

Part C – Decision Under Appeal

The decision under appeal is the Reconsideration Decision of the Ministry of Social Development and Poverty Reduction (the “**Ministry**”) dated June 18, 2024, in which the Ministry applied a sanction against the Appellant thereby reducing his disability assistance by \$25.00 for 3 months due to his inaccurate provision of information to the Ministry as it related to his eligibility for disability assistance between November 2021 and February 2023 (the “**Sanction**”).

Part D – Relevant Legislation

- *Employment and Assistance for Persons with Disabilities Act* (the “**Act**”) – sections 11 and 14.1
- *Employment and Assistance for Persons with Disabilities Regulation* (the “**Regulation**”) – sections 28.1 and 29

Note: The full text is available after the Decision.

Part E – Summary of Facts

The Appellant's hearing was held in person on July 15, 2024. A Ministry representative attended the hearing by telephone. The Appellant did not attend the hearing.

(a) The Reconsideration Decision

The evidence before the Ministry at the Reconsideration Decision consisted of:

- The Appellant is the sole recipient of disability assistance and has been in receipt of disability assistance from the Ministry since September 1, 2021.
- On May 23, 2024, the Ministry completed a review of the Appellant's disability assistance file. The Ministry determined that the Appellant had (then) received an overpayment totaling \$17,861.50 for disability assistance that he was not eligible to receive. The overpayment occurred because the Appellant did not report the financial assistance he received from the province of Quebec between April 2021 and December 2022. The Ministry applied the Sanction to the Appellant's disability assistance file to reduce his disability assistance by \$25.00 for the months of July, August, and September 2024. The Ministry advised the Appellant of the Sanction using his My Self Serve ("**MSS**") account and, in doing so, offered him the right to request a reconsideration of its decision.
- The Appellant submitted a Request for Reconsideration, dated June 6, 2024, to dispute the Sanction. The Appellant explained the following:
 - He did not fail to report any income, and there is no overpayment.
 - He did not receive benefits on time each calendar month and there is more than \$6,000.00 missing in benefits that he believes he was entitled to receive.
 - He has been designated as a Persons with Disabilities ("**PWD**").
 - The Ministry made a mistake in May 2024 and deducted \$20.00 from his benefits, not \$25.00.
 - He did not receive any compensation for the late payment of his benefits.
 - The overpayment is the result of inaccurate or incomplete reporting.
- The Ministry reviewed the Appellant's disability assistance file and confirmed the following:
 - On September 1, 2021, the Ministry conducted an intake interview with the Appellant to determine his eligibility for income assistance. The Appellant advised the Ministry that he had no sources of income and no open bank accounts except for a Registered Disability Savings Plan. The Ministry determined that the Appellant was eligible for income assistance. On this date, the Appellant signed an HR0080B Application For Assistance – Consents (Part

1) form acknowledging that he must report all money and assets that he receives each month.

- On November 26, 2021, the Ministry determined that the Appellant was eligible for a PWD designation. The Ministry sent the Appellant a letter notifying him that he is still required to complete a Monthly Report (HR0081) if he received any sources of income.
- On November 22, 2022, the Ministry received a fax from the Ministry of Labor, Employment and Social Solidarity (“MTESS”) in Quebec confirming that the Appellant had an open assistance file, which would be (then) closing in December 2022 or January 2023. MTESS advised that the Appellant’s last benefit payment in Quebec would be for \$1,400.00, for the month of December 2022, and it would be deposited into the Appellant’s bank account. The MTESS provided the Ministry with the last three (3) digits of the Appellant’s bank account.
- On November 24, 2022, the MTESS sent the Ministry a second fax showing the dates upon which the Appellant received financial assistance from Quebec during the period from September 2021 to December 2022.
- On January 23, 2023, the Ministry spoke with the Appellant who advised that the Appellant closed all his bank accounts, except one (1) because the Quebec government kept depositing funds into it.
- On January 25, 2023, the Appellant submitted bank statements for the account identified by the MTESS which show a transaction history from June 5, 2022 to December 5, 2022. The statements show that the Appellant is the sole owner of that bank account. The transaction history on the statements show the deposit of financial assistance from Quebec in the same amounts indicated on the fax received from the MTESS on November 24, 2022.
- On June 18, 2024, the Ministry issued its Reconsideration Decision wherein it upheld the Sanction for the following reasons:

