

Part C - Decision Under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (Ministry) dated October 12, 2023, in which the Ministry denied backdated income assistance for the months of February through December 2022.

The Appellant requested backdated income assistance from January to December 2022. The Ministry found that the Appellant was eligible to receive income assistance for January 2022, but determined that, as the Appellant had not submitted monthly reports to request income assistance for February through December 2022, she was not eligible to receive income assistance for those months.

Part D - Relevant Legislation

Employment and Assistance Act (Act), sections 11 and 22(4)

Employment and Assistance Regulation (Regulation), sections 26 and 33(1)

Full text of the legislation is provided in the Schedule of Legislation at the end of the Reasons.

Part E – Summary of Facts

The Appellant did not attend the hearing and was represented at the hearing by her parent. The Ministry attended by telephone.

Evidence Before the Ministry at Reconsideration:

The Appellant was a sole recipient of income assistance. Between March and November 2021, the Appellant filed monthly reports through My Self Serve (MySS) requesting income assistance for May 2021 through January 2022. The Ministry paid the Appellant's income assistance benefits by direct deposit to the Appellant's bank account.

In December 2021, the bank returned the January 2022 income assistance payment because the Appellant's bank account had been closed. The Ministry reissued the January 2022 income assistance benefit by cheque.

When the Appellant did not pick up the cheque from the Ministry office, the Ministry mailed the cheque to the Appellant on January 11, 2022. However, the Ministry did not include the unit number in the address, and the cheque was returned by Canada Post because the address was incomplete.

On February 9, 2022, the Ministry turned off cheque production on the Appellant's file, because the Appellant had not claimed January or February income assistance cheques.

On June 17, 2022, the Ministry closed the Appellant's file because no cheque had been issued for six months and the Appellant had not contacted the Ministry.

On September 29, 2022, the Appellant and her parent went to the Ministry office and said the Appellant wanted to apply for income assistance again. The Appellant applied for income assistance on January 27, 2023, and was designated a Person with Disabilities (PWD) on March 1, 2023.

The Appellant did not submit any monthly reports in 2022.

Additional Evidence:

At the hearing, the Appellant's parent stated:

- The Appellant had suffered trauma and was hospitalized three times in 2022, between one and three months each time.
- The Appellant was not able to submit monthly reports because she was

traumatized.

Admissibility of Additional Evidence:

The Panel finds that the additional evidence, providing an explanation for not submitting monthly reports, is reasonably necessary for full and fair disclosure of all matters in the appeal, and therefore it is admissible under section 22(4) of the Act.

Part F – Reasons for Panel Decision

The issue on appeal is whether the Ministry's reconsideration decision, in which it determined that the Appellant was not eligible for backdated income assistance benefits between February and December 2022 because the Appellant did not submit monthly reports for those months, was reasonably supported by the evidence, or was a reasonable application of the legislation in the Appellant's circumstances.

Appellant's Position:

The Appellant says that the Appellant was eligible to receive income assistance, and the Ministry closed the Appellant's file in error. The Appellant's parent argues that the Appellant was not able to submit monthly reports because she was in hospital and was traumatized, and it is unreasonable for the Ministry to expect that she would submit monthly reports in that circumstance. As the Ministry closed the file in error, the Ministry should reinstate benefits backdated to February 2022. The Appellant's parent also asks for consideration on compassionate grounds.

Ministry Position:

The Ministry says that, under the Act, a person is not eligible to receive income assistance unless they submit a monthly report by the fifth of the month. The Appellant was filing monthly reports through MySS until November 2021, so she knew that was a requirement. The Ministry maintains that the requirement to submit a monthly report is in the legislation and is not optional. The Ministry says it does not have discretion to issue income assistance benefits if the recipient does not submit the monthly report in the time set out in the legislation.

Panel Decision:

The Panel finds that the Ministry's reconsideration decision to deny backdated income assistance benefits was a reasonable application of the legislation in the Appellant's circumstances.

Under section 33 of the Regulation, a person must submit a monthly report by the 5th day of the month, to be eligible for income assistance the following month. The monthly report confirms, among other things, that the person needs further income assistance. The Appellant had been submitting monthly reports as required throughout 2021, confirming eligibility for income assistance through January 2022. She did not submit any monthly reports in 2022.

The Panel understands that the Appellant stopped submitting monthly reports because of personal trauma and hospitalization. However, under the legislation, if a person does not submit the monthly report by the fifth day of the month, they are not eligible for income assistance. The legislation does not give the Ministry the choice to waive that requirement and make backdated payments.

The Appellant argues that her file was closed in error. The Ministry says that the file was closed automatically, as an administrative function, after six months of no contact from the Appellant or anyone on her behalf. The Panel notes that the Appellant's eligibility for income assistance is not affected by whether her file was open or closed. Even if her file was open, because the Appellant did not submit monthly reports for February through December 2022, she was not eligible for income assistance.

At the hearing, the Ministry explained some ways that monthly reports can be submitted when a person is hospitalized or otherwise unable to submit the reports for themselves. The Appellant's parent expressed their frustration in their efforts to deal with the Ministry on behalf of the Appellant, and the Panel acknowledges the difficulty of navigating the requirements for a person who is not able to manage their own affairs. However, there is no recorded contact with the Ministry until September 2022, when the Ministry asked the Appellant to re-apply for income assistance and explained how to apply online. That application was submitted in January 2023. The Panel finds that it was reasonable for the Ministry to ask the Appellant to re-apply for income assistance when no monthly reports had been submitted in the previous nine months.

Conclusion:

The Panel finds that the Ministry's reconsideration decision, denying backdated income assistance between February and December 2022, was a reasonable application of the legislation. The Panel confirms the reconsideration decision. The Appellant is not successful in the appeal.

Schedule of Legislation

Employment and Assistance Act

Reporting obligations

s. 11 (1) For a family unit to be eligible for income assistance, a recipient, in the manner and within the time specified by regulation, must

(a) submit to the minister a report that

(i) is in the form specified by the minister, and

(ii) contains the prescribed information, and

(b) notify the minister of any change in circumstances or information that

(i) may affect the eligibility of the family unit, and

(ii) was previously provided to the minister.

(2) A report under subsection (1) (a) is deemed not to have been submitted unless the accuracy of the information provided in it is confirmed by a signed statement of each recipient.

Panels of the tribunal to conduct appeals

s. 22 (4) A panel may consider evidence that is not part of the record as the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

Employment and Assistance Regulation

Monthly reporting requirement

s. 33 (1) For the purposes of section 11 (1) (a) [*reporting obligations*] of the Act,

(a) the report must be submitted by the 5th day of each calendar month, and

(b) the information required is all of the following, as requested in the monthly report form specified by the minister:

(i) whether the family unit requires further assistance;

(ii) changes in the family unit's assets;

- (iii) all income received by the family unit and the source of that income;
- (iv) the employment and educational circumstances of recipients in the family unit;
- (v) changes in family unit membership or the marital status of a recipient;
- (vi) any warrants as described in section 15.2 (1) of the Act.

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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

Susan Ferguson

Signature of Chair

Date (Year/Month/Day)

2023/12/21

Print Name

Kulwant Bal

Signature of Member

Date (Year/Month/Day)

2023/12/21

Print Name

Robert McDowell

Date (Year/Month/Day)

2023/12/21