

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated March 1, 2023, that determined the appellant was not eligible for a backdated natal nutritional supplement. The ministry stated that because the appellant did not provide confirmation of the pregnancy until after her child was 7 months old, the appellant did not qualify for a natal supplement during pregnancy or the 6-month period after the child's birth.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (the Act) section 10

Employment and Assistance for Persons with Disabilities Regulation (the Regulation), section 23 and 68.

See attached Schedule of Legislation.

Part E – Summary of Facts**Evidence Before the Minister at Reconsideration****Ministry Records show:**

- The appellant is a person with disabilities in receipt of disability assistance with no dependents.
- On December 14, 2021 the appellant notified the ministry that she was pregnant and expecting a child in May 2022. She was advised to submit confirmation of the pregnancy from a doctor in order to receive a natal allowance.
- On July 28, 2022, the service request for the natal allowance was closed as no documents were submitted to confirm the pregnancy nor to confirm the birth of the child.
- On December 28, 2022, the appellant contacted the ministry for retroactive natal supplement. The appellant stated that the child was born in May 2022. The appellant was advised to submit a birth certificate for the child.
- On January 19, 2023, the appellant's request was reviewed, and it was noted that the child was born May 2022. The natal request was made again in December 2022 and the appellant did not follow-up until January 2023. At this time the child was 7 months old, and a copy of the birth certificate was not submitted.
- On February 7, 2023, a copy of the child's birth certificate was submitted and is a part of the appeal record.

Request for Reconsideration: dated February 14, 2023, stated that the initial request for the natal supplement was denied due to bureaucratic failures and complicated by her mental health issues which includes a diagnosis of Bipolar. The appellant also stated:

- Her multiple requests to her doctor for written confirmation of the pregnancy were not honoured.
- The social workers in the hospital, whom the appellant met after the birth of her child, assured the appellant that the documentation the ministry needed would be submitted but it was not.
- There were technical difficulties with the internet.
- The appellant experienced excessive stress as a single, pregnant working woman who lives with Bipolar type 1.

Evidence at Appeal

Notice of Appeal dated March 24, 2023. The notice of appeal included a 2-page letter from the appellant's advocate which was also dated March 24, 2023. The letter included, in part, the following information:

- The appellant has Bipolar and was not medicated for the past 2 years.
- The appellant made several attempts to communicate with the ministry regarding her pregnancy and birth of her child. These attempts were in the hope of adding the child as a dependent to the appellant's file and receiving a natal supplement.

- Due to reasons beyond her control, the appellant was not able to submit the necessary paperwork. By the time the appellant was aware that the paperwork was not submitted, the child was 7 months old.
- The ministry did not try to contact the appellant to notify her of the deadlines and to support her to submit the appropriate paperwork.
- Due to her mental health and not being medicated, the appellant has experienced significant difficulties trying to navigate this issue.
- Currently, the appellant is in the hospital, under the Mental Health Act, as an involuntary patient. This situation was a significant stressor and cause for concern which led to the hospitalization.
- The appellant faced unique circumstances, was failed by her health professionals and was not supported by the ministry. The ministry played a large role in the appellant's current situation. These circumstances led to the inability to submit the necessary paperwork on time to the ministry.

The panel considers the Notice of Appeal to be the appellant's argument and a finding of admissibility is not necessary.

Evidence at the Hearing

At the hearing, the appellant, in part, stated the following:

- She understands that the ministry has its policies and that specific paperwork had to be submitted by a specific time.
- At the time of her pregnancy, she was single and working. She had a serious mental condition at the time. When she was of sound mind, she was able to complete the necessary paperwork.
- This is a bureaucratic matter. She otherwise qualifies for this benefit.
- She agreed that she had not met the legislative requirements to be eligible for the natal supplement and was looking for some consideration for her difficult circumstances.

When questioned, the appellant stated the following:

- Her child has lived with her since the child's birth.
- The appellant submitted the child's birth certificate with Service BC in January 2023. She assumed that this would automatically register the child as a member of the family unit thus making the child eligible for benefits.

