

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (“the ministry”) reconsideration decision dated March 3, 2017 which held that the appellant was not eligible for income assistance for February 2017 because he did not provide information as directed by the minister under Section 11 of the Employment and Assistance Act (EAA) and Sections 26 and 33 of the Employment and Assistance Regulation (EAR).

PART D – Relevant Legislation

Employment and Assistance Act, (EAA), Section 11

Employment and Assistance Regulation (EAR), Sections 26 and 33

PART E – Summary of Facts

The appellant is a recipient of income assistance as a sole recipient.

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

- On February 6, 2017, the ministry noted that it had not received the appellant's Monthly Report requesting assistance for February. The ministry cancelled the February cheque and turned off cheque production on the appellant's file as his eligibility was not established.
- The appellant visited a ministry office on March 6, 2017 inquiring about his March assistance cheque and subsequently submitted a Monthly Report for March assistance. At that time, the ministry worker advised the appellant that his file was undergoing a review, and gave him a checklist of documents to provide. The appellant stated he had been away visiting his mother because she had a stroke. He stated that he did not need February assistance because he had couch surfed while his mother was in hospital.
- The appellant provided a copy of his banking statement on March 9.
- On March 22, the appellant attended a ministry office stating he had not received a cheque for several months. On the same day, he submitted an April 2017 report, dated 02/03/2017 in which the appellant indicated he is still in need of assistance.
- On March 23, the appellant received assistance cheques for March and April 2017.
- On April 3, the appellant submitted a request for an administrative underpayment for February 2017.
- The ministry denied the request on April 6, 2017, stating that as the appellant did not submit a monthly report declaring he needed February assistance, there was no ministry error.

The appellant submitted his completed Request for Reconsideration on April 24, 2017 in which he wrote:

- He travelled January 9 to March 1, 2017.
- The reason he travelled is he had received a call from his sister that their mother had suffered a stroke and he was advised to see her.
- He did not know the date to submit or where to submit his card. Had he known that he could submit his stub at the MSDSI office in the town he was visiting, he would have done so.
- The worker at the front desk at the ministry office told him that an underpayment for February would take longer to process and to return to the office in a week.
- He did not submit a stub for March benefits and was not asked to do so but benefits were issued for March.
- He did suffer financial hardship while visiting his mother and could not even afford a bus ticket back home.

On May 3, 2017, the ministry denied the appellant's request for reconsideration and on May 4, the appellant submitted a Notice of Appeal.

The appellant submitted a letter describing the reasons for his appeal. He stated that during the first week of January, he received notice that his mother had suffered a severe stroke and he was pressed to travel to see her as soon as possible. He was feeling very stressed and emotional about the news and the immediacy of his need to see his mother. Because of this, he forgot to submit his MSDSI.

When he arrived home, he went to the MSDSI office and submitted his March 6, 2017 monthly stub for March. The appellant stated that the ministry worker told him he would receive payment quicker by receiving a cheque than having it direct deposited. When he went back to pick up the cheques, the worker told him that February's assistance would be an underpayment and would take longer to

process and that he should return in a week or so.

He stated that he made several visits to the office the following week and was informed that his request for February's underpayment had not been processed. Approximately one month later, he visited the MSDSI office and learned that his request was denied.

The appellant reiterated the above information at the hearing.

The panel finds that the information provided by the appellant in his Notice of Appeal is in support of the information before the minister at reconsideration. The panel therefore admits this information as evidence under Section 22(4) of the Employment and Assistance Act as it corroborates the appellant's circumstances during the time in question.

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's decision which held that the appellant was not eligible for income assistance for February 2017 because the appellant did not provide information as directed under Section 11 of the Employment and Assistance Act (EAA) and Sections 26 and 33 of the Employment and Assistance Regulation (EAR) is reasonably supported by the evidence or a reasonable application of the applicable enactment in the appellant's circumstances.

Relevant legislation is as follows:

EMPLOYMENT AND ASSISTANCE ACT

Part 2 Assistance

Reporting obligations

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

(a) submit to the minister a report that

(i) is in the form prescribed by the minister, and

(ii) contains the prescribed information, and

(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.

(2) A report under subSection (1) (a) is deemed not to have been submitted unless the accuracy of the information provided in it is confirmed by a signed statement of each recipient.

EMPLOYMENT AND ASSISTANCE REGULATION

Part 2 – Eligibility for Income Assistance

Division 5 – Amount and Duration of Income Assistance

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).]

(5) A family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested.

