

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction’s (the “Ministry”) reconsideration decision dated February 2, 2024 , denying the Appellant disability assistance between November 13th and December 19th, 2023 because he was absent from British Columbia (“BC”) for more than 30 days without prior approval. The Ministry found that the Appellant did not meet the eligibility requirements under section 15 of the Employment and Assistance for Persons with Disabilities Regulation (the “Regulation”).

Part D – Relevant Legislation

Employment and Assistance Act, s. 22(4)

Employment and Assistance for Persons with Disabilities Regulation, s. 15
Employment and Assistance Regulation, s. 86 (b)

The full wording of this legislation is set out in the Schedule of Legislation at the end of this decision.

Part E – Summary of Facts

The hearing took place by videoconference on March 11, 2024. The Appellant did not attend at, or within 15 minutes of the originally scheduled time. With agreement from the Ministry, the hearing was reconvened an hour later to accommodate any misunderstanding the Appellant may have in regard to the daylight savings time change. The Appellant also did not attend the videoconference at the rescheduled time an hour later. After additional wait time and upon confirming that the Appellant had been notified of the hearing and hearing details, consistent with the Employment and Assistance Regulation section 86 (b), the hearing proceeded in the absence of the Appellant.

Information before the Ministry at Reconsideration

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

- The Appellant is a sole recipient of disability assistance;
- On October 10, 2023 the Appellant advised the Ministry that he would be travelling outside of Canada for two months;
 - The Appellant was absent from Canada for 66 days: he left BC on October 14, 2023 and returned on December 19, 2023;
- On October 25, 2023 the Appellant received November assistance;
- On October 26, 2023 the Appellant submitted his monthly report for December assistance; he included a typewritten note stating:
 - Two recent \$850 payments received were 2020 and 2021 earnings, not current;
 - The Appellant was in his home country to receive dental implants;
- On October 26, 2023 the Ministry turned off cheque production to avoid an overpayment;
- On December 19, 2023 the Appellant returned to BC;
- On December 21, 2023 the Appellant went to a Ministry office to request his December assistance and provided further information:
 - His December rent had already been paid;
 - Flight itinerary confirming his October 14, 2023 departure and December 19, 2023 return;
 - Confirmation of living in BC;
 - Notes from the out of country dental centre confirming the dental services he received while he was away and indicating a balance owing of \$1705 USD;
 - Bank statements that show his balance on December 20, 2023 was \$659.31;
- On December 22, 2023 the Ministry provided the Appellant with pro-rated disability assistance of \$574.26 for December; and
- On his January 25, 2024 Request for Reconsideration—Reasons, the Appellant notes:

- In October 2023, the Appellant had been under considerable stress due to a fire at his residence which resulted in him becoming homeless for 15 days;
- Although the Ministry said he should not be out of the province for more than 30 days, his doctor advised at least a 50 day recovery period after his dental surgeries; and
- He was unable to cover the total dental expenses; he requires assistance to alleviate the financial stress.

Additional Information submitted after Reconsideration

Reasons for Appeal

The Appellant says he disagrees with the Ministry decision for the following reasons:

- He told the Ministry officer that he would be leaving Canada and staying in his home country for two months and the Ministry officer said this was fine; and
- His dental process took over 50 days.

Evidence presented at the hearing

Ministry

At the hearing, in response to questions from the Panel the Ministry advised:

- Although the Appellant received a prorated assistance amount in December 2023, Ministry records confirm that he has returned to full assistance benefits; and
- The Ministry has support available to assistance recipients to provide funding for dental procedures; coverage for dental outside of BC or Canada would be in exceptional circumstances such as if the procedure was not done in BC or not in Canada.

The Panel accepted the Ministry's oral evidence as new information. The Ministry's testimony gives clarity about the process when assistance payments are paused and then restarted and provides added information about when an assistance recipient might need to seek out of Province/out of Canada dental care.

The Panel finds that the additional evidence is reasonably required for the full and fair disclosure of all matters in the appeal. Therefore, the Panel finds that the additional evidence is admissible under *Employment and Assistance Act* section 22(4).

Part F – Reasons for Panel Decision

The issue on appeal is whether the Ministry's reconsideration decision was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant. The Ministry determined that per the Regulation, the Appellant was not eligible for disability assistance between November 13th and December 19th, 2023 because he was absent from BC for more than 30 days without prior approval.

Relevant sections of the legislation are set out after the reasons of the Panel.

Position of the Appellant

As the Appellant did not attend the hearing, the Panel relies on the Appellant's submissions provided with his request for reconsideration and his notice of appeal. The Appellant says the Ministry's decision was not right, he did have prior approval to be away, and he should be given full assistance for many reasons:

- In October 2023, the Appellant had been under considerable stress due to a fire at his residence which resulted in him becoming homeless for 15 days;
- Although the Ministry said he should not be out of the province for more than 30 days, his doctor advised at least a 50 day recovery period after his dental surgeries;
- He was unable to cover the total dental expenses; he requires assistance to alleviate the financial stress; and
- He told the Ministry officer that he would be leaving Canada and staying in his home country for two months and the Ministry officer said this was fine.

