

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the ministry) dated 16 July 2016 that determined that, pursuant to section 10 of the *Employment and Assistance Act*, the appellant is not eligible for income assistance for the prescribed period as she failed to provide information required to determine eligibility.

Under section 32 of the Employment and Assistance Regulation, the prescribed period lasts until the appellant complies with the direction to provide the requested information.

PART D – Relevant Legislation

Employment and Assistance Act (EAR), section 10.
Employment and Assistance Regulation (EAR), section 32

PART E – Summary of Facts

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

1. The appellant is a sole recipient of income assistance,
2. The following chronology, as set out in the ministry section of the appellant's Request for Reconsideration, with supporting documentation:
 - 04 May 2016: the ministry initiated a review of the appellant's file with a ministry investigative officer (IO) mailing the appellant a "Request for information" letter requesting that the following documentation/information be submitted by 18 May 2016 – bank profiles including six months statements from two different banks [Bank A and Bank B] and the current rent receipt including the landlord's phone number
 - 16 May 2016: The IO received a call from the appellant who stated that she had lost the Request for information letter and would like another one mailed. The I/O mailed the letter. The appellant stated that she would be contacting an advocate who would be contacting the IO.
 - 30 May 2016: A second Request for information letter was mailed to the appellant, as she had not submitted the requested information. This second letter requested that the appellant submit the same documentation/information by 13 June 2016.
 - 14 June 2016: The IO mailed the appellant a "Notice of decision – section 10" letter advising her that, as the information/documentation requested had not being provided, the ministry cannot establish ongoing eligibility and therefore she was not eligible for income assistance.
3. The appellant's Request for Reconsideration dated 01 July 2016. Under Reasons, the appellant writes:

"I was unable to provide papers that were requested because I forgot, and I sometimes forget to do things or get distracted when I am doing the things then forget. I can go get the requested things if I knew what they were. I'm not sure what you want me to supply? I'm not on my meds right now and I get anxiety when I leave my home so it's hard to go anywhere."

The appellant attached a copy of an Application for Person with Disabilities Designation. In the Physician Report of the Application, completed by the appellant's general practitioner of 12 years, dated 03 December 2009, the appellant is diagnosed with Bipolar I disorder, substance use (amphetamines) disorder, attention deficit hyperactivity disorder and chronic thoracic back pain.

[Panel note: in the reconsideration decision, the ministry stated that this Application was not approved.]

The appellant's Notice of Appeal is dated 25 July 2016. Under Reasons for Appeal, she writes:

"I don't understand exactly what they wanted. I have really bad anxiety about leaving to see people or place[s]."

At the hearing, the appellant explained that she suffers from anxiety and panic attacks and leaves her home only to walk her dog short distances. She does not even go to grocery stores, with her mother delivering things to her instead. As a result of her condition, she cannot go to a bank to obtain the requested banking documentation. She stated that she had sent the requested rent receipt to the ministry through its online portal and that, for one of the banks, Bank B, for which information is requested, she has not done business there for several years. She wondered if she could sign a form that would allow the ministry to obtain the documentation directly from the banks.

The ministry stated it had not received the rent receipt and that at no time during her conversations with the IO did the appellant indicate that she could not attend the banks to obtain the requested documentation, nor did she explore with the IO any alternative approaches to satisfying the ministry's request.

The ministry stated that the appellant's file review was triggered by a third-party allegation that she had unreported employment income and casino winnings and had two vehicles registered in her name. The ministry explained that whenever allegations come to the ministry's attention calling into question the eligibility of a client, it is the responsibility of the ministry to investigate. A request for information along the lines of that provided the appellant as usual first step in such an investigation.

The appellant disputed the allegations in some detail, explaining that she had also discussed them with the IO. The appellant was of the view that these allegations had been advanced by her child's father, who wanted to make life difficult for her.

There was a discussion between the appellant, the ministry and the panel as to how the appellant could meet the ministry's request while not physically attending a bank: by submitting the rent receipt again through the ministry's online portal, by emailing the relevant pages from the appellant's current Bank A online banking site, and by requesting the IO to provide her with an up-to-date authorization for the ministry to access the information from Bank B.

Admissibility of additional information.

The panel finds that the details of the information provided by the ministry at the hearing regarding the third-party allegations (and the appellant's response to the allegations at the hearing) are not in support of the information and records before the ministry at reconsideration, as there was no reference to these allegations in the Record of the Ministry Decision. Pursuant to section 22(4) of the EAA, the panel therefore does not admit any of this information as evidence.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry decision, which held that, pursuant to section 10 of the *EAR*, the appellant is not eligible for income assistance for the prescribed period as she failed to provide information required to determine eligibility, is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant.

Under section 32 of the *EAR*, the prescribed period lasts until the appellant complies with the direction to provide the requested information

The applicable legislation is from the *EAR*:

Information and verification

10 (1) For the purposes of

- (a) determining whether a person wanting to apply for income assistance or hardship assistance is eligible to apply for it,
- (b) determining or auditing eligibility for income 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 income 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 income 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 income assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

And from the *EAR*:

Consequences of failing to provide information or verification when directed

32 (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.

The position of the ministry, as set out in the reconsideration decision, is that under section 10 of the *EAA*, a person is not eligible for income assistance for the prescribed period if they fail to provide information required to determine eligibility. The appellant was requested to provide banking information and rent receipt in order that her current financial situation and rent situation could be confirmed. She did not provide the information. She now indicates that she forgot because of her medical condition and provided a copy of her 2009 application form for Persons with Disabilities designation as confirmation of her medical issues. As the form was completed in 2009 there is no ability to determine if the medical issues in the report still exist or affect her abilities today. She was able to understand the request and the process sufficiently to request an additional copy of the original request letter and to contact the ministry to request the minister to reconsider the decision after receiving the letter advising her that she was not eligible for further assistance. At no time did she indicate that she did not understand what was requested.

The appellant's position is that, because of her anxiety and resulting panic attacks, she is unable to attend at the banks named in the Request for information letter to obtain the requested documentation.

Panel decision

On the basis of the discussion at the hearing, the panel is optimistic that the appellant understands the need to provide the requested documentation and the consequences of any continuing failure to do so, and that she intends to submit soon the documentation using online resources and email. Nevertheless, the panel must determine the reasonableness of the ministry's reconsideration decision.

The legislation is clear: under section 10 of the *EAA*, for the purpose of determining or auditing eligibility for income assistance, the minister may direct a recipient of income assistance to supply the minister with information within the time and in the manner specified by the minister; if a recipient fails to comply with a direction under this section, the minister may declare the family unit ineligible for income assistance for the prescribed period; under section 32 of the *EAR*, the prescribed period lasts until she complies with the direction to provide the requested information. The evidence is that the appellant has not complied with the minister's direction, having not submitted the requested documentation.

The appellant argues that she is not able to attend the banks to obtain the requested documentation due to her anxiety and resulting panic attacks. However, she has not submitted any current medical documentation from a medical professional to support this situation. Further, there is no indication that, prior to the hearing, she explored other approaches to access and submit the information, including using online facilities available to her. The panel therefore finds that the ministry was reasonable in determining that she is not eligible for income assistance as she failed to comply with the direction to provide the requested documentation.

Accordingly, the panel finds that the ministry's decision that the appellant is not eligible for income assistance under section 10 of the *EAA* is reasonably supported by the evidence. The panel therefore confirms the ministry's decision. The appellant's appeal is thus not successful.