

Employment and Assistance Appeal Tribunal



Annual Report *2007/08*

Community Based

Our staff out and about in our community – Victoria



December 2008

Honourable Rich Coleman
Minister of Housing and Social Development

Dear Minister:

It is my pleasure to present the annual report for the Employment and Assistance Appeal Tribunal covering the period October 1, 2007 to September 30, 2008. The report has been prepared in accordance with section 20(1) of the *Employment and Assistance Act*.



Marilyn R. McNamara
Chair, Employment and Assistance Appeal Tribunal





Contents

Message from the Chair	01
<hr/>	
1. Who We Are and What We Do	03
The Tribunal	
Tribunal Members	
The Appeal Process	
<hr/>	
2. If You Want to Appeal	09
How to Appeal	
Type of Hearing	
After the Hearing	
<hr/>	
3. How We Did in 2007/08	10
Notices of Appeal Received	
Appeal Outcomes	
Tribunal Members	
<hr/>	
4. What Our Decisions Look Like	14
CASE 1: Persons with Disabilities Designation	
CASE 2: Child Care Subsidy	
CASE 3: Health Supplement - Medical Equipment and Devices	
<hr/>	
5. Looking Ahead	19
<hr/>	
Glossary	20
<hr/>	
Appendix A: Tribunal Staff	21
<hr/>	
Appendix B: Tribunal Members	22
<hr/>	
Appendix C: Budget	24
<hr/>	
How to Contact Us	25
<hr/>	

Our Mission

The mission of the Employment and Assistance Appeal Tribunal is to provide an accessible appeal process that delivers timely and fair decisions reviewing Ministry of Housing and Social Development determinations in regards to the employment and assistance program, and Ministry of Children and Family Development determinations in regards to the child care subsidy program.





Message from the Chair

It is my privilege to present the sixth annual report of the Employment and Assistance Appeal Tribunal.

This year has seen a number of changes. For part of the year, the Tribunal reported to the Honourable Claude Richmond, Minister of Employment and Income Assistance and since June, to the Honourable Rich Coleman, Minister of Housing and Social Development. The Tribunal appreciated the support of Minister Richmond, who was successful in having the legislation changed to enhance the appeal process and who met with staff and members, emphasizing the need for an accessible, timely, fair, caring and ethical appeal process.

This was the first year that the Tribunal completed performance evaluations prior to making recommendations on reappointments. The Competency-Based Learning and Development Tool, used in the performance evaluations, also assists members by analyzing their skills and abilities and indicating areas where members would benefit from additional training.

Advocates have been requesting greater access to Tribunal decisions. In order to accommodate this request and still protect the privacy of individuals, members are not to include personal identifiers in the decision and, prior to being posted to the web, each decision undergoes a privacy review. Posting decisions is another way to be accountable and transparent while providing a valuable resource for members, parties and advocates. Visit our website to review Tribunal decisions: www.gov.bc.ca/eaat.

Our new members were the first to receive computer-based training (CBT), allowing them to acquire the knowledge required of members at their own pace and in their own home. On successful completion of the training, the member is assigned to a hearing where a mentor is assigned the role of panel chair and will coach the new member. Evaluations of both the training and the hearing process have been positive.

Members make a significant contribution to their communities through the work they perform on behalf of the Tribunal and I would like to recognize their efforts and thank them for their excellent service and dedication.

I would also like to thank staff for their work over the past year - working diligently through a number of staff changes. Teamwork is key to supportive relationships and excellent service. Recognizing that relationship building is an ongoing process, we also dedicated a day to team building.

As always, comments from parties and advocates are appreciated and I look forward to working together to ensure that the Employment and Assistance Appeal Tribunal continues to provide an accessible, timely, fair, caring and ethical appeal process. The efforts of those who work to support this objective are greatly appreciated.

Our Vision

The Employment and Assistance Appeal Tribunal will be known for:

- Providing an accessible, independent, community-based, fair, timely, caring and ethical appeal process to hear appellants' disagreements with decisions of the Ministry of Housing and Social Development in regards to the employment and assistance program and the Ministry of Children and Family Development in regards to the child care subsidy program.
- Supporting members to provide quality service to promote public confidence in the integrity and competency of the Tribunal.
- Creating a healthy work environment that supports staff to provide quality service and to continually learn and develop knowledge, skills and expertise.



1. Who We Are and What We Do

The Employment and Assistance Appeal Tribunal

The Tribunal was established on September 30, 2002 to hear appeals of most types of decisions made by the Ministry of Housing and Social Development under the employment and assistance program. Since 2006, the Tribunal also hears appeals of decisions made by the Ministry of Children and Family Development under the child care subsidy program. The Tribunal provides a streamlined and efficient one-step appeal process, and is independent of both ministries.

The Tribunal consists of a Tribunal Chair and Vice-Chair, staff, and currently, 205 members located throughout the province. (See Appendix A for a list of staff and Appendix B for a list of members).

