

Appeal Number 2025-0144

### **Part C – Decision Under Appeal**

The Appellant appealed the Reconsideration Decision of the Ministry of Social Development and Poverty Reduction (the “Ministry”), dated April 4, 2025. The Ministry decided that under Section 70.1 of the *Employment and Assistance for Persons with Disabilities Regulation*, the Appellant was ineligible to continue in the Self Employment Program under his business working with an online platform for delivery or ride-hailing, and was never eligible to operate a corporation under the program.

### **Part D – Relevant Legislation**

This decision cites:

*Employment and Assistance for Persons with Disabilities Act* (the “Act”):

Section 5 [Disability assistance and supplements]

Section 8 [Employment-related programs and other programs]

*Employment and Assistance for Persons with Disabilities Regulation* (the “Regulation”):

Section 29 [Reporting requirement]

Section 70.1 [Business plan]

Section 70.2 [Monthly report]

Section 73 [Decisions that may not be appealed]

Text of the above legislation is attached at the end of the decision.

## Part E - Summary of Facts

### Hearing Proceeding

A video hearing was held May 16, 2025, with Appellant and a Ministry Representative appearing to present their respective cases, and an interpreter.

### Background

The following sets out relevant portions of the background and some background for context.

The Appellant receives disability assistance as a family unit of three. The Appellant's file has been open since May 1, 2015.

In April or May 2023, the Appellant called the Ministry to re-enroll in the Self-Employment Program (SEP). He stated that he wanted to get into marketing or deliver for a named enterprise (that is an online platform for delivery -the "Delivery Platform") or 'taxi' service for named enterprises (that are online platforms for ride hailing – the "Ride-Hailing Platforms" "Y" or "Z").

The Ministry states that its records show that:

- On May 8, 2023, the Appellant called the Ministry and discussed providing deliveries for the Delivery Platform; however, enrollment was not completed at that time.
- The Ministry sent the Appellant blank enrollment forms and detailed instructions on how to complete them after the Appellant emailed to request permission to have a friend assist in completing and submitting the enrollment forms, as he did not feel comfortable doing so over the phone, even using an interpreter.

On June 9, 2023 the Appellant signed the following documents:

- A "Self Employment Program Acceptance of Terms and Business Plan":
  - with the Appellant as client,
  - a partial business name ("Business 'A'") omitted the suffix that indicated its, a driving school, and
  - the Business Plan period was for "2023/05 – 2023-05" for an existing business.
- Voluntary Participation Plan (VPP) agreement to participate in the SEP.
- Simplified Monthly Self-Employment Report referencing Business "A".
- Monthly Report showing no income and no changes

On June 12, 2023, the Appellant emailed the Ministry under the subject line "RE: Voluntary participation plan" stating:

I am currently working with [the Delivery Platform]/ Grocery Delivery since the first of this month.

...

Regarding [Business "A"] it was freezed from this month.

Regarding my new work, I expect to get income from 3000 to 3500 but ... [have a personal issue delaying the start].

Ministry records show that on June 22, 2023, the Appellant emailed the Ministry seeking clarification on whether it needed any documents from Business "A". The Ministry advised that it was not eligible for the SEP because it was incorporated.

The Ministry states that its records show that:

- On December 4, 2023, the Appellant submitted the signed forms for SEP enrollment:
  - Self-Employment Program Acceptance of Terms and Business Plan (HR2998);
  - Voluntary Employability Plan (HR29161); and
  - Questionnaire and Acceptance of Terms form (HR3258).
- The above were under business name "A" and the Appellant was informed that the business was not eligible for the SEP program, per SEP policy.

From July 2023 to July 2024, the Appellant submitted monthly SEP reports on the income and expenses contracting with the Delivery Platform for online shopping delivery.

On March 5, 2024, a Ministry worker covering for the usual Ministry worker ("1") processed the Appellant's February report, noting that the Appellant had reported a certain amount of "SEP NET income" and sought clarification or correction.

In mid-July, 2024 the Appellant emailed the Ministry to advise that he had "started working for [Ride-Hailing Platform "Y"]. The Ministry replied stating that "vehicle loans are not authorized by the Ministry. Neither are daily lunches."

Between August 2024 and April 2025, the Appellant's SEP monthly report uses different business names:

- August 2024: "[Delivery Platform] + [Ride-Hailing Platform "Y"]".
- September 2024- April 2025: "[Ride-Hailing Platform "Y"]".

