

Employment and Assistance Appeal Tribunal



Annual Report 2013/14

Accountable

Our staff in Victoria





November 2014

The Honourable Don McRae
Minister of Social Development and Social Innovation

Dear Minister:

It is my pleasure to present the annual report for the Employment and Assistance Appeal Tribunal of British Columbia covering the period October 1, 2013 to September 30, 2014. The report has been prepared in accordance with section 20(1) of the *Employment and Assistance Act*.

A handwritten signature in orange ink that reads "M. R. McNamara". The signature is written in a cursive style with a large loop at the end.

Marilyn R. McNamara
Chair, Employment and Assistance Appeal Tribunal



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Our Mission

The mission of the Employment and Assistance Appeal Tribunal is to provide an independent and accessible appeal process that delivers timely and fair decisions reviewing Ministry of Social Development and Social Innovation 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

The Tribunal reports to the Honourable Don McRae, Minister of Social Development and Social Innovation.

The Tribunal conducts appeal hearings throughout the province within 15 business days of receiving a notice of appeal. Given this, recruitment, particularly in rural areas, remains a strong focus for the Tribunal. In this reporting period, 21 new members were appointed and 17 members were reappointed.

We continue to leverage technologies that will enhance operations, create efficiencies, reduce costs, and better position the Tribunal in adopting a more automated workflow.

In July the Tribunal replaced its paper based member invoice system with its Electronic Claim System (ECS). After a transition period for members to adjust to the new invoice process for appeal hearings, the ECS is now fully up and running and members are pleased with it. The system automatically calculates member entitlements and streamlines the approval process.

A detailed business analysis of appeal and member management processes documented our business requirements and let us examine a number of technology solutions to replace our obsolete case

management system (CITAR). The Tribunal reviewed, and is now considering, a website that will not only manage the secure flow of information to members but which has the capacity to automate member management processes, eliminating the need to address these functions in a case management system. Functions include being able to post searchable decisions, offering a secure virtual work spaces for panel members to collaborate on writing decisions, and easy and instant editing of web material.

An audit was carried out on CITAR to examine compliance with regulatory requirements and adherence to procedures and specifications set out in the Appeals Policy and Procedures Manual. The digital appeal record information that is captured in the case management system was compared to the physical paper appeal file and, based on the results of the audit, changes were made to policy and procedures to improve records management. Annual audits of systems and processes assist the Tribunal in meeting its commitment to quality assurance and administrative fairness.

Thank you to staff and members whose efforts support the provision of a fair and respectful appeal process and ensure the Tribunal continues to meet its legislated timelines.

Our Vision

The Employment and Assistance Appeal Tribunal will be known for:

- Providing an accessible, independent, community-based, fair, timely, respectful and ethical appeal process.
- 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 Social Development and Social Innovation 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 Employment and Assistance Appeal Tribunal's authority is established under section 19(1) of the *Employment and Assistance Act*.

The Tribunal hears appeals of reconsideration decisions that refuse, reduce or discontinue income or disability assistance or a supplement; decisions regarding the amount of a supplement; and 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*.

The Tribunal consists of a Chair, two Vice Chairs, 11 staff, and during this reporting period, 138 members located throughout the province. (See Appendix A for a list of staff and Appendix B for a list of members).

Tribunal Members

Members are appointed by the Minister of Social Development and Social Innovation after a merit based process and consultation with the Chair.

Candidates

To be considered for appointment to the Tribunal, a person must have an understanding of the essential elements for the conduct of a fair and objective hearing and the key aspects of the relevant legislation as per section 82 of the Employment and Assistance Regulation.

Members commit to respect diversity and are expected to possess the ability to interpret and apply legislation, write decisions in a clear and concise manner, communicate clearly and effectively, and be proficient in the use of computers and common software applications.

The Candidate Training and Testing Package provides information to individuals interested in becoming a member so they can acquire and demonstrate the prescribed knowledge and skills prior to consideration for appointment.

The process enables recruitment from a broader sector of the community and has enhanced the efficiency of the application process. Reference and criminal record checks are completed prior to a recommendation for appointment.