The Employment and Assistance Appeal Tribunal hears appeals of reconsideration decisions that refuse, reduce or discontinue income, disability assistance or a supplement; decisions regarding the amount of a supplement; or decisions that refuse to grant hardship assistance under:

- Section 17 of the *Employment and Assistance Act*, and
- Section 16 of the *Employment and Assistance for Persons with Disabilities Act*.

The Tribunal also hears appeals of reconsideration decisions that refuse, reduce or discontinue a subsidy under:

- Section 6 of the *Child Care Subsidy Act*.

Tribunal Members

Members are appointed by the Minister of Housing and Social Development after a merit-based process and on consultation with the Tribunal Chair. To be considered for appointment to the Tribunal, candidates must have:

- an understanding of the essential elements of the conduct of a fair and objective hearing
- an understanding of the key aspects of the *Employment and Assistance Act*, the *Employment and Assistance for Persons with Disabilities Act*, the *Child Care Subsidy Act*, and the regulations relevant to these Acts
- an ability to interpret and apply legislation
- analytical, decision-making and decision-writing skills
- an ability to listen and communicate clearly and effectively
- conflict resolution skills and a proven ability to work well in group settings
- a commitment to respect diversity, and
- computer literacy.

In addition, to ensure independence and that hearings are fair and just, a member must not:

- be or have been an employee of the Ministry of Housing and Social Development or the Ministry of Children and Family Development for the past six months
- be an employee of the provincial government
- be a recipient of benefits under any of the acts for which the Tribunal has responsibility, or
- have any real or perceived interest in matters that come before the Tribunal.

Members are also required to abide by the Tribunal's Code of Conduct and Practices and Procedures and to maintain confidentiality.

NOTE: In order to maintain a roster of members throughout the province, the Tribunal recruits new members from time to time. Anyone interested in being considered for such an appointment should refer to the Employment and Assistance Appeal Tribunal website, www.gov.bc.ca/eaat, or the Board Resourcing and Development Office website, www.lcs.gov.bc.ca/BRDO, for information on how to apply.

The Appeal Process

The Tribunal hears appeals of reconsideration decisions made by the Ministry of Housing and Social Development in regards to the employment and assistance program, and the Ministry of Children and Family Development in regards to the child care subsidy program. A person must receive a reconsideration decision prior to requesting an appeal from the Tribunal. The appeal process, which is set out in the *Employment and Assistance Act* and Regulation, is the same regardless of which ministry made the reconsideration decision.

A person who applies for or receives assistance under the *Employment and Assistance Act* or the *Employment and Assistance for Persons with Disabilities Act* can ask for a reconsideration of a decision that resulted in a refusal, reduction or discontinuance of income or disability assistance, or a supplement; a decision regarding the amount of a supplement; or a decision that refuses to grant hardship assistance. (More information about the Ministry of Housing and Social Development's reconsideration process is available from ministry offices and from the ministry's website, www.gov.bc.ca/hsd).

“ Those who are dissatisfied with the outcome of their request for reconsideration from either ministry can, in most cases, appeal to the Employment and Assistance Appeal Tribunal. ”

A person who applies for or receives a child care subsidy can ask for a reconsideration of decision that resulted in the refusal, discontinuance or reduction of a child care subsidy. (More information about the Ministry of Children and Family Development’s reconsideration process can be obtained by calling 1-888-338-6622 and asking to speak with an adjudicator.)

Those who are dissatisfied with the outcome of their request for reconsideration from either ministry can, in most cases, appeal to the Employment and Assistance Appeal Tribunal. They must submit a Notice of Appeal form to the Tribunal within seven business days of receiving their reconsideration decision.

Upon receipt of a completed Notice of Appeal, the Tribunal decides whether the matter can be appealed. Factors that are considered include whether the Notice of Appeal was submitted within the prescribed timelines and whether the issue is appealable under the legislation.

If the matter is eligible for appeal, a panel of up to three persons is appointed and the hearing is commenced within 15 business days of the completed Notice of Appeal being delivered to the Tribunal. Most hearings are conducted in person, usually in or near the appellant’s community. Hearings can also take place by teleconference, or, if both parties consent, in writing.

The panel reviews the ministry’s reconsideration decision and the appeal record, considers any supporting evidence provided by the appellant or the ministry, and renders a written decision, generally within five business days of the hearing. The Tribunal mails a copy of the decision to the appellant and the ministry within five business days of receiving it from the panel. Decisions of the Tribunal are final.

NOTE: Summaries of Tribunal decisions from 2007/08 are included in Section 4, “What Our Decisions Look Like.” Complete Tribunal decisions are available on the website: www.gov.bc.ca/eaat.



MINISTRY RECONSIDERATION PROCESS

A Ministry of Housing and Social Development worker refuses, discontinues or reduces a benefit or a Ministry of Children and Family Development worker refuses, discontinues or reduces a child care subsidy.

