

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction’s (“ministry”) reconsideration decision dated February 26, 2020, in which the ministry found the appellant is not eligible for assistance because the ministry did not have enough information to confirm that:

- the appellant’s net income does not exceed the rate of income assistance (“IA”) for her family size pursuant to sections 1 and 10 and Schedule A of the Employment and Assistance Regulation (“EAR”);
- the appellant’s net income does not exceed the rate of disability assistance (“DA”) under Schedule A of the Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”);
- the appellant does not have assets in excess of the limits set out in section 11 of the EAR.

The ministry found there was insufficient information to determine the actual amount of net income and value of assets.

**PART D – RELEVANT LEGISLATION**

*Employment and Assistance Act* - EAA - section 2

Employment and Assistance Regulation - EAR - sections 1, 10 11 and 28, and Schedule A [sections 2 and 4], and Schedule B [sections 1,6, and 7]

Employment and Assistance for Persons with Disabilities Regulation - EAPWDR - sections 2 and 4 of Schedule A

**PART E – SUMMARY OF FACTS**

The evidence and documentation before the minister at the reconsideration consisted of:

1. Information from the ministry's reconsideration decision stating that on January 10, 2020, the appellant was advised she was not eligible for IA. On February 5, 2020, the appellant submitted a Request for Reconsideration ("RFR"). On February 26, 2020, the minister completed the review of the RFR.

The ministry record includes the following background information:

- The appellant is a sole applicant with three dependent children.
- The appellant submitted an application for IA indicating the following income, assets, and payments:
  - Employment Insurance ("EI") benefits, \$263 per week;
  - co-owns a property with a relative and rents out the property for \$1,650 per month;
  - monthly mortgage payment, \$923.53. The property has a mortgage of \$229,579.88.
- The appellant stated in her IA application that she wants to apply for Persons with Disabilities ("PWD") designation.
- In the initial denial of the IA application, the ministry found that the appellant's net income exceeded the rate of DA for the appellant's family unit size. The ministry noted that the DA rate is \$1,649.08 per month and the appellant had ongoing rental income of \$1,650 per month that is not exempt. The ministry determined the appellant was not eligible to apply for PWD designation.
- At the reconsideration, the ministry said that the appellant may apply for PWD designation but that does not mean she is eligible to receive IA or DA because there is insufficient information to determine if the appellant's assets exceed the legislated limits, or to determine that the appellant's net income is below the ministry rates for her family size (\$1225.58 per month IA, and \$1,649.58 per month DA).
- Regarding the appellant's income and assets the ministry provides argument and also notes:
  - The appellant's banking information shows money that was e-transferred to her bank account from credit cards.
  - The ministry reviewed the appellant's EI income and determined she was in receipt of extended parental benefits of \$263 per week.
  - Information from Service Canada also showed two cheques issued on January 17, 2020 of \$410 each (EI sickness benefits).
  - There was no evidence provided, at the time of the reconsideration, of "essential operating costs" for the rental property including insurance, mortgage interest, maintenance/ repairs, property taxes, and utilities.
  - The appellant's banking information is in her name only and does not indicate a joint owner of the mortgage.
  - The *Residential Tenancy Agreement* indicates the appellant is the sole landlord.
  - The rent funds are deposited into the appellant's sole bank account.
  - The appellant provided information showing that she tried to sell the property for \$305,000. No property assessment document was provided for the address.

2. The RFR, signed by the appellant on February 5, 2020. In addition to argument, the appellant states that she co-owns a property with a relative and is unable to work and struggles with daily functioning due to a medical crisis in 2018. The appellant states that her income is well under \$100 per month as she will make \$500-\$800 actual income for the entire year based on a quick estimate of her taxes.

The appellant explains that she and the co-owner had the house listed for sale between February and June 2019 but the house did not sell. The appellant states that the co-owner covered the bills on the property while still working, but is no longer working so the appellant is now paying the bills with the rental income. The appellant states she has someone assisting her with budgeting and bill transactions because she is unable to manage these on her own due to her disabilities.

The appellant explains that she received a balance transfer from a new credit card to pay off another credit card and she e-transferred \$650 to herself. The appellant states that she felt very judged and stigmatized when she spoke to a ministry worker who asked her about any family support payments even though the appellant indicated she chose to have her children on her own.

The appellant provided the following documents with her RFR:

- A *Seller Representation Agreement* between the sellers (the agreement names the appellant and her relative as the sellers) and a real estate company dated February 18, 2019. The list price is \$305,000. The agreement begins on February 19, 2019 and ends on June 19, 2019.
- A letter from the appellant's doctor dated August 14, 2018, describing the appellant's medical condition and resulting disability.
- The appellant's *Credit Card Account Statement* dated October 29, 2019, showing balance transfers of \$3,900 including an e-transfer debit of \$650 with a note, "Memo Me."

3. The appellant's *Application for Assistance (Part 2)* dated December 18, 2019. The appellant states that she is going to apply for PWD and she would like to speak to the ministry to clarify some of the questions on the form. The appellant checked that she received EI benefits within the last 60 days. The appellant declares the following income/ assets:

- rental income, \$1,650 per month;
- EI benefits (maternity), \$1,052 per month;
- bank account balance, \$0.00;
- co-owns a property with a relative, value \$50,000.

4. A bank account statement ("Bank A") dated December 13, 2019 in the appellant's name, indicating a chequing account with a balance of \$125.35, a savings account with a balance of \$4.65, and a mortgage account with a net balance of \$229,449.84.

5. A *Bank Profile and Consent* signed by the appellant on December 13, 2019, listing account details for the most recent 60 day period. The appellant lists the chequing, savings, and mortgage accounts at Bank A, and a credit card with a value of \$0.00.

6. An *Account Activity - Historical Details* statement for November 2019, for the appellant's chequing account at Bank A. The statement lists debits and credits from November 1-29, 2019. The debits include:

- mortgage payment, \$995.53;
- "ICE" payments, \$200, and \$120.17;
- insurance payment, \$149.53;
- payment to a security company, \$78.74, and
- payment to a service contractor, \$101.85.

[panel note: The appellant explained at the hearing that "ICE" are utility payments for the rental property; the insurance payment is for home insurance; the security company payment is for a home alarm system, and the payment to the service contractor is for the water heater]

The credits shown on the Account activity statement include:

- e-transfer, \$650 [the transfer from the appellant's credit card] on November 13, 2019, and
- e-transfer, \$1,650 [the rental income for the property] on November 26, 2019.

