

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 October 30, 2015 which held that the appellant was not eligible to have her son added to her file until September 2015 because she did not advise the ministry of the change in circumstances as required by section 11 of the Employment and Assistance for Persons with Disabilities Act (EAPWDA) prior to September 2015.

PART D – Relevant Legislation

*Employment and Assistance for Persons with Disabilities Act (EAPWDA), section 11*

## PART E – Summary of Facts

### Evidence before the ministry at reconsideration

The evidence of the ministry is that on September 9, 2015, the appellant telephoned and stated that her son had returned to her care. She was asked to provide a letter from her social worker for confirmation. On September 14, 2015, the ministry received the requested letter from the social worker dated September 10, 2015, indicating that the appellant's son was no longer under the care of the Ministry of Children and Family Development after May 15, 2015. Notes on the appellant's ministry file indicate that the appellant contacted the ministry multiple times in May regarding other issues, including medical transportation assistance, but that there is no record (service requests, notes, activities or documents) that the appellant mentioned anything about her son's return to her care until September 2015. Ministry records also indicate that in January 2015, at which time the appellant's son was on her file, she requested and was approved for a clothing supplement.

Following receipt of the appellant's Request for Reconsideration, the reconsideration officer reviewed the appellant's file and confirmed records of contact on other matters but no mention of the appellant's son's most recent return to her care prior to September. The reconsideration officer also contacted the social worker to confirm the September 10, 2015 letter. The social worker clarified the dates respecting when the appellant's son was in care during 2014-2015 and stated that she had not sent a fax to the ministry regarding a return to the appellant's care in May 2015 though she had sent the ministry a letter regarding a previous return to the appellant's care in March 2014.

The appellant's evidence is that she advised the ministry in May 2015 that her son was returned to her care and that she requested he be added to her file at that time. In her Request for Reconsideration, the appellant wrote "As I explained to the workers re [son's name]; my son – I had needed a clothing allowance – they never even mentioned he hadn't been added to my file yet – as the fax that was sent out from [social worker] – had not been received – I was under the impression the file was being updated still because the worker said it takes time to show up on the computer...."

### Oral and written testimony provided on appeal

In her Notice of Appeal, the appellant writes that the facts are wrong. The appellant provides the following details in an attached one page letter. In May she attended a ministry office and requested emergency funds to help re-establish her son who had returned from one month of voluntary care and was told she did not qualify for any further assistance. In June 2015 she contacted the ministry by phone requesting an emergency clothing allowance for her son as his clothes had gone missing while in care. The request was denied and the ministry worker hung up the phone. She contacted the ministry by phone and in person in August to request emergency funds of any type and was denied again.

At the hearing, the appellant confirmed the events as described in her Notice of Appeal submission, adding that the only other evidence she has respecting her son's return to her care in May are comments made on Facebook. The appellant also described a number of circumstances in which she says ministry actions or failure to act or write things down resulted in a delay in the receipt of financial assistance, including problems with her shelter allowance and the clothing crisis supplement provided in January 2015. The appellant also stated that there is no reason why she would not inform the

ministry of her son's return to her care.

At the hearing, the ministry confirmed the information it relied on at reconsideration, specifying that the appellant's file shows recorded contacts with the appellant as of May 2015, including four dates in May and dates in June and August but that no reference to a request respecting the appellant's son appears until the entry for September 9<sup>th</sup>. The ministry also explained its practice is to enter and date stamp communications with a client and that when notified that a child is being returned to a client's care a service request would be entered on the client's file with the notation that the ministry is awaiting documentation (letter of confirmation from a social worker). The ministry added that it is not disputing when the appellant's son was returned to her care as the issue is when the appellant advised the ministry of her son's return.

## PART F – Reasons for Panel Decision

### Issue under appeal

The issue under appeal is whether the ministry decision that the appellant was not eligible to have her son added to her file until September 2015 because that is when she advised the ministry of a change in circumstances in accordance with section 11 of the EAPWDA is reasonably supported by the evidence or a reasonable application of the legislation.

### Relevant Legislation

#### **(A) Reporting obligations**

**11** (1) For a family unit to be eligible for disability assistance, a recipient, in the manner and within the time specified by regulation, must

(a) submit to the minister a report that

(i) is in the form prescribed by the minister, and

(ii) contains the prescribed information, and (B.C. Reg. 265/2002)

(b) notify the minister of any change in circumstances or information that

(i) may affect the eligibility of the family unit, and

(ii) was previously provided to the minister.

(2) A report under subsection (1) (a) is deemed not to have been submitted unless the accuracy of the information provided in it is affirmed by the signature of each recipient.

### Appellant's position

The appellant's position is that when she was requesting financial assistance for clothing and medical transportation in May 2015 she advised the ministry that her son had been returned to her care and that her social worker sent a fax to the ministry for confirmation but the ministry failed to record her request. Accordingly, she argues that her son should have been added to her file as of May 2015.

### Ministry's position

The ministry's position is that the appellant did not inform the ministry that her son was again living with her as of May 2015 until September 9, 2015 at which time she was requested to provide confirmation from her social worker. The ministry argues that this conclusion is supported by the lack of any record of a service request or communication respecting the appellant's son in the ministry's record of multiple contacts with the appellant from May until September 9, 2015 and by the statement

of the appellant's social worker that she had not sent a fax regarding the appellant's son in May 2015.

Panel Decision

Section 11(1)(b)(i) of the EAPWDA requires that to be eligible for disability assistance, the family unit must notify the minister of any change in circumstances that may affect the eligibility for assistance. In this case, the change in circumstances is the return of the appellant's son to her care which affects the composition of the family unit and rate of assistance. Although the appellant states that she advised the ministry of her son's return in May 2015 and that her social worker sent a fax to the ministry regarding the matter, there is no record of that information being provided prior to September 9, 2015 in any of the entries on the appellant's ministry file. Additionally, when contacted, the appellant's social worker contradicted the appellant's assertion that the social worker had faxed the ministry in May 2015 respecting the return of the appellant's son. Based on the information in the appellant's ministry file and the statement from the appellant's social worker, the panel finds that the ministry reasonably determined that the evidence does not support the appellant's claim that she reported the return of her son to the ministry prior to September 9, 2015. Accordingly, the panel finds that the ministry's reconsideration decision that held that the appellant is not eligible for additional assistance on behalf of her son prior to September 2015 is reasonably supported by the evidence and confirms the reconsideration decision.