

APPEAL#

PART C – Decision under Appeal

The decision under appeal is the Ministry's Reconsideration Decision dated March 13, 2010, which held that the Appellant is not eligible for assistance or supplements in respect of a period that occurred before the date the minister determines the family unit is eligible for income assistance. The Ministry found that the Appellant submitted an application for Child in the Home of a Relative (CIHR) benefits in January, 2010 and denied her application for benefits prior to that date.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) Section 26(2)(d); Schedule A, Section 11

PART E – Summary of Facts

Information before the Ministry at Reconsideration included:

- a letter from the Appellant's grandmother, dated January 13, 2010
- the Appellant's Application for Income Assistance for Child in the Home of a Relative (CIHR), dated January 19, 2010
- the Appellant's Application for Income Assistance, dated January 19, 2010
- a copy of the Appellant's Birth Certificate
- a copy of the Appellant's mother's passport
- a copy of the Appellant's grandmother's Social Insurance Card
- a letter from the Appellant's grandmother, dated January 20, 2010
- a copy of a CIHR Screening Consent, dated January 19, 2010
- a copy of a Medical Services Plan Client Release, dated January 19, 2010
- a copy of an email from a Social Worker to the Ministry, dated February 9, 2010
- the Appellant's Request for Reconsideration, dated February 24, 2010

The Appellant's grandmother submitted a letter dated April 27, 2010 to the Tribunal. It was admitted by the Panel under Section 22(4)(b) of the Employment and Assistance Act as written testimony in support of the information and records that were before the minister when the decision being appealed was made. In it the Appellant's grandmother stated that she had been misinformed by the Ministry when she inquired about CIHR benefits before the child was born and immediately after the birth. As a result of the misinformation, there was a delay in applying for benefits from March, 2009, when the child was born, until January, 2010, when she received the correct information. She requests the Tribunal to rescind the Ministry's decision and backdate the CIHR assistance to March, 2009.

The Ministry, in the Reconsideration decision, stated that under the applicable legislation a family unit is not eligible for assistance or supplements in respect of a period before the date the minister determines that the family unit is eligible for income assistance. Eligibility for CIHR assistance is effective on the date of the applicant's submission of the application for CIHR form. As a result, the Appellant is not eligible for CIHR assistance for a period that occurred before the date of application. The Appellant applied for CIHR in January, 2010 and is not eligible for CIHR benefits for a period that occurred before that date. The Ministry therefore denied the Appellant's request for CIHR benefits for the period of March, 2009 to December, 2009.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry's decision that the Appellant is not eligible for CIHR benefits in respect of a period that occurred before the date the minister determines the family unit is eligible for income assistance.

EAR

26 (1) Except as provided in subsection (2), (2.1) or (3.1), a family unit is not eligible for income assistance or supplements in respect of a period that occurred before the date the minister determines the family unit is eligible for the income assistance or supplements, as applicable.

(2) A family unit becomes eligible

(a) for a support allowance under sections 2 and 3 of Schedule A on the date of the applicant's submission of the application for income assistance (part 2) form,

(b) for a shelter allowance under sections 4 and 5 of Schedule A on the first day of the calendar month that includes the date of the applicant's submission of the application for income assistance (part 2) form, but only for that portion of that month's shelter costs that remains unpaid on the date of that submission, and

(c) for income assistance under sections 6 to 10 of Schedule A on the date of the applicant's submission of the application for income assistance (part 2) form and

(d) for income assistance under section 11 of Schedule A on the date of the applicant's submission of the application for a child in the home of a relative income assistance form.

(2.1) If the tribunal rescinds a decision of the minister refusing a supplement, the family unit is eligible for the supplement from the date of the minister's decision on the applicant's request under section 17 (1) [reconsideration and appeal rights] of the Act in relation to the supplement.

(3) If a family unit includes a person who qualifies as a person who has persistent multiple barriers to employment, the family unit becomes eligible to receive income 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 in which the minister determines that the person qualifies as a person who has persistent multiple barriers to employment.

(3.1) If the tribunal rescinds a decision of the minister determining that a person does not qualify as a person who has persistent multiple barriers to employment, the person's family unit is eligible to receive income 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 date of the minister's decision on the applicant's request under section 17 (1) [reconsideration and appeal rights] of the Act in relation to the determination.

(4) If a family unit that includes a person who qualifies as a person who has persistent multiple barriers to employment does not receive income assistance at the applicable rate under Schedule A 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 under subsection (3) or (3.1), as applicable, for the applicable rate;

(b) 12 calendar months before the date of payment.

(5) 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

Section 11 – Child in the home of a relative

The income assistance to be paid under section 6 [child in the home of a relative] of this regulation on behalf of a child residing in the home of a relative is the amount listed in the second column that corresponds to the child's age group as listed in the first column.

Age Group	Monthly rate
Birth -5 years	\$257.46 minus financial contribution by the parents
6 – 9 years	\$271.59 minus financial contribution by the parents
10 – 11 years	\$314.31 minus financial contribution by the parents
12 – 13 years	\$357.82 minus financial contribution by the parents
14 – 17 years	\$402.70 minus financial contribution by the parents
18 years	\$454.32 minus financial contribution by the parents

The Appellant's position is that she and her daughter contacted the Ministry to inquire about CIHR benefits in early 2009, but were given incorrect information. This caused them to delay in applying for the benefit until January, 2010. They are requesting that the CIHR benefits be paid for the period of March to December, 2009.

The Ministry's position is that there is no provision in legislation for benefits to be paid for a period that occurred before the date the minister determines that the family unit is eligible for income assistance or supplements. Because the Appellant did not apply for benefits until January, 2010, no benefits can be paid before that date.

The Panel finds that although the Appellant, through her mother and grandmother, may have received incorrect information from the Ministry about the availability of CIHR benefits, the legislation does not provide for retroactive payment of benefits. The date of the Appellant's Application for Income Assistance for Child in the Home of a Relative and Application for Income Assistance are both January, 2010. The earliest date for payment of benefits is therefore January, 2010.

The Panel finds that the Ministry's decision to deny the Appellant's application for CIHR benefits for March, 2009 to December, 2009 was reasonably supported by the evidence. The Panel therefore confirms the Ministry's decision.