



PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (Ministry) dated October 18, 2016 in which the Ministry determined that the appellant was not eligible for income assistance as he had assets in excess of the allowable asset level of \$2000.00 for a single recipient set out in section 11(2) of the Employment and Assistance Regulation (EAR).

PART D – Relevant Legislation

Employment and Assistance Regulation, Section 1 and 11

PART E – Summary of Facts

The appellant did not attend the teleconference hearing. After confirming that the appellant was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation (EAR).

The evidence before the Ministry at the reconsideration consisted of:

- The appellant has been a sole recipient of income assistance (PPMB) since January 2001.
- Case history notes from January 1, 2001 to September 12, 2016.
- Letters sent to the appellant on April 6, 2016, July 20, 2016 and August 18, 2016 requesting that the appellant provide:
 - Identification in the form of a SIN or federal government document confirming the SIN.
 - Rent receipt(s) and utility bills for the Shelter Form to be completed by the landlord/home owner.
 - Statements for all bank accounts, sole or joint, for the period of January 2013 to January 2016 as well as Mutual Fund account records.
 - Statements for all investments, RRSPs, pension funds and any other assets.
 - Income Tax Notice of Assessment for 2014 and 2015.
 - Tax slips (T4s, T5s, etc.) for 2014 and 2015.
- Rent receipts for the amount of \$550.00 for June and July, 2016.
- The appellant's bank statements for the period January 1, 2013 to August 30, 2016 showing a balance of \$4,767.82 in 2013 and increasing to \$14,543.38 in 2016, faxed to the Ministry on August 30, 2016.
- An Overpayment Notification dated August 31, 2016 stating that the appellant is liable to repay the overpayment amount of \$16,549.92 as per the EAA section 27(1) or the EAPWDA section 10(1)(b) and a minimum sum of \$10 per calendar month will be deducted from the appellant's monthly assistance.
- Four letters from the ministry to the appellant dated August 31, 2016:
 - One letter explained that a review of the appellant's assistance between January 2013 and August 2016 had been completed and as a result the ministry determined that the appellant had received assistance for which he was not eligible and an overpayment in the amount of \$16,549.92 had been recorded on his file.
 - One letter explained that the ministry had concluded the appellant had received assistance for which he was ineligible (an overpayment) due to inaccurate or incomplete reporting. The ministry informed the appellant that in accordance with Section 32.1 of the EAR, a sanction would be applied to his account and a monthly reduction of \$25 each month would be imposed for three months beginning October 2016.
 - One letter informed the appellant that the ministry determined that he was ineligible for assistance for the period January 2013 to August 2016.
 - One letter informed the appellant that he is no longer eligible for assistance and that his file is closed as of August 31, 2016.

PART E – Summary of Facts cont.

- A record of a telephone conversation of September 12, 2016 between the ministry and the appellant in which is noted:
 - The appellant stated he does not know why he did not receive a cheque.
 - The appellant acknowledged that he has received many letters but did not take any calls because he did not hear the phone ring.
 - The appellant stated that the savings account is held jointly with his father, the Mutual Fund account is a sole account and he does not know if the chequing account is his only.
 - The ministry explained that the assistance is for him alone, not for his family and that as a sole recipient his eligibility for assistance is income and means tested which includes cash and assets that are available to him.
 - When asked if he understood, the appellant replied that he did now but did not know previously and would like to exercise his right to appeal. When asked which decisions he is appealing, the appellant stated that he would like to appeal the decision of ineligibility; he understands the overpayment if he was not eligible but now needs to be back on the program. When asked if he is also appealing the overpayment and sanction, he stated that he is not.
- The appellant requested a reconsideration of the decision on October 3, 2016.

In his Notice of Appeal dated October 25, 2016 the appellant states as his reason for appeal is “funds inappropriate.”

The panel finds that the information provided by the appellant in his Notice of Appeal is in support of the information before the ministry at reconsideration. The panel therefore admits this information as evidence under section 22(4) of the Employment and Assistance Act.

At the hearing, the ministry relied on the reconsideration decision. The appellant had been in receipt of assistance for several years and his file was closed on August 31, 2016. The ministry explained that it attempts to conduct file reviews once a year, requesting in writing all the information that would be required if they were considering a new application.

During the review, the ministry learned that the appellant’s bank balance was more than \$2000.00, which is the most a single PPMB recipient is allowed to have in cash and assets. The ministry stated that the appellant’s bank balance had been over that amount since January 2013 when the balance was more than \$4,000.00. The appellant also has a joint account with his father but that account was not considered in the review because the appellant’s sole account exceeded the maximum allowed.