7. A 2-page *Account Summary* dated December 11, 2019, for a chequing account in the appellant's name ("Bank B") showing withdrawals and deposits between November 12 and December 10, 2019. The withdrawals include bill payments for the appellant's current residence. The deposits include:

- EI credit: \$526 on November 19, 2019;
- EI credit, \$526 on December 3, 2019;
- A \$400 transfer from the appellant's credit card on December 4, 2019.

8. A spreadsheet showing EI (maternity/parental) entitlements:
  - EI benefit, \$263 per week for October 27 to November 30, 2019.
9. *Account Details* for the appellant's mortgage (undated):
  - current balance, \$229,847.59;
  - monthly payment, \$995.53, consisting of \$923.53 "principal + interest" and \$72 per month mortgage insurance.
10. A *Residential Tenancy Agreement* beginning on July 1, 2017 [no end date is specified], naming the appellant as the landlord. The rent is \$1,650 per month payable to the appellant by e-transfer.
11. A bank statement for the appellant's chequing account at Bank B dated November 11, 2019, showing withdrawals and deposits between October 25 and November 10, 2019:
  - The withdrawals include bill payments for the appellant's current residence.
  - The deposits include an e-transfer of \$540 from the appellant's credit card on October 30, 2019, and an EI credit of \$520 on November 5, 2019.
12. An *Excess Income - EI Common Claimants Report* dated January 22, 2020, showing the benefit commencement date May 20, 2018, and "last renewable week" February 23, 2020. The report shows two EI cheques of \$410 in January 2020 under code 05, and weekly cheques of \$263 from May 31, 2018 to December 27, 2019 under code 02.

[panel note: The ministry indicates that code 05 is for EI sickness benefits and code 02 is for EI parental benefits]

#### *Additional information*

Subsequent to the reconsideration decision the appellant filed a *Notice of Appeal* with a hand-written statement that the panel accepts as argument. Prior to the hearing, the appellant filed a package of new documents received by the Tribunal on April 17, 2020. The appellant's new evidence consists of the following:

1. An email from the appellant dated April 16, 2020, with attached copy of an annual mortgage statement for the period December 31, 2018 to December 31, 2019. The statement contains the following information:
  - The appellant and her relative are named as the borrowers.
  - The outstanding principal as of December 31, 2019 was \$229,579.88 with a total monthly payment of \$995.53 per month consisting of principal and interest.
  - The principal amount paid in 2019 was \$2,876.89, and the interest paid in 2019 was \$8,205.47 [\$683.75 per month].
  - The payment for mortgage insurance in 2019 ("credit protection premiums") was \$864 [\$72 per month].
2. An email from the appellant dated April 16, 2020, with an attached 14 page market evaluation by a real estate company showing the value of the appellant's property as compared with similar properties that sold in the area. The evaluation includes an email from the real estate company dated March 1, 2020 that states the current list price for the appellant's property is \$285,000.
3. An email from the appellant dated April 16, 2020, stating that her relative "has now taken over the rental stuff" and sends the appellant \$1,350 per month (since January 2020) to cover the bills for the property. The email states that the appellant is providing a screenshot of her bank statement that shows utilities and insurance costs. The email states that the mortgage document she submitted on appeal shows that both the appellant and her relative are the borrowers on the mortgage and the document also shows how much is paid each year in interest. The email provides information about the property tax:
  - The property tax payment is \$2,476.15 per year or \$206.35 per month.

4. A screenshot of the appellant's bank statement showing account history from March 16-April 3, 2020 including the following bill payments for the rental property:

- security company, \$78.74 [home alarm system];
- insurance company, \$149.53 [home insurance];
- mortgage payment, \$995.53;
- service contractor, \$101.85 [water heater].

The statement also shows an e-transfer to the appellant for \$1,350 [money from the co-owner to pay the bills for the house].

5. An email from the appellant dated April 16, 2020, stating that the property taxes were paid for the year on June 28, 2019 for the amount of \$2,476.15.

6. An *Account Activity* statement for the appellant's chequing account at Bank A dated April 17, 2020, showing transactions on June 28, 2019 including a payment of \$2,476.15 for taxes [the appellant explained that this is property tax].

#### *Admissibility of new information*

The ministry did not raise any objections to the panel admitting the appellant's emails and documents into evidence but noted that the reconsideration decision was based on the information the ministry had at the time. The panel admits the new information under section 22(4) of the *Employment and Assistance Act* ("EAA") as evidence that is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

The documents include information on the value of the appellant's rental property; the co-ownership of the property and collection of rent; the amount of mortgage interest paid, and the monthly/annual expenses. The panel finds that all of this information is relevant because it addresses the ministry's finding that there was not enough evidence regarding the appellant's income and assets to confirm her eligibility for assistance.

The ministry relied on the reconsideration record and did not submit any new documentary evidence. However, both parties provided additional evidence as well as argument in their oral submissions.

#### *Oral submissions*

##### Appellant

The appellant testified she was not asked to provide "specific financial information" regarding the value of the property or any of the house expenses. The appellant also said the ministry did not explain which "essential operating costs" were permitted. In response to questions from the panel, the appellant testified that when she filled out the online application for IA she was honest in declaring the rental income and all of her financial circumstances. The appellant explained that a box came up on the screen that said "this may affect your eligibility." The appellant stated that she was asked to provide two months of bank statements but she was not asked for documents for the rental property or for copies of any of the bills.

The appellant explained that her name was added to the mortgage "to get the best mortgage rate" and she co-owns the property with her relative with both of their names on the title. The appellant explained that her relative is now taking care of the rental because it was too stressful for the appellant to handle. The appellant explained that the relative collects the rent but e-transfers \$1,350 per month of the rental income to the appellant who still pays the bills for the house. The appellant explained that she takes care of the bills because her relative is no longer working and lives far away from the bank that holds the mortgage.

In response to questions from the panel about the bill payments, the appellant explained that all of the rental income goes into her chequing account at Bank A and all of the bills are paid from the rental income including the mortgage interest [as well as the principal on the mortgage], home insurance, utilities, and maintenance. The appellant explained that her chequing account at Bank B is for her current living expenses, not related to the rental property.

The appellant testified that she does not make any money from the rental property because all of the rent goes toward the bills for the house. When the house did not sell last year there was a rental loss because the previous tenants left outstanding utility bills that were sent to Collections and the appellant had to pay them in the end.

When asked which debits on her bank statements were for specific house expenses, the appellant identified which bill payments were for home insurance, utilities, the water heater, etc. The appellant confirmed that the interest portion of the mortgage payment is \$683.79 per month.

