



### PART C – Decision under Appeal

The appellant appeals the June 1, 2016 reconsideration decision of the Ministry of Social Development and Social Innovation (Ministry), in which the Ministry determined that the appellant was not eligible for income assistance as at the time of her application, she had assets in excess of the allowable limit set out in section 11(2) of the *Employment and Assistance Regulation* (EAR).

### PART D – Relevant Legislation

*Employment and Assistance Act* (EAA), section 2.  
*Employment and Assistance Regulation* (EAR), sections 1 and 11.

## PART E – Summary of Facts

The appellant has applied for income assistance as a single recipient.

The evidence before the Ministry at the reconsideration consisted of:

- Ministry Application for Income Assistance Form Part 1 (3 pages) signed by the appellant and date stamped May 13, 2016;
- Ministry Application for Income Assistance Form Part 2 (4 pages) signed by the appellant and date stamped May 13, 2016 (“Application Part 2”);
- Ministry Information/Document Checklist dated April 18, 2016;
- Copies of information from the appellant’s financial institution, including printouts of online account summaries dated April 19, 2016 and May 21, 2016; printouts of online account details dated April 19, 2016, and copies of RRSP GCI confirmation of contributions dated April 5, 2016 (some with the appellant’s handwritten notes);
- The appellant’s 2-page written submission on reconsideration dated May 24, 2016; and
- The Request for Reconsideration dated May 19, 2016 with the appellant’s hand-written submission.

In her written submissions on reconsideration, the appellant indicates that following the Ministry’s denial of April 29, 2016, she re-applied for income assistance on May 13, 2016 (as reflected on the Ministry Forms noted above), but this third application “was replaced by reconsideration.”

With her notice of appeal, the appellant included a one-page written submission, together with a 3-page printout of an online account summary from her financial institution dated June 17, 2016 with the appellant’s handwritten notes, and a copy of a letter to her from her financial institution dated March 21, 2016 with the appellant’s handwritten notes. The appellant said at the hearing that the information from her financial institution showed that the money in her account at the time she applied for income assistance was emergency money from her brother and that as of June 30, 2015 she had less than \$2,000 in her account (although she didn’t apply for income assistance at the time). She also said that the letter from her financial institution confirms a transfer from a pension plan to her RRSP account in October 2015, but that it was supposed to be a “locked in” pension and she didn’t understand how this works and it was deposited to her RRSP. At the hearing, the appellant also provided a one-page note from her physician dated June 23, 2016. In this note, the appellant’s physician indicates that the appellant is unable to look for or accept work at this time due to anxiety and depression and that she reports a car accident in 2006. The appellant told the panel she intends to apply for disability assistance and the panel should be aware of this.

The Ministry objected to the admission of the doctor’s note dated June 23, 2016 and the printout of the online account summary dated June 17, 2016 on the basis that this was new information that was not before the minister (Ministry) when the decision being appealed was made. The Ministry said there was no information before the Ministry regarding the appellant’s intention to apply for disability assistance or that she suffered from a disability at the time of the reconsideration. The Ministry also said that the financial information supplied by the appellant dated June 17, 2016 reflected her financial information after the reconsideration decision was made.

Section 22(4)(a) of the EAA authorizes the panel to admit as evidence information and records that were not before the minister (Ministry) on reconsideration only if the evidence is in support of the information and records that were before the minister during the reconsideration. The panel finds that the doctor's note of June 23, 2016 amounts to new information that was not before the minister at the time of the reconsideration and does not admit this evidence. The panel finds that the financial information dated June 17, 2016 reflects the appellant's financial situation after the reconsideration decision was released on June 1, 2016, and amounts to new information that was not before the minister at the time the decision under appeal was made. The panel does not admit the June 17, 2016 financial information.

The Ministry did not object to the admission of the March 21, 2016 letter from the appellant's financial institution. The panel admits the March 21, 2016 information including the appellant's handwritten note as it contains and confirms information that was before the minister at the time the decision under appeal was made. The panel admits the appellant's written submission on appeal as written testimony in support of the information that was before the minister when the decision being appealed was made, as allowed under section 22(4)(b) of the EAA.

The appellant said that her brother had sent her \$3,000 in emergency money in August 2015 and that she had to pay him back. The appellant said that she had a pension from former employment that was supposed to be "locked in" but that she did not understand this and it was transferred to an RRSP in October 2015. The appellant indicated that she transferred \$1500 from her RRSP to her account in February 2016 to help pay her expenses. The appellant told the panel that she had received income assistance for about 10 months a few years ago (although the panel notes that the appellant indicated "no" in answer to the question "have you ever received income assistance in British Columbia?" on the Application Part 2). The appellant said that she intends to apply for disability assistance.

