



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) January 11, 2017 reconsideration decision denying the appellant income assistance because she failed to provide the information requested by the ministry under section 10 of the Employment and Assistance for Persons with Disabilities Act (EAPWDA).

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

The appellant currently receives disability assistance as a single person. Her file opened on November 28, 2016.

On August 15, 2016 the appellant advised the ministry that she would be attending school and taking one course. The appellant indicated she would be receiving a part-time studies grant from StudentAid BC to cover her tuition and books. A hold was placed on her October benefits for information related to her grant and a letter was mailed to her requesting contact.

On October 5, 2016, the appellant's cheque was cancelled as she had not responded to the request for contact regarding the hold on her October cheque. The appellant called and spoke with the ministry worker who advised her that the ministry needed to see any and all documents she has received related to her grant.

On October 14, 2016 the appellant declared \$2088 in student funding along with a record of deposit from Student Loan Canada. She did not provide a breakdown of payment from Student Aid confirming that this was all a grant and not student loans. A letter was mailed to her requesting she submit her Student Aid assessment.

In a letter dated October 14, 2016, the ministry stated that "income verification is required. See additional information below. Additional information: Please provide a breakdown of the financial assistance you've received for your schooling from Student Aid BC."

In her report dated October 12, 2016, for the benefit month of November, the appellant writes that the \$2088 student funds she received are grants.

On November 10, 2016 the appellant's November assistance was cancelled after she did not respond to the ministry's request for information. Cheque production was turned off and her file was automatically closed.

On November 28, 2016 the appellant requested a reconsideration of the closure of her file for failure to provide information. Her file re-opened on November 28, 2016.

An undated letter from the college's Financial Aid advisor was received by the ministry on November 28, 2016, stating that the appellant "received a Canada Study Grant in September 2016 of \$2400. The grant was used to pay tuition and books for one course this fall. Her college expenses amounted to: Tuition: \$311.82. Books: \$245.30."

On January 7, 2017, the reconsideration officer called and left a message for her requesting she submit documentation from Student Loan Canada confirming that her income was all grant money and not student loans. The reconsideration office spoke with her advocate to request she pass the information along to the appellant.

With her request for reconsideration the appellant submitted a letter stating that she had been having problems with her school's student self-serve account as she could not remember her password. She is not able to navigate the ministry's 1-866 toll free number system and contacts her worker directly through his cell phone and direct lines, but her worker had been away for some time. It is difficult to get through to the ministry.

In an undated letter faxed to the ministry on January 11, 2017 the appellant writes that she has not received any student loans for her previous schooling. She has received a part-time study grant in the amount of \$2400.

On appeal the appellant provided 3 documents: a letter from her advocate dated February 6, 2017, a letter from her clinician dated February 6, 2017, and a Notification of Assessment from Financial Aid for Part-time Studies dated January 13, 2017, for the study period from January 30, 2017 to May 28, 2017.

The advocate writes that the appellant suffers from a severe mental impairment. In order to manage dealing with agencies and going back to school the appellant had relied on a support system which included a ministry worker, a clinician and a college advisor. When the worker was on holiday and re-assigned, and after personal ministry service ceased to exist in the appellant's home town, the appellant experienced severe difficulties communicating with the ministry and other institutions.

The clinician provided information on the appellant's mental disability.

At the hearing the appellant submitted a Notice of Assessment from Financial Aid for Part-time Studies dated July 8, 2016, for the study period from September 6, 2016 to December 21, 2016. The assessment documents that the appellant is eligible to receive \$2400 in funding: a Canada Student Grant – Permanent Disability for \$2000; and a BC Supplement Bursary – Students with Disabilities for \$400.

At the hearing the appellant re-iterated her difficulties communicating with the ministry. Often she could not reach any worker or was on hold for an hour when she called the ministry's toll free number. The ministry worker who used to regularly come to her home town no longer comes and she has to go to Service BC where staff is not knowledgeable in her area of need.

