

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the Ministry) Reconsideration Decision dated August 1, 2018, which found that the Appellant was not eligible for disability assistance pursuant to Section 10(4) of the *Employment and Assistance for Persons with Disabilities Act* (EAPWDA) as the Appellant had not complied with the direction of the Ministry under Section 10(2) of the EAPWDA to supply the requested documentation necessary for the Ministry to determine the Appellant's eligibility for disability assistance.

In particular, the Ministry found that the Appellant had failed to submit the following information as directed by the Ministry:

- Residential Tenancy Agreement or rental agreement, current rent receipt and current utility bills;
- Proof of all sources of income for the period October 1, 2016 to current;
- Record of Employment (ROE) for 2016, 2017 and 2018;
- Statements for all bank accounts for the past 90 days and bank statements for the past 6 months;
- Confirmation of all accounts, assets or investments in the Appellant's name showing all transaction for the past 90 days;
- Income tax Notice of Assessment and/or completed income tax returns, including all tax slips (T4s, etc.) for 2016 and 2017;
- Registration papers for all vehicles registered in the name of the Appellant;
- School registration papers for each of the Appellant's 5 children;
- Written note confirming the names of all persons in the Appellant's household/family unit; and
- Three specific Motor Vehicle Accident Claim forms including a particular law firm's Letter which would have accompanied a particular Statement of Account and the accompanying Release which the Appellant would have signed.

PART D – RELEVANT LEGISLATION

EAPWDA Section 10(1), 10(2) and 10(4)

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Section 28(1)

PART E – SUMMARY OF FACTS

The Appellant is a sole recipient with a Persons with Disabilities (PWD) designation with 5 dependent children.

The information before the Ministry when the Reconsideration Decision was made included:

- Request for Reconsideration dated July 13, 2018 in which the Appellant stated:
 - She was requesting a reconsideration decision because she had provided the Ministry with all of the information she could; and
 - Two weeks previously the Ministry had prepared a “file check” on the Appellant where she had “provided all (she) had sent in” and “(her) file was to remain open”.
- Ministry Letter dated April 17, 2018 requesting all of the documentation listed in Part C above;
- Ministry Letter dated May 15, 2018 requesting all of the documentation listed in Part C above;
- Ministry Letter dated June 6, 2018 requesting all of the documentation listed in Part C above;
- Ministry Letter dated June 28, 2018 requesting all of the documentation listed in Part C above;
- Uncompleted Bank Profile and Consent form, and
- Uncompleted form requesting ROEs from Service Canada.

Additional Information submitted after reconsideration

In her Notice of Appeal dated September 10, 2018 (sic), the Appellant stated that all the information she had to provide was provided at reconsideration.

The Appellant did not attend the hearing. After confirming that the Appellant was notified of the hearing within the prescribed timeframe, the Panel proceeded with the hearing pursuant to Section 86(b) of the Employment and Assistance Regulation.

At the hearing, the Ministry relied on its Reconsideration Decision and explained that, in determining a disability assistance recipient’s continued eligibility, the Ministry asks each recipient for the specific information about income, assets and living expenses, and to confirm the number of dependents within the family unit. If, over the course of such an audit, the client does not provide the information, the legislation allows the Ministry to deny continued assistance.

New Information

No new information was provided by either party after the Reconsideration Decision was made.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is whether the Ministry's Reconsideration Decision, which found that the Appellant was not eligible for disability assistance pursuant to Section 10(4) of the EAPWDA as the Appellant had not complied with the direction of the Ministry under Section 10(2) of the EAPWDA to provide the requested documentation necessary to determine her eligibility was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant.

The relevant sections of the legislation are as follows:

EAPWDA

Information and verification

10 (1) For the purposes of

... (b) determining or auditing eligibility for disability assistance ...

the minister may do one or more of the following:

(e) direct ... a recipient to supply the minister with information within the time and in the manner specified by the minister ...

(g) direct ... a recipient to supply verification of any information he or she supplied to the minister.

(2) The minister may direct ... 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 ...

(4) If ... a recipient fails to comply with a direction under this section, the minister may declare the family unit ineligible for disability assistance ... for the prescribed period.

EAPWDR

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 ... recipient complies with the direction.

Position of the Parties

The Appellant's position is that all the information she had to provide was provided at reconsideration and that she could not provide any of the additional information that the Ministry was asking for. The Ministry's position is that it must periodically require information from a disability assistance recipient to enable it to confirm that he or she is eligible for continued assistance, that the information it requested from the Appellant would enable the Ministry to confirm her eligibility, and that Section 10 of the EAPWDA provides the Ministry with the necessary authority to request that information and to deny continued disability assistance to a recipient if the information was not provided.

Panel Decision

Section 10 of the EAPWDA says that the Ministry may direct a recipient to supply it with information for the purposes of determining or auditing eligibility for disability assistance within the time and in the manner specified, and direct a recipient to supply verification of any information he or she supplied to the Ministry if that information relates to the eligibility of the family unit for disability assistance. Section 10 of the EAPWDR also states that if a recipient fails to comply with such a direction, the Ministry may declare the family unit ineligible for disability assistance for the prescribed period. Section 28(1) of the EAPWDR specifies that the prescribed period of ineligibility lasts until the recipient complies with the direction.

The Panel finds that the Ministry reasonably determined that all the information it directed the Appellant to provide (a copy of her rental agreement, a current rent receipt, current utility bills, recent ROEs, bank account statements, confirmation of all accounts, income statements, assets or investments in her name showing recent transactions, recent income tax notices of assessment or completed income tax returns including all tax slips, registration papers for all vehicles registered in the Appellant's name, school registration papers for each of the Appellant's children, a note confirming the names of all persons in her family unit, and claim forms and related information for three specific motor vehicle accident claim forms) were necessary in assessing the Appellant's ongoing eligibility for disability assistance.

The Panel notes that the Ministry provided the Appellant with a bank profile and consent form to assist her in obtaining the necessary bank account information and a form to assist the Appellant in seeking copies of ROEs from Service Canada. The Panel further notes that the evidence shows that the Ministry first requested the information on April 17, 2018, and, having not received any information based on this request by the deadline specified in the first letter (May 4, 2018), asked for the information a second time on May 15, 2018, and, having received some of the requested information on May 17, 2018 and May 22, 2018, asked for the missing information on June 6, 2018 and for a fourth time on June 28, 2018. The Panel finds that the Ministry provided the Appellant with several opportunities to provide the requested information and, as the requested information was not provided, the Panel finds that the Appellant failed to comply with the Ministry's direction.

Conclusion

Having reviewed and considered all of the evidence and relevant legislation, the Panel finds that the Ministry's Reconsideration Decision, which determined that the Appellant was not eligible for disability assistance pursuant to Section 10(4) of the EAPWDA as the Appellant had not complied with the direction of the Ministry under Section 10(2) of the EAPWDA to provide the requested documentation necessary to determine her eligibility, was reasonably supported by the evidence and was a reasonable application of the EAPWDA in the circumstances of the Appellant, and therefore confirms the decision. The Appellant's appeal is not successful in her 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 checked="" 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 Simon Clews	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2018/08/30

PRINT NAME Kulwant Bal	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/08/30

PRINT NAME Carla Tibbo	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/08/30