

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated March 8, 2021, which found that the appellant is not eligible for assistance for failing to comply with a direction to supply requested information and verification pursuant to Section 10 of the Employment and Assistance for Persons with Disabilities Act (EAPWDA). The ministry found that the appellant continues to be ineligible for assistance under Section 28 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) because the appellant has not fully complied with the direction since requested information remained outstanding, specifically:

- proof of all income from employment, including the appellant's own business, for the period of January 1, 2015 to December 3, 2020.
- documentation identifying specific deposits into bank accounts, as highlighted on statements for two banks, including the source of the deposits and what they were for.

PART D – RELEVANT LEGISLATION

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

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

PART E – SUMMARY OF FACTS

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

The hearing had been adjourned from the original scheduled date at the appellant's request and with the consent of the ministry and the Tribunal Chair; however, the appellant expressed concern at the hearing that the ministry may have an advantage on the appeal with the additional time afforded, and the appellant objected to the adjournment having been granted.

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

- 1) Letter from the ministry dated December 4, 2020 referring to the previous request for information by the ministry in February 2020 and advising the appellant that the ministry had not yet received all the information requested and the information was required by January 25, 2021. The ministry enclosed a Review Checklist setting out the required documents, specifically:
 - Proof of all income- all employment and business/professional income from January 1, 2015 to December 3, 2020, including dates and amounts of gross and net pay and deductions where applicable.
 - Records of employment from 2015 to 2019.
 - Documents to confirm the status of an ICBC claim and any ICBC payments received since January 2014.
 - Statement for a specific bank account ("Bank A") from October 1, 2019 to January 30, 2020.
 - Documentation identifying specific deposits into bank accounts, as highlighted on statements for two banks, including the source of the deposits and what they were for.
- 2) Letter from the ministry dated December 31, 2020 referring to the previous letter dated December 4, 2020 and advising the appellant that the ministry has not yet received all the information requested and the information is required by January 25, 2021. The ministry enclosed a Review Checklist setting out the required documents, specifically:
 - Proof of all income- all employment and business/professional income from January 1, 2015 to December 3, 2020, including dates and amounts of gross and net pay and deductions where applicable.
 - Documents to confirm the status of an ICBC claim and any ICBC payments received since January 2014.
 - Statement for a specific bank account (Bank A) from October 1, 2019 to January 30, 2020.
 - Documentation identifying specific deposits into bank accounts, as highlighted on statements for two banks, including the source of the deposits and what they were for
- 3) Letter from the ministry dated February 11, 2021 referring to the ministry's previous letters dated December 4, 2020 and December 31, 2020 and advising that the appellant was no longer eligible for assistance due to failure to provide particular documents requested by the ministry, specifically:

- Proof of all income- all employment and business/professional income from January 1, 2015 to December 3, 2020, including dates and amounts of gross and net pay and deductions where applicable.
 - Documentation identifying specific deposits into bank accounts, as highlighted on statements for two banks, including the source of the deposits and what they were for.
- 4) Bank statements for Bank A for the period October 1, 2019 through December 31, 2019.
 - 5) Bank statements for another bank, "Bank B," for the period September 27, 2019 through December 24, 2019.
 - 6) Bank statement for Bank B as of January 22, 2020 for the period December 27, 2019 through January 22, 2020.
 - 7) Request for Reconsideration dated February 22, 2021.

In the Request for Reconsideration, the appellant wrote:

- The request for information was mailed to the appellant and the appellant talked to [the ministry] about giving more time to complete the document.
- Due to "a lot of information" wanted, 5 years of bank statements is too much for the appellant to give.
- The appellant's position with the [federal public sector] kept the appellant's personal information secure.
- The appellant has concerns about using cell phones that could cause third party information sharing that the appellant will not let happen.
- The appellant had eye surgery in February 2021 and needs the monthly disability assistance payment.
- The appellant still has chronic back pain that affects the appellant on a daily basis.
- The appellant talked to [the ministry] two times and they said that once the appellant explained in the reconsideration, the monthly payment would be reconnected to the appellant's account.
- The appellant is a homeowner and needs the bills paid properly.
- The appellant is also waiting on one more upper body surgery.
- The appellant is current with the [federal public sector] and is one of the counsellors.

Additional Information

In the Notice of Appeal dated March 17, 2021, the appellant expressed disagreement with the ministry's reconsideration decision and wrote:

- The appellant has chronic back pain and is waiting for surgery that was delayed due to the specialist having difficulties deciding on the surgery date.
- The appellant is currently employed in the [federal public sector] with special disclosure.
- The second set of documents requested [by the ministry] is related to third party information sharing.
- The appellant has filed the request for more information with the Supreme Court [B.C.] and the appellant's disability assistance must continue until the litigation is completed.
- The appellant is a real homeowner.

