

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (“the ministry”) reconsideration decision of July 4, 2016 in which the ministry determined that the appellant was ineligible for:

1. full support allowance for the month of February 2016;
2. full support and shelter allowance for the month of March 2016; and
3. full support allowance for the month of April 2016

because she failed to report a change in circumstances as required by Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Section 29, and pursuant to EAPWDR 23 (1.2) and (5) was no longer eligible for support allowance until the date on which her reapplication for support assistance was signed and was not eligible for shelter assistance prior to the first day of the month in which her reapplication was signed.

## PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA) Section 11 (1)

EAPWDR Sections 23 (1.2), (5), 29

## PART E – Summary of Facts

Neither the appellant nor the ministry representative was in attendance at the hearing. After determining that both the appellant and the ministry had been notified, the hearing proceeded under Section 86(b) of the EAR.

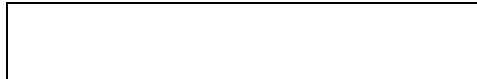
The appellant is a recipient of disability assistance (PWD) with two dependent children.

The evidence before the ministry at reconsideration included:

- Request for Reconsideration received by the ministry June 2, 2016;
- April 18, 2016 letter from the appellant's building manager ("J") confirming that the appellant's mother and one of her children continued to reside at the residence identified in the ministry's records ("the residence") during the appellant's absence;
- May 31, 2016 letter from J confirming that:
  - the appellant had not moved from the residence;
  - all rents had been paid;
  - rental payments were up to date;
  - two eviction notices were served and the appellant's mother paid the rent;
  - at the time of writing he had seen the appellant several times on a daily basis.

The reconsideration decision is summarized as follows:

- because the appellant did not claim her February 2016 support allowance, her support cheque was cancelled and cheque production turned off pending further contact between the ministry and the appellant;
- on March 7, 2016 the appellant's mother submitted an eviction notice due to non-payment of March 2016 rent of \$980;
- the ministry attempted to contact the appellant but was unsuccessful;
- on March 9, 2016 the appellant's landlord advised the ministry that the appellant had moved from the residence on March 1<sup>st</sup>, leaving her adolescent child alone in the apartment. The landlord also advised the ministry that the appellant's mother came by the residence every couple of days until she moved the appellant's child out of the residence on February 14, 2016;
- the ministry again attempted to contact the appellant but was unsuccessful;
- on March 15, 2016 the appellant's mother requested the appellant's March shelter allowance on the appellant's behalf, stating that she did not know the appellant's whereabouts. The appellant's mother submitted a Consent to Release form signed by the appellant;
- the ministry cancelled the appellant's March assistance due to the appellant's failure to contact the ministry and the ministry's inability to confirm the appellant's circumstances;
- on March 22, 2016 the appellant's mother requested the appellant's March and April assistance, and was unable to advise the ministry of the whereabouts of the appellant or her children. The ministry again advised the appellant's mother that the appellant must contact the ministry in order to clarify her situation;
- on April 15, 2016 the appellant contacted the ministry and requested her February, March, April and May support allowance and March and April shelter allowance. The appellant further advised the ministry that:
  - she had been staying in a cabin elsewhere in the province for the month of March;
  - she did not pick up her February support allowance because she had been unwell;



- she had been living on a child tax lump sum payment;
- her mother had paid the March rent and one-half of the April rent;
- her older child was living with the appellant's mother and her younger child was living with friends.
- on April 29, 2016 the appellant's reapplication for assistance was accepted by the ministry. The appellant was issued pro-rated support allowance for April, full shelter allowance for April and full support and shelter allowance for May, but was denied support allowance for February and support and shelter allowance for March;
- on April 26, 2016 the appellant submitted an eviction notice for the residence due to non-payment of rent.

## PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the ministry decision that the appellant was ineligible for:

1. full support allowance for the month of February 2016;
2. full support and shelter allowance for the month of March 2016; and
3. full support allowance for the month of April 2016

because she failed to report a change in circumstances as required by Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Section 29, and pursuant to EAPWDR 23 (1.2) and (5) was no longer eligible for support allowance until the date on which her reapplication for support assistance was signed and was not eligible for shelter assistance prior to the first day of the month in which her reapplication was signed.

Relevant legislation:

### **EAPWDA: Reporting obligations**

**11** (1) For a family unit to be eligible for disability 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) 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.

### **EAPWDR: Effective date of eligibility**

**23** (1) Subject to subsection (1.1), the family unit of an applicant for designation as a person with disabilities or for both that designation and disability assistance

- (a) is not eligible for disability assistance until the first day of the month after the month in which the minister designates the applicant as a person with disabilities, and
- (b) on that date, the family unit becomes eligible under section 4 and 5 of Schedule A for that portion of that month's shelter costs that remains unpaid on that date.

(1.2) A family unit of an applicant for disability assistance who has been designated as a person with disabilities becomes eligible for

- (a) a support allowance under sections 2 and 3 of Schedule A on the date of the applicant's submission of the application for disability assistance (part 2) form,
- (b) for a shelter allowance under sections 4 and 5 of Schedule A on the

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first day of the calendar month that includes the date of the applicant's submission of the application for disability assistance (part 2) form, but only for that portion of that month's shelter costs that remains unpaid on the date of that submission, and

(c) for disability assistance under sections 6 to 9 of Schedule A on the date of the applicant's application for disability assistance (part 2) form.

