

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the Ministry) reconsideration decision dated June 19, 2018, which denied the appellant’s request for back dated assistance to February 2018. Specifically, the ministry determined the appellant’s initial application (dated February 1, 2018) closed on March 18, 2018 as the appellant failed to provide information requested by the ministry under Section 10 of the Employment and Assistance for Persons Act (EAA).

PART D – RELEVANT LEGISLATION

Employment and Assistance Act Section 10
Employment and Assistance Regulation Section 26

PART E – SUMMARY OF FACTS

The appellant is a sole recipient with 2 dependent children; the appellant's file was opened May 9, 2018.

February 1, 2018

- Appellant submitted an application for income assistance.
- During the application process, the landlord advised the ministry the roommate identified in the application and appellant were presented as a couple.

February 22, 2018

- The ministry intake worker requested the appellant supply the following documents: Bank Profile, EFT form, 60-day bank statements for all accounts, doctor's note and a declaration letter clarifying the appellant's current living situation.
- The appellant was advised to submit the information within 5 business days or the application would be closed.
- No information was provided, the file was closed.

March 8, 2018

- The appellant contacted the ministry and expressed dissatisfaction with the intake process and how the intake worker contacted his landlord.
- The appellant advised the ministry he did live with a girlfriend but she did not take care of his children.
- The appellant's application was re-opened with a new intake worker.
- The appellant was advised to provide the additional documents so eligibility could be determined.

March 9, 2018

- The intake worker contacted the appellant advising him to provide the requested information and to apply with his girlfriend as a two-parent family.
- The intake worker discussed the reconsideration process with the appellant; the appellant declined this option and advised the intake worker he would not be providing the requested information.

March 18, 2018

- As no further information was supplied by the appellant the appellant's application was closed.

April 10, 2018

- The appellant submitted an application for income assistance noting he was residing with his girlfriend and that his rent payment was up to date.

April 25, 2018

- The ministry advised the appellant he would need to apply as a couple with his girlfriend and requested documents to determine eligibility.

May 8, 2018

- The ministry determined the appellant was not eligible for assistance as a sole applicant as he was residing with his girlfriend. The appellant indicated the girlfriend had added the appellant's children to her MSP coverage and she had moved in to take care of them.
- The appellant was offered a reconsideration of the decision.

May 11, 2018

- The appellant advised the ministry his girlfriend and he were separated and she is now living in the basement suit.
- Based on this new information, the appellant was found to be eligible for income assistance effective May 10, 2018 and was provided with \$997.51 for May assistance.

May 31, 2018

- The appellant requested backdated assistance to February when he first applied for income assistance.
- The ministry denied the appellant's request because he had failed to provide information and he had not proceeded with the reconsideration process.

June 5, 2018

- The appellant provided a request for reconsideration indicating he was approved without having to provide the requested documents and that his application was closed in error originally.

In the appellant's Notice of Appeal dated June 22, 2018, the appellant wrote:

- There are errors in facts 2,3,4,5 and 6.
- He did not hide or attempt to hide his relationship with his girlfriend.
- The intake worker made errors in the documents he needed to provide including statements from financial institutions he has never dealt with and a declaration regarding a closed Go Fund Me campaign.
- His shelter was paid through borrowing money.

In the appellant's request for reconsideration dated June 4, 2018 the appellant wrote:

- The ministry summation of events and conversations lack transparency.
- He was concerned with the character attacks and methodology displayed in a vain attempt to erase legitimate moral concerns and advocacy for the likelihood of his family and their rights granted under federal and provincial law.
- The ministry needs a review of their ethics.
- His case was approved only after he challenged the manager's interpretation of legislation.
- He was never required to provide the documents requested which was used as a basis for denial.
- The intake workers erroneously closed his original application multiple times.
- The barriers consistent today were present at the time he originally applied.

