

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated July 25, 2017 which found that the appellant is not eligible for disability assistance (DA) for failing to comply with the ministry's direction for information and verification of eligibility pursuant to sections 10(1) and (4) of the *Employment and Assistance for Persons with Disabilities Act* (EAPWDA), and remains ineligible until she complies with the ministry's direction pursuant to section 28 (1) of the EAPWDR.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA) – Section 10
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) – Sections 28

PART E – Summary of Facts

After verifying that the appellant was notified of the hearing, the hearing proceeded in the appellant's absence in accordance with section 86(b) of the Employment Assistance Regulation.

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

1. The ministry had asked the appellant to verify the following information:
 - Identification.
 - Rent receipt(s) and utility bills for March-May 2017.
 - Records of all income including gifts and loans.
 - Records of all employment for 2016.
 - Statements for all bank accounts, sole or joint, from November 1, 2016 – May 1, 2017.
 - Banking profiles.
 - Statements for all investments, including RRSP's and pension funds.
 - Income Tax Notice of Assessment (ITNOA) for 2014 and 2015.
 - Tax slips (T4's, T5's, etc) for 2015 and 2016.
 - Written confirmation from the appellant's landlord detailing all residents(s) in home and the relationship of the appellant and any other co-occupants in the residence.
2. Bank profile and consent dated July 5, 2017 for institution 'A' which indicates that the appellant has a chequeing and savings account with the institution.
3. Youth account personal assessment from institution 'A' for the appellant's son.
4. Deposit account history from institution 'A' for the youth account from November 30, 2016 to June 30, 2017.
5. Personal assessment for the appellant from institution 'A'.
6. Bank profile and consent dated July 5, 2017 for institution 'B' which indicates that the appellant does not have an account and the previous account was closed.
7. A copy of the June 29, 2017 letter sent to the appellant from the ministry with notes made by the appellant on the letter.
8. 2-page mini statement from a local cheque cashing and money transfer institution ('C') from November 11, 2016 to December 20, 2016.
9. 3-page customer history from institution 'C' from March 23, 2016 to April 29, 2017.
10. Direct loan form from institution 'C'
11. A copy of a cheque from ICBC as a final payout to the appellant for 2 accidents.
12. T5 statement of benefits from Revenue Canada in the name of the appellant for 2015 and 2016.
13. Shelter information dated July 7, 2017.
14. Request for Reconsideration (RFR), signed and dated June 5, 2017, in which the appellant stated, in part, the following:
 - She is unable to supply all of the information in a timely manner due to difficulties she experiences with her multiple medical conditions.
 - When information is submitted to the ministry it does not satisfy.
 - She requires assistance to complete the request.
 - She does not agree that her DA has been cut off.

Evidence on Appeal

Notice of Appeal (NOA), signed and dated July 26, 2017, in which the appellant argued that she that she did hand in the documents and now has to do so again. In addition, this is difficult due to her dyslexia.

Evidence at the Hearing.

The ministry relied on the reconsideration decision and added that a 3-way call was arranged with the appellant and the tax department to help the appellant obtain the required information, however, the appellant did not attend but her partner did.

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's decision, which held that the appellant is not eligible for DA for failing to comply with the ministry's direction for information and verification of eligibility pursuant to sections 10(1) (b) (e) and (4) of the EAPWDA, section 23(1)(a) of the EAPWDR and remained ineligible until she complied with the ministry's direction pursuant to section 28 (1) of the EAPWDR, is reasonably supported by the evidence or a reasonable application of the applicable enactment in the appellant's circumstances.

EAPWDA provides as follows:

Information and verification

10 (1) For the purposes of

- (a) determining whether a person wanting to apply for disability assistance or hardship assistance is eligible to apply for it,
- (b) determining or auditing eligibility for disability assistance, hardship assistance or a supplement,
- (c) assessing employability and skills for the purposes of an employment plan, or
- (d) assessing compliance with the conditions of an employment plan,

the minister may do one or more of the following:

- (e) direct a person referred to in paragraph (a), an applicant or a recipient to supply the minister with information within the time and in the manner specified by the minister;
- (f) seek verification of any information supplied to the minister by a person referred to in paragraph (a), an applicant or a recipient;
- (g) direct a person referred to in paragraph (a), an applicant or a recipient to supply verification of any information he or she supplied to the minister.

(4) If an applicant or a recipient fails to comply with a direction under this section, the minister may declare the family unit ineligible for disability assistance, hardship assistance or a supplement for the prescribed period.

EAPWDR provides as follows:

Consequences of failing to provide information or verification when directed

28 (1) For the purposes of section 10 (4) [*information and verification*] of the Act, the period for which the minister may declare the family unit ineligible for assistance lasts until the applicant or recipient complies with the direction.

The Panel's Decision

In the reconsideration decision the ministry argued that section 10 (b) and (e) of the EAPWDA state that the ministry can request, from a recipient or applicant, information or verification of information already provided in order to determine eligibility for DA, within the time and manner specified by the

ministry. Section 10(4) of the EAPWDA states that if there is a failure to comply with the ministry's direction, it may declare the recipient ineligible for DA for a prescribed period and section 28 of the EAPWDR states that the recipient will remain ineligible until he/she complies with the ministry's direction. In the case of the appellant, she will remain ineligible until the appellant submits the ITNOA for 2014 and 2015. The ministry further argued that the appellant did not request additional time to supply the documents requested nor did she indicate that her medical conditions were interfering with her ability to obtain the documents. The ministry also argued that the appellant was able to secure assistance from her local MLA and that she was able to submitted the majority of the requested documents.

The appellant argued that her medical conditions prevented her from complying with the ministry's directive; however, the evidence demonstrates that notwithstanding her medical conditions, the appellant was able to provide most of the requested information, she was also able to secure assistance from her local MLA, and she communicated with the ministry office when she felt the need to. The evidence also demonstrates that the ministry attempted to assist the appellant to gather her ITNOA for 2014 and 2015 but she failed to cooperate, and that she did not advise the ministry that her medical conditions were a barrier until her RFR on June 5, 2017 or request additional time to complete the request. The panel finds that the evidence demonstrates that the appellant failed to comply with the ministry's directive pursuant to section 10 of the EAPWDA and the legislation requires that she remain ineligible until such time that she provides the requested information pursuant to section 28 of the EAPWDR.

Conclusion

The evidence establishes that the appellant has not met the reporting criteria set out in sections 10 (1) and (4) of the EAPWDA. The panel therefore finds that the ministry's decision to find the appellant ineligible for DA was a reasonable application of the legislation and was supported by the evidence. The panel also finds that the ministry's decision to find the appellant continues to be ineligible for DA until she provides the requested information was a reasonable application of the legislation; namely section 28(1) of the EAPWDR. The panel confirms the ministry's reconsideration decision and the appellant is not successful in the appeal.