A person may request a reconsideration of the ministry worker's decision.¹
The reconsideration request must be delivered to the ministry within 20 business days of the person being informed of the original decision.

The ministry has 10 business days to mail a reconsideration decision.

TRIBUNAL APPEAL PROCESS

If a person is dissatisfied with the reconsideration decision, he or she may submit a Notice of Appeal to the Employment and Assistance Appeal Tribunal.

The person has 7 business days to submit the Notice of Appeal to the Tribunal.

ORAL HEARING

Within 15 business days of receipt of the completed Notice of Appeal, the Tribunal schedules an oral hearing in person or by teleconference.

The panel hears the appeal in person or by teleconference.

The panel renders a decision, either confirming or rescinding the ministry decision.

The panel has 5 business days to provide the Tribunal with a written decision.

The Tribunal has 5 business days to mail the decision to the parties.

WRITTEN HEARING

Within 15 business days of receipt of the completed Notice of Appeal, the parties receive a letter from the Tribunal commencing the written hearing.

The appellant has 7 business days to provide a submission.

The ministry has 7 business days to respond to the appellant's submission.

The panel convenes to render a decision, either confirming or rescinding the ministry decision.

The panel has 5 business days to provide the Tribunal with a written decision.

The Tribunal has 5 business days to mail the decision to the parties.

¹ The person wanting to appeal a decision by a ministry worker must send his or her reconsideration request to the ministry responsible for the benefits he or she is seeking.

How to Appeal...

You have
7 Business Days

If you are dissatisfied with the Ministry's reconsideration decision:

1. Complete the Notice of Appeal form.
2. Submit to the TRIBUNAL within 7 business days of receiving the Ministry's reconsideration decision.
3. Send the Notice of Appeal to the Employment and Assistance Appeal TRIBUNAL by:

MAIL: PO Box 9994 Stn Prov Govt,
Victoria, BC V8W 9R7

FAX: Toll free: 1-877-356-9687,
in Victoria: 250-356-9687

EMAIL: eaat@gov.bc.ca

You may **pick up** the Notice of Appeal form at your Ministry office or by contacting the Employment and Assistance Appeal TRIBUNAL.

How to Contact the Employment and Assistance Appeal TRIBUNAL.

TELEPHONE: Toll free **1-866-557-0035**

In Victoria **250-356-6374**

EMAIL: eaat@gov.bc.ca

WEBSITE: www.gov.bc.ca/eaat

The Tribunal brochure is provided to appellants with every reconsideration decision.

2. If You Want To Appeal

How to Appeal

If you are dissatisfied with the ministry's reconsideration decision, complete a Notice of Appeal form and send it to the Tribunal within 7 business days of receiving your reconsideration decision.

Type of hearing

The Tribunal will attempt to accommodate your request for the type of hearing indicated on your Notice of Appeal: oral (in person or by teleconference) or in writing.

Oral hearing - In person

If your hearing is proceeding as an oral hearing in person, the Tribunal will send you a Notice of Hearing, which you will receive at least two business days before the hearing is to take place, notifying you of the date, time and place of the hearing. Hearings will usually take place in or near your community. You have the right to present evidence and make arguments in support of your case. You also have the right to call witnesses to give evidence in support of the information and records at reconsideration, and to have a representative assist you during the appeal process.

Oral hearing - By teleconference

If your hearing is proceeding as an oral hearing by teleconference, the Tribunal will send you a Notice of Hearing, which you will receive at least two business days before the hearing is to take place. The Notice of Hearing includes the date and time of the hearing, as well as instructions for accessing the teleconference. As in an oral hearing in person, you

have the right to present evidence and make arguments in support of your case, to call witnesses to give evidence in support of the information and records at reconsideration, and to have a representative assist you during the appeal process.

Written hearing

If you request a written hearing, and the ministry agrees, the Tribunal will send you a letter establishing a schedule for the written submission process. You will be given seven business days to provide a submission to support your case. On receiving your submission, the Tribunal will forward it to the ministry, and give the ministry seven business days to provide a written response. The Tribunal will then forward the appeal record, including the submissions, to the panel for review.

After the Hearing

The panel will provide the Tribunal Chair with a written decision within five business days of the conclusion of the hearing. Upon request of a panel chair, the Tribunal Chair may extend the time limit by no more than 10 additional days if satisfied that the panel is making all reasonable efforts to provide its determination in a timely manner, and the best interests of the parties are served by the extension. The decision will either confirm or rescind the ministry reconsideration decision. The Tribunal will mail a copy of the decision to the parties within five business days of receiving it from the panel. Decisions will not be provided over the telephone. Decisions are final.

NOTE: For more detailed information about the appeal process, see "Practices and Procedures" on the Tribunal's website, www.gov.bc.ca/eaat.

