

**Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision, dated June 16, 2022 (the “Reconsideration”), in which the Ministry determined that the Appellant was not eligible for a shelter allowance retroactive to a date earlier than January 2022 because the Appellant had not provided confirmation of her new address before February 25, 2022, pursuant to section 23 of the *Employment and Assistance for Persons with Disabilities Regulation* (“EAPWDR”).

**Part D – Relevant Legislation**

EAPWDR- sections 23, Schedule A- sections 1 and 4  
*Employment and Assistance for Persons with Disabilities Act* (“EAPWDA”)- section 10

## Part E – Summary of Facts

The Appellant is a sole recipient of disability assistance with no dependents.

The information before the Ministry at the time of the Reconsideration included the following:

- an undated letter (the “Letter”) from the Manager of the motel (the “Motel”) in which the Appellant is currently residing, which appears to have been created in or about March, 2022 by virtue of a reference in the letter to that being the present time;
- short term stay guest agreement, between the Motel and the Appellant and the Appellant’s mother, dated January 12, 2022;
- short term stay guest agreement, between the Motel and the Appellant and the Appellant’s mother, dated December 3, 2021;
- short term stay guest agreement, between the Motel and the Appellant and the Appellant’s mother, dated November 8, 2021;
- two copies of two receipts which detail charges from the Motel (one with a credit card receipt stapled to it and one without), in the name of the Appellant’s mother, for the periods of stay between January 30, 2022 and February 28, 2022;
- the Appellant’s Request for Reconsideration, dated May 31, 2022, which included:
  - a typed letter, in which the Appellant described a number of difficulties in dealing with the Ministry, including:
    - an inability to access to the Ministry’s “My Self Serve” portal (the “Portal”), to which documents can be uploaded by recipients of assistance;
    - the Ministry losing documents or parts of documents; and
    - the Ministry not returning calls to the Appellant after the Appellant
  - a handwritten letter from the Appellant, detailing the Appellant’s attempts to communicate with the Ministry on:
    - April 20, 22, and 23, 2021,
    - May 4, 10, 13, and 21, 2021,
    - June 4, 7, 22, 25, and 29, 2021,
    - July 9, 12, 14, and 21, 2021,
    - August 5, 18, and 19, 2021,
    - September 9, 21, 24, and 29, 2021,
    - October 4, 8, 12, 20, 21, 22, and 27, 2021,
    - November 16, 27, and 29, 2021,
    - December 6, and 15, 2021,
    - January 5, 14, and 19, 2022,
    - February 11, and 28, 2022,
    - March 8, 9, 18, 25, 29, and 30, 2022,
    - April 7, 11, 12, 13, 23, 25, and 26, 2022,
    - May 4, 9, 10, 11, and 13, 2022,
    - All of which include many attempts to submit documentation, a large number of phone calls that went unanswered, several requests for call backs which were not returned, and many further instances of the Ministry losing documentation; and

- The Ministry's history of contact with the Appellant which noted that:
  - a letter sent to the Appellant's address had been returned on April 15, 2021;
  - the shelter allowance was flagged on April 20, 2021
  - the Appellant had contacted the Ministry on June 23, 2021 to inquire about the shelter allowance and was advised to submit a new shelter form;
  - the Appellant's next contact with the Ministry was on November 25, 2021 at which time the Appellant was advised to submit a Shelter Form; and
  - on January 19, 2022, the Appellant was approved for a shelter allowance starting in mid-January, 2022.

The Appellant's Notice of Appeal, dated June 21, 2022, also included a lengthy typed letter, which again described the Appellant's issues with the Ministry, including paperwork being lost by the Ministry, issues with the Portal, and the Ministry's failure to return phone calls. The typed letter also described having repeatedly dealt with paperwork being lost by the Ministry over the 20 years in which the Appellant was receiving assistance.

At the hearing of the appeal, the Appellant described changing addresses in or about late 2020 and stated that it was not correct that the information verifying the Appellant's address had not been submitted and that the Ministry was going off of what it had at an office closest to the Appellant's new residence but which was not the Ministry office which had the Appellant's file. The Appellant described being told by the Ministry that verification of the Appellant's updated address information had to be provided to the office which had the Appellant's file. As such, while the Ministry described only receiving verification of the Appellant's new living arrangements in or about late February, 2022, the Ministry actually should have had the information much sooner.

