

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated November 7, 2016 which found that the appellant is not eligible for disability assistance pursuant to Section 10 of the Employment and Assistance For Persons with Disabilities Act because she failed to provide all the requested information necessary to determine eligibility as set out in Section 28 of the Employment and Assistance for Persons with Disabilities Regulation.

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

Procedural Issue

The appellant requested an adjournment at the hearing for the following reasons;

- She required more time as she was unable to get home from specialist appointments in a large center due to weather conditions,
- Her pain management regime had been disrupted due to being cut-off from payments for her medication,
- Her advocate from the large center where she remains was leaving for vacation tomorrow for a month,
- Her car had been vandalized and her phone stolen while away from home,
- She has never stated to the ministry that she wouldn't provide them with the requested documents.

The ministry had no objections to an adjournment while acknowledging that the Investigative Officer did provide the appellant with an extension until October 21, 2016 to provide the requested documents.

Although, there were no previous adjournments, the panel refused an adjournment and provided the parties with the following reasons:

- The appellant was home in November and while more recently had been stranded in a large center away from home had attended the local ministry office on at least a couple of occasions. Therefore, the panel determined that the request for an adjournment was not made at the earliest opportunity.
- The appellant indicated that she was able to replace her phone and has maintained the same phone number. While the circumstances of the appellant's vehicle being vandalized and her phone stolen could not have been foreseen, the panel found that this unfortunate situation did not impact the appellant's opportunities to request an adjournment.
- About a week ago, the appellant delivered the reconsideration package to her lawyer. Considering that the date of the hearing was approaching, the panel concluded that no reasonable efforts were made to avoid the request for adjournment.
- The appellant indicates that her pain management regime has been disrupted, she suffers from headaches and that the Investigative Officer has not taken into consideration her Doctor's note confirming that her disabilities prevent her from meeting the ministry's deadlines. The panel found that the need for the adjournment is attributed to the appellant's lack of response which she does not deny, since the end of August 2016 to provide some if not all the requested documents.

Information before the ministry at reconsideration:

- A copy of an Employment and Assistance for Persons with Disabilities Review for the appellant dated August 26, 2016;
- A letter from the ministry to the appellant dated September 14, 2016 requesting that the

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appellant submit the Review Checklist and the documents requested by September 28, 2016 that would enable the ministry to assess the appellant's eligibility for assistance. (referred to as the 1st Request for Information Letter);

- A letter from the ministry to the appellant dated September 28, 2016 referring to the 1st Request for Information Letter and requesting by October 14, 2016 that the appellant submit the same documents requested in the 1st Request for Information Letter that would enable the ministry to assess the appellant's eligibility for assistance and indicating that the appellant's next assistance payment will be held by the ministry until the information has been provided. (referred to as the "2nd Request for Information Letter");
- A Request for Reconsideration signed by the appellant and dated September 30, 2016 in which she states that she called the Investigative Officer on October 21, 2016 and had not received a call back. She then called the Investigative Officer's supervisor on October 24, 2016 and was told that he will contact the Investigative Officer.
- A letter from the ministry to the appellant dated October 21, 2016 referring to the 1st Request for Information Letter and the 2nd Request for Information Letter, identifying the same documents requested in the previous two letters, and indicating that as the ministry has not received all of the requested information, the appellant's eligibility cannot be determined and that her file will be closed on November 18, 2016.
- A Doctor's Note for the appellant dated October 25, 2016, indicating that "Due to medical issues, she is unable to meet various deadlines imposed on her."

In a Notice of Appeal dated November 21, 2016, the appellant states that she is unable to make imposed deadlines for medical reasons.

The appellant testified that due to a car accident in 2010, she has disabilities, suffers from headaches and has been cut-off from payments for medication. She indicates that she did not tell the ministry at any time that she wouldn't provide the requested documents; however, she needs more time to collect them due to her medical conditions and specialist appointments. The appellant stated that she is currently stranded in a large center away from home where she has had specialist appointments. The appellant indicated that the ministry office in her community is open only 2 days a week and until today she did not know that the ministry had a toll free fax number. In response to a question by the panel, the appellant indicated that her utilities were not in her name and recently the landlord has taken over the payments. The appellant indicated that she only has one bank, but also utilizes the services of another bank to cash cheques. The appellant also admitted that she has not taken any steps to provide the ministry with the requested documents.