“The ministry previously determined that you received an overpayment of assistance for failing to report financial assistance received from the province of Quebec during the period of September 2021 to December 2022. The ministry notes that you submitted a Request for Reconsideration of this decision on June

3, 2024, and this Request for Reconsideration was denied on June 17, 2024. You dispute having received any undeclared Quebec financial assistance benefits. However, information received from the Ministry of Labor, Employment and Social Solidarity (MTESS) in Quebec confirms that you were receiving financial assistance in Quebec during the months of September 2021 to December 2022, as deposited into a [bank account] known to be yours. You provided bank statements for this account on January 25, 2023, and these statements show deposits received from financial assistance in Quebec in the same amounts, and on the same schedule, as indicated by MTESS. As such, the ministry is satisfied that you were receiving undeclared financial assistance from the province of Quebec during the period of September 2021 to December 2022.

A review of your file further shows that, upon being found eligible to receive income assistance, you were notified of the requirement to report all money and assets that you receive each month, as per the HR0080B form you signed on September 1, 2021. You were then notified of the requirement to continue declaring any sources of income received when you were approved for PWD designation on November 26, 2021. As such, the ministry is satisfied that you were made aware of the requirement to report any financial assistance you were receiving from the province of Quebec during the period of September 2021 to December 2022. For this reason, the ministry is not satisfied that you took the necessary steps to ensure the accuracy and completeness of information regarding the sources of income you were receiving before providing it to the ministry.

As you have not had a previous sanction imposed on your file, the ministry considers this to be a first determination of a sanction imposed because of an overpayment for inaccurate reporting.

As you failed to report the financial assistance income you received from the province of Quebec resulting in an overpayment, and this is your first determination for inaccurate reporting, you are subject to a \$25 reduction of your disability assistance. The ministry determined that you failed to take the necessary steps to ensure the accuracy of your monthly reporting on May 23, 2024, after your June 2024 disability assistance had already been issued. As such, your disability assistance is to be reduced by \$25 for July, August, and September 2024 as per Section 28.1 of the EAPWD regulation.”

(b) The Appeal

On June 22, 2024, the Appellant filed a Notice of Appeal in which he wrote the following:

" There is no overpayment I am bc resident and I was entitle[d] to receive the money for each calendar month."

The Appellant's in person hearing was held on July 15, 2024. However, the Appellant did not attend the hearing. Despite the Appellant's non-attendance, the Panel determined to proceed with the hearing in the Appellant's absence. In making its decision to proceed with the hearing, the Panel noted:

- the Appellant had requested an in-person hearing;
- this Tribunal issued an Appeal Record to the Appellant by registered mail as requested by him which confirmed the Appellant's hearing date, time and places which complies with sections 2.3 and 4.2 of the Tribunal's practices and procedures;
- as the Appeal Record was issued to the Appellant at the address provided by him, it is deemed to be delivered; the Appellant did not respond to numerous telephone calls or voicemails left by Tribunal staff as it relates to this hearing;
- the Appellant did not consent to other forms of communication that would have enhanced this Tribunal's ability to contact him; and
- this Tribunal had otherwise fulfilled its statutory requirements owed to the Appellant.

In all, the Panel finds that the above noted factors warrant that this appeal hearing should proceed in the Appellant's absence which is permitted by section 86 of the Employment and Assistance Regulation. As a result, the only submissions made to the Panel were from the Ministry.

The Ministry referred to and relied upon the Appeal Record which largely consisted of the Reconsideration Decision. During submissions, the Ministry advised:

- the Appellant never reported income as required by the Regulation;
- the Sanction imposed on the Appellant was initiated by an overpayment of disability assistance to him;
- section 14.1 of the *Act* outlines the consequences of inaccurate income reporting;
- section 28.1 of the Regulation outlines the length of the Sanction for a first-time offence; and
- the Sanction is a punitive measure intended to punish improper income reporting.