“ Professionals are not created by hope or desire – but through a combination of some innate ability and study and experience. ”

Toronto (City) v. CUPE, Local 79 (1982), 35 OR (2nd) 545 (Ont CA)

To ensure independence and that hearings are fair and just, a member must not:

- be or have been an employee of the Ministry of Social Development and Social Innovation or the Ministry of Children and Family Development in 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.

NOTE: The Tribunal is recruiting new members, specifically from the more rural areas of the province. Anyone interested in being considered for 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.fin.gov.bc.ca/BRDO, for information on how to apply.

Members

Members must complete the Initial Training before being appointed to hear an appeal with an experienced panel chair who serves as a mentor.

Once members have attended a number of hearings, they will complete the Decision Writing Training before being assigned the role of panel chair. Once assigned the role of panel chair, a mentor will be appointed to provide support and guidance. Further coaching occurs at the decision review stage to ensure the decision meets the legislative requirements outlined in section 86 of the Employment and Assistance Regulation. In this reporting period, the Tribunal appointed 21 members, 20 have completed their Initial Training and are now attending hearings.

Reappointment of Members

Members are appointed initially for a period of two years and may be reappointed for a further term of two or four years. Member performance is evaluated prior to making recommendations to the Minister of Social Development and Social Innovation for reappointment. The Competency-Based Learning and Development Tool, which clarifies the requirements and expectations of members, is used for coaching and evaluation. In this reporting period, 17 members were reappointed.

Number of Members - by Region

Region 1	Vancouver Island	47
Region 2	Vancouver Coastal	34
Region 3	Fraser	14
Region 4	Interior	31
Region 5	Northern	12
TOTAL		138



The Appeal Process

The Tribunal hears appeals of reconsideration decisions made by the Ministry of Social Development and Social Innovation 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 request reconsideration of a decision that resulted in 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 Social Development and Social Innovation's reconsideration process is available from the ministry's offices by calling 1-866-866-0800 or by visiting the website.

A person who applies for or receives a child care subsidy can request reconsideration of a 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.”

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 members is appointed and the appeal is heard within 15 business days of the completed Notice of Appeal being received by 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 provides a written decision, generally within five business days of the hearing. This time limit may be extended by no more

than 10 additional business days if the Tribunal Chair is 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 Tribunal mails a copy of the decision to the appellant and the ministry within five business days of receiving it from the panel.

NOTE: Summaries of Tribunal decisions from 2013/14 are included in Section 4, "What Our Decisions Look Like." Complete decisions are available on our website: www.gov.bc.ca/eaat.

How to Appeal...

**You only have
7 Business Days**

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

1. Complete and submit the Notice of Appeal form to the TRIBUNAL

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

2. It must be received by the Tribunal within 7 business days of receiving your ministry reconsideration decision or you will lose your right of appeal
3. You can send additional information to the Tribunal once your Notice of Appeal form is submitted.

Notice of Appeal forms are available online, from the Tribunal and from the ministry.

If you have questions, contact the Employment and Assistance Appeal Tribunal

TEL: Toll free **1-866-557-0035**
In Victoria **250-356-6374**

WEB: www.gov.bc.ca/eaat

NOVEMBER 2014

This Tribunal brochure is included with every reconsideration decision denying the request.

Employment and Assistance Appeal Tribunal

How to Prepare for Your Appeal



This Tribunal brochure is sent to every appellant on acceptance of their Notice of Appeal.

The Appeal Process

If a person is dissatisfied with the reconsideration decision from the ministry, he or she may submit a Notice of Appeal to the Employment and Assistance Appeal Tribunal. There are two parties to an appeal: the person requesting an appeal and the ministry.



