

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “ministry”) Reconsideration Decision dated July 25, 2024, which determined that the appellant is not eligible for a \$425 shelter allowance top-up for July, August and September 2023 as per section 11 of the Employment and Assistance for Persons with Disabilities Act and sections 1, 24 and schedule A of the Employment and Assistance for Persons with Disabilities Regulation.

Specifically, the ministry determined that the appellant was living at no fixed address when he moved out of his supportive housing on June 12, 2023. Because the appellant “did not notify the ministry of a change of address and actual shelter costs until October 2023”, the ministry provided the minimum shelter allowance of \$75 for the months of July, August and September 2023.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (the “Act”) section 11.

Employment and Assistance for Persons with Disabilities Regulation (the “Regulation”) sections 1, 23 and Schedule A.

Employment and Assistance Regulation section 86(b).

Part E – Summary of Facts

The hearing took place on August 16, 2024, as a teleconference. The appellant was represented by an advocate and was present for a portion of the hearing. The ministry did not attend the hearing. The hearing was delayed for fifteen minutes as attempts were made to contact the ministry, and, after it was confirmed that advance notice of the hearing had been provided to the ministry, the hearing commenced in accordance with Section 86(b) of the Employment and Assistance Regulation.

Evidence at the time of reconsideration

In the Request for Reconsideration, the appellant submitted:

- 1) An undated letter from the appellant that explained that he had left his group home in June 2023 and “did not know that I have to inform the Ministry of change of residence”. The appellant explained that he provided rent receipts for the group home and for the new residence.
- 2) A Shelter Information form dated November 22, 2023 that included the appellant’s current address with the rental start date of June 12, 2023.

According to the Ministry’s decision, the following is a chronology of events, which is not disputed by the appellant:

The appellant moved to a group home in February 2023. On June 12, 2023 the group home advised the ministry that the appellant had been discharged. The ministry did not have information about where the appellant planned to live afterwards and updated his address to No Fixed Address. For July to October 2023, the appellant received support allowance of \$983.50 and the minimum shelter allowance of \$75.

On October 26, 2023 the appellant contacted the ministry and advised that he had moved out of the group home and was living with his brother and paying rent. The appellant was advised to complete a new shelter form, which he submitted on November 28, 2023. The ministry reviewed the form and approved a shelter top-up of \$425 for November and December 2023.

On December 7, 2023, the appellant contacted the ministry requesting the \$425 shelter allowance for July to October 2023. He provided receipts for July – November 2023.

In June 2024 the appellant contacted the ministry about the shelter allowance for July – October 2023. The ministry completed a review and determined the appellant was only eligible for the shelter allowance starting in November 2023 because the shelter information form was submitted on November 28, 2023.

The appellant initiated a Request for Reconsideration on July 11, 2024.

The ministry completed its review of the Request for Reconsideration on July 25, 2024.

In the Reconsideration decision, the ministry found that:

- 1) The appellant was required to notify the ministry of any change in circumstances or information, but did not notify the ministry of a move in June 2023 until October 2023.
- 2) A family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested. Since the appellant did not report and request the shelter allowance until October 2023, he was only eligible for payments from that month onwards.
- 3) Since the appellant contacted the ministry on October 26, 2023, "it is reasonable that the call ... was a request for a shelter allowance and not just an inquiry" and therefore the ministry approved the \$425 shelter allowance top-up for the month of October 2023.

Evidence received after the Reconsideration Decision

The appellant submitted a Notice of Appeal on August 1, 2024, stating that he has "a mental illness and that has caused my memory loss".

Testimony at the hearing

The appellant's advocate spoke about the appellant's situation. The advocate is a Registered Nurse and is one of the appellant's long term health care practitioners.

The advocate introduced the following documents as evidence:

- 1) Case notes by a regional health authority case manager reporting on their contact with the appellant on 12 June 2023. The note states that the appellant has decided to "end his tenancy at [the group home] and live at his parents house full time. He wants to spend as much time as possible with his elderly parents". The writer also reports that they spoke to the client's father who confirmed this move, and that his sister also called in and agreed with the plan.
- 2) Case notes by a regional health authority housing clinician staff member reporting on June 16, 2023 that the "client has moved back home", and that the "pink sheet submitted and discharged from Mental health housing".
- 3) A letter written from the appellant's advocate, in her capacity as the appellant's Registered Nurse, dated October 26, 2023 requesting peer support for the appellant with assistance in "contacting/attending Ministry office. Would like to arrange rental payment ... says his last cheque was lower than normal and he doesn't know why."

- 4) An encounter report from a social worker that states that on November 6, 2023, the appellant has an appointment to "discuss how the writer can support client with ministry" and that the appellant has "only received 'around a \$1000' from his PWD last month";
- 5) A letter from the appellant's physician dated August 13, 2024 which states that the appellant "has a severe and persistent mental illness that impacts his functioning and ability to manage his affairs independently". The physician states that the appellant "moved from mental health housing in June of 2023 to his current address. He was not NFA at anytime ... (and) ... resides with his mother with a limited income. Any financial loss has a significant impact on their ability to maintain basic needs".

The advocate explained the circumstances of the appellant and the challenges he faces, in particular with memory impairment and his ability to act independently with daily living.

The advocate stated that the appellant's brother had previously helped him with his day to day tasks but passed away. His father also recently died. His sister offers assistance when she can but lives in the United States.

The appellant's symptoms are managed under the care of the advocate and other health care practitioners, but the appellant continues to need support such as reminders to attend appointments and take his medication.

The advocate states that the appellant was never living at no fixed address, and this was a result of an error by the ministry.

There was no ministry representative in attendance to explain the ministry's handling of this situation and to review the regulations pertaining to payment of a shelter top up. This also meant that a ministry representative was unable to clarify how payments between the minimum and maximum range were determined in this case.

