

PART C – DECISION UNDER APPEAL

(State the reconsideration decision)

In a reconsideration decision dated January 29, 2010, the Ministry denied the Appellant's request for the Community Volunteer Supplement (CVS) for the months of October and November, 2009. The Ministry found for the months of October and November, the Appellant was not eligible for disability assistance (DA) because of the CPP benefits he received in August and September, 2009 and because of his spouse's earned income in August and September, 2009.

The Employment and Assistance for Persons with Disabilities Regulation, Section 47(1) sets out that the Ministry may provide CVS to a family unit that is eligible for DA. Because the Appellant was not eligible for DA, the Ministry denied the Appellant the CVS.

PART D – RELEVANT LEGISLATION

(State the relevant Legislation considered)

Employment and Assistance for Persons with Disabilities Act (EAPWDA), Section 5
Employment and Assistance for Persons with Disabilities Act (EAPWDA), Section 1
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Section 47
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Schedule A

PART E – SUMMARY OF FACTS

Please set out the facts as determined by the panel, based on the evidence at the hearing. Please note that subsection 22(4) of the Employment and Assistance Act states that, in a hearing referred to in subsection (3), a panel may admit as evidence only:
(a) the information and records that were before the minister when the decision was being made, and
(b) oral or written testimony in support of the information and records referred to in paragraph (a).

In October and November 2009, the Appellant was not eligible for DA because of his spouse's earned income and his CPP benefits received in August and September 2009. In December, 2009, he was advised by the Ministry that because he was not eligible for DA in October and November, he was not eligible for CVS for the same months.

The Appellant claims he was advised in December 2009 that he was removed from CVS eligibility effective August, September and October, 2009. He states he volunteered 10 hours each of those months and did not receive any CVS supplement for this period. The Appellant states a Ministry worker told him that he wasn't informed earlier of his ineligibility because the ministry is short staffed and reports are overlooked. He states he could have done something else rather than volunteer and he requests the \$300 (\$100 per month) for the 3 months he volunteered without receiving the supplement.

At the hearing, the Appellant did not dispute his ineligibility for DA, however he argued that DA and the CVS are two distinct and separate items. The fact that he is not eligible for DA should not affect whether he receives a CVS. He stated the definition of a supplement is "a part added" or "a thing added to something else" and this means it is something different than DA.

The Ministry states the Appellant is not eligible for CVS in October and November because he was not eligible for DA in those months.

At the hearing, the Ministry reviewed the relevant legislation. The Ministry also clarified that the Appellant received the CVS for August but did not receive any supplement for September, October and November based on his ineligibility for DA during those months. The Ministry also stated that although the reconsideration decision only addresses October and November, the Appellant was not eligible and did not receive DA or CVS for the 3 months of September, October and November.

The Panel finds the reconsideration decision specifies October and November as the months in appeal.

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PART F – REASONS FOR PANEL DECISION

(State the reasons for the panel decision)

The issue in the case is the reasonableness of the Ministry's decision to deny the Appellant CVS for the months of October and November 2009 based on the Appellant not being eligible for DA for those months. The Ministry found the Appellant was ineligible for CVS and DA because of his CPP benefits and his spouse's earned income for the months of August and September 2009.

The legislation provides under EAPWDR, Section 47(1):

Community volunteer supplement

47 (1) The minister may provide to or for a family unit that is eligible for disability assistance a supplement of up to \$100 for each calendar month for each recipient or dependent child who has reached 15 years of age for clothing, transportation or other expenses that are needed for that recipient or dependent child to participate in a community volunteer program.

The Ministry argues the Appellant is not eligible for DA and therefore is not eligible for CVS for the months of September, October and November 2009.

The Appellant argues he was not notified that he was ineligible for CVS until December and that he volunteered 10 hours a month for August, September and October, and that he should be reimbursed for his volunteer hours during those months.

The Panel finds the legislation statement "may provide to or for a family unit that is eligible for disability assistance a supplement of up to \$100" specifies that to be eligible for CVS, the Appellant must be eligible for DA. In this case both parties agree that the Appellant was not eligible for DA in the months of October and November. The Panel finds the Appellant was not eligible for CVS in October and November because he was not eligible for DA.

The Panel finds the Ministry's decision was a reasonable application of the applicable legislation and confirms the decision.

ATTACH EXTRA PAGES IF NECESSARY