

APPEAL NUMBER

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration dated September 16, 2019 which held that, pursuant to section 16(1) of the Employment and Assistance for Persons With Disabilities Act and section 71 of the Employment and Assistance for Persons with Disabilities Regulation, the appellant did not deliver to the ministry office a request for reconsideration within 20 business days of the date the person is notified of a decision.

**PART D – RELEVANT LEGISLATION**

Employment and Assistance for Persons with Disabilities Act (EAPWDA) section 16

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) section 71

**PART E – SUMMARY OF FACTS**

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

1. On October 10, 2018, the appellant submitted a Monthly Nutritional Supplement application to the ministry;
2. On November 6, 2018, the ministry denied the appellant's application and notified the appellant of its decision by mail. That letter stated "you must file your request for reconsideration with your local ministry within 20 business days of receiving this letter. Please contact your local ministry office to obtain your request for reconsideration form." Enclosed with that letter was a reconsideration brochure;
3. On November 9, 2018, the appellant, by telephone, verbally requested a Request for Reconsideration of the November 6, 2018 decision;
4. On November 20, 2018, the appellant, by telephone, requested the ministry mail to the appellant a Request for Reconsideration;
5. The ministry mailed to the appellant a Request for Reconsideration that had the following dates inserted:
  - a. Month Decision Effective: November 2018;
  - b. Date Requestor Informed of Decision: Friday, November 9, 2018;
  - c. Date Requestor Must Submit Form By: Monday, December 10, 2018; and
6. The appellant signed a Notice of Request for Reconsideration and dated it August 28, 2019.

**PART F – REASONS FOR PANEL DECISION**

The issue at appeal is whether the appellant complied with the legislated timelines to request a reconsideration of the ministry's November 6, 2018 decision.

The relevant legislation is:

**EAPWDA****Reconsideration and appeal rights**

**16** (1) Subject to section 17, 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 disability assistance, hardship assistance or a supplement to or for someone in the person's family unit;

...

**EAPWDR****How a request to reconsider a decision is made**

**71** (1) A person who wishes the minister to reconsider a decision referred to in section 16 (1) [reconsideration and appeal rights] 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 16 (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's Position***

The appellant's submissions in the Notice of Appeal all addressed the reasons why they thought they were entitled to a Monthly Nutritional Supplement and the appellant did not address the application of EAPWDR Section 71.

***The Ministry's Position***

The ministry's position on appeal was the reconsideration summary which stated that "The original decision is not open to Reconsideration as you did not deliver your request for reconsideration within 20 business days of being informed of the decision.

***The Panel's Decision***

The only issue on appeal was the reasonableness of the ministry decision that the original decision was not open to reconsideration. The panel did not consider the appellant's eligibility for a Monthly Nutritional Supplement.

The panel is satisfied that the ministry decision of November 6, 2018, is a decision that comes within the scope of section 16(1)(a) of the EAPWDA. Consequently, the panel is satisfied that section 71(2) of the EAPWDR applies

and that the appellant had to deliver a request for reconsideration within 20 business days after the appellant was notified of the decision.

The panel finds that the appellant's delivery of the Notice of Request for Reconsideration on August 28, 2019 was more than 20 business days after November 9, 2018, the date the appellant was notified of the ministry's decision.

The panel finds that the ministry's reconsideration decision, which determined that the ministry decision of November 6, 2018, was not open to reconsideration was reasonably supported by the evidence and a reasonable interpretation of the relevant legislation. The panel therefore confirms the ministry's reconsideration decision and the appellant is not successful on appeal.

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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

Trevor Morley

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/Nov/14

PRINT NAME

Anil Aggarwal

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/Nov/15

PRINT NAME

Susanne Dahlin

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/Nov/17