In December, the Appellant sent the Ministry an email stating, "I confirm ... that the bank account of my [Business "A"] was closed ... this month. ..." and "I confirm my [bank account] was also closed by the bank ..."

On February 4, 2025, the Ministry reviewed the Appellant's case and expressed that the Appellant was not eligible to participate in the SEP from the start, since Business "A" was incorporated, and the change to work with Ride-Hailing Platform "Y" or "Z"" is also ineligible.

On February 11, 2025, the Appellant submitted paperwork to officially close the corporation, Business "A". He also provided a screenshot showing the closure of two other companies under the Appellant's name.

The Ministry found that the Appellant was no longer eligible for SEP for the following reasons:

- Since the Appellant officially dissolved the business the Appellant could no longer participate in SEP.
- Business "A" was never eligible for SEP under BC Employment Assistance policy because it was incorporated.
- The Ministry was not aware of the other two businesses.
- The Appellant's Voluntary Participation Plan (VPP) service request was closed because Business "A" was never eligible for SEP.
- The Appellant had not provided an updated business plan to include Ride-Hailing Platform "Y" or "Z".
- The Ride-Hailing Platforms were never approved under SEP, despite the Appellant's submission of SEP reports and monthly reports for them.

February 12, 2025, the Appellant attended the local office questioning the decision and stating that the SEP was for "other business", not the inactive and now dissolved Business "A".

On February 18, 2025, the Appellant spoke to the Ministry on the phone, using a friend as translator, to review the halt to his SEP and denial of applying it to the with Ride-Hailing Platforms.

On March 2, 2025, the Appellant submitted his Request for Reconsideration. The Appellant wrote:

... I received a letter on MyselfServe on February 11, 2025, and I want to clarify and reply to it. I didn't have any self-employment program associated with my [Business "A"], but rather with [Delivery Platform], [Ride-Hailing Platform "Y" and "Z"]. I will clarify.....

On April 4, 2025, the Ministry issued a Reconsideration Decision stating:

- The Appellant was not eligible for the SEP for their businesses of working with the Delivery Platform or the Ride-Hailing Platforms.
- The Minister has authority, under s.70.1 of the *Regulation*, to accept or reject business plans for SEP.
- The Minister does not accept plans for incorporated businesses or work with the Delivery Platform or the Ride-Hailing Platforms.

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The Ministry acknowledged that the Appellant was not informed of these restrictions until after he submitted notice that his incorporated business was dissolved, and its recognition that he was working with the Delivery Platform and later with the Ride-Hailing Platforms.

The Ministry emphasized that the Appellant could still work with the Delivery Platform or the Ride-Hailing Platforms and be eligible for the Annual Earnings Exemption from employment income, even if they were not allowed under the SEP.

## Appellant Submissions

The Appellant provided the following as the "Reasons for Appeal", which the Panel received as the Appellant's only written submissions along with records that were submitted as part of the Appeal Record:

I am not convinced with the decision, and I am going to appeal it for the following reasons:

1- I did not fill the application when I participated in the program, but it was done by [ a Ministry Business and Assistance worker "1"] and then I signed it and send it back to him. It showed in his email sent to me on May 8, 2023. I didn't know 100 % percent the application as my English is not that good, and I used the support of [an interpreter] who is willing to testify. He gave me the choice to either work under my [Business "A"] or Uber, Lyst and Instacart and I chose the latter.

2- On June 12, 2023, I emailed him and explained to him my business plan and my expenses for working with Instacart, and that my [Business "A"] is frozen, and I am not working in it anymore. He agreed to my business plan. Since June 2023 until July 15, 2023, all my income was from working with Instacart as it shows on the monthly form I used to send to that same worker.

3- On July 15, 2024, I informed the Ministry that I started working with Uber and Lyft and sent the worker a new work schedule along with the expenses, and then [ a Business and Assistance worker "2"] replied saying that I can't include my lunch cost to the expenses.

4- On August 20, 2024. I emailed stating that 1 opened two new accounts with BMO bank and that I won't be using my old bank accounts, and [Business and Assistance worker "2"] replied saying that I still need to send statements for the old accounts.

5- On September 29, 2024 the Ministry emailed me stating that the email I used to send my bank statements and business forms would be stopped and that I needed to submit all of them directly to the Ministry.

6- When I sent the Certificate of Dissolvent for my [Business "A"] the Ministry emailed me stating I was out of the self employment program because I closed my business. I had already informed the Ministry, as I stated earlier, that my [Business "A"] was frozen since June 2023.

