

**Part C – Decision Under Appeal**

Under appeal is the April 18, 2024 decision of the Ministry of Social Development and Poverty Reduction (“Ministry”) that it cannot provide a reconsideration of the decision to deny the Appellant’s request for reinstatement of the Community Volunteer Supplement. The Ministry determined that the reconsideration provisions of section 16 of the *Employment and Assistance for Persons with Disabilities Act* do not apply to a decision to discontinue the Community Volunteer Supplement because it is not a supplement provided under the authority of that Act.

**Part D – Relevant Legislation**

*Employment and Assistance for Persons with Disabilities Act* (“Act”), s. 1(1) definition of “supplement”, s. 7 and s. 16(1)

*Employment and Assistance Act*, s. 22(4)

Full text of the legislation is provided after the Panel Reasons.

**Part E – Summary of Facts**

Up to 2011, under section 47 of the *Employment and Assistance for Persons with Disabilities Regulation* (“Regulation”), the Ministry provided a Community Volunteer Supplement of \$100 per month for recipients of disability assistance who volunteered a minimum number of hours with a community organization. In 2011, section 47 of the Regulation was repealed, but the Ministry continued the Community Volunteer Program. The Ministry stopped accepting new applications in October 2021, but continued to pay the supplement to people who were already taking part in the program.

The Appellant participated in the Community Volunteer Program and was receiving the Community Volunteer Supplement. In May 2023, the Ministry was reviewing the Appellant’s eligibility, and sent the Appellant an Eligibility Review Form, to be completed and returned. The Appellant did not return the form, and the Ministry sent the form to her again in June and August 2023. The Appellant did not return those forms either, and when the Ministry phoned the community organization where the Appellant last reported volunteering, they were told that the Appellant had not volunteered there in 2022 or 2023. Therefore, in September 2023, the Ministry discontinued the supplement.

On April 4, 2024, a community living association contacted the Ministry and advised that the Appellant has a developmental disability and had been unable to understand or complete the Eligibility Review Forms when they were sent to her. They explained that the Appellant’s living situation had changed several times in the past two years, and her home share provider had not known about the correspondence from the Ministry. They provided a completed Eligibility Review Form, dated October 23, 2023, showing that the Appellant had been volunteering every month for the past twelve months at another community organization, and asked that the Appellant be reinstated into the Community Volunteer Program.

The Appellant’s sibling also sent a letter to the Ministry saying:

- The Appellant does not recognize “paper” as important unless she sees it is a cheque.
- The Appellant would have just added the Ministry’s letters to her collection of all kinds of papers, without understanding what it was.
- As the Ministry’s letters were addressed only to the Appellant, the Appellant’s caregiver did not see it, and no one knew the Ministry needed more information.

Additional Evidence:

The Appellant's sibling sent a written submission, with the following additional information:

- They help the Appellant to manage her finances.
- The Appellant has been receiving the supplement for more than ten years and has been volunteering at various community organizations over that period.
- The supplement goes into the Appellant's Registered Disability Savings Account, and losing the supplement hurts her ability to save for her future.

Admissibility of Additional Evidence:

The panel finds the additional evidence to be admissible under section 22(4) of the *Employment and Assistance Act*. The evidence provides further information about the Appellant's reasons for not returning the Eligibility Review Forms in 2023, and therefore is reasonably required for the full and fair disclosure of all matters related to the decision under appeal.

**Part F – Reasons for Panel Decision**

The issue on appeal is whether the Ministry's determination that it could not provide a reconsideration of the decision to deny the Appellant's request for reinstatement of the Community Volunteer Supplement 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, as a person with developmental disabilities, she was not able to understand the letters from the Ministry and was not able to complete the forms the Ministry sent. She says that, because the letters were addressed only to her, the people who help to manage her affairs were unaware of the Ministry's correspondence. She says that she has volunteered regularly at a community organization for more than ten years, and she should be eligible to receive the Community Volunteer Supplement.

The Appellant's sibling also maintains that, for a person like the Appellant, with developmental disabilities and limited ability to understand documents, the Ministry should address important correspondence to the Appellant and one other person, so important information is not missed.

Ministry's Position:

The Ministry says that the Community Volunteer Supplement is not a supplement provided under the Act, and therefore under section 16 of the Act, the Ministry cannot provide a reconsideration of the discontinuance of the Community Volunteer Supplement.

Panel Decision:

The Appellant appeals the outcome of her request for reconsideration of the Ministry's decision to discontinue the Community Volunteer Supplement. The Panel's jurisdiction is limited to determining whether that outcome, in which the Ministry declined to provide a reconsideration decision, is reasonable. The Panel is not considering whether the Appellant should receive the Community Volunteer Supplement, only whether the Appellant is entitled to reconsideration.

