

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision dated March 29, 2016, which denied the appellant Income Assistance (IA) because she failed to provide an adequate work search activities record pursuant to section 4.1 of the Employment and Assistance Regulation (EAR), and denied additional her Hardship Assistance (HA) because she received HA for 3 months and pursuant to section 39 of the EAR there are no provisions in the legislation that would permit the ministry to issue any further HA.

## PART D – Relevant Legislation

Employment and Assistance Regulation – EAR- sections 4.1 and 39(1).

## PART E – Summary of Facts

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

1. Application for Income Assistance (IA) (part 1), signed and dated December 30, 2015, with verbal consent given to the ministry to proceed with the application on December 23, 2015 from the appellant;
2. Application for IA (part 2), signed and dated December 30, 2015;
3. 2- page illegible work search activity log, signed and dated February 13, 2016;
4. 1-page hand illegible hand written letter, signed but not dated; and
5. Request for Reconsideration (RFR) signed and dated March 7, 2016, in which the appellant explains that she did not receive 3 months of hardship assistance. She states that she received hardship assistance for 2 days of December (2015), all of January (2016), her file was closed on February 15, (2016) and she did not receive assistance for the remaining month.

A Notice of Appeal, signed and dated April 12, 2016, which states: “my claim for social assistance was made in November (2015). Decision was not made until December 30, 2015. I received only two days of assistance for the first month”.

At the hearing the appellant submitted a shelter information form, signed and dated December 4, 2015 and which is date stamped as received on December 8, 2015 by a local ministry office. The appellant submits this information to support that her application process had begun in early December and therefore her eligibility for HA should not begin on December 30, 2015.

At the hearing the appellant stated that:

- She submitted an online application for IA on November 30, 2015 and that her eligibility date should start from this point, not December 30, 2015 as the ministry determined;
- She is appealing the reconsideration decision out of principle and to dispute the process;
- When she exhausted her Employment Insurance and savings she turned to the ministry for help but was applying for jobs in her field all along, in fact she applied for 88 jobs with no reply;
- Upon speaking to the a ministry worker on the phone in February 2016 she was advised to submit her work searches but was not told her file had been closed;
- She did not realize that her 2 days of support for December 2015 was considered to be part of her 3 months of HA or that constant contact with the ministry was required;
- She has had to resort to ‘word-of-mouth’ to secure any temporary employment she has had;
- Because of her specialized field and 30 years of work experience, she does not get considered for junior positions and therefore experiences more difficulty in securing fulltime employment; and
- Since she is behind on rent, she may be evicted and unless she can come up with the balance of her car loan, the bank will seize her car, thus making it more difficult for her to secure employment.

At the hearing the ministry relied on the reconsideration decision and added:

- December 30, 2015 was the date that the ministry determined that the appellant was eligible for HA because that is when her application was completed and reviewed. Therefore she was eligible for full shelter for December 2015 and 2 calendar days of support;
- Under section 4(1) of the EAR, work search requirements must be completed prior to applying

for IA or immediately following the application in order to be eligible and the appellant had not completed 5 weeks of work searches at the point of application nor did she complete 5 weeks of work searches after December 30, 2015. Therefore she was considered for HA pursuant to section 39(1) of the EAR; and

- The ministry requires applicants to search for any and all types of work to be eligible for IA, and not those jobs that only in or related to the applicant's area of expertise or experience.

#### *Admissibility of New Information*

The panel found that the shelter information form dated December 4, 2015 provided additional detail or disclosed information that was in support of the information addressed in the reconsideration. Specifically, the appellant argues that she should be entitled to support for more than 2 days for the month of December 2015 because she began the application process before December 30, 2015 and the shelter information form is proof of this. Accordingly, the panel has admitted this additional information as being in support of information and records that were before the ministry at the time of reconsideration, in accordance with s. 22(4) of the *Employment and Assistance Act*.

## PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's decision to deny the appellant IA because she failed to provide an adequate work search activities record pursuant to section 4.1 of the EAR, and denied her additional HA because she received HA for the 3 months and pursuant to section 39 of the EAR there are no provisions in the legislation that would permit the ministry to issue any further HA, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

The relevant legislation is as follows:

EAR:

### Application for income assistance — stage 1

**4.1** (1) The first stage of the process for assessing the eligibility of a family unit for income assistance is fulfilling the requirements of subsection (2).

(2) The applicants for income assistance in a family unit

(a) must complete and submit to the minister an application for income assistance (part 1) form and must include as part of the application

(i) the social insurance number of each applicant in the family unit who is a person described in section 7 (2), and

(ii) the information, authorizations, declarations and verifications specified by the minister, as required in the application for income assistance (part 1) form, and

**(b) subject to subsections (4) and (6), must**

**(i) complete searches for employment as directed by the minister for the applicable period under subsection (2.1) immediately following the date of the application under paragraph (a), or**

**(ii) demonstrate that each of the applicants has completed a search for employment satisfactory to the minister within the 30 day period prior to the date of the application under paragraph (a),**

and in either case provide information about and verification of the searches for employment, in the form specified by the minister.

(2.1) The applicable period for the purposes of subsection (2) (b) (i) is

(a) 3 weeks, if any applicant in the family unit is a former recipient, and

(b) 5 weeks in any other case.

(3) Subsection (2) does not affect the minister's powers under section 10 of the Act.

(4) Subsection (2) (b) does not apply to a person who

(a) is prohibited by law from working in Canada,

(b) has reached 65 years of age,

(c) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 1 (b).]