7- I asked to be re entered in the self employment program, but the Ministry refused and told me I can ask for reconsideration. I did that, but still the Ministry refused. This was unfair, to make me pay for a mistake done by your employees as I was honest with the Ministry since day one. I think your decision was unfair, and I hope the Tribunal will overturn it, and all my expenses will be accepted. I will explain everything in details before the Tribunal.

In oral submissions, the Appellant provided a brief personal history and described his dealings with Ministry staff and a chronology of events consistent with the written submission above.

## **Ministry Submissions**

The Ministry provided no additional written submissions.

In oral submissions, the Ministry reviewed the chronology of events and reiterated the reasons set out in the Reconsideration Decision as described in the point form above for that April 4, 2025, decision. The Ministry reiterated that under policy, business such as the Delivery Platform, and the Ride-Hailing Platforms are not eligible for the SEP and stated that would have been the case when the Appellant applied.

## **Admissibility of New Evidence**

Under section 22(4) of the *Employment and Assistance Act*, the Panel may admit evidence that is reasonably required for a full and fair disclosure of all matters related to the decision under appeal. Any evidence that the Panel admits is admitted on that basis.

No new documentary evidence was submitted by the Appellant or the Ministry.

The Panel heard oral submissions with testimony. None was objected to by either party. Any testimony admitted as relevant evidence for the making of the decision is identified in the decision below.

## Part F – Reasons for Panel Decision

### Purpose and Standard of Review

The purpose of the Panel is not to redo the Reconsideration Decision under appeal or decide whether it agrees with the Ministry's decision. It is to decide whether the Ministry did, or did not, reasonably come to the decision it made, considering two factors. These are whether the applicable laws were reasonably applied and whether the evidence was also reasonably applied in the circumstances of the Appellant. The standard includes whether any evidence, which might alter the outcome, was overlooked, unreasonably given improper weight, or mischaracterized. The decision itself must be internally coherent with no relevant evidence missed, given unreasonable weight, or mischaracterized. It also must, as a whole, be transparent, intelligible and justified as required for the circumstances.

### Discussion of Issues

At the heart of this matter is miscommunication—whether entirely or in part—arising from a language barrier and the need for translation. This miscommunication appears unintentional, as both parties seem to have acted in good faith. Believing his online platform-based business was approved for the SEP, the Appellant diligently filed reports and complied with Ministry requests. However, after about a year and a half of participation, the Ministry discovered the errors at issue, leading to the Appellant's removal—an outcome he now contests.

On June 9, 2023, the Appellant signed to accept the terms for participation in the SEP. He alleges that the form was completed by Ministry staff and that he merely signed it, relying on their accuracy. In contrast, the Ministry claims that the Appellant completed the form himself after being sent a blank version. Based upon the findings below the Panel finds that this conflict does not change the outcome and need not be resolved.

The form was completed with Business "A" as the business, with the name shortened and omitting the suffix that indicated its incorporation. On June 12, 2023, the Appellant submitted an email as his business plan. It stated that he was "currently working with [the Delivery Platform] / Grocery Delivery since the first of this month" and that his company (which he described as provided services aligning with the name of Business "A" in the SEP application) was "freezed from this month." The Panel finds that at that point:

- the Appellant was unaware that the Minister did not permit participation of corporations in the SEP, and
- the Ministry was unaware that Business "A" was incorporated.

Neither the Ministry nor the Appellant recognized that the required business plan:

- was for a business different from that on the SEP application,
- described Business "A" as inactive, and
- described another business working with an online platform- not permitted for SEP participation.

These discrepancies and errors were significant, as each meant that the Appellant should not have been enrolled in the SEP from the start. This includes that the SEP form itself was not accurate because it did not use the corporation's full name. As such, it incorrectly suggested that it was an unincorporated business, rather than a corporation as its full name would disclose.

On June 22, 2023, the Ministry responded to the Appellant's email, which inquired whether documentation was needed for Business "A". The Ministry stated that no documents were required, as Business "A" was ineligible for the SEP due to its incorporation. However, at this time neither party appeared to recognize that the SEP application was for Business "A" or that, instead, the Appellant was engaged in work through online platforms.

Furthermore, the Appellant did not recognize that neither Business "A" nor the other business work satisfied the criteria to qualify under the SEP.

