

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (“the ministry”) decision dated August 22, 2019 which denied the appellant reconsideration of a previous ministry decision on the basis that it had no legislative jurisdiction to reconsider the decision. The denial of reconsideration related to the ministry’s July 3, 2019 decision which denied the appellant’s request for a crisis supplement for utilities. The Ministry found that the 20-business day time limit to request reconsideration expired on August 1, 2019, which was prior to the appellant’s submission of his request for reconsideration on August 12, 2019.

PART D – RELEVANT LEGISLATION

Employment and Assistance Act (EAA), section 17
Employment and Assistance Regulation (EAR), section 79

PART E – SUMMARY OF FACTS**Information before the Ministry at Reconsideration**

The information before the ministry at reconsideration included:

- appellant's request for reconsideration, summarized as follows:
 - Section 2 "Decision to be Reconsidered", which included the following information:
 - on June 25, 2019 the appellant requested a crisis supplement for utilities;
 - on July 3, 2019 a ministry worker denied the appellant's request for a crisis supplement and informed the appellant, at which time the appellant requested reconsideration of the denial decision;
 - the return date specified on the request for reconsideration form was August 1, 2019;
 - the procedure by which the appellant could request an extension of the return date.
 - Section 3 "Reason for Request for Reconsideration", which was not completed by the appellant.

Notice of Appeal

On August 28, 2019 the appellant filed a Notice of Appeal. He did not provide any reasons for disagreeing with the decision of the ministry.

At the Hearing

At the hearing the appellant confirmed that:

- on July 3, 2019 he received notice that the ministry had denied his request for a crisis supplement and he requested reconsideration of the decision;
- on July 9, 2019 he picked up the request for reconsideration form from a ministry office;
- on August 11, 2019 the utility company informed the appellant that it had approved a repayment plan;
- on August 12, 2019 he submitted his completed request for reconsideration.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is the reasonableness of the ministry's decision which denied reconsideration of a previous ministry decision on the basis that it had no legislative jurisdiction to reconsider the decision. The denial of reconsideration related to the ministry's July 3, 2019 decision which denied the appellant's request for a crisis supplement for utilities. The Ministry found that the 20-business day time limit to request reconsideration expired on August 1, 2019, which was prior to the appellant's submission of his request for reconsideration on August 12, 2019.

Relevant legislation:

EAA:**Reconsideration and appeal rights**

17 (1) Subject to section 18, a person may request the minister to reconsider any of the following decisions made under this Act:

(a) a decision that results in a refusal to provide income assistance, hardship assistance or a supplement to or for someone in the person's family unit;

EAR:**How a request to reconsider a decision is made**

79 (1) A person who wishes the minister to reconsider a decision referred to in section 17 (1) of the Act must deliver a request for reconsideration in the form specified by the minister to the ministry office where the person is applying for or receiving assistance.

(2) A request under subsection (1) must be delivered within 20 business days after the date the person is notified of the decision referred to in section 17 (1) of the Act and may be delivered by

(a) leaving it with an employee in the ministry office, or

(b) being received through the mail at that office.

The appellant argues that the reconsideration package he received was out of order, and that even though he missed the deadline allowances should be allowed by the ministry to allow for reconsideration when the time limit of 20 business days has been exceeded.

The ministry's position is that it lacks jurisdiction to reconsider the July 3, 2019 decision denying the appellant's request for a crisis supplement because the legislated 20-business day time limit lapsed on August 1, 2019.

Panel Decision

Section 79(2) EAR states that a request under subsection (1) must be delivered within 20 business days after the date the person is notified of the decision referred to in section 17 (1) of the Act and may be delivered by (a) leaving it with an employee in the ministry office, or (b) being received through the mail at that office. The evidence provided by the appellant at the hearing confirms that on July 3, 2019 he was informed of the ministry's denial of his request for a crisis supplement for utilities. The appellant also confirmed that he picked up the request for reconsideration form on July 19, 2019 and submitted the signed request for reconsideration on August 12, 2019.

Based on the information provided in the appeal record and the appellant's admission that he received notification of the ministry decision to deny his request for a crisis supplement on July 3, 2019 the panel finds that the ministry reasonably determined that the appellant was notified of the ministry decision on July 3, 2019 and that the 20-business day time limit to request reconsideration of the decision set out in EAR Section 79 (2) expired on August 1, 2019.

The panel also finds that the ministry reasonably determined that the appellant did not submit a request for

reconsideration of the ministry decision within the 20-business day time limit set out in EAR Section 79 (2) and did not seek an extension of the 20-business day time limit.

The panel further finds that the ministry reasonably determined that there is no legislative authority for the ministry to extend the statutory time period for an appellant to submit a request for reconsideration.

CONCLUSION

In conclusion the panel finds that the ministry's determination that it lacked jurisdiction to reconsider its decision of July 3, 2019 because the 20-business day legislated time limit for requesting reconsideration had expired was reasonably supported by the evidence, and confirms the decision. The appellant is not successful in his appeal.

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

Joan Bubbs

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/Sep/18

PRINT NAME

Patrick Cooper

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/Sep/18

PRINT NAME

Mel Donhauser

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/Sep/18