3. How We Did in 2007/08

The Employment and Assistance Appeal Tribunal's Strategic Plan establishes performance indicators for specific objectives. The Tribunal has been successful in ensuring that 100% of the appeals were commenced within the legislated 15 business days and that Tribunal decisions met the statutory timelines.

Here is a brief summary of the results of our work for the reporting period of October 1, 2007 to September 30, 2008.

Notices of Appeal Received

Notices of Appeal received **680**

(for both the Ministry of Housing and Social Development and the Ministry of Children and Family Development)

Appeals assessed as not within the jurisdiction of the Tribunal **90**

(i.e., not proceeding to hearing)

Appeals dismissed **22**

(before or during hearing)

Files carried over **36**

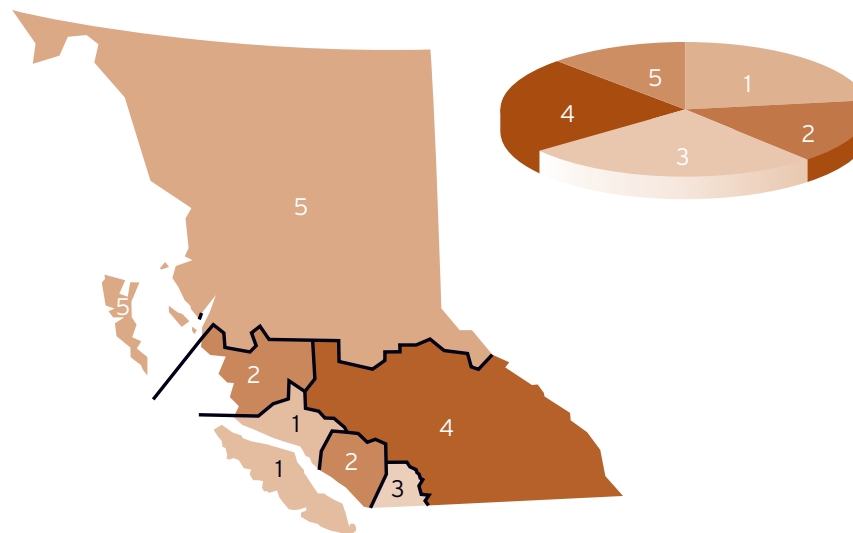
(i.e., Notices of Appeal received before September 30, 2008 but proceeding to hearing after or not assessed by September 30, 2008)

Notices of Appeal received - by type

Disabilities - Persons with Disabilities (PWD)	177
Disabilities - Persons with Persistent Multiple Barriers (PPMB)	35
Eligibility - Deductions on Income/Earnings Exemptions	13
Eligibility - Dependency/Living Arrangements	9
Eligibility - Excess Income/Assets	61
Eligibility - Failure to Accept/Pursue Income/Assets	3
Eligibility - Failure to Provide Information/Verification	16
Eligibility - Residency	2
Eligibility - Time Limit for Income Assistance	1
Eligibility - Undeclared Income/Assets	9
Employment - Dismissed/Quit/Refused Employment	17
Employment - Employment Plan/Failure to Look for Work	78
Employment - Requirement for Two-Year Financial Independence	5
Health Supplements - Dental Supplement	31
Health Supplements - Diet/Natal Supplements	1
Health Supplements - MSP/Other Health Supplements	13
Health Supplements - Medical Equipment	30
Health Supplements - Medical Supplies	4
Health Supplements - Medical Transportation	4
Health Supplements - Monthly Nutritional Supplement (MNS)	23
Health Supplements - Therapies	2
Other - Child in the Home of a Relative/Under 19	6
Other - Child Care	13
Other - Crisis Supplement	56
Other - Family Maintenance	1
Other - Hardship	2
Other - Other	68

Notices of Appeal received - by region

Region 1	Vancouver Island	155
Region 2	Vancouver Coastal	107
Region 3	Fraser	177
Region 4	Interior	159
Region 5	Northern	82



“ Performance evaluations assist members by analyzing their skills and abilities, indicating areas where members would benefit from additional training. ”

Appeal Outcomes

The total number of Notices of Appeal received differs from the number of appeals closed because of files carried over from the previous year or into the following year and various other factors. The number of decisions confirmed and the decisions rescinded do not equal the number of appeals heard for the same reason. The following statistics relate to appeal files that were closed in 2007/08.