The Minister has the power under section 70.1 of the *Regulation* to set the criteria for the SEP that is acceptable to the Minister. Those criteria, along with whatever scope and limitations the Minister establishes for the SEP are written into policy that Ministry staff are required to follow. Occasionally, errors occur and must be corrected to ensure compliance with what the Minister established (in policy) as acceptable to the Minister and maintain consistency in program application.

When, where and who committed the errors, and whether it was aided by the actions of staff or the Appellant are not relevant here; and the Panel does not need, or wish, to assign fault. The issue is whether the Ministry is now able to halt the Appellant's participation in the SEP working with online platforms.

In this case, the evidence shows that Ministry staff and the Appellant both believed he was entitled to participate in the SEP and conducted themselves accordingly for approximately a year and a half. During that period, the Appellant benefited from the program.

The Appellant's position is that his participation in the SEP should continue despite the error now being discovered. He appears to believe that it is too late to make the correction or that his participation in the SEP has a term that must continue despite the error and disentitlement. That term would correspond to the "End Date" stated in the Voluntary Participation Plan form he signed at the same time as the SEP form.

Arguably, if the error invalidated the Appellant's SEP participation from the start, adjustments or deductions should cease, and the Ministry could potentially seek

repayment. However, since that is not being pursued, the Panel does not address it further.

Instead, the issue is whether the Ministry, in the Reconsideration Decision, was reasonable in its assessment of the facts and application of the legislation when it terminated the Appellant's participation in the SEP. It is important to note that the Ministry made clear that the Appellant could continue to work for online platforms. It made clear that the only change was that the work was no longer under the SEP, which allowed certain deductions or exemptions. The Ministry also stated that it was conducting a review of whether the policy should change; so the Appellant's current work might be allowed in the future.

Section 8 of the *Act* allows the Minister to establish employment-related programs such as the SEP. Section 70.1 of the *Regulation* says how eligibility for the SEP is established. Specifically, that section requires an applicant to provide a business plan to the Minister at any time while participating, not just at the start. If the business plan is unacceptable, then "the recipient is not or ceases to be eligible to participate in the self-employment program." This is seen where the *Regulation* says:

70.1 (1)The Minister may require a recipient who is

- (a)applying to participate in a self-employment program, or
- (b)participating in a self-employment program

to provide, for the acceptance of the Minister and within the time specified by the Minister, a business plan for the small business the recipient is operating or proposes to operate under the self-employment program.

(2)If a recipient provides a business plan under subsection (1) that is not acceptable to the Minister, the Minister may return the business plan to the recipient with directions and the recipient may resubmit the business plan within the time specified by the Minister for that purpose.

The text outlines the relevant provision allowing the Minister to terminate an applicant's participation. The criteria for acceptability are defined in the policy established by the Minister. If the policy changes or new circumstances emerge that render a business plan unacceptable, participation may be discontinued. This is clear under section 70.1 of the *Regulation* where the use of the word "cease" is significant. This is because that word indicates that an individual already enrolled in the SEP may have their participation ended, even if already in the SEP. That describes the Appellant.

Additionally, the fact that participation in the program arose from an erroneous belief does not prevent the Minister from recognizing and correcting that error. In this case, the error stemmed from both Ministry staff and the Appellant mistakenly believing that he

met the policy criteria for participation in the SEP. The Panel sees no reasonable basis upon which it could be held that the Minister was not entitled to correct this error, and the Appellant's participation ceased.

While noting that neither party raised it, the Panel, here, briefly addresses section 73(1)(d) of the *Regulation*. That section, which lists decisions that may not be appealed, states that "access to a program established or funded under the Act" is not appealable to the Tribunal.

The issues in this matter have been discussed above—specifically, compliance with SEP participation terms and the Ministry's authority to terminate erroneous participation. The Panel finds that the Appellant was not denied access to the SEP. However, insofar as the Appellant was contesting the types of employment included in the SEP under policy, the Panel concludes that this determination falls within the Minister's discretion and is likewise not appealable under section 73(1)(d) of the *Regulation*.

Finally, the Panel found no relevant evidence that was overlooked, given unreasonable weight, or wrongly stated in any meaningful way. Also, while unchallenged on this point, the Panel finds that the Reconsideration Decision is internally coherent and is transparent, intelligible and justified, appropriate to the circumstances. The Panel notes it is unfortunate that the Ministry did not address that it had already stated in 2023 that Business "A" was not eligible for the SEP.

