

## 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 November 24, 2015 which held that the appellant's request for income assistance for August and September 2015 was not subject to reconsideration and that no reconsideration would be conducted "because the legislation provides no provision to provide backdated assistance." The ministry then determined that the appellant was not eligible for income assistance for August and September in accordance with section 26 of the Employment and Assistance Regulation because her reapplication for income assistance was not submitted and approved until October 2015.

## PART D – Relevant Legislation

*Employment and Assistance Act* (EAA), sections 2 and 11

Employment and Assistance Regulation (EAR), sections 26 and 33

## PART E – Summary of Facts

The ministry's evidence is that the appellant did not submit her monthly report needed to determine eligibility for August 2015 income assistance by the required due date of July 5, 2015. The appellant contacted the ministry on July 31, 2015, regarding her August assistance cheque and was advised that she had not submitted the required monthly report. The appellant stated she would mail her report to the office. On August 12, 2015, the appellant submitted "the monthly report for July" via the ministry's SelfServe portal. A copy of this report is included in the appeal record. On the same day, the appellant's August cheque was cancelled and on August 14, 2015, her income assistance file closed. On August 26, 2015, the appellant contacted the ministry about her August and September income assistance and a service request was opened for a review of the appellant's situation. On September 2, 2015, the appellant again inquired about her income assistance and was advised to reapply for income assistance online. On September 21, 2015, an application interview with the appellant was completed and she was advised of the documents required in order to establish eligibility. On September 28, 2015, an appointment was scheduled for October 13, 2015 to review the appellant's application. The ministry noted that the appellant was at her mother's and therefore there were no immediate concerns for food, shelter or medical need. On October 19, 2015, the appellant was approved for income assistance effective October 2015.

The appellant's evidence, as set out in a 2-page submission attached to her November 16, 2015 Request for Reconsideration is that after having trouble receiving previous assistance cheques from the ministry, she registered for "My Self-Serve" in June 2015. She writes that on July 31 she called the ministry respecting the monthly report that was due July 5<sup>th</sup> [for August assistance] and was told that it was not too late to send it in by mail. She speculates that the physical stub should have arrived by August 4<sup>th</sup>, which is around the time the August 5<sup>th</sup> report would have been due. She questions whether the ministry ever received the physical stub. She writes that the monthly report due on August 5<sup>th</sup> was submitted on August 12<sup>th</sup> [for September assistance] via "My Self-Serve", not realizing that it was being considered as her monthly report due July 5<sup>th</sup>.

In her Notice of Appeal, the appellant writes that more information is to come. However, nothing further was received from the appellant. The ministry relied on its reconsideration decision as its appeal submission.

## PART F – Reasons for Panel Decision

### Issue under appeal

The issue under appeal is whether the ministry decision that the appellant was not eligible for income assistance for August and September 2015 and was only eligible for income assistance effective October 2015 when her reapplication for assistance was completed because section 26 of the EAR does not allow for the provision of backdated income assistance, was reasonably supported by the evidence or a reasonable application of the legislation.

### Relevant Legislation – sections 2 and 11 of the EAA and sections 26 and 33 of the EAR

#### **Eligibility of family unit**

**2** For the purposes of this Act, a family unit is eligible, in relation to income assistance, hardship assistance or a supplement, if

(a) each person in the family unit on whose account the income assistance, hardship assistance or supplement is provided satisfies the initial and continuing conditions of eligibility established under this Act, and

(b) the family unit has not been declared ineligible for the income assistance, hardship assistance or supplement under this Act.

#### **Reporting obligations**

**11** (1) For a family unit to be eligible for income 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) 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.

**Effective date of eligibility**

**26** (1) Except as provided in subsection (2), (2.01), (2.1), (3.01) or (3.1) a family unit is not eligible for income assistance or supplements in respect of a period that occurred before the date the minister determines the family unit is eligible for the income assistance or supplements, as applicable. (B.C. Reg. 340/2008) (B.C. Reg. 264/2013)

(2) A family unit becomes eligible

(a) for a support allowance under sections 2 and 3 of Schedule A on the date of the applicant's submission of the application for income assistance (part 2) form, (B.C. Reg. 304/2005)

(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 income 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 (B.C. Reg. 304/2005)

(c) for income assistance under sections 6 to 10 of Schedule A on the date of the applicant's submission of the application for income assistance (part 2) form, (B.C. Reg. 400/2007)

**Monthly reporting requirement**

**33** (1) For the purposes of section 11 (1) (a) [reporting obligations] of the Act,

(a) the report must be submitted by the 5th day of each calendar month, and

(b) the information required is all of the following, as requested in the monthly report form prescribed under the Forms Regulation, (BC Reg. 334/2007)

(i) whether the family unit requires further assistance;

(ii) changes in the family unit's assets;

(iii) all income received by the family unit and the source of that income;

(iv) the employment and educational circumstances of recipients in the family unit;

(v) changes in family unit membership or the marital status of a recipient.