In response to questions from the panel, the appellant stated that the ministry has never assessed whether she meets the medical requirements for PWD. The ministry did not ask for any medical reports; the appellant provided the letter from her doctor on her own accord to show the ministry what her circumstances are and how much she is struggling and needs help. The appellant confirmed that she was told to apply for regular IA first and was never given a PWD application.

The appellant explained that when she spoke with the ministry worker on the phone, the worker was "judgy"; only focused on the appellant's income and assets; and "didn't [care] about what I was going through." The appellant testified that the worker did not explain which of the house expenses the appellant could "write off" and rudely told the appellant that "the ministry is not going to pay for your mortgage."

In response to a question about her EI benefits, the appellant testified that her EI claim ended on February 15, 2020 and she received the \$410 sickness benefit "a couple of times only" and not realized at the time of her IA application in December 2019 that she qualified for the two sickness payments (which she received in January 2020). In a discussion with the ministry at the hearing, the appellant explained that she was trying to be pro-active and apply for IA before her EI claim ended because she knew that the parental benefit was not going to continue forever.

The appellant asked the ministry why her EI was taken into consideration when the ministry could see from the Service Canada report that the EI claim was about to end. The appellant wanted to know why the ministry "would not just tell me to wait longer to apply for assistance?" The ministry explained that information sharing between the ministry and Service Canada "does not take into account any new EI applications or information" and only shows the current benefit. The ministry said it "cannot use the claim end date as a guarantee" that other claims have not been filed; for example, an EI claim for compassionate care of a child.

### Ministry

The ministry explained the application process for assistance stating that a PWD application is a two-step process. First, the person has to first apply for regular IA to see if they are financially eligible for assistance. If they meet the financial criteria, the minister then releases the PWD booklet and application form which asks for medical reports. Once completed, the PWD application is submitted to the Health Assistance Branch to determine if the applicant meets the medical requirements for PWD designation. The ministry explained that the appellant was not given a PWD application because the ministry did not have enough information to show that she met the financial eligibility requirement.

The ministry explained that it looked at the information it had at the time of the reconsideration. The ministry saw that the appellant had EI sickness benefits based on the information sharing report from Service Canada, which are deducted dollar for dollar as unearned income from the family's rate of assistance. The ministry then looked at the rental income to determine if there are any deductions for essential operating costs. The ministry explained that it cannot rely on the applicant's bank statements to confirm the expenses for the rental property. The ministry said it needs confirmation of expenses from the insurance company, a copy of the property tax assessment, utility bills, etc. to show what the costs are.

The ministry noted that the appellant's application was a "complicated intake" with money going in and out of the appellant's account without a detailed description for all of the transactions. The ministry explained that the questions about family support payments are not intended to judge the applicant but to get information on any other sources of income. The ministry requires workers to confirm verbally, by phone, the information on the application form. The ministry apologized for the appellant feeling judged and gave her the contact to speak with a ministry supervisor.

The ministry said she does not know what happened during the application process but when the worker calls the applicant to go over the application, the applicant should be told what they need to provide. The ministry said that the worker "should have been very clear on what was needed." The ministry apologized to the appellant for the apparent miscommunication.

Regarding the permitted expenses for the rental property, the panel asked the ministry about the statements in the reconsideration decision that say:

*Essential operating costs to be deducted from gross rental income from self-contained suites may include...mortgage interest...It is important to note the essential operating costs do not include mortgage payments. Therefore, the ministry finds the amount of your rental income that goes toward the mortgage payment (\$923.53) is not exempt from your gross rental income.*

The panel wanted to know if the reconsideration officer assumed that all of the monthly mortgage payment was going toward the principal even though a portion of the payment would be for interest.

The ministry replied that it had no information on what portion of the monthly payment was going toward the principal versus the interest. The bank records provided at the time of the reconsideration only showed that the mortgage payment was \$923.53 per month. The ministry conceded that it assumed the entire payment was going toward the principal. The ministry acknowledged that it did not consider that a portion of the monthly payment could be deducted as mortgage interest, an "essential operating cost" for the rental property.

#### *Admissibility of oral testimony*

Aside from argument, neither party raised any objections to the other's information. The appellant provided additional evidence about specific house expenses; an update on her EI claim; and the process she went through with the ministry in applying for IA. The ministry explained the application process for IA versus PWD; in particular the financial eligibility test including what type of documents the ministry needs in order to verify rental property expenses/ essential operating costs.

All of the testimony speaks to the ministry's process for determining there was insufficient information to confirm the appellant's eligibility for assistance. The testimony also includes additional information on the house expenses and an update on the appellant's current circumstances. The oral testimony is therefore relevant to whether there is enough financial evidence to determine if the appellant is eligible for assistance. The panel admits all of the testimony under section 22(4) of the EAA as evidence that is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

**PART F – REASONS FOR PANEL DECISION**

The issue on appeal is whether the ministry's determination that the appellant is not eligible for assistance because of insufficient information to determine her income and assets, is reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the appellant. The ministry found the appellant is not eligible for assistance because the ministry did not have enough information to confirm that:

- the appellant's net income does not exceed the rate of IA for her family size pursuant to sections 1 and 10 and Schedule A of the EAR;
- the appellant's net income does not exceed the rate of DA under Schedule A of the EAPWDR;
- the appellant does not have assets in excess of the limits set out in section 11 of the EAR.

The ministry based the reconsideration decision on the following legislation:

**EAA****Eligibility of family unit**

**2** For the purposes of this Act, a family unit is eligible, in relation to income assistance, hardship assistance or a supplement, if

- (a)** each person in the family unit on whose account the income assistance, hardship assistance or supplement is provided satisfies the initial and continuing conditions of eligibility established under this Act, and
- (b)** the family unit has not been declared ineligible for the income assistance, hardship assistance or supplement under this Act.

**EAR****Definitions**

**1(1)** In this regulation: "asset" means

- (a)** equity in any real or personal property that can be converted to cash,
- (b)** a beneficial interest in real or personal property held in trust, or
- (c)** cash assets;

"cash assets" in relation to a person, means

- (a)** money in the possession of the person or the person's dependant,
- (b)** money standing to the credit of the person or the dependant with
  - (i)** a savings institution, or
  - (ii)** a third party

that must pay it to the person or the dependant on demand,



"unearned income" means any income that is not earned income, and includes, without limitation, money or value received from any of the following:

- (g) employment insurance;
- (n) rental of land, self-contained suites or other property except the place of residence of an applicant or recipient;

#### Limits on income

**10 (1)** For the purposes of the Act and this regulation, "income", in relation to a family unit, includes an amount garnished, attached, seized, deducted or set off from the income of an applicant, a recipient or a dependant.