Admissibility of Additional Information

The panel admitted the appellant's statement provided with the Notice of Appeal, the written evidence of case notes and the physician's letter provided at the hearing, and the advocate's oral testimony about the appellant's health as evidence under Section 22(4) of the *Employment and Assistance Act* which allows for the admission of evidence reasonably required for a fair full and fair disclosure of all matters related to the decision under appeal. As noted above, a ministry representative was not present at the hearing and therefore was not able to object to the admission of this evidence by the appellant or submit additional information during the hearing.

Part F – Reasons for Panel Decision

The issue on appeal is whether the ministry's Reconsideration Decision that determined the appellant received a reduced shelter allowance was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Specifically, did the ministry reasonably determine that the appellant's shelter allowance payments for July, August and September 2023 should not be the same amount as he received in the months before and after this period?

Ministry position

The ministry acknowledges that the group home provided notification in June 2023 that the appellant was moving. However, the ministry states that the appellant did not notify the ministry of where he was moving or his new actual shelter costs until October 2023, and "as such only received the \$75 minimum shelter allowance" for the interim three months.

The ministry states "as you did not report and request the shelter allowance until October 2023, you are only eligible for the \$75 minimum shelter allowance for July, August and September 2023 and have already received the maximum available to you for the period in question".

Appellant's position

The appellant's advocate, one of the health practitioners responsible for the appellant's care, states the appellant has mental health issues, including memory impairment, and requires ongoing support for daily living. During the period in question, the appellant's brother, who usually provides support to the appellant, died. The appellant's father also passed away.

The advocate states that the case notes provided at the hearing support the fact that the appellant moved to a new, known address. He was not living on the street, or at no fixed address, at any time. The letter from the appellant's physician also supports the health needs of the appellant and that the appellant's whereabouts were known.

Panel's reasons

Section 11 of the *Act* states that, to be eligible for disability assistance or hardship assistance, there are reporting requirements. A recipient must submit to the minister a report that is in accordance with the regulations.

Section 2 of Schedule A of the Regulation states that the monthly shelter allowance for a family unit of one is a minimum of \$75 and a maximum of \$500.

The panel notes that the appellant is under medical care for mental health issues, including memory loss, as described at the hearing by a member of his medical care team.

The panel also notes the particular timing under question, with the deaths of the appellant's brother, his usual support, and his father.

The panel also acknowledges the case notes from the appellant's medical team, their support regarding the appellant's move in June 2023 and their awareness of the appellant's new address.

In its decision, the ministry found that the appellant, who suffers from memory loss and requires support for his daily activities, did not complete the required forms to detail his change of address. The medical team caring for the appellant had this information at the time but it appears to not have been relayed to the ministry in the required manner.

The panel is concerned by the expectation that someone in the appellant's position, who has memory and other mental health issues, and who experienced the death of his brother and father during the time, is expected to complete the required forms for the ministry in a timely manner. The panel also notes from the chronology prepared by the ministry that the ministry was actually informed by the group home in June 2023 that the appellant was discharged from the group home on June 12, 2023; however, the ministry did not see fit to make an enquiry with the group home about the appellant's new address or make a phone call to the appellant to update his new address. Nor did the group home provide the appellant with the necessary guidance that he may have required.

The panel is of the view that the appellant should not have been left to figure out for himself the reporting requirement or what the next step was. However, the panel accepts that the requirement to advise the ministry of a change of address and the new rent payment is the responsibility of the appellant under Section 11 of the Act. Section 23(5) of the Regulation states that a family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested. The regulations do not provide for any flexibility, even with such extenuating circumstances. The panel therefore finds that the ministry reasonably determined they were not notified until October 2023 of the appellant's new address and rent amounts. As such, the appellant is not eligible for the maximum shelter allowance for the months of July, August and September 2023.

Conclusion

The panel is sympathetic to the circumstances of the appellant, particularly regarding his mental health challenges, the deaths in his family, and the supportive medical team who were informed and supportive of his move.

However, in this case, the panel finds that the ministry applied the relevant legislation reasonably. The ministry's reconsideration decision was reasonably supported by the evidence. The panel **confirms** the ministry's decision. The appellant is **not successful** in the appeal.

Schedule of Legislation

EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES ACT

Eligibility of family unit

3 For the purposes of this Act, a family unit is eligible, in relation to disability assistance, hardship assistance or a supplement, if

- (a) each person in the family unit on whose account the disability assistance, hardship assistance or supplement is provided satisfies the initial and continuing conditions of eligibility established under this Act, and
- (b) the family unit has not been declared ineligible for the disability assistance, hardship assistance or supplement under this Act.

11. Reporting requirements

For a family unit to be eligible for disability assistance or hardship assistance, a recipient must submit a report to the minister in accordance with the regulations.

EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES REGULATION

23 . Effective Date of Eligibility

(5) Subject to subsection (6), a family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested.

Schedule A

Disability Assistance Rates

Monthly shelter allowance

(2) The monthly shelter allowance for a family unit other than a family unit described in section 14.2 (1) of the Act is the greater of

- (a) the minimum set out in the following table for the family unit, and
- (b) the lesser of
 - (i) the family unit's actual shelter costs, and
 - (ii) the maximum set out in the following table for the family unit.

Appeal Number 2024-0293

Item	Column 1 Family Unit Size	Column 2 Minimum	Column 3 Maximum
1	1 person	\$75	\$500

APPEAL NUMBER 2024-0293

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
Robert McDowell

Signature of Chair

Date (Year/Month/Day)
2024/08/19

Print Name
Kenneth Smith

Signature of Member

Date (Year/Month/Day)
2024/08/19

Print Name
Mimi Chang

Signature of Member

Date (Year/Month/Day)
2024/08/19