

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the "ministry") reconsideration decision dated October 4, 2018 which found that the appellant is not eligible for assistance under Section 10 of the Employment and Assistance for Persons With Disabilities Act (EAPWDA) for failing to comply with a direction to supply requested information and verification.

The ministry also found that the appellant continues to be ineligible for disability assistance pursuant to Section 28 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) because he has not fully complied with the direction since requested information remained outstanding, namely:

- Proof of income for 2015, 2016 and 2017 (income tax returns or T4's);
- Bank profiles or confirmation of no accounts at three other banks;
- Bank statements for all accounts listed on the profiles from November 19, 2017 to present; and
- Bank statements for two accounts from a specific bank from November 1, 2017 to January 31, 2018

**PART D – RELEVANT LEGISLATION**

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Section 28

Employment and Assistance for Persons With Disabilities Act (EAPWDA), Section 10

## PART E – SUMMARY OF FACTS

The evidence before the ministry at the time of the reconsideration decision included:

- A request for reconsideration (RFR) in which the appellant wrote that:
  - he had been homeless six times in the past three years;
  - he has tried to get all the information needed but it has been very difficult the past four months with all that has happened to him; and
  - he will do all he can get his identification.
- A letter dated February 16, 2018 from the ministry to the appellant which noted that a file review for the purpose of reviewing his eligibility for assistance was being conducted and instructing the appellant to submit the information indicated on the Review Checklist, which was attached, by March 5, 2018;
- A letter dated March 14, 2018 from the ministry to the appellant which noted that as he had not submitted the required information they were again requesting the required documentation by May 17, 2018;
- A letter dated May 23, 2018 from the ministry to the appellant which noted that the appellant had not yet submitted the required documentation and because his continuing eligibility could not be determined that he was therefore no longer eligible for assistance;
- A letter dated July 19, 2018 from the ministry to the appellant which noted that not all the information they had requested had been submitted and a review checklist was attached requesting more specific information regarding income tax, T-slips, loan and bank statements and vehicle registration and insurance documents;
- A letter dated August 2, 2018 from the ministry to the appellant which noted that required documentation had not been received and that if the appellant was not able to obtain tax information he could contact Service Canada to obtain them, and also that banking information was still required. The ministry noted that the appellant's file could be closed on September 7, 2018.
- A copy of a returned mail envelope, from the May 23, 2018 ministry letter, indicating that the appellant had moved;

In his notice of Appeal, the appellant attached a written statement that an advocate had typed up on his behalf. It explained that: the appellant had moved several times since May, 2018; lost everything he owned including identification around June 13; that he had been homeless at one point; that he had a number of medical conditions; and that his identification had been taken by the local police because it had expired and for which he had received a fine. A copy of a police file number was also included along with an advocacy group terms of agreement document, which was relating to the appellant receiving the group's assistance with his residential tenancy issues.

At the hearing, the appellant stated that he does want to obtain all the information that the ministry is requesting, however, because he was not able to go into a Service BC office for the past two years, he has been unable to obtain the paperwork for his birth certificate which he needs in order to obtain his other identification. The appellant stated that last month he was given the opportunity to obtain services from Service BC so he has since picked up the paperwork to request his birth certificate but has not yet sent it in as he cannot afford to pay the fee. The appellant explained that in February 2018 the police took his out-of-province driver's license as it was expired, and he received a fine. The appellant argues that he did take the photocopies of his identification that the ministry gave him to Service Canada but was told they could not provide him with any of his information using photocopied identification. He also took the photocopied identification to the banks to try to obtain confirmation from them, however they would not do anything for him as he had no identification, nor would they provide him with a letter to that effect. The appellant argues that he wrote a letter to the ministry explaining this. The appellant adds that he has brought in some bank statements to the ministry from the bank he deals with.