At the hearing, the ministry relied on its reconsideration decision. When asked, the ministry stated:

- The ministry can only backdate a benefit to the date the request is received. In this case, the child was already over 7 months old when the request for a natal supplement was made in December 2022.
- The ministry cannot override the legislation or the system to make an exception for one individual. There are no provisions in the legislation to allow an exception.
- The marker of 7 months old is significant because the ministry will support eligible recipients with a natal supplement for up to 6 months after the child is born. This to help ensure proper nutrition for the mother and child.

Part F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision, that determined the appellant was not eligible for a retroactive natal supplement as per the Regulation, section 23 and 68, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Arguments

The appellant's position is that although she did not provide confirmation of the pregnancy or birth as required, an exception should be made under her circumstances.

The ministry's position is that a natal supplement can only be provided if a family unit includes a pregnant person or a child under 7 months of age. The appellant is not eligible because she did not provide the required confirmation of her pregnancy or birth of her child until the child was over 7 months of age.

Panel's Decision

The panel notes that section 10 of the Act indicates that the ministry may direct an applicant to provide information and seek verification of that information. In this case, to determine eligibility for a natal supplement under section 68 of the Regulation, the ministry verification of the appellant's pregnancy and birth of her child. Therefore, the panel finds that the ministry was reasonable to request verification from the doctor that the appellant was pregnant and later request the child's birth certificate.

The panel notes that section 68(2) of the Regulation indicates that a family unit is not eligible to receive a natal supplement unless (a) a person in the family unit is pregnant, as confirmed in writing by a medical practitioner, a nurse practitioner or midwife, or (b) the family unit includes a dependent child under 7 months of age. In this case, the evidence indicates that the appellant initially contacted the ministry in December 2021 but did not confirm her pregnancy and her file was closed July 28, 2022. The appellant made a second request for a natal supplement in December 2022. When the appellant did confirm the birth of the child, by way of submitting a birth certificate, the child was over 7 months old. The appellant does not dispute these facts and is seeking an exception. The panel notes that section 23(2) of the Regulation indicates that a family unit is not eligible for a supplement in respect of a period before the ministry determines the family unit is eligible. That is, the ministry cannot backdate a benefit prior to when the recipient was found eligible. At the hearing, the ministry indicated that the benefit would be backdated to the month in which the request was received. In this case, the appellant requested the benefit for a second time in December 2022, but at that time her child was already over 7 months old, and section 68(2) clearly indicates that a natal supplement is only available during pregnancy and when a child is under 7 months old.

The panel empathizes with the appellant and acknowledges that she faced challenging circumstances. However, the panel also notes that there is no exception or provisions in the legislation that would allow the ministry to grant the appellant retroactive natal supplement. Therefore, the panel finds that the ministry was reasonable in its determination that the appellant is ineligible for a retroactive natal supplement.

Conclusion

In conclusion, the panel finds the ministry's reconsideration decision, which determined that the appellant was not eligible for a retroactive natal supplement, as per the Regulation, section 23 and 68 was reasonably supported by the evidence. The appellant is not successful on appeal.

Schedule of Legislation

The Act

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.

The Regulation

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.

Natal supplement

68 (1) Subject to subsection (2), the minister may provide a natal supplement in accordance with section 8 [*natal supplement*] of Schedule C to or for a family unit in receipt of disability assistance or hardship assistance, if the supplement is provided to or for a person in the family unit who is not described in section 8 (1) [*people receiving special care*] of Schedule A.

(2) A family unit is not eligible to receive a supplement under subsection (1) unless

(a) a person in the family unit is pregnant, as confirmed in writing by a medical practitioner, a nurse practitioner or a midwife, or

(b) the family unit includes a dependent child under 7 months of age.

2023-0090

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

Neena Keram

Signature of Chair

Date: 2023/04/14

Print Name

Jennifer Armstrong

Signature of Member

Date: 2023/04/14

Print Name

Bill Farr

Signature of Member

Date: 2023/04/14