Ministry of Housing and Social Development

Appeals heard	581
Decisions confirmed	420
Decisions rescinded	157

Ministry of Children and Family Development

Appeals heard	12
Decisions confirmed	8
Decisions rescinded	4

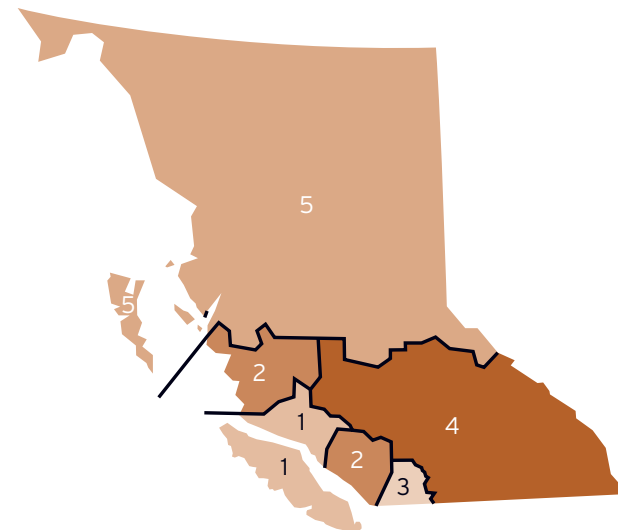
Tribunal Members

The Tribunal is committed to supporting members to provide quality service. In the previous year, all members attended comprehensive training relative to the work they perform for the Tribunal. This year, the Tribunal completed performance evaluations on many of its members. Performance evaluations assist members by analyzing their skills and abilities, indicating areas where members would benefit from additional training. The process provides personal coaching - reviewing their knowledge of the Tribunal Practices and Procedures and the guidelines developed for members.

The Tribunal also focused on the application process, testing applicants on their understanding of the essential elements for the conduct of a fair and objective appeal and on their understanding of key aspects of the relevant acts and regulations.

The initial and more comprehensive training materials were combined in a computer-based training program (CBT) for new members, who must successfully complete this training prior to being assigned to a hearing. The CBT enables members to learn at their own pace and in their own home.

Performance reviews of members	97
Applicants who completed testing	82
New members provided with the CBT	19
Members appointed	19
Members reappointed	91
Total members as of September 30, 2008	205



Number of members - by region

Region 1	Vancouver Island	57
Region 2	Vancouver Coastal	28
Region 3	Fraser	31
Region 4	Interior	71
Region 5	North	18

4. What Our Decisions Look Like

CASE 1

Person with Disabilities Designation

Ministry Decision

Request for designation as a person with disabilities (PWD) denied

Summary of Facts

The evidence before the ministry was that a physician confirmed that the appellant has a congenital foot deformity, with one foot severely affected, which will continue for at least two years. The physician indicated that the appellant is continuously restricted in his ability to perform only one of the daily living activities, mobility outside the home, noting the degree of restriction as “pain with walking and standing”. The assessor’s report also noted periodic assistance is required when walking outdoors, climbing stairs, lifting and for carrying and holding. The appellant’s orthotist indicated the appellant is not independent in regards to basic housekeeping and most aspects of shopping, however, there is no evidence this statement was confirmed by a prescribed professional, as required by the legislation. The assessor’s report indicated that the appellant routinely uses a cane, crutches, braces and a manual wheelchair as assistive devices.

The appellant submitted additional letters from his physician stating that he also has arthritic pain and severe depression, for which he is taking anti-depressant medication and will be seen by a psychiatrist.

These letters were admitted by the panel as evidence in support of the information and records before the minister when the reconsideration decision was made.

Tribunal Decision

Ministry decision confirmed

Reasons for Decision

The issue in this appeal was whether the ministry decision to deny the appellant the PWD designation was a reasonable application of the *Employment and Assistance for Persons with Disabilities Act* in the circumstances of the appellant or was reasonably supported by the evidence.

Section 2(1) of the *Employment and Assistance for Persons with Disabilities Act* requires that a person meet 5 criteria: the person must have reached the age of 18; the minister must be satisfied there is a severe mental or physical impairment; a medical practitioner must be of the opinion it will continue for at least two years; a prescribed professional must confirm both that the impairment directly and significantly restricts the person’s ability to perform daily living activities either continuously or periodically for extended periods and that, as a result of the restrictions, the person requires help to perform those activities.

The ministry's position was that the evidence did not establish that the appellant has a severe impairment that significantly restricts his ability to perform daily living activities and he does not require help to perform those activities. The appellant's position was that his impairment is severe, it significantly impacts his ability to perform many daily living activities, and that he requires daily assistance to perform those activities. He stated that the PWD application does not accurately reflect the difficulties faced daily or the assistance required.

The panel found that the appellant did not have a severe physical impairment, as the Physician and Assessor Reports stated that the appellant can walk more than 4 blocks, climb more than 5 stairs, lift between 15 and 35 pounds, and remain seated without limitation. With respect to whether the appellant has a severe mental impairment, the panel found that there was insufficient evidence to establish that the impairment is severe as the only medical information available was the recent letter from the physician stating that the appellant has severe depression. The letter did not provide any further information regarding the duration of the depression or the effectiveness of treatment. Neither the Physician or Assessor Reports stated that depression impacted the appellant's ability to perform daily living activities or resulted in a need for assistance. Therefore, the panel found that the ministry was reasonable in concluding that the appellant does not have a severe mental or physical impairment.