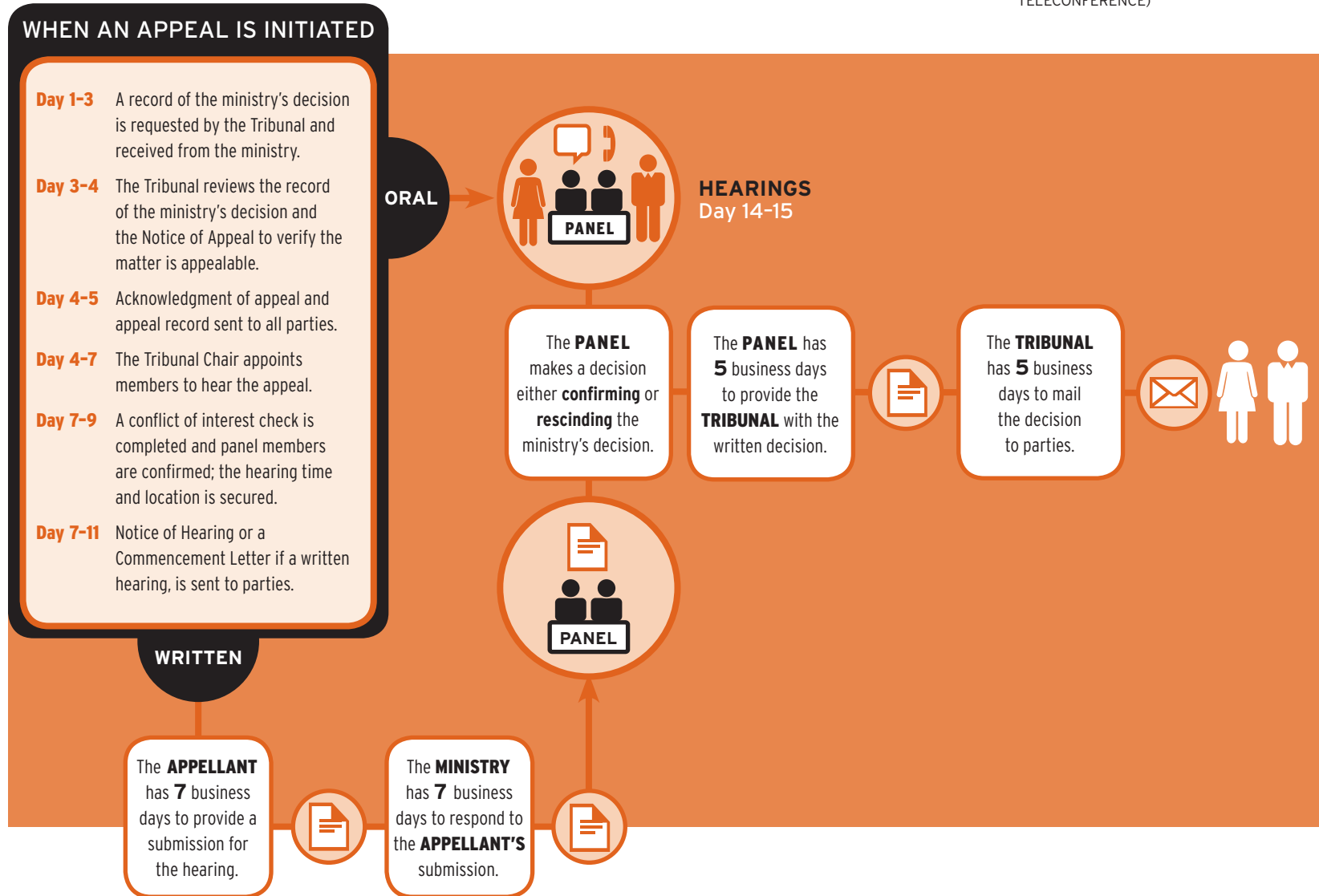
A person has **7** business days to submit a Notice of Appeal to the Tribunal with a choice of:



ORAL
(IN PERSON OR TELECONFERENCE)



WRITTEN





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 submit it to the Tribunal within seven 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 written.

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 call witnesses and present evidence in support of the information and records before the minister at reconsideration. You also have the right to make arguments in support of your case, and to have a family member, friend or advocate 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 call witnesses and present evidence in support of the

information and records before the minister at reconsideration. You also have the right to make arguments in support of your case, and to have a family member, friend or advocate assist you during the appeal process.

Written Hearing

If you request a written hearing, and the ministry consents, 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.

The appeal decision is the final decision; however, you can file a petition in the BC Supreme Court asking a judge to review our decision. This is called a judicial review. Generally this must be done within 60 days of our decision. As well, if you believe you were treated unfairly, contact the office of the Ombudsperson or write to the Tribunal Chair about any concerns.



