



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated March 24, 2016, in which the ministry found that the appellant failed to provide information when directed under the statutory requirements of Section 10 of the Employment and Assistance for Persons with Disabilities Act (EAPWDA), and was thus ineligible for ongoing assistance as per section 28 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). The ministry found the appellant failed to provide requested information; specifically, Old Age Security/Guaranteed Income Supplement (OAS/GIS).

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA), Section 10
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Section 28

PART E – Summary of Facts

With the consent of the parties, the appeal hearing was conducted in writing in accordance with s 22(3)(b) of the Employment and Assistance Act.

The appellant has been designated as a recipient of disability assistance under the EAPWDA.

The information before the ministry at reconsideration consisted of the following:

December 18, 2014 – Appellant submitted confirmation of application for OAS and GIS.

February 28, 2015 – Appellant turned 65 years of age.

March 31, 2015 – Letter was received by Appellant from Services Canada confirming his application had been received for OAS and GIS.

April 23, 2015 - Letter was received by Appellant from Services Canada that application was still pending.

May 29, 2015 – Confirmation received from Services Canada that application was still pending.

July 30, 2015 – Ministry worker confirmed with Services Canada that the application was still pending.

September 17, 2015 – Letter was received by Appellant from Services Canada that application was still pending.

October 28, 2015 – Ministry worker confirmed with Services Canada that the application was still pending.

November 19, 2015 – Letter was received by Appellant from Services Canada that application was still pending.

December 17, 2015 – Confirmation was received that the application was still pending.

February 18, 2016 – Appellant requested assistance in the ministry's office and Service Canada was contacted by phone. During the call, the ministry worker heard the appellant state "oh, I am getting it?" Once the ministry worker was on the phone with Service Canada's representative, the ministry worker was informed that the appellant had not provided authorization for the representative to speak with the ministry worker. The ministry worker asked the appellant about the lack of authorization and the appellant stated he did not want the ministry worker to speak with the Service Canada's representative. Assistance was denied due to failure to provide information and the appellant requested reconsideration of this decision.

February 25, 2016 – Minister received the signed Request for Reconsideration and the appellant had requested an extension which was granted to March 24, 2016.

March 9, 2016 – Appellant requested an extension which was disallowed due to the maximum

extension already being granted on February 25th, 2016 to March 24th, 2016.

March 24, 2016 – Minister reviewed the appellant's Request for Reconsideration and noted that no further documentation had been submitted.

The appellant submitted his Notice of Appeal on April 10th, 2016. Under Reasons for Appeal, he stated he applied for supplements. The appellant provided no additional written submission for the hearing.

The ministry, in an email dated May 26th, 2016, stated that its submission is the reconsideration summary provided in the Record of Ministry Decision.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry was reasonable in denying the appellant disability assistance for failure to provide confirmation from Services Canada that the appellant, having reached the age of 65 on February 28, 2015 is receiving OAS and GIS benefits as required under Section 10 of EAPWDA and Section 28 of EAPWDR. Specifically, the issue is whether the ministry's determination, which denied the appellant disability assistance, is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant.

Relevant Legislation:

Information and verification

10 (1) For the purposes of

- (a) determining whether a person wanting to apply for disability assistance or hardship assistance is eligible to apply for it,
- (b) determining or auditing eligibility for disability assistance, hardship assistance or a supplement,
- (c) assessing employability and skills for the purposes of an employment plan, or
- (d) assessing compliance with the conditions of an employment plan,

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 disability assistance, hardship assistance or a supplement.

(3) Subsection (1) (e) to (g) applies with respect to a dependent youth for a purpose referred to in subsection (1) (c) or (d).

(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 disability assistance, hardship assistance or a supplement for the prescribed period.

(5) If a dependent youth fails to comply with a direction under this section, the minister may reduce the amount of disability assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

Consequences of failing to provide information or verification when directed

28 (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.

(2) For the purposes of section 10 (5) [*information and verification*] of the Act,

(a) the amount by which the minister may reduce the disability assistance or hardship assistance of the dependent youth's family unit is \$100 for each calendar month, and

(b) the period for which the minister may reduce the disability assistance or hardship assistance of the dependent youth's family unit lasts until the dependent youth complies with the direction.

Position of parties:

Ministry:

The position of the ministry, as set out in the reconsideration decision, is that the appellant is ineligible for assistance since the appellant has not provided documentation to confirm whether or not having turned 65 on February 28, 2015 he was receiving OAS or GIS nor allowed the ministry to confirm this information. The ministry had been advised by Service Canada by numerous letters in 2015 that the appellant's application was pending. On February 18, 2016 a phone call was made to Service Canada, from the ministry's office, and the Service Canada's representative could not provide any information to the ministry worker since authorization was not granted by the appellant but the ministry worker overheard the appellant say "Oh, I am getting it?"

Appellant:

The appellant's position, as explained in his Request for Reconsideration and Notice of Appeal, is that he applied for supplements and did not provide any further evidence or explanation.

Panel Decision:

The legislation, specifically Section 10 of the EAPWDA and Section 28 of the EAPWDR, requires recipients of disability assistance to disclose information to the ministry as requested. The panel finds that the ministry's determination that the appellant failed to submit the required information to the ministry regarding whether he was in receipt of the OAS/GIS benefits as requested by the ministry was reasonable based on the evidence. The panel finds that the ministry was reasonable to rely on its evidence of the appellant's February 18th, 2016 phone call in the ministry office to Service Canada, and the ministry's evidence that the Service Canada worker said that the appellant had not consented to Service Canada advising the ministry whether appellant was in receipt of his OAS/GIS.

The panel finds that the ministry's reconsideration decision which determined that the appellant was not eligible for disability assistance for failure to comply with Section 10 of the EAPWDA and Section 28 of the EAPWDR was a reasonable application of the legislation in the circumstances, and therefore confirms the ministry's reconsideration decision.