**(2)** A family unit is not eligible for income assistance if the net income of the family unit determined under Schedule B equals or exceeds the amount of income assistance determined under Schedule A for a family unit matching that family unit.

#### Asset limits

**11 (1)** The following assets are exempt for the purposes of subsections (2) and (2.1):

- (d) money received or to be received from a mortgage on, or an agreement for sale of, the family unit's previous place of residence if the money is
  - (i) applied to the amount owing on the family unit's current place of residence, or
  - (ii) used to pay rent for the family unit's current place of residence;
- (e) a Canada child tax benefit;
- (e.1) a Canada child benefit;

**(2)** A family unit is not eligible for income assistance if any of the following apply:

- (b) subject to paragraph (c), an applicant or a recipient has one or more dependants and the family unit has assets with a total value of more than \$10 000;

**(2.1)** Despite subsection (2), a family unit that includes an applicant or a recipient who has applied for and has not been denied, or who the minister is satisfied has a genuine intention to apply for, designation as a person with disabilities under section 2 of the *Employment and Assistance for Persons with Disabilities Act* may receive income assistance, subject to all other eligibility criteria, if the family unit has assets with a total value of no more than

(a) in the case of a family unit that includes one applicant or recipient who has applied for and has not been denied, or who the minister is satisfied has a genuine intention to apply for, designation as a person with disabilities, \$100 000,

**Amount of income assistance**

**28** Income assistance may be provided to or for a family unit, for a calendar month, in an amount that is not more than

- (a) the amount determined under Schedule A, minus
- (b) the family unit's net income determined under Schedule B.

**Schedule A**

**Income Assistance Rates**

**(section 28 (a) )**

**Monthly support allowance**

**2 (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,

Item	Family unit composition	Age or status of applicant or recipient	Amount of support
4	Sole applicant/recipient and one or more dependent children	Applicant/recipient is under 65 years of age	\$525.58

**Monthly shelter allowance**

**4 (2)** The monthly shelter allowance for a family unit to which section 15(2) of the Act does not apply is the smaller of

- (a) the family unit's actual shelter costs, and
- (b) the maximum set out in the following table for the applicable family size:

Item	Family Unit Size	Maximum Monthly Shelter
4	4 persons	\$700

**Schedule B**

**Net Income Calculation (section 28 (b) )**

**Deduction and exemption rules**

1 When calculating the net income of a family unit for the purposes of section 28 (b) [*amount of income assistance*] of this regulation,

**(d)** all unearned income must be included, except the deductions permitted under section 6 and any income exempted under sections 7 and 8 of this Schedule.

**Deductions from unearned income**

6 The only deductions permitted from unearned income are the following:

**(a)** any income tax deducted at source from employment insurance benefits;

**(b)** essential operating costs of renting self-contained suites.

**Exemptions - unearned income**

7 **(1)** The following unearned income is exempt:

**(g)** a benefit paid under section 22, 23 or 23.2 of the *Employment Insurance Act* (Canada) to any person in the family unit.

[panel note: The section 22, 23 and 23.2 benefits include maternity, parental or caring for a critically ill child]

**EAPWDR**

**Schedule A**

**Disability Assistance Rates**

**(section 24 (a) )**

**Monthly support allowance**

2 **(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,

Item	Column 1 Family unit composition	Column 2 Age or status of applicant or recipient	Column 3 Amount (\$)
2	Sole applicant/recipient and one or more dependent children	Applicant/recipient is a person with disabilities	\$949.08

**Monthly shelter allowance**

4 (2) The monthly shelter allowance for a family unit to which section 14.2 of the Act does not apply is the smaller of

(a) the family unit's actual shelter costs, and

(b) the maximum set out in the following table for the applicable family size:

Item	Column 1 Family Unit Size	Column 2 Maximum Monthly Shelter
4	4 persons	\$700

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**Analysis**

*Arguments*

*Ministry*

The ministry's position is that it did not have enough information about the appellant's income and assets at the time of the reconsideration to confirm that the appellant's net income does not exceed the rate of IA or DA for her family size. The ministry argues there was also not enough information to show that the appellant does not have assets in excess of the limits set out in the legislation. Specifically, the ministry found there was insufficient information regarding the appellant's rental income, EI income, and the value of her assets to determine whether these are below the legislated rates/limits to be eligible for assistance.

Regarding assets, the ministry argues that the money e-transferred to the appellant's bank account from her credit cards (\$650) meets the definition of "cash assets" under section 1 of the EAR. The ministry states that it must consider cash assets when determining the total value of the appellant's assets. Regarding the asset limits, the ministry notes that section 11(2) of the Regulation sets an asset limit of \$10,000 for IA applicants. The ministry notes that section 11(2.1) of the Regulation allows a higher asset limit of \$100,000 "if the minister is satisfied an applicant has a genuine intention to apply for designation as a person with disabilities."

The ministry said that it was satisfied the appellant had a genuine intention to apply for PWD but argues there was insufficient information to determine that the appellant's equity in the rental property does not exceed \$100,000. The ministry notes in the reconsideration decision that the appellant tried to sell the property for \$305,000 and had not provided a property assessment.

Regarding the appellant's net income, the ministry was satisfied the appellant's EI benefits (parental benefits of \$263 per week) were exempt from the calculation of net income pursuant to subsection 7(1)(g) of EAR Schedule B which exempts certain types of EI benefits including maternity, parental, and compassionate care benefits. The ministry argued that it needed further information about the appellant's sickness benefits (two payments of \$410 each) because EI sickness benefits are not exempt from the net income calculation. At the hearing, the ministry argued it could not rely on the claim end date on the Service Canada report because Service Canada does not provide the ministry with information about any future EI applications or entitlements to benefits.

In addition, the ministry argues there was insufficient information regarding the appellant's rental income. The ministry notes that money received from a rental property is considered "unearned income" under the Regulation and the *Residential Tenancy Agreement* and appellant's bank statements indicate the appellant was receiving \$1,650 per month for the rental property. The ministry explains that an applicant is not eligible for IA or DA if their net income as determined under Schedule B of the applicable Regulation equals or exceeds the rate of assistance determined under Schedule A for the corresponding family unit size. The ministry notes that the rates for the appellant are \$1,225.58 per month for IA, and \$1,649.58 per month for DA.