3. How We Did in 2013/14

Meeting the timelines established by the legislation is one way of measuring the Tribunal's performance. The Tribunal must hold a hearing within 15 business days of receiving a Notice of Appeal. The Tribunal encountered two instances where the 15 business day timeline was missed:

- As Canada Post lost the Notice of Hearing letter, the parties were not notified as required by section 85 of the Employment and Assistance Regulation
- The appeal hearing was unable to proceed as a member did not attend.

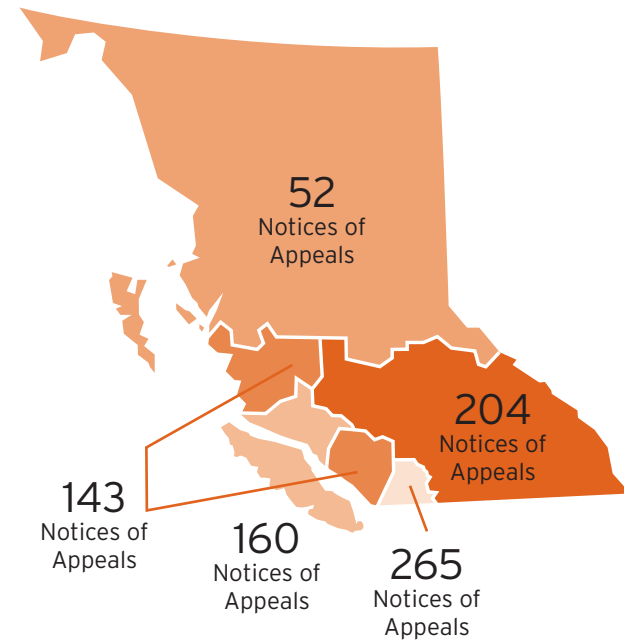
Here is a brief summary of the results of our work for the reporting period of October 1, 2013 to September 30, 2014.

Summary of Statistics - Appeals

Notices of Appeal Received	824
Appeals Assessed as not within the Jurisdiction of the Tribunal (do not proceed to hearing)	62
Appeals Dismissed (before or during hearing)	36
Files Carried Over (Appeals opened between 01/10/2013 and 30/09/2014 and not closed, heard or rejected by 30/09/2014)	62

Notices of Appeal - by Region

Region 1	Vancouver Island	20%
Region 2	Vancouver Coastal	17%
Region 3	Fraser	32%
Region 4	Interior	25%
Region 5	Northern	6%



Notices of Appeal - by Type

20 Business Days	11	Moving Supplement	30
Crisis Supplement	93	Special Transportation Subsidy	5
Disabilities - Persons with Disabilities-Designation (PWD)	197	Other - CIHR/under 19	1
Disabilities - Persons with Persistent Multiple Barriers (PPMB)	38	Other - Child care	14
Eligibility - Deductions on Income/Earnings Exemptions	14	Other - Hardship	5
Eligibility - Dependency/Living Arrangements	21	Other - Other	37
Eligibility - Eligibility Audit	5		
Eligibility - Excess Assets	8		
Eligibility - Excess Income	24		
Eligibility - Excess Income/Assets	14		
Eligibility - Failure to Accept/ Pursue Income/Assets	1		
Eligibility - Failure to Provide Information/Verification	37		
Eligibility - Full Time Student	4		
Eligibility - Residency	5		
Eligibility - Shelter Allowance	6		
Eligibility - Time Limit for IA	1		
Eligibility - Undeclared Income/Assets	5		
Employment - Dismissed/Quit/Refused Employment	7		
Employment - Employment Plan/Failure to Look for Work	75		
Employment - Requirement for Two Year Financial Independence	3		
Employment - Three Week Reasonable Work Search	3		
Health Supplement - Orthoses	7		
Health Supplements - Dental Supplement	13		
Health Supplements - Diet/Natal Supplements	6		
Health Supplements - MSP/Other Health Supplements	8		
Health Supplements - Medical Equipment	65		
Health Supplements - Medical Supplies	9		
Health Supplements - Medical Transportation	15		
Health Supplements - Monthly Nutritional Supplement (MNS)	28		
Health Supplements - Short-Term Nutritional Supplement Products	4		
Health Supplements - Therapies	5		

Additional appeal types have recently been added to the Tribunal's case management system (CITAR) to enable more detailed reporting.