The ministry did not provide additional evidence on appeal, relying on its reconsideration decision.

Finding of Facts

The appellant was receiving disability assistance as a sole recipient. Her file was re-opened in April, 2012.

The appellant completed the Employment and Assistance for Persons with Disabilities Review with the Investigative Officer by telephone on August 25, 2016.

The Investigative Officer contacted the appellant on September 28, 2016, to discuss the information requested. At that time, the appellant was told that her next assistance cheque would be held until the requested information is received and she was then given an extension until October 21, 2016.

The letter from the ministry to the appellant dated October 21, as well as the 1st Request for Information Letter dated September 14 and the 2nd Request for Information Letter dated September 28, 2016 also advised the appellant to call the toll free phone number provided, if she had any questions about the requested information or how to submit it.

Review Checklist and documents requested from the Appellant

- Rent Receipt(s) and utility bills for July, August and September 2016.
- Statements for all bank accounts, sole or joint, for the period of June 2016 to current date.
- Banking profiles from A, B and C. (Note: A profile is a list of all accounts with a bank. A form attached which your bank may fill out, or the bank may print its own.)
- Income Tax Notice of Assessment for years 2014 and 2015.
- Tax slips (T4's, T5's, etc.) for years 2012, 2014 and 2015.

Other:

- 1) ICBC statement of all settlements received/payments made to you.
- 2) Statement from a specific Law Office of all payments made to you.

PART F – Reasons for Panel Decision

The issue under appeal is the ministry's reconsideration decision dated November 7, 2016 which found that the appellant is not eligible for disability assistance pursuant to Section 10 of the EAPWDA because she failed to provide all the requested information necessary to determine eligibility as set out in Section 28 of the EAPWDR was reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

Relevant Legislation:

Section 10 EAPWDA

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.

Section 28 EAPWDR

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.

Ministry's Position

The ministry's position is that Section 10 of the EAPWDA and Section 28 of the EAPWDR permit the minister to direct a recipient of disability assistance to provide information to determine their eligibility for assistance. If a recipient does not comply with a direction, the minister may declare the recipient's

family unit ineligible for assistance until the information is provided. Disability assistance is income and asset tested and the shelter allowance is provided based on actual shelter costs. Therefore, the minister finds the requested information is required in order to determine the appellant's eligibility for assistance. The ministry argues that the appellant has not provided any information since the information was initially requested in September 2016. While the appellant has provided a Doctor's Note, it does not establish why the appellant could not provide any of the requested information in the time required. Therefore, the minister determined that the appellant is not eligible for assistance because she has not provided all the requested information as directed by the minister for the purpose of determining her eligibility for assistance under the noted legislation.

Appellant's Position

The appellant's position is that she suffers from medical conditions including headaches and has been cut-off from payments for medication. She indicates that she did not tell the ministry at any time that she wouldn't provide the requested documents; however, she needs more time to collect them due to her medical conditions, specialist appointments and currently being stranded away from home. The appellant argues that the ministry office in her community is open only 2 days a week and until today she did not know that the ministry had a toll free fax number.

Panel Decision

The panel recognizes that while the appellant's doctor has reported that due to the appellant's medical issues, she is unable to meet various deadlines imposed on her, the appellant did not explain why she could not provide any of the documentation requested by the ministry since the end of September, 2016. The panel finds that as the appellant has admitted to having only one bank and that her landlady manages the bill for utilities and that the proof required for the ministry would be readily accessible to the appellant. The panel also finds that the appellant acknowledges that she has not made any effort to provide all of information requested by the minister as set out in Section 10 of the EAPWDA. Section 10(4) EAPWDA states that "If 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." Section 28 of the EAPWDR states that "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."

For these reasons, the panel finds the ministry decision that the appellant is not eligible for disability assistance under Section 28 of the EAPWDR is reasonably supported by the evidence and confirms the decision. The appellant is not successful in her appeal.