

Part C – Decision Under Appeal

The decision under appeal is a reconsideration decision of the Ministry of Social Development and Poverty Reduction (the “ministry”) dated August 4, 2023 (the “decision”). The decision denied the appellant’s request for income assistance because the cash value of her assets exceeded the allowable limits for her family unit, that is \$5,000 for a single applicant.

Part D – Relevant Legislation

Employment and Assistance Act – Section 2 (the “Act”)

Employment and Assistance Act Regulation – Sections 1, 11 (the “Regulation”)

(See attached Appendix for text of the above)

Part E – Summary of Facts

The hearing took place by teleconference on August 29, 2023. At the beginning of the teleconference the ministry representative introduced a colleague and requested that they attend the hearing as an observer. The ministry had not requested this before the hearing, so the appellant was not able to consent in advance. The panel chair requested that the observer leave the teleconference call which they did. The hearing then proceeded.

The evidence before the ministry at reconsideration was as follows:

On June 13, 2023 the appellant applied for income assistance as a sole applicant. She did not indicate that she intended to apply for Persons with Disabilities (PWD) designation. As part of her application, she submitted a list of her bank accounts including:

- A joint-owned chequing account with a balance of \$422.49.
- A sole-owned Guaranteed Income Certificate (GIC) account with a balance of \$7,000.
- Two lines of credit with \$0 balances.

On June 16 the ministry reviewed the appellant's bank profile and contacted her to explain that she had excess cash assets for her family unit size. She advised the ministry that she is holding the money in a GIC for her mother.

On June 17, 2023 the appellant submitted an updated bank profile dated June 17, 2023 showing the same balances in her chequing and GIC accounts as before, however, the profile now showed an updated balance of -\$4,000.00 on one of her lines of credit.

On June 26, 2023 the appellant was advised her request for income assistance was denied as she was ineligible for income assistance as the cash assets in her bank accounts were above the limit for her family unit size.

On July 4, 2023 the appellant contacted the ministry and advised that she could not access the assets in her GIC as this account is locked-in until October, 2023. The appellant noted that she had taken out \$4,000 on her line of credit and now has debt and interest payments to make.

On July 17, 2023 the appellant submitted a Request for Reconsideration. She explained the following:

- She has been sick since February 10, 2023. She was without pay and no financial assistance, and it was hard to live in pain.

- She applied for assistance beginning in April 2023 and now she has updated her bank information. She believes she was not approved because the bank information was not clear to the ministry.
- She has a joint account with her mother. She has \$7,000 in a GIC with a one-year term. This is why it is still there. She asked the bank manager to take the \$7,000 out of the GIC, but the bank would not allow this.
- The appellant borrowed \$4,000 with interest to pay her bills. Now she has less than \$5,000 in her account.

On August 4, 2023 the ministry completed its decision. It stated the appellant was not eligible for income assistance because the value of her cash assets is higher than the allowable limit for her family unit size.

Submission by the Appellant

The appellant's reason for appeal state: "I have debts to pay and no money to pay with. The money currently in my account are my mother's and not my own. I am struggling with my illness and cannot find any work to support myself."

The appellant provided additional details during the hearing. She noted that she does not have more than \$5,000 in her bank. She noted that as she borrowed \$4,000, she has less than \$5,000 in her account. She also noted that she has been working for 25 years and paying taxes and that this is the first time that she has asked for help. She has been in pain since February 2023, her pain is getting worse, and she has no money. She needs financial support just for food.

When asked, the appellant clarified that she had not applied for the Canada Pension Plan (CPP) prior to intake at the ministry. She was attempting to work part time to get money for food. She said she was in pain and falling down. She tried to continue working but her employer would not let her continue as she was too slow. When asked, she replied that she had not indicated an intention to apply for PWD status in her income assistance application.

The appellant said that all of the \$7,000 in the GIC belonged to her mother. She explained the GIC was in her name because her mother's English is not good enough for her to do banking on her own. The appellant stated that the bank manager said her GIC was locked-in for one year. The appellant clarified that the maturity of the GIC was February 2024, rather than October 2023 as she originally advised the ministry. She said the error stemmed from confusion due to her being depressed and in pain. The bank manager

suggested that she borrow money rather than cash in the GIC. She borrowed \$4,000 on her line of credit.

