

## PART C – Decision under Appeal

The Ministry of Social Development and Social Innovation's (the ministry) reconsideration decision dated 19 November 2015 determined the appellant was not eligible for income assistance because she failed to provide 60 days bank statements for each of her bank accounts, information that was requested by the minister under s. 10 of the Employment and Assistance Act (EAA).

## PART D – Relevant Legislation

EAA, s. 10.

Employment and Assistance Regulation (EAR), s. 32.

Employment and Assistance for Persons with Disabilities Act (EAPWDA), s. 10.

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), s. 28.

## PART E – Summary of Facts

The following evidence was before the ministry at the time of reconsideration:

- On 11 September 2015, the ministry received the appellant's online application for income assistance (Part 2).
- On 18 September 2015, the ministry mailed an Information/Document Checklist to the appellant that included a request for a bank profile and bank accounts statements for each account listed for the previous 60 days; the information was to be submitted before 29 September 2015.
- On 22 September 2015, a ministry worker interviewed the appellant, and in the course of that conversation the appellant indicated she was not comfortable submitting bank statements that she considered private information. The ministry worker informed the appellant that failure to provide the requested information would make her ineligible for assistance.
- A one-page document received by the ministry on 29 September 2015 titled "Information / Documentation Checklist" was apparently completed by the appellant: it included a list of required documents that were provided by the appellant to the ministry, with the exception of the following, which was crossed out by hand: "1. Submit the last 60 days of bank statements for each account listed. 2. Letter from bank confirming you are unable to withdraw RRSP due to overdraft". The appellant's bank profile listed a chequing account, a home equity line of credit, member share, registered savings plans and a personal loan.
- On 13 October 2015, a ministry worker spoke with the appellant who declared she would not submit bank account statements due to privacy concerns. The appellant was informed that because she did not provide the information requested by the ministry, she was not eligible for assistance.
- A 3-page Application for Disability Assistance (Part 2) dated 28 October 2015, completed and signed by the appellant included the information that the appellant had a bank account.
- In her Request for Reconsideration dated 9 October 2015 and received by the ministry on 12 November 2015, the appellant stated that she found the request for the 60 days bank statements was an infringement of her privacy as she felt the government would know every aspect of her life and that made her uncomfortable. She added that 15 pieces of documentation already submitted should suffice. She elaborated on her medical condition and provided the ministry with 3 medical reports explaining her medical condition and disabilities.

## PART F – Reasons for Panel Decision

The issue under appeal in this case is whether the ministry's decision that the appellant was not eligible for income assistance because she failed to provide 60 days bank statements for each of her bank accounts was either a reasonable application of the legislation or reasonably supported by the evidence.

The applicable legislation is s. 10 of the EAA:

**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,

...

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.

...

(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...

and s. 32 (1) of the EAR:

**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...

Since the appellant completed and signed an Application for Disability Assistance on 28 October 2015, the panel notes that s. 10 of the EAPWDA and s. 28 (1) of the EAPWDR are to the same effect as the sections mentioned above.

At the hearing the appellant argued that it was an infringement and invasion of her privacy rights to compel her to provide a copy of her bank statements and that it was an embarrassment for her. She also argued that the ministry had sufficient information to determine she was eligible for assistance. The appellant finally argued that the legislation was too broad and should be changed to protect her privacy.

The ministry indicated that information provided by clients such as bank information is safely stored and that only authorized personnel with adequate clearance have access to it; it is not used for any other purpose than to determine eligibility. The ministry argued that it was reasonable in requesting this information; not only does this information assist the ministry in determining eligibility, it also assists applicants who may otherwise forget to mention relevant financial activities and have to

refund assistance they were not entitled to. This type of information request is general and the appellant was not particularly targeted.

***Panel decision:***

Under s. 24 of the EAA, the panel's jurisdiction is limited to determining whether the reconsideration decision is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant; the panel can either confirm or rescind (overturn) the ministry's decision – it has no jurisdiction to assess the reasonableness of the legislation that is being discussed in an appeal. The appellant also mentioned her disabilities and her need for a Person with Disabilities (PWD) designation but the panel notes that this is a completely different issue that is not the object of this appeal.

The appellant did not dispute the events as reported above and confirmed having decided not to provide the information requested by the ministry for fear of an invasion of her privacy. The panel concludes that the appellant failed to provide the 60 days bank statements, information that was requested by the ministry on several occasions.

The panel acknowledges that the appellant provided the other pieces of information that the ministry requested and must therefore look at the ministry's decision to determine that, as a result, the appellant was ineligible for income or disability assistance. The panel notes that a person may or may not apply for income or disability assistance – this is a personal decision based on each applicant's situation. On the other hand, if a person applies for assistance, the applicant must meet the conditions for eligibility and one of them is to provide the information that the minister requests to determine eligibility. Is it reasonable for the ministry to request bank statements? The panel finds that this information is certainly relevant to determining eligibility as it may reveal income or other sources of revenues and is not the kind of situation where, for example, this obligation would be waived for a person that is homeless because she does not have a bank account.

Consequently, the panel finds that the ministry reasonably determined that the appellant failed to provide the 60 days bank statements and that as a result, the ministry reasonably determined the appellant was ineligible for income / disability assistance pursuant to s. 10 of the EAA.

Therefore, the panel finds the ministry's decision was reasonably supported by the evidence and was a reasonable application of the applicable enactment in the circumstances of the appellant; it confirms the decision.