Background:

Until 2011, under section 47 of the Regulation, the Community Volunteer Supplement was paid to recipients of disability assistance who participated in a Community Volunteer Program.

In 2011, section 47 of the Regulation was repealed. After 2011, the Ministry continued to provide a Community Volunteer Program, with a Community Volunteer Supplement, accepting new applications until October 2021. After October 2021, the Ministry continued to provide the Community Volunteer Supplement to people, including the Appellant, who were already participating in the program.

In 2023, the Ministry reviewed the Appellant's eligibility for the Community Volunteer Supplement, sending her the Eligibility Review Form three times. The Appellant did not understand the significance of the letters or the form and did not show the letter to her caregiver. As a result, the form was not returned to the Ministry. The Ministry did contact the last community organization where it had been reported the Appellant worked, and that organization confirmed the Appellant had not volunteered there in the past two years. Therefore, the Ministry discontinued the Appellant's Community Volunteer Supplement in September 2023.

The Appellant asked for reconsideration of that decision. The issue is whether the Ministry can give a reconsideration decision in this situation.

Legislation:

Definition of Supplement:

Under section 16 of the Act, a person may ask for reconsideration of decisions that result in discontinuance of a supplement. "Supplement" is defined in section 1(1) of the Act:

"supplement" means any form of assistance specified by regulation, other than disability assistance, hardship assistance or financial assistance provided under Section 7 [*financial assistance to service or program for providers*] and, without limitation, includes access to programs established or funded under this Act.

The Panel finds that, when the section of the Regulation that provided the Community Volunteer Supplement was repealed in 2011, the Community Volunteer Supplement was no longer a "form of assistance specified by regulation".

The Panel considered whether access to the Community Volunteer Program, as a program established or funded under section 7 of the Act, might be a “supplement” as defined in section 1(1) of the Act. Under section 7 of the Act, the Ministry may provide financial assistance to a person who undertakes to provide a service or program that promotes the purposes of the Act. However, the Panel notes that, even if the Community Volunteer Program is a program established or funded under section 7, “financial assistance provided under Section 7” is specifically excluded from the definition of “supplement”.

Therefore, the Panel finds that, even though it is called a “supplement”, the Community Volunteer Supplement is not a “supplement” as defined in section 1(1) of the Act.

*Right to Reconsideration:*

Under section 16 of the Act, a person may request the Ministry to reconsider certain decisions made under the Act. Those decisions are listed in section 16:

- a decision that results in a refusal to provide disability assistance, hardship assistance or a supplement;
- a decision that results in a discontinuance of disability assistance or a supplement;
- a decision that results in a reduction of disability assistance or a supplement;
- a decision in respect of the amount of a supplement 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;
- a decision respecting the conditions of an employment plan under section 9 *[employment plan]*.

The Panel has found that the Community Volunteer Supplement is not a “supplement” as defined in section 1(1) of the Act. The Panel also finds that the Community Volunteer Supplement does not fall under any of the other types of decisions that the Ministry is authorized to reconsider. Therefore, the Panel finds that the Ministry was reasonable in determining that the reconsideration provisions of section 16 of the Act do not apply to the Community Volunteer Supplement.

*Conclusion:*

The Panel finds that the Ministry's determination that it could not provide a reconsideration of the decision to deny the Appellant's request for reinstatement of the Community Volunteer Supplement was a reasonable application of the legislation in the Appellant's circumstances. The Panel confirms the outcome of the Appellant's request for reconsideration. The Appellant is not successful in the appeal.

### Schedule of Legislation

#### Employment and Assistance for Persons with Disabilities Act

##### *Interpretation*

s. 1 (1) In this Act:

"supplement" means any form of assistance specified by regulation, other than disability assistance, hardship assistance or financial assistance provided under section 7 [*financial assistance to service or program providers*] and, without limitation, includes access to programs established or funded under this Act;

##### *Financial assistance to service or program providers*

s. 7 The minister may provide financial assistance to a person who, or a group of persons that, undertakes to provide a service or program that, in the minister's opinion, will promote the purposes of this Act.

##### *Reconsideration and appeal rights*

s. 16 (1) Subject to section 17, 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 disability 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 disability assistance or a supplement provided to or for someone in the person's family unit;
- (c) a decision that results in a reduction of disability 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*].

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.



APPEAL NUMBER 2024-0169

**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)

2024/07/31

Print Name

Anil Aggarwal

Signature of Member

Date (Year/Month/Day)

2024/07/24

Print Name

Jan Broocke

Signature of Member

Date (Year/Month/Day)

2024/07/29