The ministry argues that a co-owner of the property could not be confirmed because the appellant was listed as the sole landlord on the tenancy agreement and the banking information she provided with her IA application showed accounts in the appellant's name only. The ministry argues "there is no evidence to support that the rental income you receive is not yours alone" and the ministry cannot consider the rental income "to be shared" with the appellant's relative.

Regarding permitted deductions from rental income, the ministry argues there was insufficient information about "essential operating costs" (under section 6 of EAR Schedule B). The ministry notes that operating costs that may be deducted from rental income include among other things, home insurance, property tax, and utilities. At the hearing, the ministry argued it could not rely on the appellant's bank statements to confirm the operating expenses. The ministry said it requires copies of insurance documentation, the property tax assessment, utility bills, etc. The ministry acknowledged that the specific requirements should be clearly communicated to the applicant, especially with a "complicated intake" process involving various sources of income and assets.

Regarding a permitted deduction for mortgage interest, the ministry argues in the reconsideration decision that the entire amount of the monthly mortgage payment (\$923.53) is not exempt from the appellant's gross rental income because essential operating costs "do not include mortgage payments." The ministry conceded at the hearing that the portion of the mortgage payment that goes to interest can be deducted from the rental income as an operating cost. The ministry argued it did not have information at the reconsideration to indicate which portion of the \$923.53 was interest versus principal.

#### *Appellant*

In her *Notice of Appeal*, the appellant disagrees with the reconsideration decision because the ministry "failed to ask for all relevant information which I have." The appellant notes that she has now provided documents to confirm the "co-mortgage" with her relative; the value of the house, and all of the deductions for operating expenses.

In her RFR, the appellant expresses that the reconsideration decision was "wrong, biased and unfair." The appellant says that the ministry did not consider or care that before the appellant became disabled she had a "normal and functional life" with a stable job, minimal consumer debt, and she also co-owns a rental property with her relative.

The appellant writes that she is "stunned" that rental income deductions are not allowed when she definitely does not pocket the rent for the house. The appellant argues she will make between \$500 and \$800 in actual income for the entire year based on a quick estimate of her taxes, well under \$100 per month.

The appellant wonders what the difference is between rental payments coming directly to her bank account, versus her relative sending her money to pay the bills for the property. The appellant argues that the e-transfer to herself from her credit card is not income and the ministry judged and marginalized her when they asked about any family support payments when she indicated she had her children on her own. The appellant writes that it is hard to understand “how I am going to be homeless with my three children based on this denial.”

At the hearing, the appellant elaborated on her arguments stating the ministry’s decision was “really rushed in the beginning.” The appellant maintains she was not asked to provide specific information about the co-ownership and bills for the rental property. The appellant argues that the ministry “judged” her and “talked down” to her even though the appellant was completely honest and upfront about her income and assets.

The appellant emphasized that her income is not \$1,650 per month from the rental property because most of the rent goes toward paying the bills for the house. The appellant argues that the ministry’s decision “does not make logical sense” and the appellant “would have provided specific financial information but was not asked for it.” The appellant submits “it was just dismissed” with the worker’s “rude” comment that “the ministry is not going to pay your mortgage.” The appellant also expressed that she feels penalized for being pro-active in applying for IA near the end date for her EI claim.

### ***Panel’s decision***

The panel notes that the reconsideration decision did not find that the appellant is ineligible for assistance because she has excess earnings or assets per se. While the decision states that the appellant is not eligible for IA “because there is insufficient information to determine your net income does not exceed the ministry’s rate of assistance”, it also states that the appellant is ineligible for assistance because there was “insufficient information regarding your rental income, your EI income, and the value of your assets” to determine eligibility for assistance at this time. The ministry therefore indicates it did not have enough information to determine the appellant’s actual net income and true value of her assets, to assess whether they were above the rates/limits set out in the legislation.

Under section 24(1) of the EAA, the panel’s authority is to decide whether the reconsideration decision was reasonably supported by the evidence, or a reasonable application of the applicable enactment in the circumstances of the person appealing the decision. Under the EAA, the panel must base its decision on all evidence that is reasonably required for a full and fair disclosure of all matters related to the reconsideration decision.

The panel has considered the information in its entirety including the reconsideration record and additional submissions on appeal. The panel finds that the ministry’s conclusion that the appellant is not eligible for assistance due to insufficient information to confirm her net income and assets is not reasonably supported by the new information admitted as evidence on appeal. The ministry found the appellant was not eligible for IA or DA due to “insufficient information” about her EI benefits; the rental income and operating costs for the property, and the co-ownership and value of the home. The panel finds that the reconsideration decision is not reasonably supported by the evidence available to the panel on each of these issues:

### **Income**

#### *EI benefits*

The panel’s IA application and bank statements, and the spreadsheet showing EI parental benefits of \$263 per week were before the minister at the reconsideration. They indicate the appellant received EI parental benefits of \$263 per week (\$1,052 per month) up until December 2019. The ministry was satisfied that EI parental benefits are exempt from the calculation of net income and subsection 7(1)(g) of EAR Schedule B confirms that maternity and parental benefits are exempt.

The information sharing report from Service Canada shows the parental benefits as well as two further payments for EI sickness benefits in January 2020 (\$410 each). The report indicates a claim end date of February 23, 2020. The appellant testified at the hearing that she did not provide this report to the ministry and the ministry confirmed it got the report from Service Canada.

The ministry notes that EI sickness benefits are not exempt from the calculation of net income under EAR Schedule B. Based on the information obtained from Service Canada showing the two EI sickness payments, the ministry was not satisfied that the appellant's sickness claim had ended. At the hearing, the ministry argued it cannot rely on the "last renewable week" date indicated on the Service Canada report to confirm there are no future entitlements for EI sickness benefits or any other open applications.

The appellant acknowledges she has the onus to provide information in support of her IA application. The appellant argues she provided all the information the ministry asked for. The appellant consistently states in all of her submissions that the ministry did not specify what additional information/documents were required.

The evidence before the ministry at the reconsideration includes the IA application dated December 18, 2019 in which the appellant checked the box to indicate she was receiving EI parental benefits. The application form (copied in the record) provides boxes to indicate various types of EI benefits but does not ask for the claim end date or any supporting information except bank statements. The appellant said she was asked to provide two months of banking information with her IA application which she did. The appellant's account statements and *Bank Profile* confirm transactions and account balances up until December 13, 2019. The bank statements show that exempt parental benefits were the only EI benefits the appellant had when she applied for IA.