At the hearing, the ministry referred to the Reconsideration Decision and emphasized that the review of the appellant's file began in February 2018, with numerous letters being mailed to him with only the May 23, 2018 letter being returned. The ministry noted that they had contact with the appellant's spouse on May 29, 2018 and an extension of time was provided, as they understood that the appellant was having difficulty obtaining his identification. The ministry explained that they are requesting bank profiles from three banks that came up during an electronic review. The ministry argues that although the appellant was not able to physically go in to a Service BC office there were other ways to obtain the paperwork necessary to obtain his birth certificate, such as his

spouse or someone else could have picked up the forms for him. The ministry argues that they have given the appellant a reasonable amount of time to provide them with the information necessary to determine his current and past eligibility for assistance per section 10 EAPWDA, and because he failed to comply he is therefore not eligible for disability assistance until he provides the requested information per section 28(1) EAPWDR.

## PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether the ministry's decision, that the appellant is not eligible for assistance under Section 10 of the EAPWDA for failing to comply with a direction to supply requested information and verification, and continues to be ineligible for income assistance pursuant to Section 28 of the EAPWDR because he has not fully complied with the direction, is reasonably supported by the evidence or is a reasonable application of the applicable enactment in the appellant's circumstances.

### Section 10 of the EAPWDA provides:

#### 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.

### Section 28(1) of the EAPWDR provides:

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 applicant or recipient complies with the direction.

#### Panel Decision

Pursuant to Section 10(1)(b) and (e) of the EAPWDA, the ministry may direct a recipient of disability assistance to supply the ministry with information, within the time and in the manner specified by the ministry, for the purposes of auditing eligibility. If a recipient fails to comply with this direction, the ministry may declare the person ineligible for disability assistance until the recipient complies with the direction [Section 10(4) of the EAPWDA and Section 28 of the EAPWDR].

In the reconsideration decision, the ministry wrote that the ministry sent letters to the appellant dated February 16, 2018, March 14, 2018, and May 23, 2018. The May 23 letter was returned to the ministry, but at the hearing the

appellant confirmed that he had received the letters, other than the February 2018 one, but that many things were going on in his life at that time. The ministry stated at the hearing that additional time was afforded to the appellant due to the challenges that he experienced with obtaining ID, and another letter dated August 2, 2018 was sent by the ministry advising the appellant that, if the outstanding information, which was proof of income for 2015, 2016 and 2017, bank profiles for three banks, and bank statements from his current bank, is not received, his file will be closed on September 7, 2018. The appellant did not dispute that he received these letters nor that he was not aware of what information was being requested by the ministry, however he stated he was just not able to obtain the required information due to not having identification.

The panel notes that the appellant's file review was initiated in February 2018, with the appellant being aware that the information was required in order to continue to be eligible for disability assistance, and that the appellant knew that the lack of identification was holding him back from obtaining it. The ministry informed the appellant that it would be acceptable to them if he brought them a note from the banks, which stated they would not release information without proper identification, and a letter from Service Canada that they could not release information without proper identification. The appellant did not provide anything from these agencies to the ministry. It is the panel's opinion that although the appellant was not able to go in person to pick up the necessary paperwork to start obtaining his identification, he had other avenues available to him and sufficient time was allowed to try to get his identification. The panel finds it reasonable that the ministry allowed six months, from February to September 2018, for the appellant to submit the requested information. Therefore, the panel finds that the ministry reasonably concluded that the appellant did not provide information as directed by the ministry pursuant to Section 10 of the EAPWDA within the time specified by the ministry, which was by September 7, 2018.

Pursuant to Section 28(1) of the EAPWDR, the period for which the ministry may declare the family unit ineligible for assistance lasts until the recipient complies with the ministry's direction. The panel finds that the ministry reasonably determined that the appellant is not eligible for disability assistance, pursuant to Section 28(1) of the EAPWDR, until he complies with the direction to provide the information to the ministry.

### **Conclusion**

The panel finds that the ministry's decision was reasonably supported by the evidence, and the therefore confirms the decision. The appellant's appeal is not successful.

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**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 Janet Ward	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2018/11/01

PRINT NAME Laurie Kent	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/11/02

PRINT NAME Wendy Marten	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/11/01