

Appeal Number 2025-0234

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) Reconsideration Decision dated June 4, 2025, which determined the appellant was not eligible for backdated disability assistance prior to April 1, 2025 according to section 23 of the Employment and Assistance for Persons with Disabilities Regulation.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (Regulation), section 23

Relevant sections of the legislation can be found in the Schedule of Legislation at the end of this decision.

Part E – Summary of Facts

The hearing was held as a teleconference on September 29, 2025. The appellant, a ministry representative and a ministry observer were present.

Relevant Evidence Before the Ministry at Reconsideration

Ministry Records show:

- The appellant was receiving income assistance as a single person.
- On December 12, 2023, a request for Persons with Disabilities designation was denied.
- On December 21, 2023, the appellant requested reconsideration of the denial.
- On February 14, 2024, on reconsideration, the ministry determined the appellant was not eligible for the Persons with Disabilities designation.
- On February 27, 2024, the appellant filed an appeal.
- On July 26, 2024, the appellant withdrew his appeal.
- On February 4, 2025, the appellant submitted a new Persons with Disabilities application.
- On March 20, 2025, the appellant's request for the Persons with Disabilities designation was approved, effective April 1, 2025.

Persons with Disabilities Application (received January 31, 2025)

The application includes a Self-Report (January 28, 2025), Medical Report (November 29, 2024, January 13, 2025) and an Assessor Report (November 29, 2024, January 13, 2025). The appellant completed the Self-Report. The Medical and Assessor Reports were completed by a doctor.

Letter from the Ministry to the Appellant (March 20, 2025)

The letter advises the appellant that the ministry approved his Persons with Disabilities designation effective April 1, 2025.

Reason for Request for Reconsideration (May 6, June 4, 2025)

The appellant writes that he is seeking a backdate for several valid reasons. At the time of his first application his doctor was very unfamiliar with the Persons with Disabilities application process. He thinks it hindered granting his application. The appellant states he was having physical impairments, which were progressive, and his daily activities were highly impacted by these impairments. He realized he would need an advocate who was more familiar with the Persons with Disabilities application and so obtained help from an advocacy group in early 2024. After assisting his advocate with extensive information and

after several requests to push the dates further for the appeal, his advocate concluded that the information was insufficient for a successful appeal and decided not to assist him. They advised the appellant to withdraw the appeal and start a new application. The appellant states he

unfortunately accepted this advice and withdrew his appeal on July 26, 2024. He assumed the advocate would start where they left off, which was not what occurred. The appellant was contacted three months later, then had to wait several months for a new doctor to assist with the medical part of the application. The new application was submitted in late January 2025 and was successfully approved effective April 1, 2025.

From September 2023 to April 1, 2025 the appellant states he had extensive medical testing, medical appointments, specialist referrals and multiple medications prescribed. He was unable to work during this time. This prolonged processing time (17 months) had detrimental effects on his health and finances creating unnecessary debt and limiting the resources he can access (e.g. transportation, physio, medication).

Letter to Appellant from a Legal Advocate (July 17, 2024)

In the letter, the advocate advised that they won't be able to assist the appellant with direct representation with his appeal as they feel there is a substantial risk to continue with the appeal for these reasons:

- lack of strong evidence in the original Persons with Disabilities application;
- unknown whether the doctors will corroborate new information; and
- risk that new evidence needs to be accepted by the panel and ministry.

As well, a staff member has gone on medical leave impacting their capacity. However, they still want to provide the appellant with some help and so drafted a support letter to provide the doctors with more context about what they are being asked to provide.

The advocacy group stated that it has an entire program that helps people with Persons with Disabilities applications – there is no penalty should the appellant decide to withdraw his appeal and start fresh with a new application. They also work closely with a couple of medical practitioners who really understand the level of detail the application is asking for, and if the appellant decides to work with the advocacy group to do a new application, they can put him on a waitlist to work with a volunteer doctor to fill out sections 2 and 3 of a new form.

Information Received After Reconsideration

Notice of Appeal (July 4, 2025)

Reason for Appeal

The appellant writes that he thinks the decision isn't fair as the ministry's decision is based on the legislation and it didn't consider his circumstances.

Appellant Submission (September 25, 2025)

Certificate of Health Status (June 5, 2025) - signed by a different doctor (than the Persons with Disabilities application dated November 2024 and January 2025)

The doctor writes that they completed a Persons with Disabilities form in 2023 based on objective information in the appellant's chart and an office visit. The appellant reports now that he minimized some of his symptoms and degree of dysfunction with activities of daily living in order to appear independent and strong as that is his character. He states now that in retrospect he was less functional and took inordinate amounts of time to do some of the activities that were listed as being independent on the form. After submitting that application an additional objective lab result led to further investigation of a new condition that is ongoing and results in pain, fatigue and other symptoms.