The ministry became aware that the appellant had received two EI sickness payments in January 2020 when it obtained the report from Service Canada. The ministry tells the appellant in the reconsideration decision that "further information is required on your current EI claim status" but the ministry does not specify what the "further information" should consist of. The appellant appeals the decision and submits her bank statement up until April 3, 2020 which shows withdrawals and deposits but no further EI benefits subsequent to the two sickness payments.

It does not appear from the available evidence that the ministry asked the appellant or Service Canada for more information on the EI end date or for any EI documents such as the appellant's EI applications or copies of entitlement letters to confirm there were no other benefits. The ministry was aware from the Service Canada report that the end date specified in the report was close to the date of the IA application.

The ministry indicates in the reconsideration decision (and at the hearing) that the ministry obtains EI information directly from Service Canada. The ministry explained at the hearing, but not in the reconsideration decision, that the information from Service Canada does not capture any subsequent EI benefits. The ministry asked for EI information through tick boxes on the application form and the appellant was required to verify her income by submitting her bank statements.

The appellant testified she received no further sickness benefits and no EI benefits of any type since her claim ended on February 15, 2020. The panel has considered the "last renewable week" (February 2020) indicated on the Service Canada report; the appellant's testimony that her EI benefits ended in February; that no EI benefits are shown on the appellant's most recent bank statement (April 2020), and the evidence that the appellant applied for IA because her EI was about to end. Based on the evidence in its entirety, the panel finds as fact that the appellant no longer has unearned income from EI.

Given that the appellant currently has no non-exempt EI benefits, the panel determines that the ministry's decision that the appellant is ineligible for assistance based on her net income from EI (combined with her other income) is not reasonably supported by the evidence. Based on the new information that was admitted as evidence, the panel finds that the reconsideration decision is not reasonable because there is now enough EI information for the ministry to determine that the appellant's current benefits (\$0.00 per month) are below the assistance rates for her family size.

*Rental income**Deduction for essential operating costs*

The ministry found that the appellant had rent income of \$1,650 per month which is above the assistance rates for her family size. The ministry acknowledges that while the rent itself is non-exempt as unearned income under the legislation, a number of deductions are allowed including bill payments for insurance, maintenance expenses, property taxes and utilities.

The ministry argues the appellant did not provide enough information about the house expenses/ operating costs to confirm the allowable deductions from the rent income. The ministry concluded there was insufficient information to determine that the entire payment of \$1,650 per month was not going to the appellant as unearned income.

The appellant acknowledges that the \$1,650 deposits were the rent from the house. The appellant argues that her bank statements (which were before the minister at the reconsideration) show the bills for the house. The appellant maintains that she was unclear on what bills could be "written off" because the ministry did not explain which "essential operating costs" can be deducted from the rent.

The bank statements show the \$1,650 per month rental income as well as various bill payments including payments to an insurance company and a service contractor. It does not appear from the available evidence that the ministry asked the appellant for more information about these bill payments even though the bank statements show payments for apparent operating costs as well as a mortgage. The ministry testified at the hearing that specific requirements including the need to provide copies of bills, home insurance and other documents should be communicated to applicants when the ministry worker calls to discuss the application. The ministry has not provided a phone record/ file note to show that copies of bills, insurance policies or other information on allowable deductions was requested.

There is also no indication that the appellant asked follow-up questions as to what were the essential operating costs. The appellant wrote in the IA application that she is struggling and "unclear" on some of the information requirements. The appellant indicated in her IA application that she has rental income and she submitted two months of bank statements as requested. The appellant confirmed in her RFR submission that she was paying the bills for the house. The appellant testified on appeal that she provided all the information the ministry asked for and would have provided more information if the ministry had requested it.

Based on the appellant's submissions in their totality, the panel accepts that the appellant was asked to provide bank statements, and no other documents regarding the operating expenses for the house. Unfortunately, the appellant did not clearly specify that the insurance payment and other bill payments on her bank statements were for operating costs and the record does not show that the ministry explained that copies of the actual bills were required.

The appellant provided additional bank statements on appeal and specifically identified which line items are for the various house expenses. The panel admitted the appellant's evidence and the ministry had no objection to it. The bank statements in the reconsideration record, combined with the appellant's additional evidence on appeal, show the following operating expenses for the house with monthly payments indicated in **bold font** (the panel addresses the mortgage payments under a separate heading):

- **property tax, \$206.35 per month;**
- **home alarm system, \$78.74 per month;**
- home insurance, \$149.53 [this payment is shown on both the November 2019 and March 2020 bank statements];
- water heater, \$101.85 [this payment is shown on both the November 2019 and March 2020 bank statements];
- utilities, \$320.17 [comprised of two "ICE" payments on the November 2019 bank statements].



The home insurance and water heater are not shown as a monthly amount but two payments over the course of a year are shown on the bank statements for both expenses. The November and March bank statements indicate payments for home insurance in two installments of \$149.53 over the course of a year. This works out to a payment of **\$24.92 per month for home insurance**  $[(149.53 + 149.53) / 12]$ . The water heater bill was also paid in two installments during the year, which works out to **\$16.98 per month for the water heater**  $[\$101.85 + \$101.85) / 12]$ .

In summary, the expenses that are captured with a monthly payment are the property tax, security system, insurance, and water heater, for a total of **\$326.99 per month for house expenses**  $(\$206.35 + \$78.74 + \$24.92 + \$16.98)$ . The utility payments shown on the bank statements are not monthly payments and the appellant explained that she had to pay the arrears left by the previous tenant. The *Residential Tenancy Agreement* indicates that electricity is not included in the rent so there is no current deduction from the rental income for the "ICE" utilities.

The ministry confirmed that property tax, home security and insurance, and the cost for the water heater are expenses that can be deducted from the rent as "essential operating costs" under subsection 6(b) of EAR Schedule B. These expenses total \$326.99 per month. The panel has considered the allowable deduction of \$326.99 per month from rental income of \$1,650 per month. That leaves rental income of \$1,323.01 without further deductions for mortgage related expenses (addressed in the next section).

Based on all of the evidence for specific operating costs (the bills for the house) including the new information on appeal, the panel finds that the ministry's determination that there was insufficient information about actual rental income is not reasonable based on the evidence which indicates a deduction of \$326.99 per month from the rent income.

#### *Deduction for mortgage related costs*

The ministry states in the reconsideration decision that "insurance" and "mortgage interest" can be deducted from rental income as "essential operating costs." The ministry states that the operating costs do not include "mortgage payments." At the hearing, the ministry conceded that the mortgage payment is comprised of both principal and interest components but the ministry assumed that the whole payment of \$995.53 per month was for the principal which cannot be deducted.

