

APPEAL NUMBER

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated July 2, 2019, which denied the appellant's request for a supplement to cover the cost to obtain proof of identity (ID). The ministry found that the appellant is not eligible for hardship assistance pursuant to Section 37 of the Employment and Assistance for Persons with Disability Regulation (EAPWDR) as he provided proof of identity and is eligible for disability assistance and, therefore, the provision of a supplement to cover the cost of obtaining proof of ID required for the family unit to be eligible for disability assistance, as set out in Section 53 of the EAPWDR, also does not apply to the appellant.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Sections 37, 53, and 60.11

PART E – SUMMARY OF FACTS

The appellant did not attend the hearing. After confirming that the appellant was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

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

- 1) Appellant's completed Application for Birth Certificate form; and,
- 2) Request for Reconsideration dated June 19, 2019.

In his Request for Reconsideration, the appellant wrote that he cannot pay for the birth certificate due to being in recovery and he does not have the funds.

Additional information

In his Notice of Appeal dated July 5, 2019, the appellant expressed his disagreement with the ministry reconsideration decision and wrote that he believes he is eligible to have his birth certificate paid for by the ministry because the rules have changed.

The ministry relied on the reconsideration decision, as summarized at the hearing. At the hearing, the ministry also stated:

- The ministry bases its decision on the legislation in effect at the time of reconsideration.
- There are new processes in place, but the appellant is still not eligible for the supplement.
- It is not clear why the new provisions in Section 60.11 of the EAPWDR were not considered at reconsideration.
- The appellant is not eligible for the ID supplement under Section 60.11 of the EAPWDR as he stated that he wanted his birth certificate to meet a personal goal and not for a community purpose such as applying for a driver's license or making a job application.
- The appellant was not specific about the purposes for his ID. The supplement is not meant for the appellant to simply have ID "on hand."

The panel considered that there was no additional information for which a determination of admissibility was required under Section 22(4)(b) of the *Employment and Assistance Act*.

PART F – REASONS FOR PANEL DECISION

The issue on the appeal is whether the ministry's decision, which denied the appellant's request for a supplement to cover the cost to obtain proof of ID, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the appellant's circumstances.

Section 37 of the EAPWDR provides:

Applicants who do not meet requirement for social insurance number or proof of identity

- 37 The minister may provide hardship assistance to a family unit that is not eligible for disability assistance because of the failure to provide a social insurance number or proof of identity required under section 4.1 (2) (a) (i) or 4.2 (3) (a) if
- (a) the minister considers that undue hardship will otherwise occur, and
 - (b) the minister is satisfied that the applicant is making every effort to supply the social insurance number or proof of identity.

Section 53 of the EAPWDR provides:

Supplement to obtain proof of identity

- 53 The minister may provide a supplement to or for a family unit that is eligible for hardship assistance to cover the cost of obtaining proof of the identity of a person in the family unit that is required for the family unit to be eligible for disability assistance.

Section 60.11 of the EAPWDR, which was added to Division 3 of Part 5 of the EAPWDR and was effective July 1, 2019, sets out as follows:

Supplement to obtain proof of identity

- 60.11 The minister may provide a supplement to or for a family unit that is eligible for disability assistance or for hardship assistance to cover the cost of obtaining proof of the identity of a person in the family unit that
- (a) is required for the family unit to be eligible for disability assistance, or
 - (b) in the minister's opinion, is required for a person in the family unit, or the family unit, to access services in British Columbia or for a similar purpose in British Columbia.

Panel decision

In the reconsideration decision, the ministry wrote that the appellant advised the ministry that he had lost his birth certificate and he did not have the means to pay for a new one, he was in a treatment center and trying to improve his personal situation, which included his personal goal of obtaining his birth certificate. The appellant did not dispute that he was in receipt of disability assistance at the time of his request. The ministry wrote that the appellant provided the ministry with sufficient ID in order for the ministry to determine his eligibility for disability assistance, he was in receipt of disability assistance at the time of his request and the ministry reasonably concluded that the appellant was, therefore, not eligible for hardship assistance under Section

37 of the EAPWDR.

The ministry also reasonably concluded that, as the appellant is not eligible for hardship assistance, he is also not eligible for the supplement to cover the cost of obtaining proof of ID that is required for him to be eligible for disability assistance, pursuant to Section 53 of the EAPWDR.

In his Notice of Appeal, the appellant expressed his disagreement with the ministry reconsideration decision and wrote that he believes he is eligible to have his birth certificate paid for by the ministry because the rules have changed. At the hearing, the ministry acknowledged that there were new processes in place at the time of the reconsideration decision, but argued that the appellant is still not eligible for the supplement. The ministry argued that the appellant stated to the ministry that he wanted his birth certificate to meet a personal goal and the ID was not needed for a specific community purpose such as applying for a driver's license or making a job application. The ministry stated that the supplement is not meant for the appellant to simply have ID "on hand."

Section 60.11 of the EAPWDR was effective July 1, 2019, or at the time of the reconsideration decision, and provides a supplement for a family unit that is eligible for disability assistance to cover the cost of obtaining proof of ID either as a requirement to be eligible for disability assistance or, in the ministry's opinion, to access services in B.C. or for a similar purpose in B.C. While the ministry argued at the hearing that the appellant was also not eligible for the supplement under the new provisions, the ministry did not refer to Section 60.11 of the EAPWDR in the reconsideration decision and did not consider whether the appellant required his ID to access services in B.C. or for a similar purpose and, therefore, did not afford the appellant the opportunity to respond to a decision on these criteria on the appeal to the Tribunal. The appellant was in a treatment center and trying to improve his personal situation and may have required his ID for specific community purposes. The panel finds that although the ministry reasonably concluded that the appellant was not eligible for a supplement to cover the cost to obtain proof of ID under Sections 37 and 53 of the EAPWDR, the ministry was not reasonable to omit considering his possible eligibility under Section 60.11 of the EAPWDR.

Conclusion

The panel finds that the ministry's reconsideration decision, which denied the appellant's request for a supplement to cover the cost to obtain proof of ID, was not a reasonable application of the applicable enactment in the appellant's circumstances and the panel rescinds the ministry's decision. Therefore, the appellant's appeal is successful and the panel decision is referred back to the ministry for a decision as to the amount.

APPEAL NUMBER

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

S. Walters

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019-07-25

PRINT NAME

Mel Donhauser

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019-07-25

PRINT NAME

Jean Lorenz

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019-07-25