At the hearing, the appellant stated:

- Providing third party information is in violation of the rules associated with the appellant's

position with the [federal public sector].

- The appellant is a Person with Disabilities (PWD) and has chronic back pain. This is a provincial disability. The appellant had been in a wheelchair for a period of time. The appellant could die from [a blood cancer] due to complications from the appellant's back condition.
- The appellant needs to be paid disability assistance.
- The appellant is a single person who owns two businesses, and the appellant has also been involved with a position with the [federal public sector].
- The appellant is also in recovery. The appellant needs to be funded to help other people who depend on the appellant.
- The appellant is a homeowner who has privacy concerns.
- The appellant cannot disclose the requested information.
- The transfers of money into the appellant's accounts were gifts that the appellant received and spent on various items. The appellant expressed concern that information about the deposits had been provided to the ministry through third party information sharing.
- The appellant confirmed a current status as a part-time employee with the [federal public sector] but declined to explain anything else about the appellant's role. The appellant stated that the appellant 'may' receive money for the appellant's services.
- The appellant objected to all further questions relating to the role with the [federal public sector].
- The appellant stated that the ministry is not entitled to request information from third parties. The appellant filed documents with the Supreme Court [B.C.] regarding the ministry's actions.
- The appellant has been in receipt of disability assistance since about 2013 or 2014.
- The appellant has resided at the same address for several years, which is the address indicated in the letters forwarded by the ministry, and the appellant 'may' have received the ministry's letters.
- The appellant has a business in fitness-related services, and also runs a business in construction-related services. The appellant receives money for doing this work. The appellant declined the opportunity to provide more information about the compensation received for this work.
- The appellant objected to the panel having information from the Canada Revenue Agency's Notice of Assessment that the appellant's 2018 income was \$60,000.

The ministry did not attend the hearing and relied on its reconsideration decision.

Admissibility of Additional Information

The ministry did not attend the hearing to provide a position on the admissibility of additional information. The panel considered the appellant's oral testimony that some of the deposits into bank account at Bank A were gifts, which information was not before the ministry at reconsideration. The panel admitted this information in accordance with Section 22(4) of the *Employment and Assistance Act* on the basis that the information directly relates to the ministry's direction for further information and verification and the appellant's eligibility for disability assistance and is, therefore, 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 decision, which found that the appellant is not eligible for disability assistance for failing to comply with a direction to supply requested information under Section 10 of the EAPWDA and continues to be ineligible for disability assistance pursuant to Section 28 of the EAPWDR because the appellant has not fully complied with the direction, is reasonably supported by the evidence or a reasonable application of the applicable enactment in the appellant's circumstances.

Section 10 of the EAPWDA and Section 28 of the EAPWDR are set out in the Schedule at the end of these Reasons.

Section 10 of the EAPWDA and Section 28 of the EAPWDR

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

Ministry's position

In the reconsideration decision, the ministry wrote that Section 10 of the EAPWDA states that, for the purpose of auditing eligibility for disability assistance, the ministry may direct a recipient to supply information and, if the recipient fails to comply with the direction, the ministry may declare the family unit ineligible for disability assistance for a prescribed period. The ministry wrote that the prescribed period lasts until the recipient complies with the direction, under Section 28 of the EAPWDR. The ministry wrote that the request for clarification of income, including deposits in the appellant's bank account with Bank A, arose from the appellant's information about self-employment in two types of work and the appellant's failure to declare to the ministry any income received. The ministry wrote that the Canada Revenue Agency confirmed that the appellant's income in the 2018 Notice of Assessment was \$60,000 and the ministry is required to audit eligibility for disability assistance since the appellant may have been overpaid due to undeclared income. The ministry wrote that the appellant is not eligible for disability assistance because of a failure to provide the information requested by the ministry, specifically: 1) documentation identifying specific deposits in a named bank account, including the source of the deposits and what they were for; and, 2) proof of all income from employment, including the appellant's own business, for the period of January 1, 2015 to December 3, 2020.

Appellant's position

In the Notice of Appeal and the Request for Reconsideration, the appellant wrote about several health issues, including chronic back pain that affects the appellant daily and for which the

appellant is waiting for surgery, as well as eye surgery completed in February 2021, and “one more” upper-body surgery the appellant is awaiting. At the hearing, the appellant added that the appellant could die from [a blood cancer] due to complications from the appellant’s back condition. The appellant wrote about being currently employed in an occupation with the [federal public sector] with special disclosure and which kept the appellant’s personal information secure. The appellant wrote of concerns about using cell phones that could cause third party information sharing that the appellant “will not let happen” and the appellant believes the second set of documents requested by the ministry is related to third party information sharing. The appellant stated at the hearing that the appellant cannot disclose the requested information. The appellant wrote that a request for more information has been filed by the appellant with the Supreme Court [B.C.] and the appellant’s disability assistance must continue until the litigation is completed, especially since the appellant is a homeowner and “needs the bills paid properly.” The appellant also wrote that 5 years of bank statements is too much for the appellant to provide to the ministry.

