



### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated January 24, 2017, in which the ministry determined that the appellant was ineligible for income assistance for November 2016 as she did not meet the date of eligibility for November as required in Section 26 (2) of the Employment and Assistance Regulation (EAR). Specifically, eligibility is established on the date the application for income assistance form has been submitted. The appellant did not complete part 2 of the Application for Income Assistance until December 8, 2017 therefore that is the date of eligibility for income assistance.

### PART D – Relevant Legislation

Employment and Assistance Regulations Section 26

## PART E – Summary of Facts

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

- Application for Income Assistance Part 1, verbal consent dated November 16, 2016, signed December 8, 2016
- Application for Income Assistance Part 2 dated/signed December 8, 2016
- Letter from the appellant
- Information/Documentation Check list dated November 16, 2016, Fax dated November 22, 2016
- Bank profile fax dated November 29
- Request for Reconsideration dated January 16, 2017

On November 7, 2016 the appellant began the online application process for income assistance.

November 16, 2016 part one of the appellant's income assistance application was completed.

Documents were received by the ministry November 7, 22, 29 and 30<sup>th</sup>

December 8, 2016 the appellant completed part two of the application and eligibility was established

December 16, 2016 the ministry denied the appellant's request for November assistance.

January 17, 2017 the minister received the appellant's request for reconsideration.

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

- Due to mental health reasons she was unable to return to work.
- Applied for income assistance November 7, 2016.
- She did not have money for November's rent so borrowed money.
- Told an intake worker she was in urgent need of food and other items.
- She had submitted all required information by November 30, 2016.
- She was given a pro-rated shelter amount for \$12.

In the reconsideration review the ministry stated that as the appellant had not completed part 2 of the application until December 8, 2016 she was ineligible for income assistance for November 2016.

During the hearing, the appellant;

- Stated the process she followed in applying for income assistance.
- Felt she had all required information in by November 29, 2016.
- Explained she felt she did qualify for November assistance as she had been given a check of \$12.83 as a pro-rated amount for the month of November.
- Agreed she had not sent in all bank statements and that a ministry worker had verified her savings account via phone in December.

During the hearing, the ministry;

- Reviewed the timeline for the assistance application process noting that five working days are required to confirm issues of eligibility therefore documents received on late dates such as November 30, 2016 would not be processed until December.

- 
- A bank profile was received November 30 and bank statements for one account November 22 but that not all bank statements were received. A second bank account was verified December 15, 2016 after a ministry worker had contacted the bank.
  - The missing bank information delayed the application process of the appellant, but ministry still approved December assistance.

#### Evidence of November cheque

- As noted above, the appellant commented she had received an assistance cheque for \$12 as a pro-rated benefit for income assistance when she attended the ministry office to sign part 2 of the application.
- When asked for verification of this issued cheque, the ministry representative was not able to find this information until she was given assistance.
- With assistance, the ministry representative was able to check the appellant's file and determined that she had been issued a pro-rated check for the period of one day of November 2016. When asked if this information would have an impact on the appellant's eligibility for income assistance the ministry representative said that it would but would not likely cover the month's rent.
- The appellant stated her month's rent should be covered for November as she had borrowed money to pay the rent with the understanding income assistance would cover her costs.

## PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision dated January 24, 2017 which found that the appellant was ineligible for income assistance for the month of November as she did not meet the date of eligibility for November as required in Section 26 (2) of the Employment and Assistance Regulation (EAR). Specifically, eligibility is established on the date the application for income assistance form has been submitted. The appellant did not complete part 2 of the Application for Income Assistance until December 8, 2017 therefore that is the date of eligibility for income assistance.

The relevant legislation is Section 26 of the EAR.

### **Employment and Assistance Regulation Section 26**

#### **Effective date of eligibility**

**26** (1) Except as provided in subsection (2), (2.01), (2.1), (3.01) or (3.1), a family unit is not eligible for income assistance or supplements in respect of a period that occurred before the date the minister determines the family unit is eligible for the income assistance or supplements, as applicable.

