

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision by the Ministry of Social Development and Social Innovation (the ministry) dated 21 July 2015 that denied the appellant's request for support allowance retroactive from 01 June to 04 June 2015. The ministry determined that, as the appellant's Application for Disability Assistance (Part 2) form is considered to have been submitted on 05 June 2015, under section 23(1.2)(a) of the Employment and Assistance for Persons with Disabilities Regulation she is eligible for support allowance from that date and there is no legislative authority to approve assistance prior to that date.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 23(1.2)(a).

PART E – Summary of Facts

At the request of the ministry and with the consent of the appellant, a ministry employment and assistance worker attended the hearing as an observer.

The evidence before the ministry at reconsideration is set out below:

1. The appellant is a single person in receipt of disability assistance.
2. The following chronology, from the ministry section of the appellant's Request for Reconsideration:
 - On 25 May 2015 the appellant completed the online self-serve application for disability assistance.
 - On 04 June 2015 she completed her application interview by telephone.
 - On 05 June 2015 the final requested document was submitted.
 - On 10 June 2015 the appellant signed the Application for Disability Assistance (Part 2) form. At that time, a ministry worker was able to assess the appellant's eligibility based on the documents submitted by 05 June and there was a delay in signing the application, the worker was able to consider 05 June as the date the appellant became eligible for assistance. The worker then issued support allowance for 05 – 30 June and shelter allowance for the full month of June.
3. The appellant's completed Request for Reconsideration, returned to the ministry on 08 July 2015, attached to which is a submission in which she reviews the above chronology. She writes that after completing the online application, she was not called back within the 5 business days as stated by the ministry. The call-back might have been further delayed if her advocate had not contacted the ministry to find out what was happening. She further notes that when she went to the office on 05 June 2015, she was not asked to sign the Application (Part 2) form at that time. The balance of her submission goes to argument.

The appellant's Notice of Appeal is dated 05 August 2015. Under Reasons for Appeal, she writes:

"I submit that the MSDSI failed to reinstate my PWD benefits in a timely manner, and therefore I submit that I am entitled to an additional \$70.86, the additional amount I would have received if the ministry would have acted in a timely manner."

At the hearing, the appellant's advocate provided some background to the appellant's request: she had for many years been a recipient of disability assistance. She recently married and because of her husband's income, she was no longer eligible for assistance. However, soon after her marriage, her husband passed away and she was again in a situation where she needed to rely on disability assistance. The balance of the advocate's presentation, and that of the appellant, went to argument (see Part F, Reasons for Panel Decision, below).

The ministry stood by its position at reconsideration (see also Part F, Reasons for Panel Decision, below).

The panel finds that neither the appellant nor the ministry presented any new information requiring a determination as to admissibility.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry was reasonable in denying the appellant's request for support allowance retroactive from 01 June to 04 June 2015. More specifically, the issue is whether the ministry determination that, as the appellant's Application for Disability Assistance (Part 2) form is considered to have been submitted on 05 June 2015 and therefore under section 23(1.2)(a) of the EAPWDR she is eligible for support from that date and there is no legislative authority to approve assistance prior to that date, is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant.

The relevant legislation is from the EAPWDR:

Effective date of eligibility

(1.2) A family unit of an applicant for disability assistance who has been designated as a person with disabilities becomes eligible for

- (a) a support allowance under sections 2 and 3 of Schedule A on the date of the applicant's submission of the application for disability assistance (part 2) form,
- (b) for a shelter allowance under sections 4 and 5 of Schedule A on the first day of the calendar month that includes the date of the applicant's submission of the application for disability assistance (part 2) form, but only for that portion of that month's shelter costs that remains unpaid on the date of that submission, and
- (c) for disability assistance under sections 6 to 9 of Schedule A on the date of the applicant's application for disability assistance (part 2) form.

The position of the ministry is that section 23(1.2)(a) of the EAPWDR provides no authority to approve support assistance before when her Application for Disability Assistance (Part 2) form is considered to have been submitted – i.e. before 05 June 2015. At the hearing, the ministry explained that the ministry aims to call back an applicant within 5 business days after the online application. This is a “service standard” that the ministry attempts to meet, but it may take longer depending on workload. The ministry further explained that during the telephone interview on 04 June, the appellant would have been asked to submit documentation to substantiate eligibility – typically bank statements, vehicle registration, shelter information, hydro bills, etc. The appellant submitted the requested documents on 05 June, but it takes 2 business days to verify the documents in order to confirm eligibility. While the appellant did not sign her Application (Part 2) form until 10 June, the worker, based on considerations of the appellant's need, was able to consider 05 June, the date the requested documents were submitted, as the date her application was completed and issued her support allowance accordingly.

The appellant's position is that the ministry took an inordinate amount of time to respond to her online application. The appellant's advocate pointed out that when a client misses a deadline set by the ministry, there are consequences or sanctions borne by the client. Fairness demands a balance, and when the ministry misses a deadline, as in exceeding the 5 day standard for the call-back to the appellant, then the client – the appellant in this case – should not be expected to suffer the consequences, as the appellant has had to, losing out much needed ~\$70 in support.

The appellant also argues that, as she was approved Medical Services Plan coverage as a recipient of disability assistance effective 01 June 2015, this substantiates her position that she is entitled to full support benefits for the full month of June 2015.

Panel decision

The legislation states that an applicant for disability assistance who has been designated as a person with disabilities becomes eligible for support allowance on the date of the applicant's submission of the Application for Disability Assistance (Part 2) form. The process leading up to eligibility involves the submission of an online application, a telephone interview and submission of the Part 2 form. Integral to this process is providing the ministry with hard-copy documents that can be verified to confirm eligibility. The appellant submitted such documents on 05 June 2015, and on that basis the ministry considered that date as that on which the Application (Part 2) form had been submitted. While the appellant argues that she could have submitted these documents earlier if the ministry had not taken so many days from when she submitted her online application to call her back, citing the 5 day "service standard," the panel accepts the ministry's explanation at the hearing that the 5 business standard is a ministry target, but is subject to considerations such as workload volume, etc. Further, the panel can find no reference to this standard in the legislation.

The panel is guided by the legislation and finds that, as the appellant submitted the required documentation on 05 June 2015, the date considered by the ministry as that on which her Application (Part 2) form was submitted, the ministry was reasonable in determining that she is not eligible for support allowance prior to that date.

For these reasons, the panel finds that the ministry's decision that denied denying the appellant's request for support allowance retroactive from 01 June to 04 June 2015 is a reasonable application of the legislation in the circumstances of the appellant. The panel therefore confirms the ministry's decision.