The ministry clarified that the appellant did not appeal the overpayment or sanction on his file. The ministry stated that the reconsideration decision does not prevent the appellant from eligibility for assistance if he has assets under the \$2,000.00 limit in the future. The ministry concluded by stating that had the appellant attended the hearing, this would have been made clear to him.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the ministry's reconsideration decision of October 18, 2016, which held that the appellant is not eligible for income assistance because he had assets in excess of the allowable asset limit of \$2,000.00 pursuant to section 11 of the Employment and Assistance Regulation (EAR).

The following sections of the legislation apply to the appellant's circumstances in this appeal.

Employment and Assistance Regulation

Part 2 – Eligibility for Income Assistance

Division 1 – Applications and Applicant Requirements

Definitions

1 (1) In this regulation:

"asset" means

- (a) equity in any real or personal property that can be converted to cash,
- (b) a beneficial interest in real or personal property held in trust, or
- (c) cash assets;

Asset limits

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(2) A family unit is not eligible for income assistance if any of the following apply:

- (a) subject to paragraph (c), a sole applicant or sole recipient has no dependent children and has assets with a total value of more than \$2 000;
- (b) subject to paragraph (c), an applicant or a recipient has one or more dependants and the family unit has assets with a total value of more than \$4 000;
- (c) one applicant or recipient in the family unit receives accommodation and care in a private hospital or a special care facility, other than an alcohol or drug treatment centre, or is admitted to a hospital for extended care, and the family unit has assets with a total value of more than \$100 000;
- (d) 2 applicants or recipients in the family unit receive accommodation and care in a private hospital or a special care facility, other than an alcohol or drug treatment centre, or are admitted to a hospital for extended care, and the family unit has assets with a total value of more than \$200 000.

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(2.1) Despite subsection (2), a family unit that includes an applicant or a recipient who has applied for and has not been denied, or who the minister is satisfied has a genuine intention to apply for, designation as a person with disabilities under section 2 of the *Employment and Assistance for Persons with Disabilities Act* may receive income assistance, subject to all other eligibility criteria, if the family unit has assets with a total value of no more than

(a) in the case of a family unit that includes one applicant or recipient who has applied for and has not been denied, or who the minister is satisfied has a genuine intention to apply for, designation as a person with disabilities, \$100 000, or

(b) in the case of a family unit that includes 2 applicants or recipients who have applied for and have not been denied, or who the minister is satisfied have a genuine intention to apply for, designation as a person with disabilities, \$200 000.

(2.2) For the purposes of subsection (2.1), in addition to the assets described in subsection (2.1) (a) or (b), the family unit may own one motor vehicle generally used for day to day transportation needs.

(2.3) Subsection (1) (b) does not apply to a family unit to which subsection (2.2) applies.

(3) The minister may authorize one or more of the following:

(a) that for a family unit that includes a person who has persistent multiple barriers to employment or a person who has reached 65 years of age, the total cash surrender value of an uncashed life insurance policy of an applicant or recipient is not to be included as an asset for the purposes of subsection (2) for the period specified by the minister;

(b) that saleable acreage and buildings owned by an applicant or recipient are to be treated as though they were the place of residence of the applicant's or recipient's family unit for the period specified by the minister.

(4) Repealed. [B.C. Reg. 197/2012, Sch.1, s. 9.]

Appellant's Position

In his request for reconsideration, the appellant stated that he has medical issues which require a special diet that costs more. He wrote "I did not know about there being a shelter and support section or I would just requested support. I will suffer hardship since I need a special Gluten Free diet which costs more money than Normal Food." In his Notice of Appeal, the appellant wrote "insufficient funds."

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Ministry's Position

The ministry's position is that the appellant did not meet the criteria for eligibility as set out in section 11(2) of the Employment and Assistance Regulation (EAR). Specifically, the ministry argued that the appellant had cash and assets in excess of the allowable level of \$2,000.00 for a single recipient.

Panel Decision

Under section 11(2) of the EAR, a single recipient of income assistance is ineligible if the recipient has assets with a total value of more than \$2,000.00. Section 1 of the EAR defines assets in part as *cash assets*. Cash assets is further defined, in part, as money in the possession of the person and/or money that is accessible to the person. The appellant does not dispute the fact that his assets exceed \$2,000.00.

Having considered all the evidence, the panel finds that the ministry's reconsideration decision that the appellant did not meet the criteria for eligibility as set out in the legislation was reasonably supported by the evidence and was a reasonable application of the legislation in the appellant's circumstances.

Therefore, the panel confirms the ministry's reconsideration decision.