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 rescinded may not equal the number of appeals heard for the same reason. The following statistics relate to appeal files that were closed in this reporting period.

Ministry of Social Development and Social Innovation

Appeals heard	690
Decisions confirmed	645
Decisions rescinded	45

Ministry of Children and Family Development

Appeals heard	15
Decisions confirmed	15
Decisions rescinded	0

Judicial Review Outcomes

The Tribunal received three judicial review decisions in the past reporting period. In *Watts v. British Columbia (Social Development and Social Innovation)*, 2014 BCSC 1085, there was a challenge to the Tribunal's determination that the ministry was reasonable in concluding the petitioner was not eligible for moving supplement costs as the petitioner only met three of the four criteria for moving supplement under section 55(2)(a) of the Employment and Assistance for Persons with Disabilities Regulation. The application for judicial review was dismissed and the Tribunal's decision was upheld.

In *Underwood v. Employment & Assistance Appeal Tribunal*, 2014 BCSC 598, there was a challenge to the Tribunal's determination that the ministry was reasonable in determining monthly annuity payments were an insurance benefit constituting unearned income for which the Employment and Assistance for Persons with Disabilities Regulation creates no exemption. The Insurance Corporation of British Columbia had entered into a structured settlement agreement with the life insurance company, rather than the petitioner, for the purpose of wage loss. As the annuity covered wage loss and was not in lieu of a damage award for personal injury, the petitioner did not qualify for the exemption. The judicial review application was dismissed and the Tribunal's decision was upheld.

In *Sahyoun v. British Columbia (Employment and Assistance Appeal Tribunal)*, 2014 BCCA 86, two judicial review applications were heard together. At issue was the Tribunal's determination that the Ministry had reasonably denied the petitioner's request to backdate a PWD designation in order to qualify for additional income benefits retroactively from April 2007 until his 65th birthday and for certain medical benefits after age 65. Both judicial review applications were dismissed and the Tribunal decisions were upheld. The petitioner's appeal to the British Columbia Court of Appeal was also dismissed.



4. What Our Decisions Look Like

CASE 1

Monthly Nutritional Supplement

Ministry Decision

Denied Monthly Nutritional Supplement (MNS) as the appellant is receiving special care in a long term facility which is not an alcohol or drug treatment centre.

Summary of Facts

The evidence before the ministry was that the appellant was now living in a long term care facility that was not an alcohol or drug treatment centre. The appellant received a monthly comfort allowance.

Tribunal Decision - ministry decision confirmed

Reasons for Decision

The issue in this appeal was whether the ministry's decision to deny the appellant a MNS was a reasonable application of the legislation in the circumstances of the appellant.

Section 67(1)(b) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) states the minister may provide a nutritional supplement in accordance with section 7 (a monthly supplement for additional nutritional items and/or for vitamins and minerals) of Schedule C to or for a person with disabilities in a family unit who receives disability assistance under section 8 (people receiving special care) of Schedule A, if the special care facility is an alcohol or drug treatment centre.

The ministry's position was the appellant is in a long term care facility receiving special care and, as the long term care facility is not a drug and alcohol facility, the appellant does not meet the legislative criteria under section 67(1)(b) of the EAPWDR. Further, the long term care facility provides for the nutritional needs of the appellant and the appellant receives a monthly comfort allowance which could be used to purchase vitamins and minerals. The appellant's position was that while nutritional needs may be met, the long term care facility does not provide vitamins. She has digestive concerns that interfere with her appetite and is not always able to receive enough vitamins through diet, which lessens her quality of life due to poor health.

The panel found that the ministry's decision was a reasonable application of the applicable enactment in the circumstances of the appellant. While the appellant is receiving special care in a long term care facility, that facility is neither an alcohol nor a drug treatment centre, as required under section 67(1)(b) EAPWDR. The panel confirmed the ministry's decision.

CASE 2**Full-Time Student****Ministry Decision**

Enrolled as a full-time student in an unfunded program of studies at a university without prior approval from the ministry and therefore not eligible for income assistance.

Summary of Facts

The evidence before the ministry was that the appellant was enrolled in three courses. While three courses are only 60 per cent of the course load, the institution recognizes enrollment in three courses as constituting a full-time course load. Books and tuition were funded through the Adult Basic Education Student Assistance Program. The appellant had not been referred or preapproved to attend through her employment program (EP). She did not attend her EP and enrolled at university to obtain high school graduation equivalency.

