

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry)'s decision dated March 8, 2017 refusing to render a reconsideration decision because the appellant had failed to apply for reconsideration within the 20-day time limit established by section 71 of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR).

PART D – Relevant Legislation

The relevant legislation is section 71 of the EAPWDR.

PART E – Summary of Facts

On November 15, 2016 the appellant travelled to a medical appointment out of town.

On November 16, 2016 he submitted a request for assistance with transportation costs for the medical appointment.

On November 22, 2016 the ministry denied the appellant's request on the basis that the physician the appellant visited is not a registered specialist as required by the legislation. The appellant advised the ministry that he wished to request a reconsideration of the decision.

On November 24, 2016 the ministry prepared and mailed a reconsideration package to the appellant. The package indicated that the deadline for the ministry to receive the request for reconsideration was December 20, 2016.

On January 26, 2017 the appellant's advocate informed the ministry that the appellant was not aware of the reconsideration process.

On February 24, 2017 the ministry received the appellant's request for reconsideration.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the Ministry's decision dated March 8, 2017 refusing to render a reconsideration decision because the appellant had failed to apply for reconsideration within the 20-day time limit established by section 71 of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR).

The relevant legislation is section 71 of the EAPWDR:

How a request to reconsider a decision is made

- 71** (1) A person who wishes the minister to reconsider a decision referred to in section 16 (1) [reconsideration and appeal rights] of the Act must deliver a request for reconsideration in the form specified by the minister to the ministry office where the person is applying for or receiving assistance.
- (2) A request under subsection (1) must be delivered within 20 business days after the date the person is notified of the decision referred to in section 16 (1) of the Act and may be delivered by
- (a) leaving it with an employee in the ministry office, or
 - (b) being received through the mail at that office.

The Appellant's Position

The appellant's advocate argued that the appellant has a brain injury, is not familiar with ministry procedures and policies and is struggling to find appropriate care and assistance. He requires assistance to understand and act on information from the ministry and in this case that assistance was not available in time to meet the reconsideration deadline.

The Ministry's Position

The ministry stated that it is bound by the legislation which sets out a strict 20-day time limit to file a request for reconsideration. In this case, the appellant did not file the request for reconsideration until more than 3 months after being advised of the ministry's decision.

The Panel's Decision

Section 71 of the EAPWDR requires a recipient to file a request for reconsideration within 20 days of being notified of the decision. There are no statutory exceptions to this rule. In this case, the appellant was notified of the ministry's decision on November 22, 2016 and the ministry received the appellant's request for reconsideration on February 24, 2017. Clearly, the appellant did not meet the 20-day statutory deadline.

Accordingly, the Panel finds that the ministry's refusal to render a reconsideration decision was a reasonable application of the relevant legislation and confirms the ministry's decision.