The Panel determined that the Ministry's submissions were 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 under appeal is the reasonableness of the Ministry's Reconsideration Decision in which the Ministry's decided to apply a Sanction against the Appellant thereby reducing his disability assistance by \$25.00 for three (3) months due to the Appellant's inaccurate reporting of information as it related to his eligibility for disability assistance between November 2021 and February 2023.

Appellant's Position

On review of the Notice of Appeal, the Appellant denies that he received the overpayment. As a result, he argues that the Sanction has been improperly applied against him.

Ministry's Position

The Ministry maintains that it properly applied the Sanction against the Appellant arising from his inaccurate reporting of information as it related to his eligibility for disability assistance between November 2021 and February 2023.

Panel Decision

Section 11 of the *Act* provides that, for an individual to be eligible for disability assistance, they must submit a form and notify the Ministry of any change in circumstances or information that may affect their eligibility for disability assistance.

Section 29 of the Regulation requires a recipient of disability assistance to report any change in circumstances or information that may affect their eligibility for disability assistance on the 5th of each month.

Sections 14.1(1) and (2) of the *Act* provide for the reduction of disability assistance if the Minister determines that the disability assistance was provided to a recipient who was not eligible for it.

Section 28.1(a) of the Regulation provides that, if the Minister makes a determination under section 14.1 of the *Act*, the Ministry may reduce an individual's disability assistance by \$25.00 for the three (3) months following the calendar month in which the Minister made the determination.

(a) The Overpayment

The Panel notes that the Appellant appealed the Ministry's decision regarding the overpayment which gives rise to the Sanction. In the related appeal by the Appellant, which was heard by this Panel, it was held that the Ministry reasonably determined that the Appellant received an overpayment of disability assistance for the period between November 2021 and February 2023; as a result, the Appellant is liable to repay an overpayment of \$14,007.00. Given the decision by the Tribunal, this Panel shall consider the Sanction issue under the premise that an overpayment has been found.

(b) The Sanction

On review of the available evidence, the Panel finds that, upon being found eligible to receive assistance from the Ministry, the Ministry notified the Appellant of his requirement to report all money and assets that he received each month, as per the HR0080B form he signed on September 1, 2021. The Panel further finds that the Appellant was also notified of his requirement to continue declaring any sources of income that he received upon being approved for his PWD designation on November 26, 2021. As a result, the Appellant was made aware of his requirement to report the financial assistance he received from the province of Quebec between September 2021 and December 2022; however, this did not occur. Rather, the Panel finds that the Appellant did not take the necessary steps to ensure the accuracy and completeness of information regarding the sources of income he was receiving before providing it to the Ministry. In other words, the Appellant did not comply with his obligations as provided for by section 11 of the *Act* and section 29 of the *Regulation*.

As the Appellant failed to report the financial assistance that he received from the province of Quebec resulting in an overpayment, and because this is the Ministry's first determination of inaccurate reporting, the Panel finds that the Ministry reasonably applied the Sanction against the Appellant as permitted by section 14.1 of the *Act* and section 28.1 of the *Regulation*. To that end, the Panel finds that the Ministry reasonably applied the Sanction of \$25.00 for the months of July, August, and September 2024 given that the Ministry decided to impose the Sanction in May 2024.

Conclusion

The Panel finds that the Ministry's decision to impose a Sanction of a \$25.00 reduction to the Appellant's disability assistance for three (3) months arising from his inaccurate reporting of information as it related to his eligibility for disability assistance between November 2021 and February 2023 was a reasonable application of the legislation in the circumstances.

The Ministry's decision is confirmed and the Appellant is not successful on appeal.

Legislation

Employment and Assistance for Persons with Disabilities Act, SBC 2002, c 41

Reporting obligations

11 (1) For a family unit to be eligible for disability 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.

Consequences for providing inaccurate or incomplete information

14.1 (1) The minister may take action under subsection (2) if the minister determines that

- (a) disability assistance, hardship assistance or a supplement was provided to or for a family unit that was not eligible for it,
- (b) the disability assistance, hardship assistance or supplement was provided to or for the family unit either
 - (i) on the basis of inaccurate or incomplete information provided by the applicant or recipient
 - (A) under section 10 (1) (e) [*information and verification*],
 - or
 - (B) in a report under section 11 (1) [*reporting obligations*], or
 - (ii) because the recipient failed to report as required under section 11 (1), and
- (c) in the minister's opinion, the applicant or recipient failed to take the necessary steps to ensure the accuracy or completeness of the information before providing it to the minister.

