

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction's (the "ministry") Reconsideration Decision of June 6th, 2018 in which the ministry determined that the appellant was ineligible for backdated assistance for September and October 2017, due to not meeting reporting requirements, pursuant to section 3, 10 & 11 of the Employment and Assistance for Persons with Disabilities Act, and section 29 of the Employment and Assistance for Persons with Disabilities Regulation.

PART D – RELEVANT LEGISLATION

EAPWD *Employment and Assistance for Persons with Disabilities Act, Section 3, 10 & 11*

EAPWDR *Employment and Assistance for Persons with Disabilities Regulation, Section 29*

PART E – SUMMARY OF FACTS

The information before the ministry at the time of reconsideration included the following:

- 1) **July 6th, 2017** – The ministry reviewed a data match from Canada Pension Plan and based on this match it appeared as though the appellant would meet financial eligibility criteria for CPP Disability - which indicated that the appellant would have made substantial earnings for at least 4 of the 6 years (2010 – 2016). After a review of the appellant's file, the ministry determined that the earnings had not been declared.
- 2) **August 16th, 2017** – the ministry signalled the appellant's September 2017 benefits cheque to submit a CCRA Notice of Assessment for the year(s) 2010 – 2016, and a Statement of Contributions from Canada Pension. The ministry attempted to contact the appellant (to let him know that his phone number was not in service), and the signal letter was mailed out on this date explaining that the next cheque had been held and detailing what was required from the applicant.
- 3) The ministry submits that the appellant did not provide any of the requested information, nor respond to the signal letter and therefore, the file was auto-closed on October 21, 2017 because the appellant did not receive benefits for two calendar months.
- 4) **November 14th, 2017** – The applicant began his reapplication and had indicated; that his rent for September and October 2017 was still outstanding, that he just received his NOA's from 2015 and 2016, and that he had no income from the summer, that he has a company and works as a painter and drywaller and that his disability is mental and has a hard time with paperwork. At this time, the ministry explained the importance of reporting requirements and self-employment.
- 5) **November 16th, 2017** – a ministry worker reviewed the appellant's case and noted that the appellant had stated that he does not have a business account, and that he cashes cheques at the banks that they are drawn on in case they bounce.
- 6) **November 17, 2017** – the ministry re-opened the appellant's file, discussed eligibility and reporting requirements and providing income information requested in the future (2010 – 2014 NOA's).
- 7) **May 17, 2018** – While speaking with an IO (Investigative Officer) the appellant stated that he was taking the ministry to small claims court, that he didn't get his September & October 2017 assistance cheques and therefore never paid rent for those months, and still owe the landlord. The IO reviewed the file, attempted to contact the appellant and was unable to reach him. A message was left for the appellant and was never returned.
- 8) **May 22, 2018** – The appellant attended the ministry office and requested a reconsideration of the fact that he did not receive September and October IA (Income Assistance).
- 9) **May 24th, 2018** – the ministry received a request for reconsideration. The appellant reported that he did not know that he could get assistance until his taxes were done, but once he completed them, was denied his request.
- 10) The ministry notes that a review of the file shows that the file review for past eligibility is not yet complete, and that the CPP Disability application was received and mailed to Service Canada on April 17, 2018.

Additional Information

The appellant submitted a June 25th, 2018 letter, personally written by him, which provided primarily an opinion regarding government, and other information pertaining to medical status during the two months (September and October, 2017) that he did not receive income assistance. The panel determined that the applicant's medical status, as indicated (blood clot and brain damage) was not before the reconsideration officer or in support of the information at the time the decision was made. The panel did not admit the letter, pursuant to section 22(4) of the Employment and Assistance Act.

The ministry did not provide further information to be considered and relied on the reconsideration decision as its submission.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is the reasonableness of the Ministry of Social Development and Poverty Reduction's (the "ministry") Reconsideration Decision of June 6th, 2018 in which the ministry determined that the appellant was ineligible for backdated assistance for September and October 2017, due to not meeting reporting requirements, pursuant to section 3, 10 & 11 of the Employment and Assistance for Persons with Disabilities Act, and section 29 of the Employment and Assistance for Persons with Disabilities Regulation.

Legislation

Employment and Assistance for Persons with Disabilities Act

Eligibility of family unit

3 For the purposes of this Act, a family unit is eligible, in relation to disability assistance, hardship assistance or a supplement, if

(a) each person in the family unit on whose account the disability assistance, hardship assistance or supplement is provided satisfies the initial and continuing conditions of eligibility established under this Act, and

(b) the family unit has not been declared ineligible for the disability assistance, hardship assistance or supplement under this Act.

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.

(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 disability 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 disability 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 disability assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

Reporting obligations

11 (1) For a family unit to be eligible for disability assistance, a recipient, in the manner and within the time specified by regulation, must

(a) submit to the minister a report that

- (i) is in the form prescribed by the minister, and
- (ii) contains the prescribed information, and

(b) notify the minister of any change in circumstances or information that

- (i) may affect the eligibility of the family unit, and**
- (ii) was previously provided to the minister.

(2) A report under subsection (1) (a) is deemed not to have been submitted unless the accuracy of the information provided in it is confirmed by a signed statement of each recipient.