Panel decision

In the reconsideration decision, the ministry wrote that the request for information and verification of information resulted from the appellant’s information about self-employment in two types of work and the appellant’s failure to declare to the ministry any self-employed income received. The ministry wrote that Revenue Canada confirmed that the appellant’s income in the 2018 Notice of Assessment was \$60,000 and the ministry audited the appellant’s eligibility for disability assistance since the appellant may have been overpaid due to undeclared income. Given the information from the appellant about self-employment work and the confirmation of annual income of \$60,000 in 2018 with no income declared to the ministry, the panel finds that the ministry reasonably directed the appellant to supply the ministry with further information and verification for the purpose of auditing the appellant’s eligibility for disability assistance, according to the provisions of Section 10(1)(b)(e)(f) and (g) of the EAPWDA.

The ministry sent a letter to the appellant dated December 4, 2020 referring to the previous request for information by the ministry made in February 2020 and advising the appellant that the ministry had not yet received all the information requested and the information was required by January 25, 2021. The ministry wrote that the appellant was required to provide the ministry with certain documents, specifically: 1) proof of all income- all employment and business/professional income from January 1, 2015 to December 3, 2020, including dates and amounts of gross and net pay and deductions where applicable, 2) records of employment from 2015 to 2019, 3) documents to confirm the status of an ICBC claim and any ICBC payments received since January 2014, 4) statement for a specific bank account (“Bank A”) from October 1, 2019 to January 30, 2020, and 5) documentation identifying specific deposits into bank accounts, as highlighted on statements for two banks, including the source of the deposits and what they were for.

The ministry sent another letter dated December 31, 2020 to the appellant advising the appellant that the ministry has not yet received all the information requested and the remaining information is required by January 25, 2021. The list of required information was the same as that in the December 4, 2020 letter except that the list did not include the records of employment from 2015 to 2019. Another letter dated February 11, 2021 was sent by the ministry to the appellant advising that the appellant was no longer eligible for assistance due to failure to provide particular documents requested by the ministry. The list of required documents in the letter was the same list as that in the December 31, 2020 letter except that the list did not include documents to confirm the status of an ICBC claim and any ICBC payments received since January 2014 and a statement for a specific bank account for Bank A from October 1, 2019 to January 30, 2020. The ministry explained in the original decision that information was obtained by the ministry directly from the third parties, namely from ICBC and from the banks. Given the appellant's reference in the Request for Reconsideration to the ministry's request for information, the appellant's statement at the hearing that the appellant resided at the address identified in the ministry's letter for several years and the appellant 'may' have received the ministry's letters, the panel finds that the appellant received the ministry's letters requesting specified information and verification of information as listed in the letters.

The February 11, 2021 letter from the ministry specified that the remaining information required by the ministry was: 1) proof of all income- all employment and business/professional income from January 1, 2015 to December 3, 2020, including dates and amounts of gross and net pay and deductions where applicable, and 2) documentation identifying specific deposits into bank accounts, as highlighted on statements for two banks, including the source of the deposits and what they were for. The appellant stated at the hearing that the transfers of money into the appellant's accounts were gifts that the appellant received and spent on various items. The panel noted that the total of the several deposits into the two bank accounts as itemized by the ministry was over \$3,900 in a period of 4 months and the appellant did not identify the names of those who had provided any of the gifts. The appellant repeatedly expressed concern that information about the deposits into the appellant's bank accounts had been provided to the ministry through third party information sharing and stated that the appellant brought an application to the B.C. Supreme Court relating to this issue. The appellant emphasized at the hearing that the appellant is a PWD with health issues, including chronic back pain, and that the appellant could die from [a blood cancer] due to complications from the appellant's back condition. The appellant stated that the appellant needs to continue to receive disability assistance particularly as the appellant is a homeowner and needs bills paid and the appellant needs funds to help other people who depend on the appellant.

Regarding the ministry's request for proof of all income, including business or profession income from January 1, 2015 to December 3, 2020, the appellant wrote in the Request for Reconsideration and the Notice of Appeal about being currently employed in an occupation with

the [federal public sector] with special disclosure and which kept the appellant's personal information secure. At the hearing, the appellant confirmed the appellant's current status as a part-time employee with the [federal public sector], the appellant stated that the appellant 'may' receive money for the appellant's services and the appellant objected to all further questions relating to the appellant's employment with the [federal public sector]. The appellant stated at the hearing that the appellant cannot disclose the requested information due to disclosure issues. The appellant did not provide any documentary evidence, such as a letter from the federal public sector, to confirm that the appellant was unable to provide information about proof of income as requested by the ministry due to restrictions beyond the appellant's control. The appellant also stated at the hearing that the appellant is a single person who owns two businesses. The appellant stated that the appellant has a business in fitness-related services, and also runs a business in construction-related services and the appellant receives money for doing this work. The appellant declined the opportunity to provide more information about the compensation received for this work. The appellant wrote in the Request for Reconsideration that 5 years of bank statements is too much for the appellant to supply to the ministry. While the appellant argued that information over the period of 5 years is too much for the appellant to produce, the appellant did not provide proof of income for any of the years during the period requested by the ministry.

