

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the "ministry") Reconsideration Decision of February 27<sup>th</sup>, 2017 in which the ministry found that the appellant had an asset as defined under Section 1(c) of the Employment and Assistance Regulation (EAR) of cash assets, and the value of that asset exceeded \$2,000, the legislated limit as set out in section 11(2) of the EAR, from August 13<sup>th</sup>, 2016 throughout the month of September, 2016. Moreover, the ministry determined that the appellant failed to report the change of assets, as it is required pursuant to section 11 of the Employment and Assistance Act (EAA), before the 5<sup>th</sup> of the month as per section 33 of the EAR, and therefore the appellant is not eligible for income assistance for the month of November, 2016.

## PART D – Relevant Legislation

EAA *Employment and Assistance Act*, Sections 2 & 11

EAR *Employment and Assistance Regulation*, Sections 1, 11 & 33

## PART E – Summary of Facts

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

- 1) A shelter information form; submitted on August 2, 2016 indicating that the appellant owned a new residence.
- 2) September 20, 2016 – a BC Assessment report verifying that the appellant sold her previous residence, valued at \$208,000 on August 2<sup>nd</sup> and purchased a new one on August 12<sup>th</sup>, 2016, valued at \$159,650.
- 3) Additional documents were submitted on October 28<sup>th</sup>, 2016 indicating that the first residence provided net proceeds (after seller transaction costs) of \$198,202.32 and also indicating that the purchase price of the new residence was \$162,404.20, a difference of \$35,798.12. Additionally, the appellant provided two separate bank documents showing a deposit of \$23,047.94 to one of the accounts on August 4<sup>th</sup>, 2016 and a transfer of \$22,657.94 to the other account on August 13<sup>th</sup>, 2016.
- 4) A bank statement provided on November 8<sup>th</sup>, 2016 which verified that the appellant's account balance exceeded \$2,000 from August 13<sup>th</sup>, 2016 through September, 30<sup>th</sup>, 2016 – with respective balances of \$22,867.94 and \$19,001.14.

The ministry relied on the reconsideration decision and did not introduce any additional evidence.

## PART F – Reasons for Panel Decision

The decision under appeal is the Ministry of Social Development and Social Innovation's (the "ministry") Reconsideration Decision of February 27<sup>th</sup>, 2017 in which the ministry found that the appellant had an asset as defined under Section 1(c) of the Employment and Assistance Regulation (EAR) of cash assets, and the value of that asset exceeded \$2,000, the legislated limit as set out in section 11(2) of the EAR, from August 13<sup>th</sup>, 2016 throughout the month of September, 2016. Moreover, the ministry determined that the appellant failed to report the change of assets, as it is required pursuant to section 11 of the Employment and Assistance Act (EAA), before the 5<sup>th</sup> of the month as per section 33 of the EAR, and therefore the appellant is not eligible for income assistance for the month of November, 2016.

The relevant sections of the legislation are as follows:

### **EAR**

#### **Definitions**

**1** (1) In this regulation:

"asset" means

... (c) cash assets; ...

Section 11(2) A family unit is not eligible for income assistance if any of the following apply:

(a) subject to paragraph (c), a sole applicant or sole recipient has no dependent children and has assets with a total value of more than \$2 000; ...

### **EAA**

**11** (1) For a family unit to be eligible for income assistance, a recipient, in the manner and within the time specified by regulation, must ...

... (b) notify the minister of any change in circumstances or information that

(i) may affect the eligibility of the family unit, and

(ii) was previously provided to the minister.

### **EAR**

#### **Monthly reporting requirement**

**33** (1) For the purposes of section 11 (1) (a) [*reporting obligations*] of the Act,

(a) the report must be submitted by the 5th day of each calendar month, and

(b) the information required is all of the following, as requested in the monthly report form prescribed under the Forms Regulation, B.C. Reg. 95/2012: ...

... (ii) changes in the family unit's assets ...

## Panel Decision

The ministry's position, as set out in the reconsideration decision, is that the appellant is not eligible for income assistance for the month of November, 2016 due to the appellant having an asset as defined under Section 1 of the Employment and Assistance Regulation (EAR) of cash assets, and the value of that asset exceeding \$2,000, the legislated limit as set out in section 11(2) of the EAR, throughout the month of September, 2016. Further, the ministry notes that the appellant failed to report the asset amount by October 5<sup>th</sup>, 2016 pursuant to section 11 of the EAA - which states that in order to be eligible for assistance, the family unit must report any changes that may affect eligibility, and as per section 33 of the EAR, by the 5<sup>th</sup> of each month. The appellant stated in her appeal that she did not think she did anything wrong, after having paid bills and providing a monetary gift to her children. However, as the ministry provides; the issue under appeal only relates to the excessive cash asset throughout the month of September 2016, which ultimately determines the month of November's assistance eligibility.

The panel finds that the evidence establishes that the appellant's cash assets exceeded the legislated limit of \$2,000 from August 13<sup>th</sup>, 2016 and throughout the months of September, 2016 and October 2016. The panel notes that this appeal is with respect to income assistance for the month of November 2016, the payment for which is made by the ministry on the last Wednesday in October (i.e. October 26, 2016 in this instance), based on income and assets reported by a recipient for the previous month (i.e. September 2016). In other words, the report for November 2016 is due on October 5, 2016 and must report income earned and assets held by the recipient in September 2016.

As such, the panel finds that the ministry reasonably determined that the appellant failed to report the change in assets for the month of September, as is a requirement pursuant to section 11 of the EAA - which states that in order to be eligible for assistance, the family unit must report any changes that may affect eligibility, and as per section 33 of the EAR, by the 5<sup>th</sup> of each month. As well, the panel finds that the ministry reasonably determined that the appellant was not eligible for assistance for the month of November, 2016, as, throughout the month of September, the appellant had a cash asset which exceeded the legislated limit of \$2,000 for a sole income assistant recipient without dependent children as per section 11(2) of the EAR.

Accordingly, the panel finds that the decision of the ministry to declare the appellant ineligible for income assistance for the month of November, 2016 was a reasonable application of the applicable enactment in the circumstances of the appellant. Therefore, the panel confirms the ministry's decision pursuant to section 24(1)(a) and section 24(2)(a) of the Employment and Assistance Act. The appellant therefore is not successful in her appeal.