With respect to the direct and significant restriction of the appellant's ability to perform daily living activities, the panel noted that the Physician's report stated that only one activity, mobility outside the home, was continuously restricted. None of the additional medical evidence provided information on the impact of the appellant's impairment on his ability to perform daily living activities. While the orthotist and the appellant provided information about more significant restrictions, the legislation requires that the opinion of whether a person is directly and significantly restricted in their ability to perform their daily living activities be that of a prescribed professional. Orthotists are not included in the definition of prescribed professional. Therefore, the panel found that the ministry was reasonable in concluding that the appellant is not directly or significantly restricted in performing daily living activities.

The panel found that the ministry was also reasonable in concluding that the evidence did not establish that the appellant requires help to perform daily living activities, as the panel determined that, while assistive devices or help from another person may be of benefit or make performing the daily living activities easier, the evidence did not establish that the appellant requires help to perform those activities.

The panel determined that the ministry decision was reasonably supported by the evidence and confirmed the decision.

CASE 2

Child Care Subsidy

Ministry Decision

Reduced amount of child care subsidy due to calculation of monthly income from only two earnings statements

Summary of Facts

The appellant applied for a child care subsidy and, as requested by the ministry, provided her two most recent earnings statements, for the period ending December 31 and January 15. From the earnings statements, the ministry determined that her monthly income was \$3,092.64, making her eligible for a child care subsidy of \$379.68 per month. These earnings statements were higher than usual because the appellant had maximized some annual deductions and worked overtime in December. The appellant submitted additional earnings statements for the period ending September 15 and September 30, showing a net monthly income of \$2,941.72. The earnings statements were admitted by the panel as evidence in support of the information and records before the minister when the reconsideration decision was made.

Tribunal Decision

Ministry decision rescinded

Reasons for Decision

The issue in this appeal was whether the ministry's method for calculating the child care subsidy payable to the appellant was a reasonable application of the Child Care Subsidy Regulation in the circumstances of the appellant or was reasonably supported by the evidence.

Section 9(3) of the Child Care Subsidy Regulation provides that if the monthly income of the family varies during a calendar year, the ministry may calculate monthly net income by estimating the annual net income that the family will receive in a year and dividing the annual net income by 12.

The ministry's position was that the appellant was not a person whose monthly income varies during the calendar year and that it was appropriate for them to use the most recent earnings statements submitted by the appellant to calculate her monthly income. The appellant's position was that her income did vary throughout the year, the earnings statements relied upon by the ministry overstated her annual income, and as a result, the amount of child care subsidy calculated by the ministry was too low.

The panel found that the September earnings statements demonstrated the appellant had a variable income, and that the appellant was entitled to have her eligibility assessed under section 9(3).

The panel found that the ministry's method for calculating the child care subsidy payable to appellant was not a reasonable application of the applicable enactment in the circumstances of the appellant and rescinded the decision.

CASE 3**Health Supplement - Hearing Aid****Ministry Decision**

Request for a health supplement for a hearing aid denied

Summary of Facts

The appellant had a temporal lobectomy that left her with hyper-sensitive hearing. A medical practitioner stated that the medical condition requires constant use of ear plugs. An audiologist confirmed the sensitivity to sound and stated that loud noises can trigger seizures. The audiologist prescribed custom vented noise blockers to help block out the unwanted sounds while enabling the appellant to hear close conversations.

Tribunal Decision

Ministry decision rescinded

Reasons for Decision

The issue in this appeal was whether the ministry decision to refuse a health supplement for the custom vented noise blockers was a reasonable application of the Employment and Assistance for Persons with Disabilities Regulation in the circumstances of the appellant or was reasonably supported by the evidence.

The legislation for a hearing aid supplement requires that an audiologist prescribe the hearing aid after an assessment that confirms the need, the ministry has pre-authorized the hearing aid, and the person's family unit has no resources available to pay the cost. The term hearing aid is not defined in the legislation.

The ministry's position was that hearing aids assist in hearing noises, words and speech, therefore, custom vented noise blockers are not hearing aids. The appellant's position was that custom vented noise blockers assist her to hear speech and deaden the loud noises that cause seizures.

The panel found that custom vented noise blockers are included in the definition of a hearing aid, as the noise blockers are a device placed in the ears that assist in hearing noises, words and speech. The panel determined that the ministry decision was not reasonably supported by the evidence and rescinded the decision.

Our Organizational Values

In carrying out its mission, the Employment and Assistance Appeal Tribunal is guided by the following values:

- Fairness
- Impartiality
- Excellence
- Efficiency
- Timeliness
- Accessibility
- Accountability
- Transparency
- Independence



5. Looking Ahead

In the coming year, the Tribunal looks forward to working more closely with parties and their representatives to better understand their experience of the appeal process and to identify areas for improvement, with the aim of addressing barriers to access and providing an excellent service. For instance, lack of experience with the hearing process may be a barrier to attending a hearing. To address this barrier and assist parties to become more familiar - and thus better prepared - for the actual hearing, a video clip of a fictional appeal hearing, completed by member volunteers, will be posted to the web.