Position of the Ministry

At the hearing, the Ministry largely relied on the reasons provided in its reconsideration decision. The Ministry noted that the residency requirement was clear in the legislation; the Appellant was not eligible for assistance for the time that he was outside BC for more than 30 days. In addition, although the Appellant had advised he would be away, he did not ask for or receive prior approval from the Ministry as the Regulation required. The Ministry representative explained that assistance recipients are required to be in BC. The Ministry said that assistance payments are determined on a month to month basis, are based on need, and in cases where a recipient does leave BC, the Ministry waits for them to return to figure out their assistance amount; the Ministry wouldn't necessarily automatically turn cheque payment(s) off completely.

Finally, the Ministry highlights that the Appellant was absent from BC for 66 days and this absence made him unable to receive assistance between November 13th and December 19th, 2023. On December 22, 2023, the Appellant did receive a prorated amount of \$574.26 for December assistance, which was almost 40% of his monthly benefit of \$1483.50.

Analysis

Section 15, Regulation

Section 15 of the Regulation states a recipient who is outside of British Columbia for more than 30 days in a year ceases to be eligible for disability assistance unless the minister has given prior authorization to continue disability assistance for the purpose of:

- (a) permitting the recipient to participate in a formal education program,
- (b) permitting the recipient to obtain medical therapy, or
- (c) avoiding undue hardship.

Absent from BC for More Than 30 days

The Appellant does not dispute that he was absent from BC for more than 30 days. Both Ministry records and the Appellant's submissions show that on October 10, 2023 the Appellant advised the Ministry that he would be leaving BC on October 14, 2023. The Appellant provided an Electronic Ticket/Itinerary showing he booked his out of country flights on September 18, 2023. The Electronic Ticket/Itinerary confirmed his flight from BC to another country on October 14, 2023 and returning December 19, 2023; the Appellant was absent from BC for 66 days. The Panel determines that the Ministry was reasonable in determining that Appellant was not eligible for disability assistance because he was outside BC for more than 30 days.

Prior Approval

The Panel finds that the Ministry was reasonable in determining that the Appellant was not eligible for disability assistance between November 13th and December 19th, 2023 because he did not have prior authorization from the Ministry.

The Appellant argues that he was unable to get prior approval from the Ministry for his October 14, 2023 departure any sooner than October 10, 2023 due to the stress of a fire at his home in October that left him homeless for 15 days. No further evidence was provided regarding the October fire. In any event, the Appellant's flight was booked well before

October; the ticket was bought September 18, 2023. The Appellant had time both *prior to, and after* September 18, 2023 but before the fire at his home in October, to meet his obligation to get prior authorization from the Ministry for his October 14, 2023 travel plans.

The Appellant also said that preapproval was given; when he spoke to the Ministry on October 10, 2023 about leaving BC for two months, the Ministry worker he spoke to said this was “fine”. However, the panel finds the actions of the Ministry do not support the Appellant’s view that approval was given and his plans were fine with them. Upon receiving further confirmation from the Appellant on October 26, 2023 that he was out of the country, the Ministry paused cheque payment. Due to pre-scheduled cheque runs, the Appellant did receive November assistance. However, December assistance was not provided as usual; the Appellant only received prorated December assistance after the Ministry confirmed that the Appellant had returned to and continued to reside in BC.

Absent to Receive Medical Therapy or to Avoid Undue Hardship

Finally, the Appellant submitted argument suggesting his disability assistance should have continued because he required dental treatment out of country and to avoid undue hardship. This panel finds there was insufficient evidence to confirm that the dental treatment was medical therapy as required by the Regulation. Similarly, although the Appellant said he faced undue hardship, there was insufficient evidence to verify this claim. There was no evidence of him asking about dental treatment and coverage within BC. As well, prior to receiving prorated December assistance, he confirmed he had paid his December rent and had a bank balance of \$659.31. The Panel finds that there was not enough information to show that the Appellant was in another country to receive medical therapy, or that he suffered undue hardship.

Conclusion

The Panel finds the Ministry decision that determined the Appellant was not eligible for disability benefits while absent from BC for more than 30 days (November 13th – December 19th, 2023) without prior approval, was a reasonable application of the legislation in the circumstances of the Appellant.

The Panel confirms the Ministry’s decision. This means the Appellant is not successful with his appeal.

Relevant Legislation

EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES REGULATION

Effect of recipient being absent from BC for more than 30 days

15 The family unit of a recipient who is outside of British Columbia for more than a total of 30 days in a year ceases to be eligible for disability assistance or hardship assistance unless the minister has given prior authorization for the continuance of disability assistance or hardship assistance for the purpose of

- (a) permitting the recipient to participate in a formal education program,
- (b) permitting the recipient to obtain medical therapy prescribed by a medical practitioner, or
- (c) avoiding undue hardship.

Employment and Assistance Act

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

Procedures

86 The practices and procedures of a panel include the following:

- (b) the panel may hear an appeal in the absence of a party if the party was notified of the hearing;

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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

Carmen Pickering

Signature of Chair

Date (Year/Month/Day)

2024/03/15

Print Name

Bill Haire

Signature of Member

Date (Year/Month/Day)

2024/03/15

Print Name

John Pickford

Signature of Member

Date (Year

2024/03/15