The ministry relied on its reconsideration decision and added the following information: The ministry is understaffed in the appellant's location, and it is true that there are long wait times on the phones, especially at times when cheques are issued; at other times there is hardly any wait time. The ministry is requesting a breakdown into grant and loan because different legislation applies for grants and loans, and it needs to prevent "double-dipping." The Notice of Assessment from Financial Aid for the study period September 6, 2016 to December 21, 2016 which the appellant provided at the hearing is the information the ministry is looking for.

The ministry had no objection to admit all documents provided on appeal and at the hearing into evidence but noted that the appellant's Notice of Assessment from Financial Aid for the study period September 6, 2016 to December 21, 2016 was not available to the ministry at reconsideration.

Pursuant to section 22(4) of the Employment and Assistance Act the panel admits the appellant's advocate's February 6 letter, the clinician's letter, and the Notice of Assessment from Financial Aid for the study period from September 6, 2016 to December 21, 2016 as in support of the information that was before the ministry at reconsideration; the advocate's letter corroborates information about the appellant's difficulties to communicate with the ministry, and the clinician's letter speaks on the appellant's mental impairment the ministry is aware of. The Notice of Assessment for fall 2016 substantiates the appellant's claim that her \$2088 student funding was all grants and not loans. The panel did not admit the Notice of Assessment for the study period January 30, 2017 to May 28, 2017 because these funds are not at issue in this appeal and the ministry had no record of this information at reconsideration.

PART F – Reasons for Panel Decision

The issue under appeal is whether the reconsideration decision denying the appellant income assistance under section 10 of the EAA because she has failed to provide information requested by the ministry is a reasonable application of the legislation or reasonably supported by the evidence.

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.

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(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.

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.

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Position of the parties

The appellant argues that she thought she was complying with the ministry's request for information; only when it was too late she found out that the information she provided was not what the ministry was looking for. When the appellant's support system stopped functioning a serious breakdown of her communication with the ministry was the result, and, consequently, the requested information could not be provided. Because of her anxiety the appellant was unable to navigate the Canada Student Loan toll free system to access the required information. The ministry should have helped her by retrieving the required information for her – it has a duty to provide additional support because the appellant has a severe impairment and needs significant assistance.

The ministry argues that under section 10 of the EAPWDA, for the purpose of determining or auditing eligibility for assistance, the minister may request information from a recipient or seek verification of any information supplied by a recipient. The minister may direct a recipient to supply verification of any information he or she supplied. If a recipient fails to comply with a direction under this section, the minister may declare the family unit ineligible for assistance. As per section 28 of the EAPWDR, the family unit remains ineligible until the requested information is provided.

The ministry elaborates that when a payment was received in the appellant's bank account from Student Loan Canada she was asked to provide a breakdown of all payments she received from Student Aid. After having received the ministry's request the appellant submitted a letter from the college's Financial Aid and Awards stating she received a Canada Study Grant in September 2016 totalling \$2400; however, she has yet to provide a document from Student Loan Canada or a document detailing her efforts to obtain a document from Student Loan Canada that confirms her statement that she only received a Canada Study Grant and not any student loans. As the appellant has not submitted the requested information she is denied assistance for failure to provide information.

Panel decision

Under section 10 of the EAA the ministry is entitled to request information and documentation from a recipient to audit the appellant's eligibility. If the appellant fails to comply the ministry may declare her ineligible for income assistance.

Based on the evidence the panel finds the appellant has provided the requested document and consequently the ministry's denial of income assistance is not a reasonable decision: In response to the ministry's October 24, 2016 letter the appellant provided documentation of a breakdown of the financial assistance for her schooling to the best of her ability when she presented the ministry with the Financial Aid advisor's letter on November 28, 2016.

The panel notes that it is up to the appellant to follow up on a ministry request, and it is the appellant's responsibility to seek assistance to do so if necessary.

Conclusion

Having reviewed and considered the evidence and the relevant legislation the panel finds that the ministry's decision that the appellant was not eligible for income assistance was not reasonably supported by the evidence. Therefore the panel rescinds the ministry's decision and the appellant is successful on appeal.