Employment and Assistance for Persons with Disabilities Regulation

Reporting requirement

29 For the purposes of section 11 (1) (a) [*reporting obligations*] of the Act,

(a) the report must be submitted by the 5th day of the calendar month following the calendar month in which one or more of the following occur:

(i) a change that is listed in paragraph (b) (i) to (v);

(ii) a family unit receives earned income as set out in paragraph (b) (vi);

(iii) a family unit receives unearned income that is compensation paid under section 29 or 30 of the [Workers Compensation Act](#) as set out in paragraph (b) (vii), and

(b) the information required is all of the following, as requested in the monthly report form prescribed under the Forms Regulation, B.C. Reg. 95/2012:

(i) change in the family unit's assets;

(ii) change in income received by the family unit and the source of that income;

(iii) change in the employment and educational circumstances of recipients in the family unit;

(iv) change in family unit membership or the marital status of a recipient;

(v) any warrants as described in section 14.2 (1) of the Act;

(vi) the amount of earned income received by the family unit in the calendar month and the source of that income;

(vii) the amount of unearned income that is compensation paid under section 29 or 30 of the [Workers Compensation Act](#) received by the family unit in the calendar month.

Panel Decision

The ministry's position is that the appellant is a sole recipient of disability assistance, and that as a result of not complying with the full request for NOA's from 2010 – 2016, the appellant was not eligible for backdated assistance for September and October 2017.

The appellant, as stated in his notice of appeal believes that his IA was held as a blackmail tactic from Canada Revenue Agency (CRA).

The *Employment and Assistance for Persons with Disabilities Act*, section 3 (a) outlines that eligibility is established if; each person in the family unit on whose account the disability assistance, hardship assistance or supplement is provided **satisfies the initial and continuing conditions of eligibility** established under this Act. The *Employment and Assistance for Persons with Disabilities Act* section 10 (1) sets out that for the purposes of **(b) determining or auditing eligibility for disability assistance, hardship assistance or a supplement**, 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;** And as outlined in section 10 **(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 disability assistance, hardship assistance or a supplement.** The panel finds that the evidence establishes that the appellant provided part but not all of the request for information made by the ministry, as he provided Notice of Assessment for the year(s) 2015 and 2016 but did not provide Notice of Assessment for the year(s) 2010 – 2014. The panel finds that the ministry was reasonable in its request for information, as per the legislation, to determine continued eligibility after learning that the appellant had potentially qualified for Canada Pension Plan Disability Benefits.

The *Employment and Assistance for Persons with Disabilities Act* section 10 (4) outlines that **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.** The panel finds that the ministry was reasonable in its determination to declare the appellant ineligible for disability assistance due to the fact that the applicant did not provide all of the information (2010 – 2016 NOA's) requested from the ministry, and therefore had not fully complied with the request. The panel finds that the evidence establishes that the ministry was reasonable to determine this on the basis that no other evidence or explanation was provided by the appellant as to why the rest of the request could not be fulfilled. Further, the panel considers that evidence establishes that the ministry did make several attempts to contact the appellant to discuss the file, and that on several occasions the appellant did not respond to those attempts.

The *Employment and Assistance for Persons with Disabilities Act* section 11 (1) outlines that for a family unit to be eligible for disability assistance, a recipient, in the manner and within the time specified by regulation, must **(b) notify the minister of any change in circumstances or information that (i) may affect the eligibility of the family unit.** The panel finds that the evidence establishes that the appellant submits that he is self-employed as a drywaller and had not informed the ministry of this employment status, or report any of the income received through this position. The panel considers that on several occasions the ministry informed the appellant of his reporting requirements, and further considers the ministry reasonable to determine that the appellant was not a new recipient who may not have known the requirement, but that the appellant had been receiving assistance since the year 2006 and knew or ought to have known that he was required to declare any changes to maintain his eligibility.

The *Employment and Assistance for Persons with Disabilities Regulation* section 29 states that for the purposes of section 11 (1) (a) [*reporting obligations*] of the Act, (a) the report must be submitted by the 5th day of the calendar month following the calendar month in which one or more of the following occur: **(i) a change that is listed in paragraph (b) (i) to (v);** (b) the information required is all of the following, as requested in the monthly report form prescribed under the Forms Regulation, B.C. Reg. 95/2012: **(i) change in the family unit's assets; (ii) change in income received by the family unit and the source of that income; (iii) change in the employment and educational circumstances of recipients in the family unit;** (iv) change in family unit membership or the marital status of a recipient; (v) any warrants as described in section 14.2 (1) of the Act. The panel finds that under the regulation, the evidence establishes that the appellant did not provide any information related to changes listed in this section, and therefore, the ministry was reasonable to conclude that the reporting obligations of the appellant had not been met.

The panel finds that the ministry's decision was a reasonable application of the legislation in the circumstances of the appellant and therefore, the panel confirms the ministry's decision pursuant to section 24(1)(a) and section 24(2)(a) of the Employment and Assistance Act.. The appellant is unsuccessful in his appeal.

PART G – ORDER

THE PANEL DECISION IS: (Check one)

UNANIMOUS

BY MAJORITY

THE PANEL

CONFIRMS THE MINISTRY DECISION

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? Yes No

LEGISLATIVE AUTHORITY FOR THE DECISION:

Employment and Assistance Act

Section 24(1)(a) or Section 24(1)(b)

and

Section 24(2)(a) or Section 24(2)(b)

PART H – SIGNATURES

PRINT NAME

Jennifer Armstrong

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2018/07/25

PRINT NAME

David Handelman

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/07/25

PRINT NAME

Kulwant Bal

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/07/25