

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry's) reconsideration decision dated March 13, 2017 whereby the appellant was found to be ineligible for income assistance or hardship assistance. The ministry determined that the appellant was not entitled to income assistance because he had not completed a work search since applying for assistance in December 2016 pursuant to sections 4.1(2)(b) of the *Employment and Assistance Regulation* (EAR), and in addition, the ministry found that the appellant was not entitled to additional hardship assistance as he received the maximum hardship assistance permitted pursuant to s.39(4) EAR, being 3 months of hardship assistance for December 2016, January and February 2017.

PART D – Relevant Legislation

EAR sections 4.1(2)(b), 4.1(2.1), 39(4) and 47.2.

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision included:

1. The appellant is a single person designated Employment Obligated and deemed eligible for Income Assistance and his file was opened on January 5, 2017.
2. The appellant was designated Hardship Code S Immediate Needs – Work Search required. Hardship in this category is limited to three consecutive months during which time the appellant is expected to complete three or five week work search as directed by the minister. If the appellant fails to complete the required work search within 3 months or ceases, to take the steps to satisfy the work search requirement, he will become ineligible for continued hardship assistance.
3. On January 5, 2017 the appellant met with the ministry to sign his application as he was deemed eligible for hardship assistance.
4. On January 31, 2017 the ministry attempted to contact the appellant to inform him that he had received the maximum 3 months allowable hardship assistance and that he had failed to submit a work search
5. On February 24, 2017 the appellant contacted the ministry to inquire about March 2017 benefits and was advised that there is no further eligibility for benefits as a) he has reached his maximum allowable benefits, and b) he has failed to submit a work search.
6. On March 10, 2017 the appellant submitted a Request for Reconsideration that he signed on March 7, 2017, with the following information:
 - a) He broke his right leg and has not had the staples removed as he does not have BC Medical.
 - b) His lower leg tingles and numb with dark colour around foot.
 - c) He falls and cuts trees for firewood heat in his home and thinks he has a hernia which now hurts to life most anything.
 - d) He included a Work Search Activities Record form listing 7 work activities from February 17th to March 6th.

Notice of Appeal dated March 16, 2017, the appellant stated the following:

“I can look for work and have, but the employers are all looking for helpers that can lift material up to 50 lbs. At this time I’m not able to do much (even to do everyday things at home, pace myself).

The appellant’s submission to the written hearing:

The appellant did not provide additional information to the written hearing.

The ministry’s submission to the written hearing:

The ministry’s submission in this matter will be the reconsideration summary provided in the Record of Ministry Decision.

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry was reasonable in finding the appellant is ineligible for income assistance or hardship assistance. The ministry determined that the appellant was not entitled to income assistance because he had not completed a work search since applying for assistance in December 2016 pursuant to sections 4.1(2)(b) of the *Employment and Assistance Regulation* (EAR), and in addition, the ministry found that the appellant was not entitled to additional hardship assistance as he received the maximum hardship assistance permitted pursuant to s.39(4) EAR, being 3 months of hardship assistance for December 2016, January and February 2017.

Relevant Legislation:

EAR

Application for income assistance — stage 1

4.1 (1) The first stage of the process for assessing the eligibility of a family unit for income assistance is fulfilling the requirements of subsection (2).

(2) The applicants for income assistance in a family unit

(a) must complete and submit to the minister an application for income assistance (part 1) form and must include as part of the application

(i) the social insurance number of each applicant in the family unit who is a person described in section 7 (2), and

(ii) the information, authorizations, declarations and verifications specified by the minister, as required in the application for income assistance (part 1) form, and

(b) subject to subsections (4) and (6), must

(i) complete searches for employment as directed by the minister for the applicable period under subsection (2.1) immediately following the date of the application under paragraph (a), or

(ii) demonstrate that each of the applicants has completed a search for employment satisfactory to the minister within the 30 day period prior to the date of the application under paragraph (a), and in either case provide information about and verification of the searches for employment, in the form specified by the minister.

(2.1) The applicable period for the purposes of subsection (2) (b) (i) is

(a) 3 weeks, if any applicant in the family unit is a former recipient, and

(b) 5 weeks in any other case.

(3) Subsection (2) does not affect the minister's powers under section 10 of the Act.

(4) Subsection (2) (b) does not apply to a person who

(a) is prohibited by law from working in Canada,

(b) has reached 65 years of age,

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

(d) has a physical or mental condition that, in the minister's opinion, precludes the person from completing a search for employment as directed by the minister, or

(e) is fleeing an abusive spouse or relative.

(f) Repealed. [B.C. Reg. 6/2008, s. 1.]

(5) Repealed. [B.C. Reg. 197/2012, Sch. 1, s. 3 (e).]

(6) Subsection (2) (b) does not apply to a sole applicant who

(a) has a dependent child, or

(b) provides care to a supported child

if the child has not reached 3 years of age.

[en. B.C. Reg. 304/2005, s. 3; am. B.C. Regs. 6/2008, s. 1; 98/2009, s. 1; 99/2009, s. 1; 48/2010, Sch. 1, s. 1 (b) and (c); 85/2012, Sch. 1, s. 1; 197/2012, Sch. 1, s. 3; 145/2015, Sch. 1, s. 2.]

