

**Part C – Decision Under Appeal**

The decision under appeal is the decision of the Ministry of Social Development and Poverty Reduction (the “**Ministry**”) dated November 13, 2023, in which the Ministry declined to give a reconsideration decision because the Appellant failed to deliver a completed Request for Reconsideration form to the Ministry within 20 business days after being notified of the decision to deny income assistance, as set out in Section 79 of the *Employment and Assistance Regulation*.

**Part D – Relevant Legislation**

- *Employment and Assistance Act* (the “**Act**”) – section 17
- *Employment and Assistance Regulation* (the “**Regulation**”) – section 79

**Note:** The full text is available after the decision.

**Part E – Summary of Facts****(a) Summary of Key Dates:**

- In April 2022, the Appellant came to Canada as a refugee.
- On August 10, 2022, the Appellant applied for income assistance.
- On September 14, 2022, the Ministry advised the Appellant that she was eligible for income assistance beginning on August 10, 2022.
- On January 19, 2023, the Appellant submitted a request for income assistance for May to July of 2022.
- On January 20, 2023, the Ministry reviewed and denied the Appellant’s request for benefits for May to July of 2022 as income assistance begins from the date she applied which, in this case, was August 10, 2022.
- On May 18, 2023, the Ministry advised the Appellant that her request for income assistance from May to July of 2022 was denied. The Ministry subsequently mailed the Appellant a Request for Reconsideration (“**RFR**”) package which had to be returned to the Ministry by June 16, 2023.
- The Ministry did not receive the Appellant’s completed RFR form by June 16, 2023. However, on October 13, 2023, the Ministry received the Appellant’s completed RFR form.
- On November 13, 2023, the Ministry determined it could not reconsider its denial of income assistance from May to July of 2022 given that the Appellant did not submit her completed RFR form within the legislated timelines.

**(b) The Appeal**

On November 17, 2023, the Appellant filed a Notice of Appeal (the “**Appeal Notice**”). In the Appeal Notice, the Appellant wrote, “... *When I was asking for the return of my benefits, I visited them several times but they were negligent. They said several times they would call you but they didn’t. I also wrote a letter once to be delivered then I had a special situation. I couldn’t follow upon but at first I didn’t know that you had to apply for social yourself... I don’t have such proof because it was by word of mouth and communication. I only have acknowledgement letter...*”

The Appellant’s Appeal hearing was held on December 19, 2023 via teleconference.

**Oral Submissions**

At the Appeal hearing, the Appellant was assisted by an interpreter.

During oral submissions, the Appellant attempted to provide submissions relating to the Ministry’s denial of income assistance between May and July 2022. As a result, the Appellant

was reminded that the Appeal was limited to the question of whether she submitted her completed RFR form within the legislated timelines.

The Appellant explained that she found the Ministry's decision to deny her income assistance from May to July of 2022 to be unreasonable and intended to challenge it; however, the Appellant's ability to file the RFR form was impeded as the health of her father declined after she received the Ministry's denial. As a result, the Appellant was unable to meet the 20 business day submission deadline for the RFR form.

The Ministry referred to and relied upon the Appeal Record. In addition, the Ministry advised that the Appellant was orally advised that her request for income assistance was denied on May 18, 2023. For clarity, a Ministry supervisor advised the Appellant via telephone, through an interpreter, given that the Appellant did not have an operative "My Self Serve" account. Normally, the Ministry would have issued the decision denying income assistance using the Appellant's My Self Serve account. Further, the Ministry clarified that the RFR form was sent to the Appellant on May 23, 2023. The Ministry advised that the Appellant did not request or say that she needed additional time to submit her completed RFR form.

Neither party objected to the other's oral submissions or additional evidence. The Panel determined that each party's evidence was admissible as additional evidence pursuant to section 22(4) of the *Employment and Assistance Act* as it was reasonably required for a full and fair disclosure of all matters related to the decision under appeal. More specifically, the additional evidence contributed to the Panel's understanding of the circumstances surrounding the Appeal.

**Part F – Reasons for Panel Decision**

The issue in this Appeal is whether the Ministry's decision not to give a reconsideration decision because the Appellant failed to submit a completed RFR form to the Ministry within 20 business days after she was notified of the Ministry's decision to deny income assistance is reasonably supported by the evidence or is a reasonable application of the legislation.

**Appellant's Position**

The Appellant argues that she was unable to submit a completed RFR form within the timelines established by the applicable legislation due to circumstances beyond her control. She maintains that the Ministry should provide a reconsideration decision even though she submitted her RFR form more than 20 business days after she was notified of the Ministry's decision to deny her income assistance between May and July of 2022.