The appellant initially applied for income assistance as a single recipient on or about March 7, 2016. Based on the financial information provided by the appellant to the Ministry, the Ministry advised her on April 4, 2016 that she was ineligible for income assistance due to assets in excess, as she had approximately \$3,000 in RRSPs and the allowable limit for a single recipient is \$2,000. The appellant reapplied for income assistance on April 8, 2016. On April 29, 2016, after reviewing the appellant's documents and confirming the appellant had assets of \$3,339.90, the Ministry denied the appellant employment assistance on the basis that she had assets in excess of the allowable limit set out in the EAR.

## PART F – Reasons for Panel Decision

The issue on this appeal is whether the Ministry's June 1, 2016 reconsideration decision, in which the Ministry determined that the appellant was ineligible for income assistance received due to having assets of approximately \$3,339.00, which exceeds the allowable limit of \$2,000.00 set out in section 11(2) of the *Employment and Assistance Act* (EAA), is reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the appellant.

### *Legislation*

Section 2 of the EAA governs eligibility for income assistance and states:

- (2) For the purposes of this Act, a family unit is eligible, in relation to income assistance ... if
- (a) Each person in the family unit on whose account the income assistance ... is provided satisfies the initial and continuing conditions of eligibility established under this Act and the regulations, and
  - (b) The family unit has not been declared ineligible for the income assistance ... under this Act or the regulations.

Pursuant to Section 1 of the EAR, "asset" means "cash assets" (under subsection (c) of the definition of "asset") and "cash assets" means "money in the possession of the person" (as per subsection (a)) or "money standing to the credit of the person with a savings institution" (as set out in subsection (b) of the definition of "cash assets").

Section 11 of the EAR addresses asset limits. Subsection 11(2)(a) of the EAR provides that a family unit is not eligible for income assistance if a sole recipient has assets with a total value of more than \$2,000.00.

Subsection 11(1) of the EAR lists assets that are exempt for the purposes of subs. 11(2). However, the panel notes that the appellant did not assert that the money in her savings account and her RRSP and GICs fall under any of the exemptions listed in subsection 11(1) of the EAR at any stage of her applications, at the reconsideration, or at her appeal.

### *Submissions*

At the hearing, the appellant's submissions focused on her difficulty finding employment in her field and on her frustration with her attempts to obtain income assistance. She told the panel that she felt that the Ministry did not listen to her or communicate with her during the application process and that the Ministry should consider her particular circumstances in making its decision.

The appellant agreed that she had received income assistance in British Columbia for about 10 months a few years ago. The appellant did not dispute that the amounts in her bank account, her RRSP and her GICs exceeded \$2,000.00 at the time she applied for income assistance in March and April 2016, as the Ministry determined in its original decision and reconsideration decision.

The appellant's submission is that the Ministry should consider her personal circumstances and understand that she had to repay her brother for the money he gave her and that she did not understand that her pension funds should have stayed locked in and should not have gone into an

RRSP. She told the panel she intends to apply for disability assistance and that because the allowable asset limit for designated persons with disability exceeds the amount she has in her RRSPs and GICs, the Ministry should consider this and provide her income assistance.

In its submissions, the Ministry explained that the appellant's cash assets exceed the allowable limit set out in section 11(2)(b) of the EAR. The Ministry reviewed the appellant's documents, including all of the information provided by her financial institution, and confirmed that at the time she applied for income assistance on April 8, 2016, she had cash assets over \$2,000.00 in the form of money in her account and funds in her RRSP and GICs. Given the definitions of "asset" and "cash asset" set out in section 1 of the EAR, the appellant's funds are cash assets. The Ministry explained that it is not allowed to make exceptions for personal circumstances in considering applicants for income assistance. The Ministry noted that the allowable asset limits had been explained to the appellant at the time she applied for income assistance. The Ministry also noted that the appellant indicated "I don't know" in response to the question, "Are you considering applying for a persons with disabilities designation from the Ministry?" on her Application Form 2 completed May 13, 2016.

#### *Decision*

The panel finds that the appellant had cash assets, as defined in section 1 of the EAR, in excess of the allowable limit of \$2,000.00 for a single recipient as set out in section 11(2) of the EAR at the time she applied for income assistance on April 8, 2016. The appellant does not dispute this.

Therefore the panel finds reasonable the Ministry's determination that the appellant was not eligible for income assistance due to assets in excess of \$2,000.00, the limit that is established under section 11(2) of the EAR. Accordingly, the panel finds that the Ministry's reconsideration decision is reasonably supported by the evidence. The panel confirms the Ministry's decision.