Hardship assistance — eligibility and limitations

39 (1) For a family unit to be eligible for hardship assistance, the family unit

(a) must be ineligible for income assistance for one or more reasons set out in sections 41 to 47.2, and

(b) must not be ineligible for income assistance for any other reason.

(2) A family unit that is eligible for hardship assistance must be provided with hardship assistance

(a) in accordance with Schedule D,

(b) only for the calendar month that includes the date of the applicant's submission of the application for income assistance (part 2) form, and

(c) only from the date in that calendar month on which the minister determines that the family unit is eligible for hardship assistance, subject to

(i) section 4 (2) of Schedule D for hardship assistance provided under sections 41 to 46, and

(ii) section 4 (3) of Schedule D for hardship assistance provided under section 47.2.

(3) A family unit to which hardship assistance has been provided for 3 consecutive calendar months because of the circumstances described in

(a) section 41, 44 or 46, or

(b) section 43, unless the source is employment insurance,

is not eligible for hardship assistance under any of those sections for the 3 consecutive calendar months immediately following those 3 consecutive calendar months of receipt.

(4) If

(a) hardship assistance has been provided to a family unit under section 47.2 for the calendar month referred to in subsection (2) (c) of this section,

(b) the family unit continues to be ineligible for income assistance because a member of the family unit has not satisfied the requirement under section 4.1 (2) (b) respecting the completion of searches for employment, and

(c) the member of the family unit who has not satisfied that requirement is, if applicable, taking the steps to satisfy the requirement as directed by the minister,

hardship assistance may be provided under section 47.2 for a further 2 consecutive calendar months following the initial calendar month for which the hardship assistance is provided.

[en. B.C. Reg. 161/2004, s. 1; am. B.C. Regs. 304/2005, s. 6; 102/2008, s. 1; 197/2012, Sch. 1, s. 14; 149/2015, Sch. s. 2.]

Applicants who do not meet work search requirements

47.2 (1) The minister may provide hardship assistance to a family unit that is ineligible for income assistance because a member of the family unit has not satisfied the requirement under section 4.1

(2) (b) respecting the completion of searches for employment, if

(a) the applicants who submitted the application for income assistance (part 1) form also submit to the minister an application for income assistance (part 2) form that, subject to this section, complies with section 4.2, and

(b) the minister considers that

(i) any person in the family unit has an immediate need for food or shelter or needs urgent medical attention, and

(ii) undue hardship will occur if the hardship assistance is not provided.

(2) An applicant may submit an application for income assistance (part 2) form under subsection (1)

(a) for the purpose of applying for hardship assistance even though the requirements under section 4.1 (2) (b) respecting the completion of searches for employment have not been satisfied.

[en. B.C. Reg. 197/2012, Sch. 1, s. 16.]

Appellant's position:

The appellant's position is that he broke his right leg and has not had the staples removed as he does not have BC Medical, and his lower leg tingles and numb with dark colour around foot, and while falling and cutting trees for firewood he has a hernia which now hurts to lift most anything, and .he has looked for work but the employers are all looking for helpers that can lift material up to 50 lbs which he is not able to do.

Ministry's position:

The ministry's position is that the appellant must complete a work search as directed by the minister. Under section 4.1(2.1) EAR the duration of the work search is 5 weeks for a new applicant. The appellant was provided with a copy of the Reasonable Work Search Activities Guidelines outlining the requirements including spending a minimum of 25 hours of effort each week, contacting 15 contacts per week. The Work Search Activities Record form provided by the appellant listed 7 work search activities from February 17th, to March 6th, 2017. The appellant had not completed the work search requirements and therefore is not eligible for income assistance. Further, under section 39(4) EAR the maximum duration of Hardship assistance for an individual who is not eligible for income assistance due to not completing the work search requirements as set out in section 47.2 EAR is 3 months. The appellant is not eligible for Hardship assistance as he has received the maximum of 3 months of hardship assistance.

Panel's decision:

Section 4.1(2)(b) EAR provides that an applicant must complete a work search as directed by the minister. The minister required the appellant to spend a minimum of 25 hours of effort each week and make 15 contacts per week. The panel finds that based on the Work Search Activities Record form provided by the appellant, he had not completed the work search requirements and therefore the ministry reasonably determined he is not eligible for income assistance.

Section 39(4) EAR sets out the maximum duration of Hardship assistance for an individual who is not eligible for income assistance due to not completing the work search requirements. The maximum duration is 3 calendar months. The panel finds that the ministry reasonably determined that the appellant is not eligible for Hardship assistance as he has received the maximum of 3 calendar months of Hardship assistance, being hardship assistance and shelter allowance in the months of December 2016, January and February 2017.

Having reviewed and considered all of the evidence and relevant legislation, the panel finds that the ministry's reconsideration decision which determined that the appellant was not eligible for income assistance or for additional hardship assistance for failure to comply with the conditions of his Reasonable Work Search Activities Guidelines pursuant to section 4.1(2)(b) EAR and by reason that the appellant received the maximum amount of hardship assistance pursuant to s.39(4) EAR was reasonably supported by the evidence, and therefore confirms the decision.