

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 January 19, 2016 which held that the appellant is not eligible for Income Assistance for September, 2015 because this period occurred before the date the minister determined that the appellant was eligible for the Income Assistance pursuant to Section 26 of the Employment and Assistance Regulation.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), Section 26.

PART E – Summary of Facts

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

- The appellant's application for Income Assistance dated and signed on October 9, 2015 containing Parts 1 and 2 where it was indicated that he had an immediate need for food, shelter and urgent medical attention.
- A Request For Reconsideration dated January 14, 2016 in which the appellant indicated that the ministry delayed his application for a full month (Sept 11 - Oct 7) and the ministry worker who took his case no longer works for the ministry and was responsible for causing this situation.

In the Notice of Appeal dated January 25, 2016, the appellant states that the ministry never sent the reconsideration package and that all the delays were caused by the ministry. The appellant indicates that he has received verbal confirmation from the ministry that his file was not opened in the system. Included with the Notice of Appeal, the appellant submitted a request for a crisis grant dated January 21, 2016 and a prescription renewal dated January 8, 2016.

At the hearing the appellant testified that he had made every effort to pursue assistance. He stated that he has been living in BC since April 23, 2015 and that he did not know why the ministry chose not to complete Stage 1 of his application on September 18, 2015 or why he was not asked to provide any documents. The appellant stated that it was the replacement case worker who picked up the file after the initial case worker left, and it was the replacement case worker who advised him to wait for a return call from the ministry. He further indicated that he had ready access to all required medical documents, retro-active bank statements and proof of his Social Insurance Number when he contacted the ministry on September 18, 2015. The appellant stated that when he did not hear back from the ministry he went to the Food Bank and as a result of not being approved for September income assistance he is always a month behind for rent.

The ministry stood by the reconsideration decision. When asked by the panel how long a file could remain "pending", the ministry response was "indefinitely" adding that to the best of their knowledge there was no automatic Bring Forward (BF) system. If the file indicated "ready", stage 1 and 2 would have been completed. Further, the ministry testified that there is no legislative requirement to contact the appellant within a specified period of time and that if the appellant's situation was so urgent, contact would have been made sooner with the ministry. The ministry stated that there was no way to know if the required information to complete stage 2 would have been received in time for the appellant's eligibility to have been determined prior to the end of September and it must be completed to satisfy the legislative requirements for assistance.

Pursuant to section 22(4) of the Employment and Assistance Act, the panel admits the statement in the Notice of Appeal as being consistent with and in support of evidence of the appellant's circumstances that were before the ministry at the time of reconsideration.

The panel finds that the additional submissions, a request for a crisis grant and a prescription renewal

provided by the appellant with his Notice of Appeal are not admissible as they pertain to a new and separate issue.

Findings of Fact

On September 11, 2015, the ministry received the appellant's online application for income assistance in which he declared fleeing abuse and having an immediate need for food, shelter and medication.

On September 14 and 15, the ministry worker called and left messages for the appellant to call.

On September 18, 2015, the appellant contacted the ministry and advised that he had an immediate need for food, was living with a friend and had 1 month's supply of medication left. The worker updated the service request to "pending" in error.

On October 7, 2015, the appellant contacted the ministry about his application and the service request was updated to "ready". On this date, the ministry completed the Stage 1 interview and requested information including a work search.

On October 8, 2015, the ministry completed the stage 2 interview and requested the balance of the information from the appellant.

On October 9, 2015, the ministry received the balance of the requested information, the appellant signed his Application for Income Assistance and the ministry determined that the appellant was eligible for income assistance and opened his file.

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 September 2015 and was only eligible for income assistance effective October 2015 when his application 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

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).

Appellant's position

The appellant's position is that he made every effort and that the ministry was responsible for the delays and for this reason he is entitled to income assistance for the month of September 2015.

Ministry's position

The ministry's position is that while the minister acknowledges a process error with the appellant's application that was made on September 18, 2015, the available information shows that the appellant did not contact the ministry again until October 7, 2015, two and a half weeks later, even though he stated that he had an immediate need for food. The ministry argues that the appellant's application was completed in October 2015 at which time he 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 stated in its reconsideration decision that the appellant's Request For Reconsideration was long past the legislated 20 business day time limit; however, as the appellant indicated that he did not receive it in the mail and had to pick it up, there is no information to indicate otherwise or when he picked it up so the minister provided the 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 panel finds that the evidence supports an unreasonable delay by the ministry which was not justified for not routinely proceeding with the Stage 1 and 2 processes as required by the legislation and demonstrates that the process required only 3 business days and could have been easily completed during the month of September.

While the panel finds that the ministry admitted they had no explanation as to why stage one of the application was not completed when the appellant contacted the ministry on September 18, 2015 or why his request for service was placed in "pending" rather than "ready" which delayed its action to open the appellant's file; the panel also finds that waiting two and a half weeks to contact the ministry, even though the appellant stated that he had an immediate need for food, knew he would need to pay rent and that his medication was running out was not supported by the evidence. Further, there is no evidence that the appellant did or did not have all the documents required to complete the process in September, 2015.

The legislation specifies that an appellant "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". The panel finds the evidence has established that while the processing of the appellant's application for income assistance began September 11, it was not completed until the stage 1 interview was completed by phone on October 7 and the balance of the documents the minister required were submitted October 8, that the ministry was able to deem the appellant eligible for income assistance on October 9, 2015 after the appellant signed his application forms. Subsequently, the panel finds the ministry reasonably applied the legislation in the circumstances of the appellant pursuant to Section 26 of the EAR and therefore, the panel confirms the reconsideration decision.