

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction reconsideration decision dated November 20, 2017 which held that the appellant was not eligible for a supplement to obtain proof of identity under sections 4.2(3)(a), 37 and 53 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWD); the ministry held that the appellant is in receipt of disability assistance, not hardship assistance, and the requirement to provide proof of identity has already been fulfilled.

PART D – RELEVANT LEGISLATION

EAPWDR sections 4.2(3), 37, and 53.

PART E – SUMMARY OF FACTS

Evidence before the ministry at reconsideration included the following:

The appellant is in receipt of disability assistance and his file opened in June 2015.

On October 17, 2017 the appellant requested assistance with the costs related to changing his name. The appellant stated that he was in the process of having the change of gender designation paperwork completed for a new birth certificate and was required to change his name before submitting the paperwork.

A letter from the appellant's registered nurse (RN) dated November 8, 2017 provides argument in support of the appellant's position – it will be addressed in part F of the decision.

In his Notice of Appeal dated November 27, 2017 the appellant wrote as reasons for appeal: "They say I have valid ID but I don't, it say F and it should be M. I look totally different and people don't believe I am who I am on my ID".

In his appeal submission dated November 29, 2017 the appellant provided a letter from his employment counselor (EC) and 2 photocopied documents:

- The letter dated November 11, 2017 contains argument in support of the appellant's appeal - these statements are addressed in part F of the decision.
- A black-and-white copy of a Driver's Licence (the EC states it is the appellant's license) is illegible for the most part, the 2 photos are blurred, mostly black, and unidentifiable – the owner's name and additional information are not recognizable. A note on the same page reads "Taken May 31/17".
- A black-and-white copy of an almost solidly black unidentifiable image (the EC states it is a copy of what the appellant looks like today). A note on the same page reads "Current" photo Nov 28/17".

At the hearing the appellant passed his current drivers licence to the ministry and the panel. The first name on the license was female, the photograph showed some resemblance to the appellant's facial features as he appeared at the hearing. The appellant stated that he has no valid ID. When he shows ID at a store, at a hospital or at a pub people don't believe it is him. He looks different than 5 months ago. He has no money to pay for a new ID. He lost jobs in the past because people found out he was "trans". That led to depression. He has a job and loves it but people at work are sexist and treat him badly. He prefers to work and does not want to be on disability assistance.

The mental health advocate (MHA) stated that the appellant was born with the wrong gender, suffered violence, and there is concern for his safety. He stated further that the appellant had corrective surgery and wants to be a normal person. The EC said she has seen the transition in the life of the appellant and it is very difficult for him to move forward. He wants to find a job in ECE (Early childhood education) but for this he needs a criminal record check. It is a basic human right to find employment and get the necessary ID.

The ministry presented its reconsideration decision and added the following explanation: legislation is very specific in regards to a supplement for ID. This provision is set out under hardship assistance and is intended to provide ID to an applicant to satisfy this requirement when the file opens. Hardship assistance is a specific temporary assistance and only issued when eligibility documentation is in progress but incomplete. The RN had no legal authority to state that the appellant meets the eligibility requirements for a supplement to obtain proof of identity. It may not be a bad idea to have a general ID supplement for multiple purposes.

Admissibility:

Pursuant to section 22(4) of the Employment and Assistance Act the panel admits the information provided on appeal and at the hearing because it corroborates information that was before the ministry at reconsideration and retells the appellant's story. The copies of driver's license and photograph claim to confirm the identity of the appellant as known by the ministry. The EC letter is solely argument.

PART F – REASONS FOR PANEL DECISION

The issue in this appeal is whether the ministry reconsideration decision which held that the appellant was not eligible for a supplement to obtain proof of identity under sections 4.2(3)(a), 37 and 53 of the EAPWD because the appellant is in receipt of disability assistance, not hardship assistance, and the requirement to provide proof of identity has already been fulfilled, was a reasonable application of the legislation or reasonably supported by the evidence.

Application for disability assistance – stage 2

4.2.(3) On completion of the first stage process provided for in section 4.1, the applicants for disability assistance in the family unit must complete and submit to the minister an application for disability assistance (part 2) form and must include as part of the application

(a) proof of the identity of the persons in the family unit and of their eligibility under the Act,

Applicants who do not meet requirement for social insurance number or proof of identity

37 The minister may provide hardship assistance to a family unit that is not eligible for disability assistance because of the failure to provide a social insurance number or proof of identity required under section 4.1 (2) (a) (i) or 4.2 (3) (a) if

(a) the minister considers that undue hardship will otherwise occur, and

(b) the minister is satisfied that the applicant is making every effort to supply the social insurance number or proof of identity.