Considering all the above, the Panel finds that the Reconsideration Decision satisfied the standard required by the *Employment and Assistance Act*, SBC 2002, c 40 in section 24, and was:

- (a)reasonably supported by the evidence, or
- (b)a reasonable application of the applicable enactment in the circumstances of the person appealing the decision.

This finding is without prejudice to any right the Appellant has to reapply or reestablish entitlement to the SEP.

## **Conclusion**

The Appellant is **unsuccessful** on appeal, the Panel having found that in the Reconsideration Decision, the applicable laws were reasonably applied, and the evidence was also reasonably applied in the circumstances.

Accordingly, the Panel **confirms** the Reconsideration Decision.

## **Appendix – Relevant Legislation**

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

#### **Disability assistance and supplements**

**5** Subject to the regulations, the Minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

#### **Employment-related programs and other programs**

**8** The Minister may establish or fund employment-related programs and other programs for applicants, recipients or dependent youths who have difficulty finding or maintaining employment.

### ***Employment and Assistance for Persons with Disabilities Regulation***

#### **Reporting requirement**

**29** (1) This section sets out reporting requirements for the purposes of section 11 [*reporting requirements*] of the Act.

(2) A report must be submitted to the Minister in accordance with the following requirements:

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

(i) a change described in paragraph (c) (i) to (v);

(ii) a family unit receives earned income referred to in paragraph (c) (vi);

(iii) a family unit receives a specified income replacement benefit within the meaning of section 3 (1) of Schedule B;

(b) the report must be in a form specified by the Minister;

(c) the report must contain all of the following information:

(i) changes in the family unit's assets;

(ii) changes in income received by the family unit and the source of that income;

(iii) changes in the employment and educational circumstances of a recipient in the family unit;

(iv) changes in family unit membership or the marital status of a recipient;

(v) changes in respect of warrants 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 received by the family unit in the calendar month as a specified income replacement benefit within the meaning of section 3 (1) of Schedule B and the source of that income.

(3)If there is a change in a family unit's circumstances that is not disclosed in a report submitted under subsection (2), and if the change could affect the eligibility of the family unit to receive disability assistance or hardship assistance, a report must be submitted by the fifth day of the calendar month following the calendar month in which the change occurs.

(4)The accuracy of information provided in each report under this section must be confirmed by a signed statement of each recipient in the family unit.

## **Business plan**

**70.1** (1)The Minister may require a recipient who is

- (a)applying to participate in a self-employment program, or
- (b)participating in a self-employment program

to provide, for the acceptance of the Minister and within the time specified by the Minister, a business plan for the small business the recipient is operating or proposes to operate under the self-employment program.

(2)If a recipient provides a business plan under subsection (1) that is not acceptable to the Minister, the Minister may return the business plan to the recipient with directions and the recipient may resubmit the business plan within the time specified by the Minister for that purpose.

(3)If

- (a)a recipient fails to provide a business plan in the time specified under subsection (1) or (2), as applicable, or
- (b)a recipient provides a business plan that is not acceptable to the Minister,

the recipient is not or ceases to be eligible to participate in the self-employment program.

## **Monthly report**

**70.2** If a recipient who is participating in a self-employment program is operating a small business under the program, the recipient must, in addition to any report required

under section 29, provide a monthly report to the Minister in the form and at the time specified by the Minister, setting out, for the . covered by the report, as required by the form, the business activities, earnings, expenses, assets and liabilities of the small business the recipient is operating.

**Decisions that may not be appealed**

**73 (1)**The following categories of supplements may not be appealed to the tribunal:

- (a)Repealed. [B.C. Reg. 313/2007, s. 2 (f).]
- (b)reconsideration and appeal supplements under section 54.7;
- (c)supplements related to employability plans under section 54;
- (d)access to a program established or funded under the Act;
- (e)confirmed job supplements under section 54.1;
- (f)supplements under section 70.3;
- (g)supplements under section 70.4.

**(2)**A decision to refuse to provide disability assistance, hardship assistance or a supplement is not appealable to the tribunal if the person who would bring the appeal is awaiting a reconsideration of the minister or the decision of a panel on an earlier request for reconsideration the person made, or an appeal the person brought, respecting the same matter.

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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

Kent Ashby

Signature of Chair

Date (Year/Month/Day)

2025/05/20

Print Name

Margarita Papenbrock

Signature of Member

Date (Year/Month/Day)

2025/05/23

Print Name

Robert Fenske

Signature of Member

Date (Year/Month/Day)

2025/05/18