(2) In the circumstances described in subsection (1), the minister may reduce the disability assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

(3) The periods prescribed for the purposes of subsection (2) may vary with the number of determinations made under subsection (1) in relation to a family unit.

(4) If a family unit that is subject to a reduction under [section 15.1](#) of the [Employment and Assistance Act](#) qualifies for disability assistance or hardship assistance under this Act before the period prescribed for the purposes of section 15.1 (2) of that Act expires, the reduction is deemed to have been imposed under subsection (2) of this section.

Overpayments

18 (1) If disability assistance, hardship assistance or a supplement is provided to or for a family unit that is not eligible for it, recipients who are members of the family unit during the period for which the overpayment is provided are liable to repay to the government the amount or value of the overpayment provided for that period.

(2) The minister's decision about the amount a person is liable to repay under subsection (1) is not appealable under section 16 (3) [*reconsideration and appeal rights*].

Employment and Assistance for Persons with Disabilities Regulation, BC Reg 265/2002

Consequences for providing inaccurate or incomplete information

28.1 If the minister determines under section 14.1 (1) of the Act that the minister may take action under section 14.1 (2) of the Act in relation to a family unit, the disability assistance or hardship assistance provided to or for the family unit may be reduced by \$25 for

(a) a first determination, for the next 3 calendar months for which disability assistance or hardship assistance is provided to or for the family unit, starting with the first calendar month

(i) following the calendar month in which the minister made the determination, and

(ii) for which disability assistance or hardship assistance is provided to or for the family unit,

(b) a second determination, for the next 6 calendar months for which disability assistance or hardship assistance is provided to or for the family unit, starting with the first calendar month

(i) following the calendar month in which the minister made the determination, and

(ii) for which disability assistance or hardship assistance is provided to or for the family unit, and

(c) a third or subsequent determination, for the next 12 calendar months for which disability assistance or hardship assistance is provided to or for the family unit, starting with the first calendar month

- (i) following the calendar month in which the minister made the determination, and
- (ii) for which disability assistance or hardship assistance is provided to or for the family unit.

[en. B.C. Reg. 193/2006, s. 4.]

Reporting requirement

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

(a) the report must be submitted by the 5th day of the calendar month following the calendar month in which one or more of the following occur:

- (i) a change that is listed in paragraph (b) (i) to (v);
- (ii) a family unit receives earned income as set out in paragraph (b) (vi);
- (iii) a family unit receives unearned income that is compensation paid under section 191 [*temporary total disability*] or 192 [*temporary partial disability*] of the [Workers Compensation Act](#) as set out in paragraph (b) (vii), and

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

- (i) change in the family unit's assets;
- (ii) change in income received by the family unit and the source of that income;
- (iii) change in the employment and educational circumstances of recipients in the family unit;
- (iv) change in family unit membership or the marital status of a recipient;
- (v) any warrants as described in [section 14.2 \(1\)](#) of the Act;
- (vi) the amount of earned income received by the family unit in the calendar month and the source of that income;
- (vii) the amount of unearned income that is compensation paid under section 191 [*temporary total disability*] or 192 [*temporary partial disability*] of the [Workers Compensation Act](#) received by the family unit in the calendar month.

2024-0244

[en. B.C. Reg. 335/2007; am. B.C. Regs. 85/2012, Sch. 2, [s. 4](#); 332/2012, s. 1; 226/2014, s. 1; 151/2018, App. 2, [s. 9](#); 270/2019, App. 2, [s. 5](#); 268/2020, App. 2, [s. 2](#).]

2024-0244

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

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)

2024/07/15

Print Name

Julie Iuvancigh

Signature of Member

Date (Year/Month/Day)

2024/07/15

Print Name

Robert McDowell

Signature of Member

Date (Year/Month/Day)

2024/07/15