

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated September 24, 2018, which held that the appellant is not eligible for back-dated Persons with Disabilities (PWD) support benefits and shelter benefits for the month of May 2018 pursuant to Section 23 of the Employment and Assistance Persons with Disabilities Regulation (EAPWDR). Specifically, the ministry determined that since the appellant's assistance application is dated May 15, 2018, her eligibility for PWD support benefits can only commence on that date pursuant to section 23 (1.2)(a) of the EAPWDR and cannot be back-dated to May 2, 2018. The ministry also determined that the appellant is not eligible for shelter costs for the month of May 2018 pursuant to section 23 (1.2)(b) of the EAPWDR because she has not demonstrated that her shelter costs for May 2018 remained unpaid on the date of her application (May 15, 2018).

PART D – RELEVANT LEGISLATION

Employment and Assistance Persons with Disabilities Regulation (EAPWDR) – section 23, and schedule 2 and 3.

PART E – SUMMARY OF FACTS

The evidence before the ministry at the time of reconsideration consisted of:

1. Application for assistance (part 2) dated May 15, 2018.
2. Request for Reconsideration (RFR) signed and dated September 14, 2018, which, in part, stated the following:
 - The appellant picked up her paperwork on August 27, 2018 and is uncertain when her papers went missing.
 - The appellant received only \$467.91 for the month of May [2018] and she applied for assistance on May 2, 2018.

Evidence on Appeal

Notice of Appeal (NOA), signed and dated September 28, 2018, which argued that “assistance is based on the date of application which was May 2, 2018” and that she “was in need of shelter costs”.

Evidence at the Hearing

The appellant stated that she had additional evidence to present but it went missing. When asked if she wanted to adjourn the hearing until she had her evidence or continue without it, the appellant chose to proceed with the hearing without her additional evidence. She indicated that she would give her evidence orally.

At the hearing, the appellant stated, in part, the following:

- She applied for assistance on May 2, 2018 at the community library but is unable to provide the application confirmation number as it was on her phone which was stolen, along with her other possessions, sometime between May 8, 2018 – May 15, 2018.
- On May 8, 2018 a social worker at the first shelter that she resided in was able to view her online application.
- Between May 15, 2018 and June 1, 2018 a social worker at the second shelter that the appellant resided in found her application online.
- Currently she receives \$375 for shelter and \$810.42 for support. In May 2018 the ministry based her cheque on monthly support of \$758.42 which is the incorrect amount as the ministry deducted her bus pass from her entitled assistance amount and then pro-rated the lesser amount.
- When staying at a shelter, the shelter portion of income assistance goes to the shelter. In May 2018 she resided at 2 shelters and therefore she should have received the shelter portion of her cheque.
- On May 3, 2018 she fell ill and was in hospital. When she left the hospital she was unable to secure housing. She remained homeless for 5 days and began to reside in the first shelter on May 8, 2018.

At the hearing, the ministry relied on its reconsideration decision and added the following:

- The ministry does not have the ability to change or alter the online application.
- In this case the appellant's online application was signed and dated May 15, 2018 and they have no record of a May 2, 2018 application.
- On May 17, 2018 the appellant issued a \$50 food voucher.
- \$52 was added to the appellant's May 2018 cheque for transportation (bus pass).
- When individuals reside at shelters, they do not have shelter costs. In this case, the appellant was resided at 2 different shelters for the month of May 2018 and has not provided proof that she had shelter costs such as a bill or rental agreement.

PART F – REASONS FOR PANEL DECISION

The issue before the panel is the reasonableness of the ministry's reconsideration decision, which held that the appellant is not for eligible back-dated PWD support benefits pursuant to Section 23(1.2)(a) of the EAPWDR because her application for assistance is dated May 15, 2018. The ministry also determined that the appellant is not eligible for shelter costs for the month of May 2018 pursuant to section 23 (1.2)(b) of the EAPWDR because she has not demonstrated that her shelter costs for May 2018 remained unpaid on the date of her application (May 15, 2018).

Section 23 of the 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.
- (1.2) A family unit of an applicant for disability assistance who has been designated as a person with disabilities becomes eligible for
- (a) a support allowance under sections 2 and 3 of Schedule A on the disability assistance application date,
 - (b) for a shelter allowance under sections 4 and 5 of Schedule A on the first day of the calendar month that includes the disability assistance application date, but only for that portion of that month's shelter costs that remains unpaid on the date of that submission, and
 - (c) for disability assistance under sections 6 to 9 of Schedule A on the disability assistance application date.