**Ministry's Position**

The Ministry maintains that it cannot reconsider its decision to deny the Appellant income assistances given that the Appellant did not submit her completed RFR form within the timelines established by the applicable legislation.

**Panel Decision**

Section 79 of the *Regulation* sets out that a person who seeks a reconsideration must deliver a completed RFR form to the Ministry within 20 business days after that person is notified of the Ministry's decision.

On May 18, 2023, the Ministry notified the Appellant of its decision to deny her request for income assistance for May to July of 2022. On May 23, 2023, the Ministry mailed the Appellant a RFR package so that she could have the Ministry reconsider its decision to deny her benefits. The Appellant was required to submit a completed RFR form to the Ministry by June 16, 2023. On October 13, 2023, the Appellant submitted her completed RFR form to the Ministry, which was past the June 16<sup>th</sup> RFR form submission deadline. The Appellant did not advise the Ministry that she required addition time to submit her RFR form.

The Panel finds that the Appellant did not meet the legislated requirement that a RFR form be submitted within 20 business days after being notified of the Ministry's decision to deny her income assistance. While the Appellant argues that she was unable to file a completed RFR form due to factors beyond her control, the Panel finds that section 79 of the *Regulation* does not excuse the Appellant from her filing deadline obligations. Put differently, the legislation does not allow for exceptions from the filing timelines. While the Ministry indicates that it could have granted the Appellant a filing deadline extension, the Appellant

did not advise the Ministry of her (then) circumstances impeding her ability to file a completed RFR form.

The Panel is empathetic to the Appellant's circumstances; however, it finds that she did not file a completed RFR form within 20 business days after she was notified of the Ministry's decision to deny her request for income assistance between May and July of 2022. Therefore, the Panel finds the Ministry reasonably determined that it could not reconsider the decision denying income assistance.

### **Conclusion**

The Panel finds the Ministry's decision, that it could not give a reconsideration decision, is a reasonable application of the legislation in the Appellant's circumstances. The Panel confirms the Ministry's decision.

The Appellant is not successful on appeal.

### **Legislation**

#### ***Employment and Assistance Act, SBC 2002, c 40***

### **Reconsideration and appeal rights**

**17** (1) Subject to [section 18](#), a person may request the minister to reconsider any of the following decisions made under this Act:

- (a) a decision that results in a refusal to provide income assistance, hardship assistance or a supplement to or for someone in the person's family unit;
- (b) a decision that results in a discontinuance of income assistance or a supplement provided to or for someone in the person's family unit;
- (c) a decision that results in a reduction of income assistance or a supplement provided to or for someone in the person's family unit;
- (d) a decision in respect of the amount of a supplement provided to or for someone in the person's family unit if that amount is less than the lesser of
  - (i) the maximum amount of the supplement under the regulations, and
  - (ii) the cost of the least expensive and appropriate manner of providing the supplement;
- (e) a decision respecting the conditions of an employment plan under [section 9](#) [*employment plan*].

(2)A request under subsection (1) must be made, and the decision reconsidered, within the time limits and in accordance with any rules specified by regulation.

(3)Subject to a regulation under subsection (5) and to sections 9 (7) [*employment plan*], 18 and 27 (2) [*overpayments*], a person who is dissatisfied with the outcome of a request for a reconsideration under subsection (1) (a) to (d) may appeal the decision that is the outcome of the request to the tribunal.

(4)A right of appeal given under subsection (3) is subject to the time limits and other requirements set out in this Act and the regulations.

(5)The Lieutenant Governor in Council may designate by regulation

(a)categories of supplements that are not appealable to the tribunal, and

(b)circumstances in which a decision to refuse to provide income assistance, hardship assistance or a supplement is not appealable to the tribunal.

### ***Employment and Assistance Regulation, BC Reg 263/2002***

#### **How a request to reconsider a decision is made**

**79** (1)A person who wishes the minister to reconsider a decision referred to in [section 17 \(1\)](#) of the [Act](#) must deliver a request for reconsideration in the form specified by the minister to the ministry office where the person is applying for or receiving assistance.

(2)A request under subsection (1) must be delivered within 20 business days after the date the person is notified of the decision referred to in [section 17 \(1\)](#) of the [Act](#) and may be delivered by

(a)leaving it with an employee in the ministry office, or

(b)being received through the mail at that office.

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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

Anil Aggarwal

Signature of Chair

Date (Year/Month/Day)

2023/12/29

Print Name

Susan Ferguson

Signature of Member

Date (Year/Month/Day)

2023/12/29

Print Name

Kevin Ash

Signature of Member

Date (Year/Month/Day)

2023/12/29