The appellant testified that the worker did not ask for any further information but stated that "the ministry is not going to pay your mortgage." The ministry record contains no letter to the appellant, or phone record/ file note indicating the ministry asked for additional mortgage information. The ministry says that the mortgage information (provided at the reconsideration) did not give a breakdown of principal versus interest but the panel notes that the appellant provided *Account Details* for the mortgage. This record states the monthly payment of \$923.53 is for "principal + interest." It also indicates a monthly payment of \$72 per month for "mortgage interest."

The *Account Details* statement was before the minister at the reconsideration. While it does not give a breakdown of principal versus interest, the words "principal + interest" should reasonably alert the ministry to make a further inquiry especially when the ministry acknowledges that the appellant's application for assistance involved a "complicated intake."

Based on the information before the minister at the reconsideration and the additional information on appeal, the panel finds it was not reasonable for the ministry to conclude that the whole payment of \$995.53 was for principal and that a portion of it could not be deducted as an essential operating cost. Based on the new evidence showing the breakdown for principal and interest, the panel finds that the ministry's determination that the full amount of the mortgage payment was not exempt as an operating cost is not reasonably supported by the evidence.

The panel explains the amount of the exemption for interest as follows:

The appellant's additional evidence (annual mortgage statement for December 31, 2018 to December 31, 2019) shows that the principal amount paid in 2019 was \$2,876.89 and the interest paid in 2019 was \$8,205.47 (**interest payment of \$683.75 per month**). The statement also confirms mortgage insurance of \$864 for the year (**mortgage insurance of \$72 per month**). Based on the new information that has a breakdown for mortgage interest and a separate payment for insurance, the appellant would have a deduction from the monthly rental income under subsection 6(b) of EAR Schedule B, of \$683.75 per month for mortgage interest and \$72 per month for insurance.

When the monthly house expenses (\$326.99) are combined with deductions of \$683.75 per month for mortgage interest and \$72 per month for mortgage insurance, the **total deduction for essential operating costs is \$1,082.74 per month** (\$326.99 + \$683.75 + \$72). This leaves the appellant with **rental income of \$567.26 per month** (\$1,650 - \$1,082.74) assuming that the entire rent payment is hers.

The panel has considered the rent payment with deductions for essential operating costs, combined with the current EI benefits of \$0.00 and finds that the appellant has net **unearned income of \$567.26 per month** for the rental property based on the new evidence. This is below both the IA and DA rates for her family size. The panel acknowledges that the appellant's may be entitled to only half of the rental income as a co-owner of the property (**appellant's share of the rental income, \$283.63 per month**).

#### *Appellant's current situation*

New information which the panel admitted as evidence indicates that the appellant is no longer receiving the rental income from the property. The appellant testified that her relative is currently collecting the rent (since January 2020) but the appellant is still paying the expenses for the house with deposits of \$1,350 per month to her bank account, received directly from her relative who co-owns the property. The appellant's recent bank statement (March 2020) shows a deposit for \$1,350.

The appellant's recent bank statements indicate that she no longer receives rental income. As noted earlier, even if the appellant was still receiving the rent payment, the new evidence indicates that her income from rent would be \$283.63 per month, not \$1,650.

The recent bank statements indicate the appellant does not have unearned income from renting a property, pursuant to subsection 1(1)(n) of the EAR. Instead, the appellant has "cash assets" of \$1,350 per month under subsection 1(1)(c) of the EAR. Cash assets will be addressed in the panel's analysis of the appellant's asset limits that follows.

The panel notes that the bills for the house ("essential operating costs") are a deduction from unearned income under the legislation; they are not a deduction from assets. Based on the new information that was admitted as evidence, the panel finds that the reconsideration decision which found the appellant ineligible for assistance on the basis of unearned income not reasonable. The new evidence indicates the appellant's current unearned income (\$0.00 per month) is below the assistance rates for her family size.

#### **Assets**

##### *Co-ownership of the property*

The ministry found there was not enough information to establish co-ownership and show that the appellant was not entitled to the full amount of the rental income (\$1,650 per month). The ministry argues that the whole \$1,650 could be considered the appellant's unearned income because "there is no evidence to support that the rental income you receive is not yours alone." The ministry notes that the appellant is named as the sole landlord on the *Residential Tenancy Agreement* and the mortgage information the ministry had at the reconsideration was for the appellant's personal bank account.

The panel notes that being named as the landlord may confer the right to receive the rent payments in the absence of another agreement, but being the landlord does not necessarily establish any legal title to the property. The appellant explained that the reason she was handling the rental property and taking care of the bill payments was because her relative stopped working and lives a great distance from the bank that holds the mortgage.

The *Seller Representation Agreement* (that lists the property for \$305,000), names both the appellant and her relative as the sellers. The *Representation Agreement* is therefore a stronger piece of evidence to indicate co-ownership. However, in concluding there was insufficient evidence for co-ownership the ministry appears to have overlooked the *Representation Agreement* as there is no mention of co-sellers in the ministry's analysis of property ownership.

The strongest piece of evidence for co-ownership would be a title document showing who has the legal title to the property. The appellant did not provide a certificate of legal title. The appellant maintains across all of her submissions that she was not asked to provide co-ownership documentation, further mortgage information or other documents and there is no indication in the record that the ministry asked for specific documents.

The appellant's financial history (self-supporting and low consumer debt for many years as well as signing a mortgage and a landlord agreement) suggests she has a level of sophistication with financial matters but the evidence is that since 2018, she has a disability that requires someone to assist her with bill payments and financial management as she can no longer handle these on her own. The appellant provided a letter from her doctor confirming her disability.

The appellant indicates in her IA application and states in the RFR that she co-owns the property with her relative. As well, when asked at the hearing if her name is on the legal title, the appellant said "yes", the title is in both her and her relative's name. The appellant also provided an additional mortgage document on appeal showing that she co-holds the mortgage with her relative.

The panel has considered the *Representation Agreement*, *Residential Tenancy Agreement*, the new evidence that the appellant is a co-owner on the title; and the additional mortgage document that names the appellant and her relative as co-holders of the mortgage. Based on the evidence in its entirety, the panel finds as fact that the appellant co-owns the rental property with her relative. The panel therefore finds the ministry cannot reasonably conclude the appellant was entitled to the full amount of the \$1,650 per month rental income. As noted earlier, with the allowable deductions, the appellant's share of the rental income was \$283.63 per month.