When asked, the appellant stated the bank manager would not release the funds even if she paid a penalty. When asked, the appellant said she had not asked the bank manager for a letter to confirm that her GIC is locked-in for a year. She did not realize this was what the ministry wanted her to do to complete her application. When asked, the appellant stated she did not have a copy of the agreement she signed with the bank which locked-in her GIC funds.

The appellant said she is applying for CPP as of August 16. She stated the doctor told her she could not work like before. The doctor has completed their portion of the application and the appellant is still working on her portion of the CPP application.

Submission by the Ministry

The ministry did not submit any new information in response to the appeal.

At the hearing the ministry summarized the reconsideration decision and provided the following information. The ministry clarified with the appellant that as part of her application, she could ask for bridging (hardship) assistance while she is waiting for her CPP application to be processed, which takes four months. The appellant was advised the ministry could help and that hardship assistance was repayable.

The ministry explained that on June 13, 2023 the appellant applied for income assistance. She did not indicate an intention to apply for PWD status. The ministry stated that all applicants who apply for income assistance are asked if they intend to apply for PWD designation. The ministry had requested the appellant to submit some documentation from the bank, to prove she cannot pull the funds from the GIC account. The ministry noted that the GIC is an asset unless it can be established the account is locked-in. As no such information was provided, the ministry was unable to determine if the account was locked-in. Currently, the appellant's assets are \$7,422.49 with a negative balance of \$4,000. The ministry does not consider debt when determining asset value. Her assets are above the asset limit.

Additionally, the ministry attempted to get information on the GIC agreement from the bank but did not receive a response. The ministry noted that if the appellant gets a letter from the bank, she will be welcome to reapply through My Self Serve. Also, if the appellant changes her intention and decides to apply for PWD designation, she should

reapply. The ministry noted the asset limits are higher for persons with PWD designation, \$100,000 as opposed to \$5,000 for a sole applicant. The ministry reminded the appellant to submit all documents by the due date. The ministry also noted the appellant should take advantage of any assistance that could be provided from one of the advocacy groups listed on the ministry's website or through her local office.

Admissibility of New Evidence

Under section 22(4) of the Act, the panel has authority to admit new evidence that is reasonably required for a full and fair disclosure of all matters related to the decision under appeal. In the Notice of Appeal, the appellant states that she now has no money to pay her debts and she is unable to find work. In this case, the panel admits the new evidence from the Notice of Appeal and the hearing as it contributes to the panel's understanding of the circumstances surrounding the appellant's request for income assistance.

Findings of Fact

The panel finds the following facts:

- On June 13, 2023, the appellant applied for income assistance as a sole member of a family unit.
- The most recent financial documentation, the appellant's bank profile of June 17, 2023, indicates the appellant has \$422.49 in a joint chequing account (held with her mother), \$7,000 in a GIC (which she holds alone) and two lines of credit, one of which has a negative balance of \$4,000.
- The appellant has not provided evidence that she cannot access the GIC before the maturity date of February 2024.
- The appellant has not provided evidence that the money in the GIC is actually her mother's.

Part F – Reasons for Panel Decision

In this case, the panel must determine if the August 4 decision, which denied the appellant's request for income assistance because the cash value of her assets exceeded the allowable limits for her family unit, is a reasonable application of the legislation or reasonably supported by the evidence.

Legislation:

See Appendix for relevant legislation.

Ministry Position

The ministry holds that the appellant has \$7,000 in a GIC account in addition to \$422.49 held in her chequing account. This exceeds the limit for sole applicants of \$5,000 as set out in section 11(2) of the Regulation. Ministry policy states that money held in a Registered Retirement Savings Plan, including GICs, is considered an asset for the purpose of determining eligibility unless it can be established that the account is locked-in per *BC's Pension Benefits Standards Act* or similar federal or provincial legislation. As the appellant has provided no evidence in support of her assertion that the \$7,000 GIC is locked-in, and it exceeds the \$5,000 cash asset limit, she is not eligible for income assistance. The ministry acknowledges that the appellant has a negative balance of \$4,000 on her line of credit, however, the ministry does not have discretion to consider debts when calculating total asset values.

Appellant Position

The appellant's position is that she does not have more than \$5,000 in cash assets. She cannot access the \$7,000 of the locked-in GIC and she owes \$4,000 on her line of credit. She also states "I have debts to pay and no money to pay with. The money currently in my account are my mother's and not my own. I am struggling with my illness and cannot find any work to support myself."