New members will be provided with the computer-based training program (CBT), which they must successfully complete prior to being assigned to a hearing as a panel member.

The legislation requires that those interested in becoming a member have an understanding of the key aspects of the relevant legislation and the essential elements for the conduct of a fair and objective appeal. Currently, applicants are screened on these criteria. However, members of the public do not generally have these prescribed qualifications.

The Tribunal will be developing a second computer-based training program that will assist applicants to acquire the prescribed knowledge and skills, thus increasing the number of people who are able to serve their community as members of the Tribunal. As this training addresses decision writing, it will also be useful for current members.

The Tribunal will continue to: support parties and their representatives with the goal of ensuring the appeal process is accessible, timely, fair, ethical and caring; support communities by providing training that enable those interested to acquire the prescribed qualifications required of members; support members through performance evaluations and relevant training; and support staff through health and wellness programs, education and experience.

“ Fair procedures, equitable treatment, and responsiveness to the public are the cornerstones of a system of administrative tribunals built according to the Rule of the Law. ”

The Honourable Madam Justice Beverley McLachlin.

Glossary

act | the Employment and Assistance Act

appeal record | the appeal record for the Tribunal is initially comprised of the Notice of Appeal and the record of the ministry's decision. As the appeal progresses, it also includes submissions, any new information admitted into evidence at the hearing, and the Tribunal decision

appellant | a person who commences an appeal

business day | a day between the hours of 8:30 am and 4:30 pm other than Saturday, Sunday, or a statutory holiday

independent | the activities of the Tribunal are separate and operate at "arms length" from both ministries

members | a member of the Tribunal appointed by the Minister of Housing and Social Development under section 19(2)(c) of the act

minister | the Minister of Housing and Social Development or the Minister of Children and Family Development, depending on context

ministry | the Ministry of Housing and Social Development or the Ministry of Children and Family Development, depending on context

Notice of Appeal | the appeal form specified by the minister that must be submitted to the Tribunal in order to commence an appeal

oral hearing | a hearing that is conducted in the presence of the parties and the panel members or by teleconference

panel | the member(s) designated by the Tribunal Chair under section 22(1) of the act to hear an appeal

panel chair | the chair of a panel designated under section 22(2) of the act

party | in relation to an appeal to the Tribunal, the appellant and/or the minister whose decision is under appeal

reconsideration decision | the final ministry decision pertaining to the initial request, and the decision that may be appealed to the Tribunal

representative | an agent, lawyer, or advocate representing a party during an appeal

tribunal | the Employment and Assistance Appeal Tribunal established under section 19(1) of the act

tribunal chair | the chair of the Tribunal appointed under section 19(2)(a) of the act

witness | a person who provides evidence at a hearing

written hearing | a hearing that is conducted through the submission of written evidence and written argument

Appendix A: Tribunal Staff

(October 1, 2007 - September 30, 2008)

Dores Baxter

Melrose Boado

Kimberley Bowman

Theresa Carr

Chris George

Shileen Grant

Tracie Horne

Susan MacKenzie

Luke Maynard

Marilyn McNamara

Glenna McEwen

Sarah McEwen

Nicole Murray

Lynda Parent

Renee Petersen

Lisa Phillips

Brooke Pinsky

Brenda Rochon

Frances Sasvari

Linda Sturtridge

Sheryl Taylor



Appendix B:

Tribunal Members

(October 1, 2007 - September 30, 2008)

Region 1

Doug Allan
Vaughn Allin
Denise Barber
William Bell
Glenys Blackadder
Deborah Bromley
Mac Carpenter
Sheila Colbert-Kerns
Beverly Coleman
David Coombe
Joan Cotie
Douglas Courtice
Eric Dahli
Janice Dalgarno
Endre Dolhai
Andrea Duncan
James Dunn
Judith Dyrland
Susan Edwards
Thomas Ellwood
Ken Flannagan
Eleanor Gee
Richard Grounds
Peter Gustar
Margaret Haigh

Zig Hancyk
Leslie Hanes
Gina Hepp
Kitty Hoffman
Joyce Johnston
Avo Lepp
Victor Lotto
Richard Macintosh
Robin MacNair
Layne Marshal
Richard McCarthy
Judith McFarlane
Kathleen McIsaac
Marilyn McNamara
Marilyn McPherson
Jane Nielsen
Buncy Pagely
Rita Parikh
Delina Petit-Pas
Mary-Ann Pfeifer
Kenneth Porter
Marie Potvin
Bob Purgavie
Mohindar Rattan
Garnet Renning
Phyllis Senay

Paul Skobleniuk
Patricia Smith
Gail Stewart
Jacquie Tarasoff
Dianne Thomas
Trevor Thompsett
Fred Thompson
Kenneth Thornicroft
Brian Thurber
Barry Vogel
Bruce Webber
Raymond Welch
Ian Wilson