Tribunal Decision - ministry decision rescinded

Reasons for Decision

The issue in this appeal was whether the ministry decision to deny the appellant income assistance as she was enrolled as a full-time student in an unfunded program of studies at a university without prior approval pursuant to section 16 of the Employment and Assistance Regulation (EAR) was a reasonable application of the legislation in the circumstances of the appellant or was reasonably supported by the evidence.

Section 16 states that (1) a family unit is not eligible for income assistance for the period described in subsection (2) if an applicant or a recipient is enrolled as a full-time student

- (a) in a funded program of studies, or
- (b) in an unfunded program of studies without the prior approval of the minister.

Definitions**Employment and Assistance Regulation (EAR)****1(1)**

“full-time student” has the same meaning as in the Canada Student Financial Assistance Regulations (Canada);

Canada Student Financial Assistance Regulations (CSFAR):**2(1)**

“course” means formal instruction or training that constitutes, or is determined by a designated educational institution to be equivalent to, an essential element of a program of studies at a post-secondary school level at that institution.

“full-time student” means a person

- (a) who, during a confirmed period within a period of studies, is enrolled in courses that constitute
 - (ii) at least 60 per cent of a course load recognized by the designated educational institution as constituting a full-time course load

The appellant's position was that she enrolled at university to obtain high school graduation equivalency and that her university does not consider her a full-time student as she is taking only three courses.

The ministry's position was that the appellant is enrolled as a full-time student in an unfunded program of studies without prior approval of the minister and, in accordance with section 16(1), is not eligible for income assistance. Further, the CSFAR definition is applicable to section 16(1), "60 per cent of a course load constitutes a full-time course load."

The panel notes that section 16 of the EAR applies to an applicant or recipient who is a full-time student. The EAR defines "full-time student" as having the same meaning as in the CSFAR which defines "full-time student" as a person who is enrolled in courses that the educational institution recognizes as constituting at least 60 per cent of the course load. The three courses taken by the appellant constitute at least 60 per cent of the course load and further, the educational institution considered this a full-time course load. There is no dispute that the course is an unfunded program of studies or that the appellant is attending without prior approval of the minister.

However, the definition of "course" is "formal instruction or training that constitutes... an essential element of a program of studies at a post-secondary school level at that institution." The definition of "full-time student" then only considers students enrolled in a program of studies at a post-secondary school level.

The panel finds that the ministry's decision that the appellant was not eligible for income assistance pursuant to section 16 of the EAR was not a reasonable application of the legislation in the circumstances of the appellant as the appellant was not taking post-secondary school courses, but instead was enrolled in high-school equivalency courses. The panel therefore rescinds the ministry's decision that the appellant was ineligible for income assistance because she was a full-time student.

CASE 3**Crisis Supplement****Ministry Decision**

Not eligible for a crisis supplement for a bed because there was no evidence of an unexpected expense, alternate resources were available, and there was no imminent danger to health.

Summary of Facts

The evidence before the ministry was that the appellant received disability assistance as a single person and has advanced degeneration of the right hip, resulting in pain and discomfort. The appellant moved into subsidized housing as the living conditions were better and he could now be with his daughter as result of court ordered parenting time. He knew that he was moving to a residence without a bed, requested assistance and submitted three quotes for a bed. He purchased the bed on a credit card.

Tribunal Decision - ministry decision confirmed

Reasons for Decision

The issue in this appeal is whether the ministry denial of a crisis supplement for the purchase of a bed under section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) on the basis it was not an unexpected expense, alternate resources were available, and the appellant was not facing imminent danger to his health was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Crisis supplement

57(1) The minister may provide a crisis supplement to or for a family unit that is eligible for disability assistance or hardship assistance if

- (a) the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed and is unable to meet the expense or obtain the item because there are no resources available to the family unit, and
- (b) the minister considers that failure to meet the expense or obtain the item will result in
 - (i) imminent danger to the physical health of any person in the family unit, or
 - (ii) removal of a child under the Child, Family and *Community Service Act*.

