

PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision of August 25, 2011 which determined that pursuant to section 47 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) the appellant was not eligible for the Community Volunteer Supplement (CVS) he received since December 2010 when his participation in a volunteer program with volunteer agency "A" ceased. The ministry also determined that the appellant is not an active participant with any volunteer program and is therefore ineligible for the CVS.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR),
section 47 [repealed August 9, 2011]

PART E – Summary of Facts

The hearing was originally scheduled for September 27, 2011 at which time the appellant requested an adjournment to have more time to gather additional information. The ministry did not object though its preference was for the hearing to proceed as originally scheduled. The panel granted the adjournment to allow the appellant further time to obtain information. The appellant was not in attendance at the rescheduled hearing. After confirming that the appellant was notified, the hearing proceeded pursuant to section 86(b) of the Employment and Assistance Regulation. Two ministry staff members were not permitted to attend the hearing as the appellant's consent could not be obtained in his absence.

The evidence before the ministry at reconsideration was comprised of:

- a Request for Community Volunteer Supplement (CVS) signed by an officer of volunteer agency "A" on November 29, 2010;
- the Request for Reconsideration in which the appellant states that he was reliable in his volunteer capacity and has never been banned from volunteer agency "A" and that the only staff at that agency who could put a ban into place are the Executive Director [name] and Office Manager [name];
- a record of "MIS Comments":
 - July 19, 2011: Client in office and stated that he has not volunteered with volunteer agency "A" for some time and will submit a new CVS form; client advised CVS has been removed from file until new CVS form is received and verified.
 - August 15, 2011: Contacted the volunteer agency at client's request. Spoke with finance department staff member who stated she knows for a fact that the client is not volunteering with the volunteer agency and has not for some time but that she does not have access to information regarding bans.

The ministry's evidence in the reconsideration decision is that the appellant started with the CVS in November 2010 and that he was volunteering with volunteer agency "A". The ministry contacted volunteer agency "A" on July 18, 2011 and was advised that the appellant had not volunteered at the agency since approximately December 2010. On July 19, 2011, the appellant met with a ministry investigative officer who advised the appellant of the ministry's findings. The appellant stated that he was still volunteering but at another organization but was unable to provide the organization's name. The appellant was advised that the CVS would be stopped until he submitted a new CVS application form for review. The appellant requested a reconsideration of the decision. On August 15, 2011, the ministry contacted volunteer agency "A" which confirmed that the appellant is not a volunteer there.

At the hearing, the ministry confirmed the evidence in the reconsideration decision adding that its contact with volunteer agency "A" on July 18, 2011 was with person "X" who is responsible for volunteer coordination. The ministry stated that during the July 19, 2011 meeting with the appellant, the information provided by person "X" on July 18, 2011 that the appellant had been banned was provided to the appellant for his information only as the existence of a ban was not relevant to the ministry's decision respecting eligibility for the CVS. The ministry also clarified that the document titled "MIS Comments" is an excerpt from the ministry record of the appellant's case history. The panel admitted the ministry's oral testimony pursuant to section 22(4) of the Employment and Assistance Act as it was further clarification of, and thus in support of, the information before the ministry at reconsideration.

The panel notes that person "X" is the person identified by the appellant in the Request for Reconsideration as the Office Manager for volunteer agency "A".

No additional evidence was provided by the appellant on appeal.

PART F – Reasons for Panel Decision

The issue to be decided is whether the ministry reasonably determined that (i) pursuant to section 47 of the EAPWDR the appellant was not eligible for the Community Volunteer Supplement (CVS) he received since December 2010 when his participation in a volunteer program with volunteer agency "A" ceased and is ineligible for the CVS because he is not an active participant in any volunteer program.

Section 47(1) of the EAPWDR states that 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's position is that the appellant is not eligible for the CVS received since December 2010 when he stopped volunteering with volunteer agency "A" and that he is not eligible for the CVS as an active participant with another volunteer program. The ministry argues that the evidence establishes that since ceasing to volunteer with volunteer agency "A" the appellant has not established that he participated in any other volunteer program.

The appellant's position is that the ministry has relied on incorrect information because he, the appellant, was not banned from volunteer agency "A" and he was reliable in his volunteer capacity. The appellant further contends that he has not been provided an opportunity to adduce the necessary facts and requires additional time.

The panel finds that the evidence that the appellant has not volunteered with volunteer agency "A" since December 2010 is not in dispute and is supported by excerpts from the ministry record of the appellant's case file. The panel notes that the appellant disputes that he was other than reliable in his volunteer capacity and that he was banned from the office of volunteer agency "A". However, the issue of whether the appellant was volunteering is in issue when determining eligibility for the CVS not the circumstances of the appellant ceasing to volunteer. The panel also finds that there is no evidence to establish that the appellant has been an active volunteer with any volunteer agency since December 2010. Based on these findings, the panel finds that the ministry reasonably determined that the appellant is not eligible for the CVS under section 47 of the EAPWDR because he is not a participant in a community volunteer program and that the appellant was not eligible for the CVS received since ceasing to volunteer in December 2010.

The panel finds that the ministry's reconsideration decision was a reasonable application of section 47 of the EAPWDR in the circumstances of the appellant and confirms the decision.