The Appellant described attending at the Ministry office where the Appellant's file was located on at least a few occasions and stated that the Ministry had lost documentation, including a letter from a previous manager of the Motel, which was similar to the Letter but which had been prepared soon after the Appellant started residing at the Motel. The Appellant believed that this letter had been provided to the Ministry in or about January, 2021, shortly after the Appellant's move to the Motel. The Appellant confirmed that no copy of this letter had been retained by the Appellant after having been submitted to the Ministry and, in the result, the earlier letter from the Motel's manager is not in evidence. The Appellant advised that the letter was not retained because the Appellant did not expect it to be an issue, notwithstanding having advised in the letter attached to the Notice of Appeal that the Ministry had repeatedly lost paperwork in the past. The Appellant advised that this letter had been dropped off at the drop box at the Ministry office where the Appellant's file was located.

The Appellant described a Ministry employee telling the Appellant in a phone call in January 2021 that the Appellant's new address would be inputted into the Ministry system because the Appellant could not access the Portal to upload the information required by the Ministry. The Appellant also described having had no access to the Portal for over a year

The Appellant confirmed being aware of the existence of drop boxes at Ministry offices but was told by the Ministry that the information and documentation had to be dropped off at the Ministry office that had the Appellant's file. The Appellant stated that the office that had the Appellant's file was far away and that waiting outside in the heat experienced in the province in 2021 was dangerous.

The Appellant did describe having kept copies of documents submitted to the Ministry in a file after the Ministry lost the letter from the Motel manager in early 2021 but the only documentation submitted by the Appellant to the Tribunal were the documents described above.

At the hearing of the Appeal, the Ministry confirmed that it was not Ministry policy to contact a recipient of assistance when mail sent to the recipient is returned to the Ministry, which occurred in this case in April, 2021, prompting the Ministry to remove the shelter allowance from the Appellant's monthly assistance.

The Ministry confirmed that there were periods of time when Ministry offices were closed for cleaning during the COVID-19 pandemic and that there were, at times, limits on the number of persons who could be inside a Ministry office at a given time but that there were no extended periods of time when entire Ministry offices were closed altogether.

The Ministry noted that, even when offices may have been temporarily closed, in addition to the Portal, it was open to recipients to provide documentation to the Ministry by fax or by drop boxes at Ministry offices. When asked how quickly the Ministry could process documentation left in drop boxes, the Ministry advised that it would typically depend on the volume of documentation left in a box.

The Ministry advised that the Appellant contacted the Ministry in or about February, 2021 to advise that she had moved, due to ongoing mail theft. The Ministry's summary of events in the RFR dates this call as having occurred on February 12, 2021. The Ministry worker confirms that all interactions between recipients of assistance and Ministry workers are logged and noted, with notes being more extensive in some cases and less extensive in others, depending on the worker. The Ministry did not have a record of the January, 2021 call.

In the Appellant's specific case, the Ministry advised that it had only received receipts from the Motel but no documentation with contact details for the Appellant's landlord which would permit the Ministry to contact the landlord and confirm the Appellant's living arrangements.

The panel accepts the evidence of the Appellant submitted with the Notice of Appeal and the oral evidence of both the Appellant and the Ministry at the hearing of the appeal as evidence that was not part of the record but which the panel considers is reasonably required for a full and fair disclosure of all matters related to the Reconsideration.

**Part F – Reasons for Panel Decision**

The issue in this appeal is whether the Ministry was reasonable in determining that the Appellant was not eligible for a shelter allowance retroactive to a date earlier than January 2022 because the Appellant had not provided confirmation of her new address before February 25, 2022, pursuant to section 23 of the EAPWDR.

***Panel Decision***

Section 23 of the EAPWDR made the Appellant eligible for a shelter allowance on the date that the Appellant became eligible for disability assistance. However, recipients of disability assistance are subject to ongoing verification of eligibility for both support and shelter allowances. The return of mail from a previous address of the Appellant's alerted the Ministry to the fact that the Appellant had moved from a previous address. The Appellant states that, at the time this happened, the Ministry should have already had the Appellant's new address on file, by virtue of a phone call by the Appellant to the Ministry in or about late January, 2021. In the typewritten note include with the RFR, the Appellant described this call as having occurred on January 18, 2021. The Ministry did not have a record of this call.