Given the ministry's ongoing direction in several letters to the appellant to provide specific information and the appellant's failure to supply the information requested although provided with an opportunity both prior to and during the hearing, the panel finds that the ministry reasonably concluded that the appellant failed to comply with a direction under Section 10 of the EAPWDA and reasonably declared the appellant ineligible for disability assistance. Section 28 of the EAPWDR provides that the period for which the ministry may declare the family unit ineligible for assistance lasts until the recipient complies with the direction. The panel finds that the ministry reasonably concluded on March 8, 2021 that the appellant continued to be ineligible for disability assistance since the panel finds that the ministry reasonably determined that the appellant had not yet complied with the ministry's direction to provide proof of all income from employment for the period of January 1, 2015 to December 3, 2020 as well as documentation identifying specific deposits into bank accounts as highlighted by the ministry, including the source of the deposits.

Conclusion

The panel finds that the ministry's decision, which found that the appellant is not eligible for disability assistance for failing to comply with a direction to supply requested information under Section 10 of the EAPWDA and continues to be ineligible for disability assistance pursuant to Section 28 of the EAPWDR because the appellant has not fully complied with the direction, was reasonably supported by the evidence. The panel confirms the ministry's reconsideration decision. Therefore, the appellant's appeal is not successful.

Schedule

Section 10 of the EAPWDA provides:

Information and verification

10 (1) For the purposes of

- (a) determining whether a person wanting to apply for disability assistance or hardship assistance is eligible to apply for it,
- (b) determining or auditing eligibility for disability assistance, hardship assistance or a supplement,
- (c) assessing employability and skills for the purposes of an employment plan, or
- (d) assessing compliance with the conditions of an employment plan,

the minister may do one or more of the following:

- (e) direct a person referred to in paragraph (a), an applicant or a recipient to supply the minister with information within the time and in the manner specified by the minister;
 - (f) seek verification of any information supplied to the minister by a person referred to in paragraph (a), an applicant or a recipient;
 - (g) direct a person referred to in paragraph (a), an applicant or a recipient to supply verification of any information he or she supplied to the minister.
- (2) The minister may direct an applicant or a recipient to supply verification of information received by the minister if that information relates to the eligibility of the family unit for disability assistance, hardship assistance or a supplement.
- (3) Subsection (1) (e) to (g) applies with respect to a dependent youth for a purpose referred to in subsection (1) (c) or (d).
- (4) If an applicant or a recipient fails to comply with a direction under this section, the minister may
- (a) reduce the amount of disability assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period, or
 - (b) declare the family unit ineligible for disability assistance, hardship assistance or a supplement for the prescribed period.
- (4.1) The Lieutenant Governor in Council may prescribe circumstances in which subsection (4) (a) or (b) does not apply.
- (5) If a dependent youth fails to comply with a direction under this section, the minister may reduce the amount of disability assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

Section 28 of the EAPWDR provides:

Consequences of failing to provide information or verification when directed

28 (0.1) For the purposes of section 10 (4) (a) [information and verification] of the Act,

(a) the amount by which the minister may reduce the disability assistance or hardship assistance of the recipient's family unit is \$25 for each calendar month, and

(b) the period for which the minister may reduce the disability assistance or hardship assistance of the recipient's family unit lasts until the recipient complies with the direction.

(1) For the purposes of section 10 (4) (b) [information and verification] of the Act, the period for which the minister may declare the family unit ineligible for assistance lasts until the applicant or recipient complies with the direction.

(1.1) Section 10 (4) (b) of the Act does not apply if the minister is satisfied that the family unit is homeless or at imminent risk of becoming homeless.

(2) For the purposes of section 10 (5) [information and verification] of the Act,

(a) the amount by which the minister may reduce the disability assistance or hardship assistance of the dependent youth's family unit is \$25 for each calendar month, and

(b) the period for which the minister may reduce the disability assistance or hardship assistance of the dependent youth's family unit lasts until the dependent youth complies with the direction.

APPEAL NUMBER
2021-00061

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 CHAIR

DATE (YEAR/MONTH/DAY)

2021-04-20

PRINT NAME

Joseph Rodgers

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021-04-20

PRINT NAME

Shirley Heafey

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021-04-20