

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) decision of April 6, 2017, that a reconsideration of appellant’s request made January 24, 2017 for a crisis supplement is not available for the appellant as she did not deliver a Request For Reconsideration to the ministry within the legislated 20 business day time limit. Section 79(2) of the Employment and Assistance Regulation (EAR) states a person who wishes the minister to reconsider a decision must deliver a Request For Reconsideration to the ministry office within 20 business days after the date the person is notified of the decision.

## PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 17

Employment and Assistance Regulation (EAR), Section 79

## PART E – Summary of Facts

The appellant receives income assistance as a single parent with two dependents.

January 20, 2016 the appellant requested a crisis supplement for shelter.

January 24, 2017 the appellant's request was denied.

January 25, 2017 the appellant requested a reconsideration of the decision.

January 31, 2017 the appellant was informed that the reconsideration package was available for pickup at the local office and that her decision was due on February 21, 2017.

March 23, 2017 the appellant's advocate contacted the local office stating the appellant was not aware she had the option for reconsideration. The advocate would pick up a reconsideration package.

March 29, 2017 the minister received a signed Request for Reconsideration from the appellant.

April 6, 2017 the minister reviewed the appellant's Request for Reconsideration where it was determined the minister could not conduct a reconsideration of the issue.

In the appellant's appeal she wrote:

- She did not understand when she spoke to MSDSI that reconsideration was possible or how to start the process.
- She is new to income assistance and when she called MSDSI it was an extremely stressful time as she had left a long term abusive situation, and she had moved into a new home with her two children with very little just after the holidays.

In a letter from the appellant's advocate the advocate stated:

- She had been working with the appellant since March.
- It is not uncommon when someone has been denied basic freedoms their whole life, they do not comprehend denial plus reconsideration, they only hear denial.
- The appellant is new to income assistance and was not familiar with the process.
- When the appellant approached the ministry it was during a stressful time.
- An explanation for the original crisis grant request.

The appellant was not in attendance at the hearing. After confirming that the appellant was notified of the hearing, the hearing proceeded in accordance with section 86(b) of the Employment and Assistance Regulation.

During the hearing the ministry:

- Noted an error with the record of dates; the original request for a crisis supplement was denied January 24, 2017, not January 20, 2017.
- Explained the appellant had made two contacts after her request was denied, first on January 25, 2017 when she was told why she was denied and was offered the information for an appeal. According to the ministry notes, the appellant wanted to appeal the decision and requested a reconsideration package be prepared for her to pick up at the ministry office.
- Was in contact with the appellant a second time in terms of an appeal, January 31, 2017. According to ministry notes the appellant was informed her reconsideration package was ready to be picked up. A package was also mailed to the appellant.

## PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's decision dated April 6, 2017 which determined reconsideration was not available to the appellant as she had not delivered a completed Request for Reconsideration to the ministry within the legislated 20 business day time limit as required in Section 79(2) of the EAR.

The relevant legislation is Section 17 of the EAA and Section 79(2) of the EAR.

### **Employment and Assistance Act Section 17**

#### **Reconsideration and appeal rights**

**17** (1) Subject to section 18, a person may request the minister to reconsider any of the following decisions made under this Act:

- (a) a decision that results in a refusal to provide income assistance, hardship assistance or a supplement to or for someone in the person's family unit;
  - (b) a decision that results in a discontinuance of income assistance or a supplement provided to or for someone in the person's family unit;
  - (c) a decision that results in a reduction of income assistance or a supplement provided to or for someone in the person's family unit;
  - (d) a decision in respect of the amount of a supplement provided to or for someone in the person's family unit if that amount is less than the lesser of
    - (i) the maximum amount of the supplement under the regulations, and
    - (ii) the cost of the least expensive and appropriate manner of providing the supplement;
  - (e) a decision respecting the conditions of an employment plan under section 9 [*employment plan*].
- (2) A request under subsection (1) must be made, and the decision reconsidered, within the time limits and in accordance with any rules specified by regulation.
- (3) Subject to a regulation under subsection (5) and to sections 9 (7) [*employment plan*], 18 and 27 (2) [*overpayments*], a person who is dissatisfied with the outcome of a request for a reconsideration under subsection (1) (a) to (d) may appeal the decision that is the outcome of the request to the tribunal.
- (4) A right of appeal given under subsection (3) is subject to the time limits and other requirements set out in this Act and the regulations.
- (5) The Lieutenant Governor in Council may designate by regulation
- (a) categories of supplements that are not appealable to the tribunal, and
  - (b) circumstances in which a decision to refuse to provide income assistance, hardship assistance or a supplement is not appealable to the tribunal.

### **Employment and Assistance Regulation Section 79**

#### **How a request to reconsider a decision is made**

**79** (1) A person who wishes the minister to reconsider a decision referred to in section 17 (1) 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 17 (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.

**Appellant's Position**

The appellant believes her stressful situation and the lack of understanding of the Employment and Assistance procedures is just cause for her not adhering to the legislative time lines and that the ministry should accept her request for reconsideration.

**Ministry's Position**

The ministry believes the appellant was informed appropriately of the procedures and time lines required by the legislation in terms of a reconsideration of a decision made. The appellant was given the information and an explanation of the process twice following her denial for a crisis supplement. After January 31, 2017, the ministry did not have any contact with the appellant until March 29, 2017 when an advocate contacted the ministry in hopes a reconsideration could be given. As 20 business days had passed as per Section 79(2) of the EAR the reconsideration process was not implemented.

**Panel Decision**

Section 17 of the (EAA) states a person may request the minister to reconsider decisions made under the act with a condition the request must be made within the time limits and accordance with any rules specified by the regulation. Section 79(2) of the EAR states a request must be delivered within 20 business days after the person is notified of the decision referred to in section 17 of the Act.

The panel sympathizes with the appellant but notes although she was new to income assistance and she was experiencing a stressful time in her life, the situation does not negate the appellant's responsibility to follow the correct procedures and respect the legislated time lines.

The panel finds that the ministry's determination that the appellant did not meet the conditions for reconsideration of a decision was a reasonable application of Section 17 of the EAA and Section 79(2) of the EAR in the circumstances of the appellant and was reasonably supported by the evidence.

**Conclusion**

The panel finds that the Ministry's decision dated April 6, 2017 which found that the minister was unable to conduct a reconsideration of the matter was a reasonable application of the legislation in the circumstances of the appellant. The panel confirms the Ministry decision; the appellant is not successful in her appeal.