The doctor adds that they would be unable to revise their original 2023 Persons with Disabilities form as the information and abilities as recorded in the chart at that time were based on the information available. However they state that the appellant did later report additional difficulties with basic activities like shopping, preparing meals, basic hygiene etc. that rendered him unable to complete these tasks without lengthy delays and at a slow pace. This was not documented within his medical record as the symptoms/ dysfunction had not been relayed to them by the patient nor had he sought medical assistance with the specific tasks. This has been progressive and consistent with the symptoms that were beginning to emerge at that time. A later Persons with Disabilities form was completed by an independent physician in the same clinic who had not previously been involved in this patient's care.

At Hearing

At the hearing the appellant said the ministry told him in 2023 that he should be able to apply for Persons with Disabilities designation with no problem. However, he believes his doctor didn't understand the level of severity with his medical issues at the time. In approximately late 2024, early 2025 the appellant states he was diagnosed with a

progressive medical condition involving muscle breakdown. He believes this indicates that his medical issues were happening much earlier.

At the hearing the ministry stated that the time limits for the Reconsideration Decision were met.

Admissibility of New Evidence

The panel determined the additional evidence from the appellant (submission, September 25, 2025) is reasonably required for a full and fair disclosure of all matters related to the decision under appeal and therefore is admissible as evidence under section 22(4) of the *Employment and Assistance Act*. The ministry had no objections to admitting the submission. The panel also determined no new evidence was provided at the hearing, only argument.

Part F – Reasons for Panel Decision

The issue on appeal is whether the ministry's Reconsideration Decision 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 was not eligible for backdated disability assistance prior to April 1, 2025.

Appellant Position

The appellant submits he is seeking a backdate of his Persons with Disabilities designation. His first application was denied in December 2023 and also denied on reconsideration. He obtained an advocate in early 2024 but they concluded the information to be insufficient for a successful appeal and decided not to assist the appellant with an appeal. They advised him to withdraw the appeal and start a new application. The 17 months (September 2023 to April 1, 2025) he was seeking approval for the Persons with Disabilities designation has had detrimental effects on his health and finances creating unnecessary debt and limiting the resources he can access.

Ministry Position

The ministry submits that while it is empathetic to the appellant's circumstance, legislation does not allow for discretion when determining the effective date of eligibility for disability assistance. The ministry approved the appellant's designation on March 20, 2025. This means in accordance with section 23(1) of the Regulation, the appellant is not eligible to receive disability assistance until the first day of the following month. In the appellant's case that is April 1, 2025.

Panel Analysis

Section 23, Regulation – effective date of eligibility

Section 23 of the Regulation states that except as provided in subsections (1.1), (3.11) and (3.2), an applicant for designation as a Person with Disabilities 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.

The panel notes the letter from the ministry to the appellant, dated March 20, 2025, states the ministry approved his Persons with Disabilities designation effective April 1, 2025. The panel also notes, in the Notice of Appeal, the appellant thinks the decision isn't fair as it is based on the legislation but didn't consider his circumstances.

The panel finds the ministry reasonably determined the effective date of the appellant's Persons with Disabilities designation as April 1, 2025 as per section 23(1)(a) of the Regulation. April 1,

2025 is the first day of the month after the month in which the minister designated the applicant as a Person with Disabilities.

The panel acknowledges the appellant's statement regarding his doctor's understanding of his medical condition, the Certificate of Health Status (June 5, 2025), the advice from his advocate and his financial position. However, the panel is bound by the legislation, as is the ministry. Section 23(1)(a) of the Regulation does not allow any discretion, based on individual circumstances, on the effective date of a Person with Disabilities designation.

Conclusion

In conclusion, the panel finds the ministry decision that determined the appellant was not eligible for backdated disability assistance prior to April 1, 2025 was reasonably supported by the evidence.

The panel confirms the ministry's Reconsideration Decision. The appellant's appeal is unsuccessful.

Schedule of Legislation

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,

...

(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

...

(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.

(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).

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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

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

Connie Simonsen

Signature of Chair

Date (Year/Month/Day)

2025/09/29

Print Name

Karla Jarvis

Signature of Member

Date (Year/Month/Day)

2025/09/30

Print Name

Rick Bizarro

Signature of Member

Date (Year/Month/Day)

2025/09/29