(2) A family unit becomes eligible

(a) for a support allowance under sections 2 and 3 of Schedule A on the date of the applicant's submission of the application for income assistance (part 2) form,

(b) for a shelter allowance under sections 4 and 5 of Schedule A on the first day of the calendar month that includes the date of the applicant's submission of the application for income 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 income assistance under sections 6 to 10 of Schedule A on the date of the applicant's submission of the application for income assistance (part 2) form.

(d) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 1 (f).]

(2.01) If the minister decides, on a request made under section 17 (1) [*reconsideration and appeal rights*] of the Act, to provide a supplement, the family unit is eligible for the supplement from the earlier of

(a) the date the minister makes the decision on the request made under section 17 (1) of the Act, and

(b) the applicable of the dates referred to in section 80 of this regulation.

(2.1) If the tribunal rescinds a decision of the minister refusing a supplement, the family unit is eligible for the supplement on the earlier of the dates referred to in subsection (2.01).

### **Appellant's Position**

The appellant believes as she had her application in by November 30, 2016 and that the ministry had given her a pro-rated income assistance cheque for one day for November that she was eligible for income assistance for the month of November. Assistance she felt should include rent as she had borrowed the funds to cover this cost in anticipation of receiving assistance.

### **Ministry's Position**

As the appellant had not completed part 2 of her application for assistance until December 8, 2016 she is ineligible for income assistance for November 2106.

### **Panel Decision**

The legislation of the Employment and Assistance Regulation Section 26- Effective date of eligibility states "A family unit becomes eligible (a) for a support allowance under sections 2 and 3 of Schedule A on the date of the applicant's submission of the application for income assistance (part 2)."

The appellant believes all required information was sent to the ministry by November 30, 2016 although she does admit bank information was not sent but was later verified by the ministry in December. The ministry claims the application process (part 2) was not complete until information supplied was verified and the application was signed by the appellant. The ministry stated the eligibility was in affect as of December 8, 2016 once the appellant had signed the documentation.

As the ministry had issued a cheque for \$12.52 (pro-rated support for one day of November), it would be reasonable to conclude that the ministry had determined the appellant was eligible for income assistance for the month of November. As the ministry had not commented on this cheque being issued in the Reconsideration Decision even though it was mentioned in the appellant's reconsideration request, the panel believes the ministry did not take this evidence into account and therefore the ministry's reconsideration decision that the appellant was ineligible for November 2016 assistance was not reasonable.

The panel believes the appellant has met the requirement of the EAR Section 26, .

(2) A family unit becomes eligible

(a) for a support allowance under sections 2 and 3 of Schedule A on the date of the applicant's submission of the application for income assistance (part 2) form,

(b) for a shelter allowance under sections 4 and 5 of Schedule A on the first day of the calendar month that includes the date of the applicant's submission of the application for income assistance (part 2) form, but only for that portion of that month's shelter costs that remains unpaid on the date of that submission,

The appellant has been issued a cheque required by section 26(2)(a) for a support allowance under

[ ]

sections 2 and 3 of Schedule A on the date of the applicant's submission of the application for income assistance (part 2) form which was *November 30, 2016*.

The ministry must address payment to the appellant as required by Section 26(2)(b) for shelter allowance under sections 4 and 5 of Schedule on the first day of the calendar month that includes the date of the applicant's submission of the application for income assistance (part 2) form, but only for that portion of that month's shelter costs that remains unpaid on the date of that submission.

The panel finds that the ministry's reconsideration decision dated January 24, 2017 which found that the appellant was ineligible for income assistance in accordance with sections 26 of the EAR was not reasonably supported by the evidence, and therefore the panel rescinds the ministry's decision. The ministry's reconsideration decision is overturned in favor of the appellant, and the panel's decision is referred back to the ministry for a decision as to amount.