At the hearing, the appellant stated the following:

- He felt he has been denied based on a technicality and that he had applied honestly and correctly.
- He felt the intake worker was looking for reasons not to approve his application for assistance.
- In February he supplied some documents (i.e. screen shots of bank accounts) but did not supply other documents as;
 - he felt they were not required (i.e. declaration of relationship letter)
 - he was not able to go to the bank to obtain the information such as a letter verifying accounts not used.
 - He felt information was required by the ministry (i.e. information of transactions of bank accounts)
- When he reapplied in April, he did not have to supply all the information which was requested in February.
- He had responded to the online account with a question before the account closed but did not receive an answer.

At the hearing, the ministry stated the following:

- The appellant had been asked for documentation with a 5-day time line and he failed to supply the documentation therefore the account was closed. The closing date was far past the 5-day requirement (February 30).
- The appellant was advised the file was closed and he could ask for a reconsideration of the decision but he declined.
- In the appellant's application information required was different as the living situation of the appellant had changed.

PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether the ministry's reconsideration decision, dated June 19, 2018, which denied the appellant's request for back dated assistance for February 2018, was reasonably supported by the evidence or was a reasonable application of the applicable legislation in the circumstances of the appellant.

The relevant legislation is as follows:

Employment and Assistance Act

Information and verification

10 (1) For the purposes of

- (a) determining whether a person wanting to apply for income assistance or hardship assistance is eligible to apply for it,
- (b) determining or auditing eligibility for income 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.
- (2) The minister may direct an applicant or a recipient to supply verification of information received by the minister if that information relates to the eligibility of the family unit for income assistance, hardship assistance or a supplement.
- (3) Subsection (1) (e) to (g) applies with respect to a dependent youth for a purpose referred to in subsection (1) (c) or (d).
- (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 income assistance, hardship assistance or a supplement for the prescribed period.
- (5) If a dependent youth fails to comply with a direction under this section, the minister may reduce the amount of income assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

Employment and Assistance Regulation

Effective date of eligibility

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).]

(2.01) If the minister decides, on a request made under section 17 (1) [*reconsideration and appeal rights*] of the Act, to provide a supplement, the family unit is eligible for the supplement from the earlier of

(a) the date the minister makes the decision on the request made under section 17 (1) of the Act, and

(b) the applicable of the dates referred to in section 80 of this regulation.

(2.1) If the tribunal rescinds a decision of the minister refusing a supplement, the family unit is eligible for the supplement on the earlier of the dates referred to in subsection (2.01).

(3) If a family unit includes a person who qualifies as a person who has persistent multiple barriers to employment, the family unit becomes eligible to receive income assistance at the rate specified under Schedule A for a family unit that matches that family unit on the first day of the month after the month in which the minister determines that the person qualifies as a person who has persistent multiple barriers to employment.

(3.01) If the minister decides, on a request made under section 17 (1) of the Act, that a person qualifies as a person who has persistent multiple barriers to employment, the person's family unit becomes eligible to receive income assistance at the rate specified under Schedule A for a family unit that matches that family unit on the first day of the month after the month containing the earlier of.

(a) the date the minister makes the decision on the request made under section 17 (1) of the Act, and

(b) the applicable of the dates referred to in section 80 of this regulation.

(3.1) If the tribunal rescinds a decision of the minister determining that a person does not qualify as a person who has persistent multiple barriers to employment, the person's family unit is eligible to receive income assistance at the rate specified under Schedule A for a family unit that matches that family unit on the first day of the month after the month containing the earlier of the dates referred to in subsection (3.01).

(4) If a family unit that includes a person who qualifies as a person who has persistent multiple barriers to employment does not receive income assistance at the applicable rate under Schedule A 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 under subsection (3) or (3.1), as applicable, for the applicable rate;

(b) 12 calendar months before the date of payment.

(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.

Consequences of failing to provide information or verification when directed

32 (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.

(2) For the purposes of section 10 (5) [*information and verification*] of the Act,

(a) the amount by which the minister may reduce the income assistance or hardship assistance of the dependent youth's family unit is \$100 for each calendar month, and

(b) the period for which the minister may reduce the income assistance or hardship assistance of the dependent youth's family unit lasts until the dependent youth complies with the direction.