(5) A family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested.

### Reporting requirement

**29** For the purposes of section 11 (1) (a) [*reporting obligations*] of the Act,

(a) the report must be submitted by the 5th day of the calendar month following the calendar month in which one or more of the following occur:

(i) a change that is listed in paragraph (b) (i) to (v);

(ii) a family unit receives earned income as set out in paragraph (b)

(b) the information required is all of the following, as requested in the monthly report form prescribed under the Forms Regulation, B.C. Reg. 95/2012:

(ii) change in income received by the family unit and the source of that income.

### Appellant's Position

The appellant argues that:

- the ministry wrongly withheld deposit of her February 2016 support allowance into her new bank account because it was a joint account,
- the ministry should have mailed her February 2016 support cheque instead of holding the cheque pending pickup by the appellant;
- she did not experience a change in circumstances that required her to notify the ministry;
- the landlord implied that he did not call the ministry on March 9, 2016 to advise that the appellant had moved out of the residence on February 1st and left her adolescent child alone;
- her mother stayed in the residence for a three month period commencing February 1, 2016;
- her older daughter was not removed from the residence on March 8<sup>th</sup>, leaving it vacant. She joined the appellant and the younger daughter on an extended spring vacation;
- her mother's statement to the ministry on March 22<sup>nd</sup> was incorrect, because she knew the whereabouts of the children;
- her absence from the residence was not a move or "living" elsewhere, but merely a vacation.

### Ministry's Position

The ministry argues that:

- the appellant is required to notify the ministry of any change or information that may affect the eligibility of her family unit and under EAPWDR Section 29 must submit a stub by the 5<sup>th</sup> day of the month following the month in which the change occurred;

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- the appellant's February support cheque was cancelled and further cheque production turned off because she failed to attend at the ministry office to claim it;
  - the ministry made several unsuccessful attempts to contact the appellant either directly or through the appellant's mother;
  - the appellant's mother submitted to the ministry an eviction notice for non-payment of \$980 March rent;
  - the appellant's landlord advised the ministry that the appellant had vacated the residence on February 1, 2016 and had left her adolescent child alone in the suite;
  - because the appellant failed to contact the ministry during February, March or the first two weeks of April her assistance was cancelled and her file was closed;
  - the appellant reapplied for assistance in April 2016 and was declared eligible for assistance on April 29<sup>th</sup>. She was therefore not eligible for shelter allowance until April 1, 2016 and her eligibility for support allowance became effective on the day the appellant's application for assistance was signed;
  - pursuant to EAPWDR Section 23 (5) a person is not eligible for assistance for a cost incurred prior to the month the assistance is requested.

## **Panel Decision**

### **1. Duty to Report Change in Circumstances**

The ministry was unable to deposit the appellant's February 2016 support allowance into her new bank account because it was a joint account held with another person. A cheque was issued, which the appellant did not pick up because she failed to attend at or notify the ministry office. The appellant did not contact the ministry until April 15, 2016. In the meantime the ministry was informed by the appellant's landlord that the appellant had moved out of the residence with her younger child on February 1, 2016 and had left her older child behind in the residence. Although the landlord or building manager later revised his statement, the panel prefers the original evidence of the landlord because it was supported by an eviction notice submitted by the appellant's mother.

The appellant's mother advised the ministry that the appellant and younger child's whereabouts were unknown, and submitted an eviction notice for non-payment of March rent. The ministry closed the appellant's file and declared the appellant ineligible for assistance effective February 1, 2016 because the appellant failed to contact the ministry and explain an apparent change in her circumstances. In April the appellant informed the ministry that she had been using the proceeds of a lump sum child tax payment to meet her expenses but did not verify the amount of the lump sum payment or when she received it.

Taking into account the information the ministry received from the appellant's landlord and mother supporting a change in the circumstances of the family unit, and information later provided to the ministry that appellant had received income in the form of a lump sum benefit the panel finds that the ministry reasonably determined that the appellant was no longer eligible for assistance because she failed to meet the reporting obligations set out in EAPWDA Section 11 (1) and EAPWDR Section 29.

### **2. Effective Date of Eligibility**

The appellant's was declared ineligible for assistance effective February 1, 2016. She contacted the ministry on April 15, 2016 and reapplied for assistance. She was determined to be eligible for assistance on April 29, 2016. EAPWDR Section 23 (1.2) states that eligibility for support allowance is

effective from the date of the applicant's submission of an application for disability assistance, and is eligible for shelter assistance on the first day of the calendar month that includes the date of the applicant's submission of the application.

The panel finds that the ministry reasonably determined pursuant to EAPWDR Section 23 (1.2) that the appellant was not eligible for support allowance for the month of February 2016, was not eligible for support or shelter allowance for March 2016, and was eligible only for that portion of her April 2016 support allowance that commenced April 29, 2016. The panel also finds that the ministry reasonably determined that pursuant to EAPWDR Section 23 (5) the appellant was not eligible for assistance in respect of a cost incurred before the calendar month in which the assistance was requested.

In conclusion, the panel finds that the ministry's determination that the appellant was not eligible to receive full support allowance for February 2016, full shelter and support allowance for March 2016, and that portion of the April 2016 support allowance that remained unpaid as of April 29, 2016 was a reasonable application of the applicable enactment in the circumstances of the appellant, and confirms the decision of the ministry.