(vi) any warrants as described in section 15.2 (1) of the Act. (B.C. Reg. 85/2012)

*Appellant's position*

The appellant's position is that although she did not submit the monthly report for August assistance by the July 5<sup>th</sup> deadline, it was submitted by mail to the ministry on July 31<sup>st</sup> with the ministry's assurance that it was not too late. She speculates that the monthly report for September assistance due August 5<sup>th</sup>, which she states was submitted via "My Self-Serve" on August 12<sup>th</sup>, may have been mistakenly considered as monthly report for August assistance or may have disrupted the time frame on "My Self-Serve" for the reporting period for September assistance. She also argues that she experienced problems receiving her income assistance prior to the issue respecting her August and September assistance.

*Ministry's position*

The ministry argues that the appellant's monthly report due by July 5, 2015 to determine eligibility for August income assistance was not provided until August 12, 2015 and that the monthly report due by August 5<sup>th</sup> required to determine eligibility for September income assistance was not received. As the appellant's file closed on August 14, 2015, she was required to reapply for income assistance and her reapplication was completed in October 2015 at which time she was approved for income assistance effective October. In accordance with section 26 of the EAR, the ministry is unable to provide income assistance for a period prior to an applicant being determined eligible, which in the appellant's case is October 2015.

*Panel Decision*

The panel notes that while the ministry initially stated in its reconsideration decision that the appellant's eligibility for assistance for August and September 2015 is not subject to reconsideration and that no reconsideration will be provided, the ministry did render a reconsideration decision when it concluded that the appellant is not eligible for income assistance prior to October 2015 in accordance with section 26 of the EAR.

The legislation applicable to this case is clear. Section 2 of the EAA requires that a person satisfy the initial and ongoing requirements for eligibility set out under the legislation. One of those requirements is set out in section 11 of the EAA – submit a report in a prescribed form within the time and manner specified by regulation. Section 33 of the EAR sets out the information required and that the form must be submitted to the ministry by the 5<sup>th</sup> day of each calendar month.

In this case, the appellant admittedly did not submit the monthly report due by July 5<sup>th</sup> which is used to determine eligibility for August income assistance, and waited until July 31<sup>st</sup> to contact the ministry about submitting her report. With respect to the monthly report due by August 5<sup>th</sup> required to determine eligibility for September income assistance, the appellant argues that it was submitted on August 12<sup>th</sup> using "My Self-Serve." However, the ministry states that the monthly report submitted on August 12<sup>th</sup> is the report for July, which the panel interprets as being the report due July 5<sup>th</sup>. While a copy of the document is in the appeal record, the month to which it applies is not apparent, only that it is dated August 12, 2015. However, whether submitted as the report due July 5<sup>th</sup> or August 5<sup>th</sup>, it was submitted outside of both of those legislated due dates. Accordingly, the panel finds that the ministry reasonably determined that the appellant had not met the conditions for eligibility for income

assistance for August and September 2015 set out in sections 2 and 11 of the EAA and section 33 of the EAR.

The ministry also relies on Section 26 of the EAR which sets out effective dates of eligibility, arguing that the appellant is not eligible for backdated assistance for August and September. Section 26(1) of the EAR provides that a family unit, the appellant in this case, is not eligible for income assistance in respect of a period that occurred before the date the minister determines the family unit eligible. In this case, the appellant was determined eligible for income assistance upon completion of her reapplication in October 2015. Consequently, the panel finds that the ministry has reasonably determined that section 26 of the EAR does not allow for backdated income assistance for August and September 2015.

In conclusion, the panel finds that the ministry reconsideration decision that the appellant is not eligible for income assistance for August and September 2015 is reasonably supported by the evidence and is a reasonable application of the legislation in the circumstances of the appellant. Therefore, the panel confirms the reconsideration decision.