#### *Value of rental property*

Sections 11(2) and 11(2.1) of the EAR set out that the family unit is not eligible for assistance if the total value of the family's assets is above the legislated limits. The ministry explains that the asset limit under section 11(2) of the EAR is \$10,000 for IA applicants. The asset limit increases to \$100,000 under section 11(2.1) of the EAR "if the minister is satisfied an applicant has a genuine intention to apply for designation as a person with disabilities."

The ministry said it was satisfied the appellant had a genuine intention to apply for PWD and agrees that the \$100,000 asset limit applies in the appellant's circumstances. The ministry found there was insufficient information to determine that the appellant's equity in the rental property does not exceed \$100,000. The ministry notes in the reconsideration decision that the appellant tried to sell the house for \$305,000 and had not provided a property assessment.

The appellant argues she was not asked to provide an assessment when she spoke to the worker on the phone. It does not appear from the available evidence that the ministry requested verification of the property value. The appellant was asked to indicate her assets and their value in her IA application. The appellant indicated in the boxes on the form that she has a rental property with a value of \$50,000. The appellant has now provided a market evaluation that shows the current list price for the property, \$285,000. The appellant has also confirmed that she is not entitled to the full value of the property because she is a co-owner.

Based on the new evidence showing the current list price, the panel finds that the ministry's determination that there was insufficient information on the value of the appellant's assets is not reasonable based on the evidence. The market evaluation that the panel admitted as evidence indicates the property has a market value of \$285,000 as of March 1, 2020.

The outstanding principal on the mortgage was \$229,579.88 as of December 31, 2019 per the most recent mortgage information which confirms the appellant as a co-holder of the mortgage. As a co-owner, the appellant would be entitled to half of the selling price (\$142,000) but her equity in the property, based on the outstanding mortgage balance and the appellant's status as a co-holder of the mortgage, is \$27,710.06 [(\$285,000 - \$229,579.88) / 2]. Given the mortgage information to December 31, 2019 and market value of the property as of March 1, 2020, the panel finds that **the value of the appellant's interest in property is \$27,710.06.**

Based on the additional information admitted on appeal, the panel has calculated the value of the appellant's main asset, her interest in the property. The evidence indicates that the value of the house asset is below the \$100,000 limit set out in section 11(2.1) of the EAR. Given the additional information on the appellant's equity in the property as well as the market value, the panel finds that the ministry's determination that it could not confirm that the appellant's interest in this asset is below the limit set out in the legislation, is not reasonably supported by the evidence.

#### *Cash assets*

In the reconsideration decision, the ministry argued that the money transferred to the appellant's account from her credit cards is neither earned income or unearned income under the legislation and must be treated as "cash assets" under subsection 1(1)(c) of the EAR. Under this subsection, "cash assets" which include cash on hand as well money standing to the credit of the person at a bank are to be factored into the determination of assets to which the exemption limits apply. The bank statements available at the time of the reconsideration show transfers from credit cards of \$540 on October 30, 2019, \$650 on November 13, and \$400 on December 4.

The panel finds the ministry reasonably determined that money deposits from credit cards or from individuals are treated as assets and are not included in the calculation of net income but are included in determining the total value of assets. Under the legislation, the appellant is not eligible for assistance if the total value of her assets is greater than \$100,000.

The appellant's recent bank statements (up until April 3, 2020) admitted on appeal show only one deposit, \$1,350 in March 2020. The appellant confirmed the \$1,350 deposit is money from her relative which the appellant uses to pay the bills for the house. Based on the new evidence it appears that the appellant's cash assets are currently \$1,350 per month, consisting of the deposits from her relative which the appellant said she has been receiving since January 2020.

When the panel adds the most recent deposit from the relative (\$1,350) to the appellant's equity in the property (\$27,710.06), the value of the appellant's assets is still well below the legislated limit of \$100,000. The ministry was satisfied that the \$100,000 asset limit applies based on the appellant's genuine intention to apply for PWD designation. Given the updated information on the appellant's cash assets as of April 3, 2020, combined with the value of the appellant's interest in property, the panel finds that the ministry's determination that it could not confirm that the appellant's assets are below the legislated limit of \$100,000, is not reasonably supported by the evidence.

#### **PWD application**

Finally, the reconsideration decision and ministry's evidence at the hearing presents some confusion over whether the appellant can apply for PWD designation. The ministry states in the reconsideration decision that the appellant may apply for PWD designation but indicates she would still need to meet the financial eligibility requirements to receive either IA or DA.

The ministry gave a different explanation at the hearing, stating that the appellant cannot apply for PWD if the minister cannot first of all confirm her financial eligibility for assistance. The panel gives more weight to the ministry's detailed explanation at the hearing in which the ministry explained that determining eligibility for PWD is a two-step process.

First, the applicant must meet the financial eligibility requirement by filling out a regular IA application. Second, the person is given the PWD application package only if they are financially eligible for assistance. The applicant must then pass the medical eligibility requirements for PWD.

The appellant has already taken the first step in applying for IA and she was not given a PWD package because the ministry found there was insufficient information to confirm the appellant meets the financial eligibility requirements for assistance. The panel has found that the ministry's determination of insufficient information on income and assets to confirm the appellant's eligibility for assistance was unreasonable. The appellant provided additional information about her finances and assets for the reconsideration. The appellant submitted new evidence on appeal regarding her current financial situation. The ministry has the authority to determine PWD eligibility as well as eligibility for regular IA and the panel makes no findings with respect to the appellant's ability to apply for PWD designation.

#### *Conclusion*

Based on the information in its entirety, the panel finds that the ministry's reconsideration decision that found there was not enough information about the appellant's income and assets to confirm her financial eligibility for assistance is not reasonably supported by the evidence. The appellant provided the information the ministry requested; she filled in the applicable boxes on the IA application form and submitted two months of bank statements and a *Bank Profile* showing all of her accounts. The appellant submitted additional information about her finances and assets for the reconsideration.

The record indicates the appellant was not given a sufficient opportunity to present her case because the ministry did not communicate the specific information that was required. The panel has considered the information before the minister at the reconsideration as well as the additional bank statements, mortgage information, property valuation, and evidence regarding money from the appellant's relative (cash assets). The new evidence confirms that the appellant's current net income is not above the ministry rates for IA and DA and the value of the appellant's assets is not above the limit of \$100,000. The panel rescinds the ministry's decision and refers the panel decision back to the minister for a decision as to amount. The appellant is successful in her appeal.

**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

Margaret Koren

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2020-05-05

PRINT NAME

Carlos Garcia

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020-05-05

PRINT NAME

Diane O'Connor

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020-05-05