The appellant's position was that while he was aware he would need a bed in moving to his new residence, the high price of beds - both new and used - was completely unexpected. He budgeted for the costs of his move but was left with fewer funds than expected. His search for a bed for under \$500 was limited because of mobility issues and access to the internet. After his move he slept on the floor for 3-4 nights and had to go to the emergency because of severe pain. Consequently, he purchased a bed for \$448 using a credit card. He argues "credit" cannot be considered to be part of person's resources.

The ministry's position was that the appellant was aware he was going to require a bed as a result of his move, and it cannot therefore be considered an unexpected expense. He purchased the bed on credit, which means that he used resources available to him. While the ministry acknowledges the appellant's medical condition and the need for a supportive bed, now that he has a bed there is no indication that failure to meet the expense will result in imminent danger to the appellant's health.

The panel notes that the appellant is not claiming that the need for a bed was unexpected but rather that the high price of beds was unexpected. It is reasonable to expect the budget for the move to have included some provision for the purchase of a replacement bed as he knew he would need one. Accordingly, the panel concluded that the ministry's decision that the appellant had not demonstrated that the need for the bed was unexpected was reasonable.

While the ministry determined that the appellant had resources available to him because he was able to purchase the bed on credit, the panel finds that buying on credit simply defers payment and does not demonstrate the possession of needed resources. The appellant is still responsible for the outstanding payment of \$448. Accordingly, the panel concluded that the ministry had not reasonably determined that the appellant demonstrated he had adequate resources for the purchase of the bed.

The appellant has a serious medical condition that requires a supportive bed to reduce flare ups of the hip and spine pain. While sleeping on the floor did result in severe pain, the appellant was not in imminent danger to his health nor did he submit any documentary evidence that the failure to obtain a bed would have resulted in imminent danger to his health. Moreover, the appellant now has a bed. Accordingly, the panel concluded that the ministry reasonably determined that there is no indication that failure to meet the expense would result in imminent danger to the appellant's health.

The panel finds that the ministry's decision that the appellant was not eligible for a crisis supplement for a bed as the criteria under section 57 EAPWDR were not met was reasonably supported by the evidence and confirmed the ministry's 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 Forward

We are looking forward to a number of member training workshops in the coming year. Members frequently attend hearings via teleconference and workshops provide an opportunity to come together and learn from each other. Role playing and coaching assists members in providing a consistently fair and respectful hearing process.

The Tribunal continually recruits members and, based on need, will continue to target specific areas of the province. Applicants demonstrate their suitability through a Profile and Declaration, their decision-making and decision writing abilities through scenario based testing, and then must successfully complete reference checks and an interview by the Tribunal Chair.

The website currently being considered to automate this application process will eliminate the need to deal with member management functions using case management system solution and will reduce development complexity and cost. Automation will also eliminate a significant number of manual interventions, spreadsheets and duplicate data entry.

A recently completed detailed business analysis of both the member and appeal management process provides the information required to determine which case management systems would best meet our needs. We are looking forward to finding a suitable solution.

“ The Tribunal is moving towards an electronic workflow environment. ”

Glossary

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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 decision. As the appeal progresses, it also includes submissions, any additional information admitted into evidence at the hearing, and the Tribunal decision

appellant a person who commences an appeal

business day a day 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 Social Development and Social Innovation under section 19(2)(c) of the Act

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

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

notice of appeal the appeal form specified by the Minister of Social Development and Social Innovation that must be submitted to the Tribunal in order to commence an appeal

oral hearing a hearing that is conducted with the parties present in person, by teleconference, or by video conferencing

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 - the decision that may be appealed to the Tribunal

record of the ministry decision the information and records that were before the Minister when the reconsideration decision under appeal was made

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

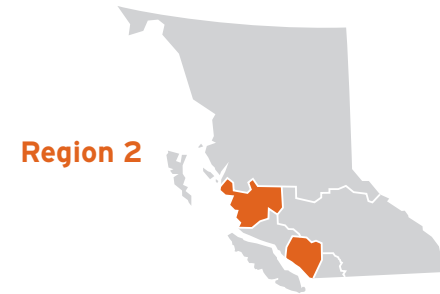
(October 1, 2013 - September 30, 2014)

