

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated August 18, 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* and remains ineligible until she complies with the ministry's direction pursuant to Section 28(1) of the *Employment and Assistance for Persons with Disabilities Regulation*.

PART D – Relevant Legislation

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

PART E – Summary of Facts

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

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

February 9 and 20, 2017, letters containing a Review Checklist were sent to the appellant requesting information in order to determine her eligibility and to audit past eligibility for assistance.

May 24, 2017, the ministry sent the appellant a letter advising her to provide the following:

- Rent receipt(s) and utility bills for the last 2 months.
- A written note explaining how she is meeting her shelter costs and covering other bills monthly along with relevant supporting documentation.
- Updated shelter agreement listing all applicable residents.
- Records of all income from all employers for the period of January 2015 to present.
- Documents to confirm the status of the appellant's claim for inheritance in property and or monetary value or monies gained as a result of the sale or liquidation of such assets.
- Bank statements and identity of the source of all deposits into the appellant's account. Please supply supporting documentation where available.
- Verification and proof of the source and details of the unidentified deposits and Memo transfers into the appellant's account or authorize the bank to provide the ministry with information required so the ministry may contact the bank directly.
- If the appellant uses check cashing services to provide a check cashing history showing her last 3 months of activity.
- Statements for all investments, RRSP's, pension funds and any other assets.
- Income Tax Notice of Assessment for 2014 and 2015.
- Valid daytime phone number where appellant can be reached.
- Any other income sources, list them and provide relevant verification.

June 30, 2017, the appellant's assistance file was closed for failing to provide all the requested information.

August 8, 2017, the appellant submitted a Request for Reconsideration in which she states that she has enclosed a letter from her uncle that explains her inheritance and as it was in US dollars and converted to Canadian, it had exceeded the limit which resulted in her file being closed. The appellant states that her intention was to use the money to help her son attend college or university and had not touched the money up until the last few months due to having to cover all her living costs; rent, bills, groceries, gas insurance etc. She states that she understands it is over the limit and will work with the ministry to come up with a solution. She adds that this whole situation has been terrible for her health and mental status - being dragged on for 6 months. She states that had the communication with the Investigating Officer gone better, she would not have had to go through this for as long as she did.

A letter dated June 4, 2017 from the appellant's relative confirms that the appellant inherited money in US currency of \$84,000 plus royalty cheques every 5 weeks from February to August 23, 2017.

August 25, 2017, the appellant submitted a Notice of Appeal in which she indicates that she produced all of everything that was asked for back in January/February.

At the hearing, the ministry relied on the reconsideration decision and indicated that there are options available to the appellant should she provide the requested information and follow-up with her commitment to work with the ministry.

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) and (4) of the EAPWDA, and remains ineligible until she complies 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.

Relevant Legislation

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.

The appellant's position is that she is unable to work and should not be made to live and provide for herself and her son. The appellant's intention is to use this gift to help her son attend college or university and indicates that it makes no sense that because of currency conversion she loses her disability benefit.

The ministry's position is that the appellant provided some but not all of the requested information. When the appellant provided bank statements as requested, it led to other questions by the ministry who requests more information and evidence.

The ministry indicates that the following information is still outstanding:

- Confirmation of the amount and dates the inheritance funds were received.
- Authority for the bank to provide information to the ministry - disclosing all activity and accounts, ie. Source of Memo transfers and verification of funds remaining from inheritance.
- ICBC claims report.
- Funds received from ex-spouse which the appellant claims is for support arrears.

Without the information requested, the ministry is unable to make any determination if the appellant is over the legislated asset limit. The information is required to determine the appellant's past and current eligibility for assistance.

The panel finds that the evidence demonstrates that the appellant has not met the reporting criteria set out in sections 10(1) and (4) of the EAPWDA. Specifically, she did not provide bank records showing the receipt of her inheritance and the amount remaining on deposit nor did she provide bank records showing details of 11 specific deposits made into her account from December 22, 2016 to February 9, 2017, as the ministry requested of her. She also did not provide an explanation of payments received from the United States government for oil and gas leases, although she was requested to provide them. The panel finds that the ministry's determination that the appellant continues to be ineligible for DA until she provides the requested information was a reasonable application of the legislation under Section 28(1) of the EAPWDR.

Conclusion

The panel confirms the ministry's reconsideration decision and the appellant is not successful in the appeal.