Division 3 – Factors Related to Providing Information and Verification

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:

(i) whether the family unit requires further assistance;

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

(iii) all income received by the family unit and the source of that income;

(iv) the employment and educational circumstances of recipients in the family unit;

(v) changes in family unit membership or the marital status of a recipient;

(vi) any warrants as described in Section 15.2 (1) of the Act.

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

Positions of the Parties

Ministry's Position

At the hearing, the ministry confirmed its position as set out in the Reconsideration Decision. The ministry referred to Section 11 of the EAP which stipulates that to be eligible for monthly assistance, an individual must submit a signed report; Section 33 of the EAR, which stipulates that the report must be submitted by the 5th day of each calendar month; and Section 26 (5) of the EAR, which stipulates that a family unit is not eligible for assistance for a cost occurred before the calendar month in which the assistance is requested.

The ministry read from the appellant's file summary which notes that the appellant did not submit a monthly report by January 5, 2017. When a report had not been received by January 13 which was the ministry's cut-off date for receiving reports for February assistance, the ministry produced a cheque and forwarded it to the MSDSI office in the appellant's home town to hold until contacted by the appellant. On February 6, the cheque was unclaimed and the ministry worker cancelled the appellant's file.

On March 6, 2017, the appellant visited the MSDSI office enquiring about his March assistance. He told the ministry worker that he had been out of town visiting his mother who had suffered a stroke,

and would not be needing assistance for February because he had been couch surfing while out of town. He submitted the monthly declaration stub for March which was processed March 16.

On March 22, the appellant visited the ministry office and enquired about his February assistance. The ministry worker opened a review of his file. While at the office, the appellant submitted his monthly declaration stub for April assistance.

Eligibility for March and April was established and on March 22, 2017, the ministry issued cheques for both months.

When the ministry reviewed the appellant's file with respect to the February assistance, it found that the appellant did not submit a monthly report for February and therefore was not eligible for assistance.

The ministry stated that to date, it has not received a signed report for February assistance.

The panel asked the ministry if the appellant's file included information that the appellant was travelling early in January, and if that had been considered when the under-processing decision was made. The ministry reviewed the file notes and replied that all details were documented.

The panel then asked if mitigating circumstances in an appellant's life are considered with respect to timely submitting of monthly reports. The ministry replied that it does do so, but in this case the appellant has never submitted a February report.

Finally, the panel requested clarification regarding the appellant's comment that the March assistance was approved when the report was received on March 22, after the 5th day of the month. The ministry responded that it was approved because it was requested in the same calendar month.

Appellant's Position

Following the ministry's testimony, the appellant submitted that he was under duress in the beginning of the year. He was hitch-hiking, going without sleep or food in the middle of winter so he could see his mother. He didn't think of submitting his monthly report.

The appellant also expressed confusion over the reasons for his ineligibility. He submitted his March and April reports late and received his assistance, but was denied his February assistance. He testified that when asked by the ministry if he needed assistance for February, he said no, but he was only asked about the shelter portion of his assistance. He did not need the shelter portion because he was finding places to stay while away from home, but he did need the rest of it.

The panel asked the appellant about the monthly reports in the appeal file, noting that they appeared to be for the months of March and April – not for February. The panel asked the appellant if he had submitted a report for February assistance and he confirmed that he did not.

Panel Decision

Criteria for eligibility for income assistance is defined in Section 11 of the EAA, and Sections 26 and 33 of the EAR.

Section 11 of the EAA stipulates that for a family unit to be eligible for income assistance, a recipient must submit a report to the minister in the manner and within the time frame specified by regulation. Section 33 of the EAR stipulates the report must be submitted by the 5th day of each calendar month,

and Section 26 stipulates that a family unit is not eligible for income assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested.

The minister determined that the appellant failed to meet the criteria for eligibility in that he did not submit a report.

At the hearing, the appellant provided information regarding his stress over his family circumstance and confusion over the process for submitting a report while travelling. However, as was noted in the appellant's file, he was travelling in November 2016 and submitted monthly reports for November and December to an office in another town.

Upon returning home, the appellant submitted reports for March and April but not for February. At the time of reconsideration, he still had not submitted a report for the month of February as required by section 11 of the EAA.

The panel finds the ministry reasonably determined that in the case of the appellant, eligibility for February income assistance could not be determined.

The panel finds that the ministry's reconsideration decision was reasonably supported by the evidence and confirms the ministry's reconsideration decision. The appellant is not successful on appeal.