

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated December 29, 2016, in which the ministry determined that the appellant was not eligible for disability assistance because she had not provided requested information as per section 10 of the Employment and Assistance For Persons With Disabilities Act (EAPWDA). Specifically, the appellant had not supplied statements for all bank accounts, sole or joint, for the period of February 1, 2016 to September 31, 2016 as requested for the purpose of determining her eligibility for assistance.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act, Section 10
Employment and Assistance for Persons with Disabilities Regulation, Section 28

PART E – Summary of Facts

The information before the ministry at the time of reconsideration included the following:

- Canada Revenue statement of benefits 2015
- Canada Revenue Income Tax Information Regular 2015
- A bursary benefits statement dated March 4, 2015
- Bank #1 Account Statements Feb.-Oct., 2016
- Bank #2 Customer Snap shot accounts noting two closed accounts
- Handwritten account from appellant Oct 3-Feb. 22 2016

The appellant is currently receiving disability assistance as a sole recipient with two dependent children. Her file opened March 26, 1996 and reopened July 13, 2015.

On October 12, 2016 a ministry investigative officer (IO) initiated a review of the appellant's file in response to allegations received, including that the appellant had received income but did not report it to the ministry.

On October 12 and 28, 2016 letters were mailed to the appellant requesting information.

On November 17, 2016, the IO informed the appellant she no longer was eligible for disability assistance as she had failed to provide:

- Records of all income received from all sources for February. 1-September 31, 2016
- Statements for all bank accounts, sole or joint, from February. 1- September 31, 2016 including statements
- 2015 income tax notice of assessment
- Credit card statements for February 1-August 26, 2016

On November 22, 2016 the appellant requested a reconsideration of the decision to deny assistance.

On November 29, 2016 the minister received a signed Request for Reconsideration, a letter, tax slips, the appellant's 2015 tax notice of assessment and 2015 bursary funding information. The appellant requested to extend deadlines.

On December 5, 2016 the appellant requested an extension as she was waiting to receive her credit card statement. An extension was granted until December 29, 2016.

On December 6 and December 22, 2016 the appellant submitted credit card statements.

On December 29, 2016, the minister reviewed the appellant's Request for Reconsideration.

In the appellant's Request for Reconsideration she stated that:

- She has tried to supply the information requested by the IO
- Bank statements and explanatory notes were provided
- Requested information from a bursary and CRA has been attached. Capital One statements are yet to be received and will be forwarded

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- She is feeling overwhelmed by the increasing requests. It was unfair to not extend the deadline to provide information when new/additional information was requested.
 - Part of her rent payment is a rental subsidy

In the reconsideration review:

- The ministry was not satisfied the appellant had supplied the required information requested “statements for all bank accounts” as the appellant had supplied a Customer Snapshot from bank #2 indicating she had two closed accounts. A handwritten note with a branch number stamp noting “customer since October 3, 2016”, which suggests the two closed accounts may have bank statements for the time period requested.
- In November 2016 two documents were sent to the appellant specifically identifying statements were required from Bank #2.
- The appellant had not provided any information that she misunderstood the request for bank statements for the two closed Bank#2 accounts.
- Although extensions were requested for collection of requested information, the appellant did not indicate any difficulty with obtaining the Bank #2 account information.

During the hearing, the appellant referred to additional evidence in terms of the Bank #2 accounts. The email dialogue between the appellant’s advocate and the assistant branch manager indicated:

- The two accounts in question were opened October 3, 2016 on line
- The two accounts were closed when the appellant went to the bank (online accounts are defaulted to another province) and new accounts were opened.
- As there was no activity in these accounts, no bank statements were available.

The appellant stated she spoke to the Investigating Officer on November 17 about the confusion of the online bank accounts from bank #2 and that she believed the Snap Shot was sufficient evidence of account activity. When asked if she had evidence of this conversation, she informed the panel she did not have any evidence of this conversation. The ministry when asked reported as well, no evidence of this conversation was on file.

