

Appeal Number 2025-0163

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

The Appellant appealed the Reconsideration Decision of the Ministry of Social Development and Poverty Reduction (the “Ministry”) dated April 09, 2025. The Ministry determined that the Appellant was not eligible to receive backdated disability assistance to a date before the Appellant applied for PWD designation and disability assistance. The Appellant claimed that the Ministry caused her to delay for three years before applying.

### **Part D – Relevant Legislation**

This decision cites:

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

- Section 3 [Eligibility of family unit]
- Section 5 [Disability assistance and supplements]

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

- Section 23 [Effective date of eligibility]

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

## Part E - Summary of Facts

### Hearing Proceeding

A written hearing was held May 29, 2025, with the Appeal Record and all written submissions.

### Background

Below are relevant portions of the background and some portions for context.

**2021 June - 2022 March:** The Appellant had received hardship assistance while awaiting CPP income.

**2022-May-20:** The Appellant's file closed as there was no further contact from the Appellant.

**2024-December-17:** The Appellant applied for assistance and submitted an application for Persons with Disabilities (PWD) designation – Prescribed Class.

**2025-February-06:** The Ministry approved the Appellant's request for PWD designation effective March 1, 2025.

**2025-March-01:** The Appellant is a recipient of Canada Pension Plan Disability (CPPD) and, as of this date, disability assistance with a family unit that includes two dependent children.

**2025-February-26:** The Ministry noted that the Appellant:

- Asserted that the Ministry gave her incorrect information in 2022 that she could not apply for PWD, which led to the Appellant not applying for PWD,
- asserted that she was eligible for PWD back in 2022, and
- requested a reconsideration of the start date of the Appellant's PWD eligibility.

**2025-March-26:** The Appellant filed a Request for Reconsideration that included a written submission and telephone records highlighting 2 calls to "833 Service CL" and one to "Vancouver" on February 10, 2022.

**2025-April- 09:** The Reconsideration Decision was that the Appellant was not eligible for backdated disability assistance from the period of March 1, 2022 to February 28, 2025.

**2025-May-05:** The Appellant filed the Notice of Appeal for this hearing.

## **Appellant Submissions**

The Appellant's stated "Reasons for Appeal" is accepted by the Panel as her written submission. That submission reiterated the submission for the Reconsideration Decision and may be summarized as:

- The appeal is based on Ministry misinformation in February 2022 that prevented the Appellant's access to PWD benefits in March 2022.
- The misinformation was repeated by a social worker and the federal government workers and led to unmanaged pain, financial struggles, and worsening medical conditions.
- Attempts to seek help resulted in conflicting responses, hostility, and emotional distress.
- Swift approval for disability assistance in 2024 proves previous eligibility in March 2022, and that the Appellant's access to PWD benefits in March 2022.
- The Ministry failed its mission to provide adequate support to vulnerable individuals.
- The Ministry's Reconsideration Decision implies miscommunication rather than taking responsibility, and redirects blame to the Appellant.
- The Appellant:
  - Requested PWD designation and benefits retroactive to March 2022.
  - Called for recognition of the financial, physical, and emotional harm caused by the misinformation.

## **Ministry Submissions**

In a written submission, the Ministry stated that it relied upon the record of the Ministry decision and added the following information:

On June 30, 2021 the [A]ppellant applied for assistance, reporting they intended to apply for the PWD designation, reporting they had applied for a CPP disability pension. They were approved for the CPP disability pension in February 2022; however, did not report when they received their first CPP disability pension amount, and did not contact the [M]inistry to request assistance after receiving CPP or after their file closed due to no contact. They did not contact the [M]inistry to complete a PWD Designation Application – Prescribed Class until December 17, 2024. The ministry is unable to find any record of the [A]ppellant being denied an application for the PWD designation-Prescribed Class or disability assistance.

## **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 new evidence that either or the parties tender or express in testimony is admitted on that basis, by default, and any that is substantive or contextually relevant to the decision will be discussed below. However, if any new evidence is not admitted, the Panel will describe the reasons 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.