Erica Aaftink
Dores Baxter
Kathryn Bissett
Lori Butler
Tracie Horne
Kyrstin Kerr
Michelle Lagos
Glenna McEwen
Marilyn McNamara
Carrera Marotto
Courtenay Moher
Nicole Murray
Lynda Parent
Renee Petersen
Tanya Rak
Alanna Valentine



Appendix B: Tribunal Members

(October 1, 2013 - September 30, 2014)



William Bell
Arthur Berry
Patricia Bradley
Sarah Brickett
Janet Brons
Gregory Bunyan
Gurjit Chaplin
Bruce Cline
Diane Coe
Michael Collyer
Joan Cotie
Endre Dolhai
Robert Fenske
Brenda Fowler
Karen Gillan
Carl Gorham
Daniel Graham

Donna Hains
James Hooton
Terence Ison
Lowell Johnson
Luke Krayenhoff
Anne-Marie Lafleur
Gabriella Lang
Thomas Lathrop
Donald McLeod
Marilyn McNamara
Patrick Maguire
Henry Mathias
Inge Morrissey
Patrick Munroe
Andrew Murray
Wesley Nelson
Jane Nielsen

Marnee Pearce
Anne Richmond
Richard Roberts
Pierre Rousseau
Marlene Russo
Gillian Saxby
Charles Schellinck
Carman Thompson
Gordon Thompson
Kenneth Thorncroft
Lynn Twardosky
Joan van der Holt
Bert Wolfe

Haydn Acheson
Brenda Austin
Natalia Bryant
Jeffrey Chambers
Susanne Dahlin
Alexander Danilovic
Maureen Fitzgerald
Margaret Gaily
Kathy Grant
Patricia Hanna
Arlene Henry
April Ingram
Jim Jones
Daniel Kiselbach
Margaret Koren
Carla Lewis
Carole McKnight

Maryam Majedi
Perry Mazzone
Tajdin Mitha
Terry Mullen
Karnail Nagra
Sandra Polinsky
Patrick Poyner
Kim Read
Ellen Riley
Stacy Robertson
Hope Sealy
Adam Shee
Patricia Simpson
Gary Snarch
Roy Wares
Susan Witter
Reece Wrightman

Region 3



Fazal Bhimji
 Jafar Chowdhury
 David Coulson
 Jennifer Duprey
 Robert Gunnell
 David Handelman
 Peter Hanslo
 Chris Hope
 Neena Keram-Prasad
 Oscar Khalideen
 Ana Rocho
 Jeremy Sibley
 Rosalie Turcotte
 Sandra Walters

Region 4



Lorianna Bennett
 Joan Bubbs
 Jeanne Byron
 Susan Cooper
 Lisa Denham
 Mel Donhauser
 Jill Dougans
 Larry Ferguson
 Lauren Forsyth
 David Goldsmith
 Marcus Hadley
 William Haire
 Kathryn Holmes
 Marie Ingram
 Doug Ivey
 Robert Kelly

David Kendrick
 Lorraine Kent
 Deborah Kinnear
 Shiela Lange
 Janet Lingford
 Jean Lorenz
 Marilyn McLean
 Carrie Manarin
 Marilyn Mellis
 Wayne Reeves
 Clinton Smith
 William Stalker
 Ronald Terlesky
 Helene Walford
 Christopher Wells

Region 5



Susan Armstrong
 Kevin Ash
 Sean Carberry
 Anne Clayton
 Zelda Craig
 Bryan Crampton
 Victor Curell
 Lorraine Grant
 Michael Hare
 Jeanne Robert
 Linda Smerychynski
 Janet Ward

Appendix C:

Budget

(October 1, 2013 - September 30, 2014)

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

OPERATING BUDGET	APRIL 2013-MARCH 2014	APRIL 2014-MARCH 2015
Salaries and Benefits	\$ 937,000	\$ 937,000
Boards/Commissions/Courts - Fees and Expenses	496,000	452,000
Public Servant Travel	22,000	10,000
Professional Services: Operational	150,000	150,000
Information Systems: Operating	12,000	17,000
Office and Business Expenses	130,000	130,000
Statutory Advertising and Publications	5,000	5,000
Recoveries	(1,000)	(1,000)
TOTAL	\$ 1,751,000	\$1,700,000

How to Contact Us

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