Panel Findings

Section 10(1) of the EAA states the ministry can request information and verification for the purposes of determining whether a person wanting to apply for income assistance or hardship assistance is eligible to apply for it. As well, Section 10(4) states, "If an applicant or a recipient fails to comply with a direction under this section, the minister may declare the family unit ineligible for income assistance, hardship assistance or a supplement for the prescribed period."

Section 32 (1) of the Employment and Assistance Regulations (EAR) further states, "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.

Positions

The Appellant's Position

The appellant stated he supplied information he felt the ministry required in February and he did not supply information requested as he believed it was not required, (i.e. declaration letter). As some of the information requested in February was not requested in April, (i.e. declaration letter), his original application should not have been closed and therefore back payments to February should be paid by the ministry.

The Ministry's Position

The ministry stated the situation of the applications made in February and April required different information to be provided by the appellant as the living situations were different. Although some information requested for by the ministry was supplied in February not all documentation was received. Given the time line of 5 days had well passed for the appellant to supply requested information, the application was closed. The appellant would have to re-apply if he wished to obtain assistance. As the appellant had not requested a reconsideration of the closing of the February application, the ministry in determining eligibility referred only to the April application, thus they are not able to consider back dated assistance for the month of February 2018.

Panel Decision

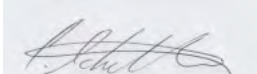
The panel found the ministry was reasonable to conclude the appellant was not eligible to receive back dated assistance for the month of February 2018 as Section 10(1) of the EAA states the ministry can request information and verification for the purposes of determining whether a person is eligible for income assistance. The appellant stated he supplied some but not all the requested information therefore it was reasonable the ministry implemented Section 10(4) which states, "If an applicant or a recipient fails to comply with a direction under this section, the minister may declare the family unit ineligible for income assistance, hardship assistance or a supplement for the prescribed period."

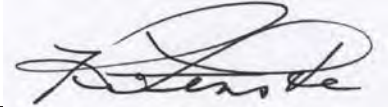
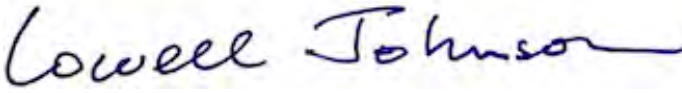
As the appellant did not dispute this decision to close his February application, and began the application process at a later date, the ministry is bound by legislation under Section 26 (2)(a) of the EAR to the date of the applicant's submission of the application for income assistance.

Conclusion

The panel finds that the Ministry's decision in denying the appellant not eligible to receive back dated assistance was a reasonable application of the evidence in the circumstances of the appellant and therefore confirms the decision. The appellant is not successful in his appeal.

PART G – ORDER	
THE PANEL DECISION IS: (Check one) <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> BY MAJORITY	
THE PANEL <input checked="" type="checkbox"/> CONFIRMS THE MINISTRY DECISION <input type="checkbox"/> RESCINDS THE MINISTRY DECISION	
If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount? <input type="checkbox"/> Yes <input type="checkbox"/> No	
LEGISLATIVE AUTHORITY FOR THE DECISION:	
<i>Employment and Assistance Act</i>	
Section 24(1)(a) <input type="checkbox"/> or Section 24(1)(b) <input checked="" type="checkbox"/>	
and	
Section 24(2)(a) <input checked="" type="checkbox"/> or Section 24(2)(b) <input type="checkbox"/>	

PART H – SIGNATURES	
PRINT NAME Charles Schellinck	
SIGNATURE OF CHAIR 	DATE (YEAR/MONTH/DAY) 2018/07/12

PRINT NAME Robert Fenske	
SIGNATURE OF MEMBER 	DATE (YEAR/MONTH/DAY) 2018/07/12
PRINT NAME Lowell Johnson	
SIGNATURE OF MEMBER 	DATE (YEAR/MONTH/DAY) 2018/07/12