### Discussion of Issues

The Ministry received the appellant's PWD application for the prescribed class on December 17, 2024. After receiving additional information in February 2025, it approved the request with an effective date of March 1, 2025, consistent with Section 23(1) of the *Regulation*.

Neither party disputes the approval of the PWD designation, and the Panel is unaware of any basis for contesting it. Therefore, this issue will not be further addressed.

#### ***-Central Issue: Backdating***

The central issue in this matter is backdating. The Appellant asserts a loss of three years of disability assistance due to Ministry misinformation leading to the Appellant not filing for the PWD designation until the end of that period. The Ministry asserted that it has no discretion, so could not backdate, because the applicable start date is directed by Section 23(1) of the *Regulation*.

The key question is whether the Ministry was legally restricted or had discretion to adjust the start date. Section 23(1) of the *Regulation* states:

#### **Effective date of eligibility**

23 (1)... the family unit of an applicant for designation as a person with disabilities or for both that designation and disability assistance

(a)is not eligible for disability assistance until the first day of the month after the month in which the minister designates the applicant as a person with disabilities, ...

This provision dictates that eligibility begins the first day of the month after the designation. The Panel finds that the Ministry has no discretion to modify this date, nor can its Ministry workers exercise discretion in this matter. Additionally, the Panel is not aware of any contrary legislative provisions that would allow adjustments in similar circumstances.

Before receiving the PWD designation, the Appellant had no entitlement to disability assistance and, until an application was filed, was also not entitled to reconsideration and this Tribunal would have no jurisdiction to hear an appeal. Those rights to reconsideration for appeal to this Tribunal only arise after application and a determination of PWD designation or disability assistance. It would be inconsistent with the scheme of the legislation for those rights to then retroactively be available to before application in circumstances such as the present one.

***-Claims of Misinformation***

The Appellant asserts, essentially, that but for incorrect information provided by the Ministry, she would have applied and been approved for PWD earlier. The Panel does not dispute that the appellant acted upon Ministry-provided information, potentially to her detriment. However, there is no evidence of deliberate deception or misconduct by the Ministry. In the absence of proof of purposeful malfeasance, the Panel has no basis to determine that the Ministry has acted unreasonably within this Tribunal's jurisdiction to consider.

Furthermore, the Panel's jurisdiction is limited by statute. While it allows interpretation of legislation and purposes, it does not extend to applying principles of equity, including fairness or broader principles of justice, which fall under the purview of the courts. The Appellant firmly believes she would have been approved for PWD based on her recent designation. and she provided evidence that she contacted the Ministry during that time. However, without all the relevant information about the Appellant's circumstances in 2022, this Panel cannot assess whether the Ministry was unreasonable in an assertion, as alleged, that the Appellant did not meet the legal requirements for approval at that time. For example, the Ministry would have to consider assets, income, and the assistance rate in 2022.

The Panel notes that the Appellant says she was told she was not eligible for benefits in 2022 by the Ministry, a social worker, and the federal government, all of whom may have had information about the Appellant's circumstances at that time.

While the Appellant's prior receipt of hardship assistance may support her position, it does not provide definitive proof. An applicant may receive hardship assistance while waiting for documents to determine eligibility for disability assistance, but those documents are not in evidence, and receipt of hardship assistance does not predetermine that a person will be designated as a PWD.

The Panel acknowledges the Appellant's objection to the Ministry including that fact in its background summary. However, it finds no grounds for excluding it and notes that removing it might not be appropriate, as it may serve as relevant evidence in support of the Appellant's claim.

***-Policy and Moral Considerations***

The appellant raises moral and policy-based concerns but provides no legal authority indicating they fall within the Panel's scope. The Panel finds that they are not within its jurisdiction and as such does not address such matters.

***-Assessment Summary***

The Panel finds that the Reconsideration Decision was reasonably supported by the evidence and the Ministry reasonably applied the legislation in the circumstances.