At the hearing, the Appellant advised that a letter from the then manager at the Motel was also provided to the Ministry via drop box following the January, 2021 call. Unfortunately, the Appellant did not keep a copy of that letter, despite having experienced previous instances in the past where the Ministry had, according to the Appellant, lost documentation provided to it by the Appellant.

The evidence of the Appellant and the Ministry is consistent in that the next contact between the Appellant and the Ministry was after the Appellant's shelter allowance was flagged as a result of the mail which was returned to the Ministry.

After the Appellant's shelter allowance was discontinued and until the Ministry approved the shelter allowance in January 2022, the Appellant's evidence is that numerous attempts were made to contact the Ministry and to submit documentation. The evidence of the Ministry, however, is that there were only a handful of contacts between the Appellant and the Ministry.

Section 10 of the EAPWDA permits the Ministry to request information to verify a recipient's ongoing eligibility for assistance, including a shelter allowance. In this case, the evidence of the Appellant and the Ministry is consistent that the Ministry requested information to verify the Appellant's new living arrangements after the Appellant's shelter allowance was stopped.

Where the evidence conflicts is on the issue of whether or not the Appellant complied with the Ministry's request for information. The evidence before the panel consists of the Appellant's statements, in the form of letters attached to the RFR and Notice of Appeal, and the oral evidence given at the hearing of the appeal. There was little documentary evidence from independent sources about the Appellant's living arrangements available to the panel.

Section 4 of Schedule A to the EAPWDR provides that the shelter allowance available to a recipient of assistance is the lesser of the applicable table amount and the recipient's actual shelter costs. In order for the Ministry to determine the amount, if any, of the Appellant's shelter allowance, it requires information confirming the Appellant's actual shelter costs. However, the short term stay agreements do not include contact details for the manager or anyone else at the Motel with whom the Ministry could speak to verify the Appellant's shelter costs. The receipts from the Motel were issued in the name of the Appellant's mother and, as such, also does not independently verify the Appellant's actual shelter costs. Finally, the Letter, although undated, makes reference to March 16, 2022 as the current month and the panel was not provided with a copy of any earlier letter and, while it does confirm that the Appellant and her mother had been residing at the Motel since January, 2021, it does not confirm the actual shelter costs being paid by the Appellant either.

In view of the lack of documentary evidence corroborating the Appellant's shelter costs prior to February 25, 2022, such as receipts or information from an independent source which confirms the Appellant's shelter costs for the period before February 25, 2022, the panel finds that it was reasonable for the Ministry to determine that the evidence provided to it did not establish that the Appellant had incurred shelter costs at the Motel prior to February 25, 2022.

The Appellant is not successful in this appeal.

### ***Relevant Legislation***

Section 23 of the EAPWDR sets out the effective eligibility date for assistance and a shelter allowance:

#### **Effective date of eligibility**

**23** (1) Except as provided in subsections (1.1), (3.11) and (3.2), the family unit of an applicant for designation as a person with disabilities or for both that designation and disability assistance

- (a) is not eligible for disability assistance until the first day of the month after the month in which the minister designates the applicant as a person with disabilities, and
- (b) on that date, the family unit becomes eligible under section 4 and 5 of Schedule A for that portion of that month's shelter costs that remains unpaid on that date.

(1.1) The family unit of an applicant who applies for disability assistance while the applicant is 17 years of age and who the minister has determined will be designated as a person with disabilities on the applicant's 18th birthday

- (a) is eligible for disability assistance on that 18th birthday, and
- (b) on that date, is eligible under section 4 and 5 of Schedule A for that portion of the month's shelter costs that remains unpaid on that date.

(1.2) A family unit of an applicant for disability assistance who has been designated as a person with disabilities becomes eligible for

(a) a support allowance under sections 2 and 3 of Schedule A on the disability assistance application date,

(b) for a shelter allowance under sections 4 and 5 of Schedule A on the first day of the calendar month that includes the disability assistance application date, but only for that portion of that month's shelter costs that remains unpaid on the date of that submission, and

(c) for disability assistance under sections 6 to 9 of Schedule A on the disability assistance application date.