Supplement to obtain proof of identity

53 The minister may provide a supplement to or for a family unit that is eligible for hardship assistance to cover the cost of obtaining proof of the identity of a person in the family unit that is required for the family unit to be eligible for disability assistance.

Appellant's position:

The appellant argues that he should be eligible for a supplement for obtaining proof of identity because he has no money to pay for new ID. His current ID is no longer valid: it states his name and gender incorrectly, and his appearance has changed significantly within the last 5 months. The appellant argues further that as a result of having to use his current ID the appellant finds himself in embarrassing, frustrating, even dangerous situations: when he shows ID at a store, a hospital or a pub, people don't trust him. It is difficult to hold a job with his current ID because he is treated disrespectfully and with prejudice at his workplace when he is found out to be "trans".

The appellant's RN argues the appellant should be entitled to a supplement for obtaining proof of ID because he is required to change his name before he can submit the paperwork for change of gender designation for which he needs to get a new birth certificate. The RN argues further that as the appellant is on disability assistance the need for a new ID should be considered a hardship expense to avoid unnecessary embarrassment in public.

The appellant's EC argues that having to show his current ID leads to embarrassment in public and is also a safety concern on his part; he has been questioned why he is in possession of someone else's ID and had to explain

himself and affirm his identity - incidents like these cause stress and anxiety. The EC argues further that it is very difficult for the appellant to move forward without a new ID that is needed for his future education, employment and finance dealings. He would like to apply for job that requires a criminal record check. It is a basic human right to find employment – therefore the appellant should be eligible to receive a supplement for obtaining proof of ID.

The MHA argues that the appellant has the right to move forward as a normal person without having to fear violence and embarrassment. For this purpose he needs a new ID.

Ministry Position:

Under section 4.2(3)(a) of the EAPWDR a person is required to provide proof of identity.

Under section 37 hardship assistance may be provided if a person is not eligible for disability assistance because of the failure to provide a social insurance number or proof of identity.

Under section 53 of the EAPWDR supplement may be provided to or for a family unit that is eligible for hardship assistance to cover the cost of obtaining proof of the identity of a person in the family unit that is required for the family unit to be eligible for disability assistance.

As the requirement to provide proof of identity has already been fulfilled, the appellant is in receipt of disability assistance and not hardship assistance. As the appellant is not in receipt of hardship assistance because proof of identity has already been established, he is not eligible for a supplement to obtain proof of identity.

The ministry argued further that the RN had no legal authority to state that the appellant meets the eligibility requirements for a supplement for obtaining proof of identity.

The ministry elaborated that the supplement for obtaining proof of identity is for governmental purposes to establish identity, and the intent of section 53 is to enable an applicant who has no valid ID to satisfy this requirement when their file first opens. Hardship assistance is a specific assistance and only issued temporarily when eligibility documentation is in the process and not complete.

The ministry contemplated that it may be helpful to have legislation in place for a general ID supplement for multiple purposes.

Panel decision

While the panel acknowledges the appellant's concerns - his expressions of embarrassment, frustration, even fear of violence - the panel finds that the ministry decision to deny the appellant a supplement for obtaining proof of identity was a reasonable application of sections 4.2.(3)(a), 37 and 53 of the EAPWDR in the circumstances of the appellant; the reasons for this determination are as follows:

Section 4.2(3)(a) sets out that an applicant must provide proof of identity as part of the application. The panel finds that as the appellant is currently in receipt of disability assistance and proof of identity has already been established, section 4.2(3)(a) does not apply in the case of the appellant.

Section 53 of the EAPWDR provides that a supplement to obtain proof of identity may be provided to cover the cost of obtaining proof of identity to be eligible for disability assistance. As eligibility has already been established and the appellant is in receipt of disability assistance the panel finds that section 53 does not apply in this case.

Section 37 sets out that the ministry may provide hardship assistance to a family unit that is not eligible for disability assistance because of failure to provide proof of identity required under 4.2(3)(a). The panel finds that this section does not apply in the circumstances of the appellant because eligibility has already been established and the appellant is in receipt of disability assistance.

The Panel notes that, with the exception of section 53, there is no provision for a supplement to obtain proof of identity set out in the applicable Act or Regulation.

Conclusion:

For these reasons the panel finds that the ministry decision to deny the appellant a supplement to obtain proof of identity was a reasonable application of the legislation in the circumstances of the appellant. The ministry's decision is confirmed and the appellant is not successful on appeal.