

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) June 27, 2017 reconsideration decision finding the appellant ineligible for disability assistance prior to June 1, 2017; as the appellant was determined eligible for PWD designation on May 24, 2017 he is eligible for disability assistance on June 1, 2017 in accordance with section 23(1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

## PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) section 23.

## PART E – Summary of Facts

In the reconsideration the ministry wrote:

- The appellant is a sole recipient of PWD designation.
- The appellant's date of birth is in early April, 1999.
- On May 24, 2017 the ministry determined that the appellant was eligible for PWD designation effective June 1, 2017.

A MySelfServe Service Request dated March 2, 2017 indicates a request for documents related to an "Application for Assistance".

At the appellant's request for reconsideration his father who is also his POA writes that the application for assistance was submitted on March 2, 2017 while the appellant was still 17 years old.

On appeal the following information was provided:

A letter from the appellant's father received on July 11, 2017 provides argument that is reflected in part F of the decision.

An Application for Assistance dated March 2, 2017.

Electronic communication on MySS from March 2, 2017 regarding the appellant's application.

Pursuant to section 22(4) of the Employment and Assistance Act the panel admits the information provided on appeal as it re-iterates information that was before the ministry at the time of reconsideration.

## PART F – Reasons for Panel Decision

The issue under appeal is whether the reconsideration decision finding the appellant ineligible for disability assistance prior to June 1, 2017 is a reasonable application of the legislation or is reasonably supported by the evidence.

### EAPWDR

#### Effective date of eligibility

- 23** (1) Except as provided in subsections (1.1), (3.11) and (3.2), the family unit of an applicant for designation as a person with disabilities or for both that designation and disability assistance
- (a) is not eligible for disability assistance until the first day of the month after the month in which the minister designates the applicant as a person with disabilities, and
  - (b) on that date, the family unit becomes eligible under section 4 and 5 of Schedule A for that portion of that month's shelter costs that remains unpaid on that date.
- (1.1) The family unit of an applicant who applies for disability assistance while the applicant is 17 years of age and who the minister has determined will be designated as a person with disabilities on his or her 18th birthday
- (a) is eligible for disability assistance on that 18th birthday, and
  - (b) on that date, is eligible under section 4 and 5 of Schedule A for that portion of the month's shelter costs that remains unpaid on that date.
- ...
- (4) If a family unit that includes an applicant who has been designated as a person with disabilities does not receive disability assistance from the date the family unit became eligible for it, the minister may backdate payment but only to whichever of the following results in the shorter payment period:
- (a) the date the family unit became eligible for disability assistance;
  - (b) 12 calendar months before the date of payment.
- ...

### Position of the parties

The appellant argues that he submitted his application for PWD designation prior to his 18<sup>th</sup> birthday and is therefore eligible for assistance on his 18<sup>th</sup> birthday; as a result he should receive backdated disability assistance from his 18<sup>th</sup> birthday to May 31, 2017. The appellant also argues that it took the ministry too long - 3 months - to process the appellant's PWD application, and they failed to explain the delays in the processing of the application.

The ministry argues that as the appellant was eligible for PWD designation on May 24, 2017 he is not eligible to receive assistance until the first day of the following month in accordance with section 23(1) EAPWDR. In the appellant's case this day is June 1, 2017. Section 23(1.1) which allows for disability assistance as of a person's 18<sup>th</sup> birthday only applies when a 17 year old applies for *and* receives PWD designation prior to his 18<sup>th</sup> birthday. While the appellant's PWD application was received prior to his 18<sup>th</sup> birthday, eligibility for the designation was determined after his 18<sup>th</sup> birthday.

In its written submission on appeal the ministry did not address the appellant's argument that it took too long to process the appellant's PWD application.

### Panel decision

Under section 23 (1) of the EAPWDR a person is not eligible for disability assistance until the first day of the month after the month in which the ministry designates the applicant as a person with disabilities. As the appellant received his PWD designation on May 24, 2017 which was after his 18<sup>th</sup> birthday the panel finds the ministry reasonably determined that the appellant was not eligible for assistance before June 1, 2017 which is the first day of the month following his PWD designation.

### Conclusion

Having reviewed and considered the evidence and the relevant legislation the panel finds that the ministry's decision that the appellant was not eligible for income assistance was reasonably supported by the evidence and a reasonable application of the legislation. Therefore the panel confirms the ministry's decision and the appellant is not successful on appeal.