

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated March 10, 2016 wherein the ministry determined that the appellant was not eligible for income assistance for March 2016, as set out in the Employment and Assistance Regulation (“EAR”) subsection 11(2) (b), as the appellant received \$6000 in January 2016, which is considered an asset, and, must be reported in accordance with section 33 of the EAR. In determining the appellant’s eligibility for income assistance, the ministry determined the \$6000 exceeded the allowable limit of \$4000 for a sole recipient with one or more dependents and therefore found the appellant was not eligible for assistance for the month of March 2016.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 1, 2, 11
Employment and Assistance Regulation (EAR) Section 1, 11, 33

PART E – Summary of Facts

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

- Letter dated March 3, 2016 from the appellant re: reconsideration for February 2016 assistance
- Monthly Report for assistance received by the ministry February 9, 2016
- Employee pay stubs ending: January 2, 2016 and January 16, 2016
- Letter dated February 8, 2016 from appellant's father
- Page 3, Separation Agreement
- Request for Reconsideration dated March 16, 2016

The appellant is the sole employable recipient with two dependent children.

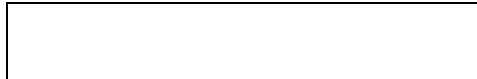
On February 9, 2016 the ministry received a request for continued assistance for March 2016 from the appellant. The appellant declared \$6000 noting the money was from the appellant's ex-husband and was transferred to her father. With the request for continued assistance, a copy of a portion of the separation agreement was attached indicating that upon discharge of the existing mortgage and the transfer of the family residence, the appellant's ex-husband shall pay to the appellant the sum of eighteen thousand dollars within three years from the date of the agreement with a minimum of \$6000 to be paid no later than December 31, 2015. A letter was also provided dated February 8, 2016 from the appellant's father in which he wrote: "Stephanie Blanchard has received a deposit of \$6000 from (her ex-husband) in January 2016. This is part of a repayment and being transferred back to me, (her father)."

On February 25, 2016 the ministry advised the appellant that the \$6000 she received from her ex-husband is considered unearned income and is not exempt from her net income calculation. As a result, her income exceeded the ministry's rate of assistance and she was not eligible for March income assistance.

In her Request for Reconsideration, the appellant wrote she had received \$6000 in January 2016 from her ex-husband and had forwarded to her father. The deposit was not for her personal use. It was money that belongs to her father.

In its reconsideration decision, the ministry determined the money the appellant received from her ex-husband was not unearned income but instead was an asset in accordance with section 1 of the EAR. Although the appellant advised the ministry the \$6000 received in January was not for her personal use and was forwarded to her father, the ministry determined that when she received the \$6000 it was considered her cash asset.

In the reconsideration decision, the ministry notes the appellant's separation agreement does not indicate that the appellant's ex-husband was required to pay her father or that the appellant was required to pay the money received from the ex-husband to her father. The ministry concluded the appellant chose to pay her father \$6000 when she received the money from her ex-husband.



For the appeal 2016-00144 the appellant did not attend the hearing. Having confirmed that the appellant was notified of the hearing, the panel proceeded with the hearing pursuant to EAR section 86(b).

The ministry participated and stated they stood by the evidence and decisions made as stated in the reconsideration decision of March 10, 2016.

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PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry reconsideration decision of March 10, 2016 wherein the ministry determined that the appellant was not eligible for income assistance for March 2016, as set out in section 11 (2) of the EAR, because in January 2016 the appellant received \$6000 with respect to a property settlement of a marital home, which is considered an asset, and, must be included in determining the appellant's eligibility for income assistance for March 2016.

The relevant legislation is as follows:

EAA Section 1

Interpretation

1 (1) In this Act:

"dependant", in relation to a person, means anyone who resides with the person and who

- (a) is the spouse of the person,
- (b) is a dependent child of the person, or
- (c) indicates a parental role for the person's dependent child;

"dependent child", with respect to a parent, means a child, other than a child who is 18 years of age and is a person with disabilities, who resides in the parent's place of residence for more than 50% of each month and relies on that parent for the necessities of life, and includes a child in circumstances prescribed under subsection (2);

"family unit" means an applicant or a recipient and his or her dependants;

EAA Section 2

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.

EAA Section 11

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.C. Reg. 263/2002)

(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.

EAR Section 1

Definitions

1 (1) In this regulation:

"asset" means

(a) equity in any real or personal property that can be converted to cash,

(b) a beneficial interest in real or personal property held in trust, or

(c) cash assets;

EAR Section 33

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)

(2) Repealed (B.C. Reg. 48/2010)

EAR Section 11

Asset limits

(1) The following assets are exempt for the purposes of subsections (2) and (2.1): (A list of assets a-ww), none of which apply to this appeal.

subsection (2):

(2) A family unit is not eligible for income assistance if any of the following apply:

(a) subject to paragraph (c), a sole applicant or sole recipient has no dependent children and has assets with a total value of more than \$2 000;

(b) subject to paragraph (c), an applicant or a recipient has one or more dependants and the family unit has assets with a total value of more than \$4000;

Appellant's Position

The appellant's submitted appeal stated the payment of \$6000 made to her in January by her ex-spouse was part of a separation agreement, she argued the funds were part of a repayment which was transferred to her father and therefore should not be considered as an asset per EAR subsection 11(2)(b).

Ministry's Position

The ministry noted the appellant, in accordance with section 33 of the EAR, as a recipient of income assistance, was required to report the change in her assets from the month of January for continued assistance and those changes affected her March 2016 income assistance. The ministry argued the \$6000 she received in January did not meet any of the asset exemption criteria listed in section 11 (1) of the EAR. As the \$6000 was in the possession of the appellant it must be included as an asset for the purpose of determining her eligibility for income assistance which exceeded the allowable limit of \$4000 for a sole recipient with one or more dependents as per EAR subsection 11(2)(b). Therefore, the minister found that the appellant was not eligible for income assistance for the month of March 2016.

Panel Decision

While the appellant argued the separation agreement payment of \$6000 was not for her but rather a repayment to her father, there is no evidence in the separation document shared that would support this position. As the \$6000 received in January 2016 did not meet any asset exemption criteria listed in section 11 (1) of the EAR the funds exceeded her allowable limit of \$4000 as per EAR subsection 11(2) (b).

The panel finds that when the appellant reported receiving \$6000 as per her separation agreement in January 2016, her amount of assets exceeds the allowable limit of \$4000 therefore she was not eligible for income assistance in March 2016.

Conclusion

The panel finds that the ministry's reconsideration decision that the appellant was not eligible for income assistance for March 2016 was reasonably supported by the evidence and confirms the decision