Region 2

Jane Agg
Sheila Begg
Gail Brown
Kelly Connell
Anthony Dibley
Alistair Duncan
John Fleming
Bill Frost
Uli Haag
Allan Hewett
Roy Johnson

Maureen Johnson
Bijou Kartha
Denise LeGrand
Yuki Matsuno
Michal Mivasair
Sheldon Nider
Ethel Niessen
Art Perret
Don Peters
Louis Peterson
Pat Pitsula
Claudia Roberts
Maria Shawcross
Begum Verjee
Martha Warren
Elaine Wass
Kenneth Wilson
Bill Wright
Reece Wrightman

Region 3

Kathleen Adams
June Barens
Linda Berg
Richard Bogstie
Richard Brock

Mary Bruce
Shelley Chrest
David Coulson
Jean Davidson
Peter Davison
Hugh Gaffney
Raj Gurm
Adrian Harper
June Harrison
Lachlan Heron
Marion Janssen
Beverly Kennedy
Alan Kliewer
Mebs Lalani
Donna Leemet
Allen Lees
Bernie Leong
Marcia McKay
Henry Neufeld
Ib Petersen
Lawrence Plenert
Ana Rocho
Kundan Sangha
Christopher Saunders
Corey Van't Haaff
Alfred Woo

Region 4

Peter Allik-Petersenn
 Jaymie Atkinson
 Lorianna Bennett
 Gail Bernacki
 Gus Boersma
 Brenda Campbell
 Dale Carlson
 Bill Carruthers
 Brien Cates
 Sandra Chapman
 Marguerite Church
 Susan Cooper
 Paula Cooper
 Linda Cross
 Elizabeth Cytra
 Kim Darling
 Ingrid Davis
 Jennifer Dent
 John Dormer
 Alex Dyball
 Ruth Embree
 Stewart Enderton
 Bob Fergusson
 Elizabeth Fleet

Bob Forbes
 Archie Gaber
 Bruce Gardiner
 Maxine Glover
 Peter Grauer
 Douglas Gresham
 Larry Grist
 David Handy
 Dave Hanna
 Sheila Hart
 David Head
 William Heflin
 Bev Hibberson
 Kathleen Higgs
 Brian Hornidge
 Larry James
 Peter Knittel
 Cindy Lombard
 Gary Lotochinski
 Doris Low-Renwick
 Laura Lundie
 Janet McCoy
 Grace Mills Hodgins
 Pierre Morazain
 Richard Morley

Wayne Murphy
 Gautam Parghi
 Michael Patterson
 Nora Perehudoff
 Mary Pickering
 Stewart Pike
 Glen Prior
 Laurent Rivard
 Glen Shuttleworth
 Brian Smith
 Clinton Smith
 Bill Stalker
 Ron Sullivan
 Wendy Takahashi
 Thomas Thompson
 Sheila Toth
 Robin Tracy
 Steve Uzick
 Barry Watson
 Christopher Wells
 Paul Wortley
 Heidi Zetzsche

Region 5

Erin Anderlini
 Denene Broza
 Wayne Carkner
 Mary Chen
 Frank Donahue
 Karl Ellingsen
 Bill Farr
 Kerri Fisher
 Daniel Gilgan
 Steven Merrick
 Suzette Narbonne
 Lee Ongman
 William Oppen
 Andrew Roth
 Andrew Shepherd
 Linda Smerychynski
 Frances Stanley
 David Wilbur
 William Woolsey

Appendix C:

Budget

(October 1, 2007 - September 30, 2008)

The provincial government's fiscal year begins April 1st. The Tribunal's reporting year begins October 1st. Therefore, budget tables for two fiscal years are shown so that the full Tribunal fiscal year is reported.

OPERATING BUDGET	APRIL 2007-MARCH 2008	APRIL 2008-MARCH 2009
Salaries and Benefits	\$880,000	\$880,000
Boards/Commissions/Courts - Fees and Expenses	135,000	135,000
Public Servant Travel	30,000	30,000
Centralized Management Support Services	198,000*	86,000
Professional Services: Operational	110,000	110,000
Information Systems: Operating	10,000	10,000
Office and Business Expenses	165,000	167,000
Statutory Advertising and Publications	6,000	6,000
Amortization Expense	11,000	11,000
Building Occupancy Charges	0*	112,000
Transfers under Agreement	525,000	525,000
Recoveries		(2,000)
TOTAL	2,070,000	2,070,000

*Building occupancy charges for the 2007/08 fiscal year were moved into Centralized Management Support Services

How To Contact Us

Call us at (250) 356-6374 or toll-free at 1-866-557-0035

e-mail us at eaat@gov.bc.ca

visit our website at www.gov.bc.ca/eaat

or ask for a brochure at your local Ministry of Housing and Social Development office.

For TTY users, call TELUS Relay Service at 1-800-855-0511





www.gov.bc.ca/eaat