Schedule A

Monthly support allowance

- 2** (0.1) For the purposes of this section:
- "deemed dependent children"**, in relation to a family unit, means the persons in the family unit who are deemed to be dependent children under subsection (5);
- "warrant"** has the meaning of warrant in section 14.2 [*consequences in relation to outstanding arrest warrants*] of the Act.
- (1) A monthly support allowance for the purpose of section 1 (a) is the sum of
- (a) the amount set out in Column 3 of the following table for a family unit described in Column 1 of an applicant or a recipient described in Column 2, plus
 - (a.1) Repealed. [B.C. Reg. 193/2017, s. 9 (a).]
 - (b) the amount calculated in accordance with subsections (2) to (4) for each dependent

child in the family unit.

Item	Column 1 Family unit composition	Column 2 Age or status of applicant or recipient	Column 3 Amount (\$)
1	Sole applicant / recipient and no dependent children	Applicant / recipient is a person with disabilities	758.42

Prorating of support allowance

3 In the calendar month that contains the disability assistance application date, the monthly support allowance is prorated based on the number of days remaining in that calendar month, beginning with the date of that submission.

The Appellant's Position

The appellant argued that she applied for PWD on May 2, 2018 and therefore her support and shelter benefits should be backdated to May 2, 2018 and not effective from May 15, 2018. The appellant argued that the amount the ministry based her pro-rated assistance amount was incorrect as the ministry deducted her bus pass from her entitlement amount and then pro-rated that lesser amount which was \$758.42. The appellant also argued that she was entitled to her shelter portion for the month of May 2018 because when residing at a shelter, the shelter portion of the cheque is paid to the shelter.

The Ministry's Position

The ministry argued that the appellant is not eligible for PWD support and shelter benefits from May 2, 2018 pursuant to Section 23 (1.2)(a) and (b) of the EAPWDR. Specifically, the ministry argued that the appellant's PWD application is dated May 15, 2018 and her support and shelter benefits were calculated from that date. The ministry argued that the appellant has not provided evidence that her application was completed and submitted to the ministry on May 2, 2018. The ministry further argued that the appellant has not provided evidence that she had shelter costs for the month of May 2018.

The Panel's Decision

Section 23 (1.2)(a) of the EAPWDR sets out that an individual who has been designated as a person with disabilities becomes eligible for support and shelter allowance under sections 2 and 3 of Schedule A of the EAPWDR on the date of the disability assistance application. Section 23(1.2)(b) of the EAPWDR sets out that an individual who has been designated as a person with disabilities is eligible for a shelter allowance under sections 4 and 5 of Schedule A of the EAPWDR on the first day of the calendar month of the disability assistance application date, but only for that portion of that month's shelter costs that remain unpaid on the date of submission.

The evidence at the time of reconsideration and at the hearing demonstrates that the PWD application date is May 15, 2018. The appellant was not able to provide any evidence at the hearing to support her argument that she applied for assistance on May 2, 2018. Though the appellant argued that the rate applied for her assistance in May 2018 was incorrect, the panel finds that Schedule A, section 2 of the EAPWDR clearly states that a sole recipient with PWD is entitled to \$758.42 and that the ministry correctly pro-rated \$758.42 when it issued the appellant's May 2018 assistance in accordance with section 3 of Schedule A of the EAPWDR.

The appellant argued that she was entitled to a shelter portion for the month May 2018, however by her own admission, the appellant stated that she resided in shelters from May 8 to June 1, 2018 and that prior to May 8, 2018 she was homeless for 5 days and in the hospital for 1 day. The ministry stated that individuals who reside in shelters do not pay rent or shelter costs. At the hearing, the appellant was not able to provide evidence that she owes money for shelter expenses or was required to pay shelter costs to the shelters she resided in for the month of May 2018. The panel finds that there is no evidence that the appellant had shelter costs for May 2018 that remained unpaid at the date of the disability assistance application.

Given the evidence, the panel finds that the ministry was reasonable in its determination that the appellant is not eligible for PWD support benefits from May 2, 2018 to May 15, 2018 or shelter benefits for the month of May 2018 pursuant to section 23(1.2)(a) and (b) of the EAPWDR.

Conclusion

The panel finds that the ministry decision which found that the appellant is ineligible for PWD support benefits from May 2, 2018 pursuant to Section 23 (1.2)(a) of the EAPWDR and ineligible for a shelter allowance pursuant to Section 23(1.2)(b) of the EAPWDR was a reasonable application of the applicable legislation and a reasonable interpretation of the evidence. The panel confirms the ministry's decision and the appellant is not successful at the 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 Neena Keram	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2018/10/24

PRINT NAME Carlos Garcia	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/10/24
PRINT NAME Carla Tibbo	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/10/24