Reasoning of the panel

The panel finds that the decision is a reasonable application of the legislation and reasonably supported by the evidence. Section 11(2) of the Regulation states the asset limit applicable to a sole applicant is \$5,000. Section 11(1) of the Regulation lists types of assets that are exempt when deciding eligibility for income assistance. The panel finds that money in a chequing account and GIC are not included in this list of exempt assets.

Rather, they are considered a cash asset which is a component of assets under the Regulation. The appellant's bank profile indicates that she has \$7,000 in a GIC and \$422.49 in a chequing account jointly held with her mother and has a negative balance of \$4,000 on her line of credit. The panel finds it a reasonable application of the legislation that only assets are considered and not debt or liability, therefore the appellant's assets are \$7,422.49. The appellant did not provide proof that the GIC was locked-in until February 2024, it was therefore reasonable for the ministry to determine the GIC was a cash asset according to the legislated definition. Had the appellant been able to provide such proof, the Regulation would have permitted the ministry not to consider the GIC as an asset because the bank could not have paid it to the appellant on demand as set out in section 1 of the Regulation. The panel notes its jurisdiction is governed by legislation and not by ministry policy. The panel notes that the ministry's policy is consistent with the applicable legislation.

Although the appellant stated that the money in the GIC was her mother's, no supporting evidence was put forward to substantiate this claim and the panel is unable to give it any weight. The ministry is therefore reasonable in determining the appellant's assets are in excess of \$5,000, making her not eligible for income assistance.

Conclusion

The panel finds that the ministry's decision, which determined that the appellant is not eligible for income assistance pursuant to Section 11(2)(a) of the Regulation as she has assets with a total value of more than \$5,000, is a reasonable application of the applicable legislation in the circumstances of the appellant. The panel confirms the ministry decision and, therefore, the appellant is not successful in the appeal.

Appendix - Relevant Legislation

EMPLOYMENT AND ASSISTANCE ACT

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.

EMPLOYMENT AND ASSISTANCE REGULATION

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,
- (c)the amount of a money order payable to the person or the dependant, or
 - (d)the amount of an immediately negotiable cheque payable to the person or the dependant;

Asset limits

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

- (a)clothing and necessary household equipment;
- (b)one motor vehicle generally used for day to day transportation needs;
- (c)a family unit's place of residence;

(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:

(a) subject to paragraph (c), a sole applicant or sole recipient has no dependent children and has assets with a total value of more than \$5 000;

(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;

(c) one applicant or recipient in the family unit receives accommodation and care in a private hospital or a special care facility, other than an alcohol or drug treatment centre, or is admitted to a hospital for extended care, and the family unit has assets with a total value of more than \$100 000;

(d) 2 applicants or recipients in the family unit receive accommodation and care in a private hospital or a special care facility, other than an alcohol or drug treatment centre, or are admitted to a hospital for extended care, and the family unit has assets with a total value of more than \$200 000.

(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, or (b)in the case of a family unit that includes 2 applicants or recipients who have applied for and have not been denied, or who the minister is satisfied have a genuine intention to apply for, designation as a person with disabilities, \$200 000.

(2.2)-(2.3)Repealed. [B.C. Reg. 122/2019, App. 1, s. 4 (d).]

(3)The minister may authorize one or more of the following:

(a)that for a family unit that includes a person who has persistent multiple barriers to employment or a person who has reached 65 years of age, the total cash surrender value of an uncashed life insurance policy of an applicant or recipient is not to be included as an asset for the purposes of subsection (2) for the period specified by the minister;

(b)that saleable acreage and buildings owned by an applicant or recipient are to be treated as though they were the place of residence of the applicant's or recipient's family unit for the period specified by the minister.

(4)Repealed. [B.C. Reg. 197/2012, Sch.1, s. 9.]

(5)If money is paid under or from an Indigenous financial settlement to an Indigenous governing body, the exemption under subsection (1) (ooo) includes investment income earned on that money by the Indigenous governing body before it is distributed to a person.

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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
Corrie Campbell

Signature of Chair

Date (Year/Month/Day)
2023/09/05

Print Name
Inge Morissey

Signature of Member

Date (Year/Month/Day)
2023/09/05

Print Name
Vivienne Chin

Signature of Member

Date (Year/Month/Day)
2023/09/05