(d) has a physical or mental condition that, in the minister's opinion, precludes the person from completing a search for employment as directed by the minister, or

- (e) is fleeing an abusive spouse or relative.
- (f) Repealed. [B.C. Reg. 6/2008, s. 1.]
- (5) Repealed. [B.C. Reg. 197/2012, Sch. 1, s. 3 (e).]
- (6) Subsection (2) (b) does not apply to a sole applicant who
- (a) has a dependent child, or
  - (b) provides care to a supported child
- if the child has not reached 3 years of age.

### **Hardship assistance — eligibility and limitations**

**39** (1) For a family unit to be eligible for hardship assistance, the family unit

- (a) must be ineligible for income assistance for one or more reasons set out in sections 41 to 47.2, and
- (b) must not be ineligible for income assistance for any other reason.

(2) A family unit that is eligible for hardship assistance must be provided with hardship assistance

- (a) in accordance with Schedule D,
- (b) only for the calendar month that includes the date of the applicant's submission of the application for income assistance (part 2) form, and
- (c) **only from the date in that calendar month on which the minister determines that the family unit is eligible for hardship assistance, subject to**
  - (i) section 4 (2) of Schedule D for hardship assistance provided under sections 41 to 46, and
  - (ii) section 4 (3) of Schedule D for hardship assistance provided under section 47.2.

(3) A family unit to which hardship assistance has been provided for 3 consecutive calendar months because of the circumstances described in

- (a) section 41, 44 or 46, or
- (b) section 43, unless the source is employment insurance,

is not eligible for hardship assistance under any of those sections for the 3 consecutive calendar months immediately following those 3 consecutive calendar months of receipt.

(4) If

- (a) hardship assistance has been provided to a family unit under section 47.2 for the calendar month referred to in subsection (2) (c) of this section,
- (b) the family unit continues to be ineligible for income assistance because a member of the family unit has not satisfied the requirement under section 4.1 (2) (b) respecting the completion of searches for employment, and
- (c) the member of the family unit who has not satisfied that requirement is, if applicable, taking the steps to satisfy the requirement as directed by the minister,

**hardship assistance may be provided under section 47.2 for a further 2**

**consecutive calendar months following the initial calendar month for which the hardship assistance is provided.**

*The Appellant's Position*

The appellant argues that she had been searching for work since she lost her job and therefore should receive IA pursuant to section 4(1) of the EAR. She also argues that she did not receive 3 months of HA as her support portion of December's HA was prorated to only 2 days. Therefore she is entitled to additional HA.

*The Ministry's Position*

The ministry argues that the appellant was not eligible for IA pursuant to section 4.1 of the EAR because she failed to meet the prerequisite work search requirements of the legislation nor did she provide adequate work search activities record immediately following her application for IA and therefore her eligibility for assistance defers to HA. Pursuant to section 39 of the EAR, the appellant is entitled to HA from the date on which it is determined that she is eligible for HA plus 2 more consecutive months. The ministry argues that the appellant was deemed to be eligible for HA on December 30, 2015 and therefore received full shelter and 2 days of support for December 2015 plus full shelter and full support for the months of January and February 2016. There are no provisions in the legislation that allow the ministry to provide further assistance at this time.

*The Panel Decision*

Section 4.1(2) (b) of the EAR states that in order to be eligible for IA an applicant must complete searches for employment as directed by the ministry immediately following the date of application or demonstrate a completed search for employment satisfactory to the minister within the 30 day period prior to the date of application in a form specified by the ministry. Section 4.1 (2.1) states that the applicable period for completed search for employment, in the case of the appellant, is 5 weeks. The appellant stated that she had been searching for work since she lost her job but did not dispute that she failed to provide completed search for employment records within the 30 day period prior to the date of application. At dispute is whether or not the appellant provided evidence of completed searches for employment for the 5 week period immediately following the date of her application. The panel finds that the evidentiary information before ministry at the time of reconsideration does not demonstrate 5 weeks of completed search for employment records or activities in the prescribed form. The panel finds that the ministry reasonably determined that the evidence establishes that the appellant failed to provide an adequate work search activities record pursuant to section 4.1 of the EAR and therefore is not eligible for IA.

Section 39(2) (c) states that a family unit that is eligible for hardship assistance must be provided with hardship assistance only from the date in that calendar month on which the minister determines that the family unit is eligible for hardship assistance. Section 39(4) states that if HA has been provided to a family unit, then HA may be provided for a further 2 consecutive calendar months following the initial calendar month for which the hardship assistance is provided.

The ministry argues that the appellant's completed application was processed on December 30, 2015 and therefore that is the initial calendar month and date for which she is eligible for HA. She received full shelter and prorated support for 2 days and she then received full HA for the months of January and February 2016. The appellant argues that she began the process of her IA application in November and continued in December and the date stamped shelter information form is evidence of

this. The panel finds the appellant did begin the process of her IA application prior to December 30, 2015, however she signed both her Application for IA (part 1) and (part 2) on December 30, 2015 and that is the date of her completed application for IA and the date on which the ministry determined her eligibility for HA. As a result, the appellant has received the maximum allowable assistance for HA pursuant to section 39 of the EAR. The panel finds that the ministry reasonably determined that the evidence establishes that the appellant is not eligible for further HA pursuant to section 39 (2)(c) and (4) of the EAR.

**Conclusion**

The panel finds that, in the case of the appellant, the evidence establishes that the ministry reasonably determined that the appellant was not eligible for income assistance pursuant to section 4 of the EAR and was not eligible for further hardship assistance pursuant to section 39 of the EAR. The panel confirms the ministry's reconsideration decision.