(2) Subject to subsections (3.01) and (3.1), a family unit is not eligible for a supplement in respect of a period before the minister determines the family unit is eligible for it.

(3) Repealed. [B.C. Reg. 340/2008, s. 2.]

(3.01) If the minister decides, on a request made under section 16 (1) [*reconsideration and appeal rights*] of the Act, to provide a supplement, the family unit is eligible for the supplement from the earlier of

(a) the date the minister makes the decision on the request made under section 16 (1) of the Act, and

(b) the applicable of the dates referred to in section 72 of this regulation.

(3.1) If the tribunal rescinds a decision of the minister refusing a supplement, the family unit is eligible for the supplement on the earlier of the dates referred to in subsection (3.01).

(3.11) If the minister decides, on a request made under section 16 (1) of the Act, to designate a person as a person with disabilities, the person's family unit becomes eligible to receive disability assistance at the rate specified under Schedule A for a family unit that matches that family unit on the first day of the month after the month containing the earlier of

(a) the date the minister makes the decision on the request made under section 16 (1) of the Act, and

(b) the applicable of the dates referred to in section 72 of this regulation.

(3.2) If the tribunal rescinds a decision of the minister determining that a person does not qualify as a person with disabilities, the person's family unit is eligible to receive disability assistance at the rate specified under Schedule A for a family unit that matches that family unit on the first day of the month after the month containing the earlier of the dates referred to in subsection (3.11).

(4) If a family unit that includes an applicant who has been designated as a person with disabilities does not receive disability assistance from the date the family unit became eligible for it, the minister may backdate payment but only to whichever of the following results in the shorter payment period:

(a) the date the family unit became eligible for disability assistance;

(b) 12 calendar months before the date of payment.

(5) Subject to subsection (6), a family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested.

(6) Subsection (5) does not apply to assistance in respect of moving costs as defined in section 55.

[am. B.C. Regs. 340/2008, s. 2; 264/2013, s. 2; 151/2018, App. 2, ss. 7 and 8; 122/2019, App. 2, s. 1; 35/2020, App. 2, s. 3.]

Section 1 of Schedule A to the EAPWDR sets out how disability assistance, including shelter allowances are calculated:

**Maximum amount of disability assistance before deduction of net income**

1 (1) Subject to this section and sections 3 and 6 to 9 of this Schedule, the amount of disability assistance

referred to in section 24 (a) [*amount of disability assistance*] of this regulation is the sum of

(a) the monthly support allowance under section 2 of this Schedule for a family unit matching the family unit

of the applicant or recipient, plus

(b) the shelter allowance calculated under sections 4 and 5 of this Schedule.

(2) Despite subsection (1), disability assistance may not be provided in respect of a dependent child if support for that child is provided under section 8 (2) or 93 (1) (g) (ii) of the *Child, Family and Community Service Act*.

Section 4 of Schedule A to the EAPWDR sets out the amount of shelter allowance available to various sizes of eligible family units, including a family unit consisting of one person, such as the Appellant's:

Monthly shelter allowance

4 (1) For the purposes of this section:

"**family unit**" includes a child who is not a dependent child and who relies on the parent for the necessities of life and resides in the parent's place of residence for not less than 40% of each month;

"**warrant**" has the meaning of warrant in section 14.2 [*consequences in relation to outstanding arrest warrants*] of the Act.

(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	Column 2
	<b>Family Unit Size</b>	<b>Maximum Monthly Shelter</b>

1

1 person

\$375

Section 10 of the EAPWDA authorizes the Ministry to request documentation that would verify a recipient's ongoing entitlement to assistance, including a shelter allowance:

**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.

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**Part G – Order**

The panel decision is: (Check one)       Unanimous       By Majority

The Panel       Confirms the Ministry Decision       Rescinds the Ministry Decision

If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount?      Yes       No

**Legislative Authority for the Decision:**

*Employment and Assistance Act*

Section 24(1)(a)       or Section 24(1)(b)

Section 24(2)(a)       or Section 24(2)(b)

**Part H – Signatures**

Print Name

Adam Shee

Signature of Chair

Date (Year/Month/Day)

2022/July/11

Print Name

Kevin Ash

Signature of Member

Date (Year/Month/Day)

2022/07/11

Print Name

Julie Iuvancigh

Signature of Member

Date (Year/Month/Day)

2022/07/11