificate for the third property
- Handwritten, undated list of Appellant's expenses
- Contract of Purchase and Sale, dated February 24, 2014 for the first property
- Contract of Purchase and Sale, dated June 20, 2014 for the second property
- Contract of Purchase and Sale, dated July 23, 2014 for the third property
- February 12, 2014 - fax from Appellant's advocate requesting an appeal of the decision to close Appellant's file stating that he was not advised that his file would be closed

On October 9, 2014, the Ministry sent a letter to the Appellant requesting the statements of adjustments for the sale of the first and second properties and updated shelter information for appellant's new address, the third property. The letter indicated that the Appellant's assistance cheques would be held until the requested information was received. The November 2014 assistance cheque was not claimed.

On October 22, 2014, the Ministry advised the Appellant verbally of the information required to determine his eligibility for assistance due to his change in assets.

On December 9, 2014, the Ministry received some of the requested information. On December 10, 2014, after reviewing this information, the Ministry sent the Appellant a second letter requesting further information.

On December 23, 2014, further information was provided to the Ministry. On December 24, 2014, the Ministry spoke with the Appellant and requested the statements of adjustments as previously requested in the October 9, 2014 letter.

On March 4, 2015, the Ministry received the Appellant's Request for Reconsideration. On March 5, 2015, the Ministry spoke with the Appellant's advocate regarding the need for the requested statements of adjustments to determine eligibility.

At the hearing the Ministry relied on the information provided in the appeal book. The Appellant and his advocate provided the following information:

- The Ministry did not contact the advocate at the declared phone number and the advocate did not get the October 9, 2014 letter until she met with the Appellant on October 31, 2014;

- The Appellant cannot read or write and needs assistance with written information and completing ministry requests.
- The Ministry did not indicate to the Appellant or his advocate that his assistance would be discontinued until the information was provided;
- The Appellant lives in a rural area and is only able to meet with his advocate on a monthly basis;
- The Appellant had to use his savings for gas, etc. in order to meet with his advocate and has now depleted his savings, putting him in a poverty situation; and
- Due to the distances and costs involved in meeting with his advocate, it was difficult for the Appellant to meet with his advocate.

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's decision, which found that the appellant was not eligible for income assistance from November 2014 to February 2015 was reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant. The ministry found that the appellant had failed to provide the information requested in October 2014 until March 5, 2015.

Employment Assistance for Persons with Disabilities Act (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.

Employment Assistance for Persons with Disabilities Regulation (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.

Determining eligibility

Section 10(1) EAPWDA, provides that the minister may, for the purpose of determining eligibility, direct a person to supply the minister with information.

The Ministry's position is that the Appellant was contacted twice in writing and twice verbally to request the information and to advise him that the information was needed to determine his eligibility for assistance.

The Appellant's position is that the Ministry failed to contact the Appellant's advocate at the declared phone number and since the Appellant cannot read or write, he was not able to understand what was being requested.

The Ministry argues that because they spoke to the Appellant, calling the advocate was not required. They further argue that there is no record of the Appellant requesting that the Ministry contact his advocate.

The panel finds the ministry's determination that the Appellant was informed of the request for information was reasonably supported by the evidence as the panel found that, even if the Appellant was unable to read the October 9, 2014 letter requesting information, the Ministry's verbal contact provided the Appellant with the request for information.

Ineligibility for failure to comply

Section 10(4) EAPWDA, provides that if the direction is not complied with, the minister may declare the person ineligible for the prescribed period.

The Ministry's position is that the October 9, 2014 letter states that assistance cheques will be held until the information is received.

The Appellant's position is that the Ministry did not advise him that his assistance would be discontinued until the information was received.

The Appellant argues that due to travel distances and costs, he was not able to meet with his advocate until October 31, 2014 to review the letter and compile the requested information.

The panel finds the ministry's determination that the Appellant did not comply with the request for information was reasonably supported by the evidence as the panel found that the Appellant and his advocate were in possession of the October 9, 2014 letter which stated that his assistance would be held until the information was provided. The Appellant and his advocate were aware that his November, December, January and February cheques were held and there is no record of inquiries as to the reason behind the discontinuance. Further, the Appellant did not provide any reasons to the Ministry for the non-compliance or delay in providing the information.

Prescribed period of ineligibility

Section 28 EAPWDR, provides that the prescribed period lasts until the person complies with the direction.

The Ministry's position is that several attempts were made, in written form and verbal, to advise the

Appellant of the request for information and the discontinuance of assistance until the request was complied with. Further, the Ministry argues that the Appellant did not demonstrate why he could not provide the information.

The Appellant's position is that he was not aware that his support would be discontinued and that circumstances contributed to the delay in providing the information.

The panel finds the ministry's determination that the Appellant was ineligible for assistance from the time of the request for information in October 2014 until the information was provided in March 2015 was reasonably supported by the evidence as the panel found that the Appellant was given written and verbal notice that his assistance would be held until the information was provided and, in fact, it was held for four months.

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