During the hearing, the ministry referred to the reconsideration decision noting the appellant had been asked for documentation a number of times in reference to accounts and bank statements from bank #2. The ministry also noted some records had been received such as the Master Card statements but these documents were not in the appeal package but that items were still outstanding such as Records of income, and monthly rent information. It was also noted that the information shared with the ministry had not be verified. In response to this above statement. The appellant’s advocate stated they had only prepared for a discussion of the two Bank #2 accounts as this was the only criteria mentioned in the reconsideration decision.

The following new evidence was included in the Notice of Appeal dated January 10:

- A letter by the appellant explaining actions taken to clarify the status of bank #2 statements.
- A Bank statement from bank #2.
- Bank #2 account status stating in handwriting “account opened 3 Oct. 2016, No activity” signed by assistant branch manager. Document did not identify account.
- Bank #2 account status stating in handwriting “account opened 3 Oct. 2016, No activity”



signed by assistant branch manager. Document account was identified.

- Customer Snapshot from Bank #2 showing accounts “closed” as of January 8, 2017; signed by assistant branch manager.

Admissibility of Additional Information

The ministry did not object to the admissibility of the additional documents submitted at the hearing by the appellant and commented that a different decision may have been made if the documents had been received but noted as well, these documents were not before the ministry at the time of reconsideration. Under section 22 (4)(b) of the Employment and Assistance Act the panel may admit evidence only if

- a) The information and records were before the minister when the decision was being made, and
- b) Oral or written testimony in support of the information and records referred to in paragraph (a).

As the ministry did not have information respecting activity of the two closed bank accounts at reconsideration, and the appellant did not mention these accounts in her Request for Reconsideration, the information provided by the appellant on appeal cannot be said to corroborate or supplement the available information. As such, the panel concludes that the appellant’s oral and written testimony about these accounts is new information which is properly put before the ministry and is not admissible as information in support of the information before the ministry at reconsideration under section 22(4) of the EAA.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision dated December 29, 2016 which found that the appellant was ineligible for disability assistance in accordance with sections 10 of the EAPWDA and section 28 of the EAPWDR as the appellant had not provided statements for all bank accounts as requested for the purpose of determining eligibility for assistance.

The relevant legislation is Section 10 of the EAPWDA and Section 28 of the EAPWDR

Employment and Assistance For Persons With Disabilities Act Section 10

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.

Employment and Assistance For Persons With Disabilities Regulation

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.

Appellant's Position

The appellant's position is she believed the Bank #2 Customer Snap Shot and her explanation to the Investigating Officer was all that was required in reporting "all bank accounts".

Ministry's Position

As the ministry has directed the appellant four times over two months; with opportunity for the appellant to clarify or identify any difficulty in obtaining the information, to provide bank statements for all bank accounts from February 1 to September 31, 2016, including the two closed Bank #2 accounts, the minister is satisfied the appellant has failed to comply with the minister's direction.

Panel Decision

The legislation, section 10 of the EAPWDA states that for the purpose of determining or auditing eligibility for disability assistance, hardship assistance or a supplement the minister may direct a recipient to supply the minister with information within the time and in the manner specified by the minister; and (4) states that 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.

Although the appellant has stated she contacted the Reconsideration Officer to explain the confusion of the two bank accounts and the lack of statements there is no evidence from the appellant or the ministry to substantiate this claim. From the records supplied, the ministry notes the appellant had numerous opportunities to request clarification and to clear up any confusion in terms of requested material. The appellant in completing her request for reconsideration did not mention there were any issues with obtaining bank statements from the Bank #2 accounts. As the appellant had been given the opportunity to supply the required information for the Bank #2 accounts, but failed to do so, the ministry's decision that she had failed to comply with the minister's request was reasonable.

The panel finds that the ministry's reconsideration decision dated December 29, 2016 which found that the appellant was ineligible for disability assistance in accordance with sections 10 of the



EAPWDA and 28 of the EAPWDR was reasonably supported by the evidence, and therefore confirms the ministry's decision.