The Panel found no relevant evidence was overlooked, given unreasonable weight, or wrongly stated in any meaningful way, by the Ministry. Although the appellant objected to the inclusion of prior hardship assistance in the Ministry's background summary, the Panel sees no basis for excluding it, as it may support the appellant's position.

The Panel also notes a clerical error regarding a date. However, this mistake was non-substantive, correctly presented elsewhere, and had no bearing on the Reconsideration Decision or this ruling.

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.

**Conclusion**

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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***

#### **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.

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

#### **Effective date of eligibility**

**23 (1)** Except as provided in subsections (1.1), (3.11) and (3.2), the family unit of an applicant for designation as a person with disabilities or for both that designation and disability assistance

- (a) is not eligible for disability assistance until the first day of the month after the month in which the minister designates the applicant as a person with disabilities, and
- (b) on that date, the family unit becomes eligible under section 4 and 5 of Schedule A for that portion of that month's shelter costs that remains unpaid on that date.

(1.1) The family unit of an applicant who applies for disability assistance while the applicant is 17 years of age and who the minister has determined will be designated as a person with disabilities on the applicant's 18th birthday

- (a) is eligible for disability assistance on that 18th birthday, and
- (b) on that date, is eligible under section 4 and 5 of Schedule A for that portion of the month's shelter costs that remains unpaid on that date.

(1.2) A family unit of an applicant for disability assistance who has been designated as a person with disabilities becomes eligible for

- (a) a support allowance under sections 2 and 3 of Schedule A on the disability assistance application date,
- (b) for a shelter allowance under sections 4 and 5 of Schedule A on the first day of the calendar month that includes the disability assistance application date, but only for that portion of that month's shelter costs that remains unpaid on the date of that submission, and
- (c) for disability assistance under sections 6, 7 and 8(2)(b) of Schedule A on the disability assistance application date. [B.C. Reg. 151/2018]

(2) Subject to subsections (3.01) and (3.1), a family unit is not eligible for a supplement in respect of a period before the minister determines the family unit is eligible for it.

(3) Repealed. [B.C. Reg. Reg. 244/2024]

(3.01) If the minister decides, on a request made under section 16(1) [*reconsideration and appeal rights*] of the Act, to provide a supplement, the family unit is eligible for the supplement from the earlier of

- (a) the date the minister makes the decision on the request made under section 16(1) of the Act, and
- (b) the applicable of the dates referred to in section 72(1) of this regulation.

(3.1) If the tribunal rescinds a decision of the minister refusing a supplement, the family unit is eligible for the supplement on the earlier of the dates referred to in subsection (3.01).

(3.11) If the minister decides, on a request made under section 16(1) of the Act, to designate a person as a person with disabilities, the person's family unit becomes eligible to receive disability assistance at the rate specified under Schedule A for a family unit that matches that family unit on the first day of the month after the month containing the earlier of

- (a) the date the minister makes the decision on the request made under section 16(1) of the Act, and
- (b) the applicable of the dates referred to in section 72(1) of this regulation. [B.C. Reg. Reg. 244/2024]

(3.2) If the tribunal rescinds a decision of the minister determining that a person does not qualify as a person with disabilities, the person's family unit is eligible to receive disability assistance at the rate specified under Schedule A for a family unit that matches that family unit on the first day of the month after the month containing the earlier of the dates referred to in subsection (3.11).

(4) If a family unit that includes an applicant who has been designated as a person with disabilities does not receive disability assistance from the date the family unit became eligible for it, the minister may backdate payment but only to whichever of the following results in the shorter payment period:

- (a) the date the family unit became eligible for disability assistance;
- (b) 12 calendar months before the date of payment.

(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.

(6) Subsection (5) does not apply to assistance in respect of moving costs as defined in section 55.

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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)

2025/05/29

Print Name

Margarita Papenbrock

Signature of Member

Date (Year/Month/Day)

2025/06/02

Print Name

Gordon Thompson

Signature of Member

Date (Year/Month/Day)

2025/05/31