

Welfare and Appeals: Step 1 Reconsideration

In some circumstances, you can ask the Ministry of Human Resources (MHR) to change a decision they made about a welfare benefit. This is called an appeal.

The first step in any appeal about a welfare benefit is called a reconsideration. After reconsideration, you can sometimes go a step further and ask for an appeal tribunal hearing. This fact sheet describes what happens at the reconsideration stage. *Welfare fact sheet #8b* talks about appeal tribunals.

It is very important to act quickly if you disagree with any decision MHR makes about your benefits. The time limits for both reconsideration and appeal tribunals are very strict. If you miss the time limits, you cannot make your appeal.

If you disagree with a ministry decision and want to know what you can do, it is best to contact an advocate for help. To find an advocate, visit <http://www.povnet.org> and click on "Find an Advocate" in the left-hand column. You can also contact your local library to find a community group that might be able to help you. If there are no advocates in your community, you can call the Law Line at (604) 408-2172 in the Lower Mainland or toll-free at 1-866-577-2525 outside the Lower Mainland to get legal information about the appeal process.

These sheets are designed to help you whether or not you have an advocate.

What happens when you ask for reconsideration

At the reconsideration stage, you make your arguments for changing the decision in writing. You do not have to go to any meetings with the ministry.

If you are asking for a reconsideration because MHR cut off a benefit you were receiving, you will continue to receive the benefit during the time you are dealing

with the reconsideration. Keep in mind that if you lose your reconsideration you might later owe MHR for the money you received during the appeal. However, MHR may agree to accept repayments in reasonable amounts. (For example, MHR could take as little as \$10 off each welfare cheque.) (Employment and Assistance Act [EAA], section 28; Employment and Assistance Regulations [EAR], section 89; Employment and Assistance for Persons with Disabilities Act [EAPWDA], section 19; Employment and Assistance for People with Disabilities Regulations [EAPWDR], section 74; Employment and Assistance Manual, section 9.1)

If you are applying for a benefit that you do not yet receive, you will not be paid the benefit during the reconsideration process.

When you can ask for reconsideration

You can ask for reconsideration of a decision affecting you or your dependants if the ministry —

- refuses your application for regular welfare, disability assistance, hardship assistance, or a supplement;
- stops paying you or one of your dependents welfare, disability assistance, or a supplement;
- reduces the amount you are paid for regular welfare, disability assistance, or a supplement;
- pays less than the maximum amount allowed for a supplement or the least expensive, appropriate way of providing the supplement (whichever is least expensive), or
- sets conditions in your employment plan that you disagree with.

If you are denied a benefit at reconsideration, you can apply for the benefit again. You can request another reconsideration if your second application for the benefit is also denied. (EAA, sections 17 and 18)

If MHR has denied you assistance or a supplement and you have asked for reconsideration, you cannot reapply for the same benefit or start the appeal process again until the ministry has made a decision about your first request for reconsideration. (EAA, sections 9[7], 18, and 27; EAR, section 81; EAPWDA, sections 9[7], 17, and 18; EAPWDR, section 73)

If MHR tells you that you cannot go to a reconsideration or appeal tribunal, you may be able to ask for an “administrative review.” If you are in this situation, ask an advocate for help. (Employment and Assistance Manual, section 12 – 2)

How to ask for reconsideration

Getting the reconsideration form

To start the reconsideration process, you must get an Employment and Assistance Request for Reconsideration form (request form) from your Employment Assistance Worker (EAW). **Note:** It is no longer possible to get reconsideration forms from advocates.

When you ask for the request form, be sure to ask for all the information in your file that goes with it. This will save you or your advocate time. Also, before you leave the office, check that the request form correctly states the date you found out that you were denied a benefit.

Time limits

You must get the request form to the ministry office that denied you a benefit within 20 business days after you are told about the decision. (EAR, section 79)

The ministry must reply to your request in writing within 10 business days after receiving it. The ministry will mail the written decision to you or your advocate. If you have not received the decision by 14 business days after you sent in your request, contact the supervisor (DSO) in your district MHR office. (EAR, section 80)

Keep very good records of what you send to the ministry and when you send it, as well as what the ministry sends you and when you receive it.

Negotiating with the ministry

It can be very useful to try to negotiate with your MHR office to get what you want before you submit your request form.

When you are first told that you have been refused a benefit, ask the worker to explain why. Keep notes of any conversations you have with MHR staff. Write down the reasons they give for their actions and any sections of the legislation that they refer to. (See the end of this sheet for information about finding the welfare legislation online.)

You can use the 20 business days you have to submit the request form to MHR to give them information you believe might persuade them to give you the benefits you want. It is also a good idea to use this time to gather all the information you want to submit with your request form so that your application is as complete as possible. No matter what, be sure you *do not miss the deadline* for submitting your request form.

Preparing your argument

It is a good idea to have an advocate help you to prepare your argument and present the best information to MHR for reconsideration. If an advocate helps you, be sure to include his or her name and contact information on the request form, or attach a letter that tells the ministry that you have an advocate and that you want that advocate to be contacted when a decision is made.

With or without an advocate, it is important that you submit a strong argument in support of your case. Include all the evidence you think is relevant.

Evidence is anything that helps explain why you are asking for a benefit. Some things you could submit as evidence are doctors' reports, a letter from you about what you need and why, letters from friends who are familiar with your problem, cost estimates for anything you are requesting, and receipts for what you have already bought.

There are two reasons to include with your request form as much information to support your argument as you can.

- The supervisor (DSO) in your district office will use what you write on the form and the information you attach to it, as well as what is

already in your file, to make a decision about your case. **Note:** If you meet certain conditions, you may be able to send in additional information after you have submitted your reconsideration form, but it may be difficult. If you have submitted your reconsideration form and want to send in more information, consult an advocate. (Employment and Assistance Manual, section 12.1 – Appeals)

- At the appeal tribunal stage, MHR often argues against allowing you to submit information that was not available at reconsideration. So the more information you include with your reconsideration request form, the more information you will be able to use at an appeal tribunal, if necessary.

If you are asking for a crisis grant, it is especially important that you get all your evidence in with your request form because you can only get a crisis grant for the month in which you have the expense. If MHR decides against you at reconsideration and the month is past, you cannot apply in a new month for the same crisis grant.

Dealing with a response from the ministry

As noted above, you or your advocate should receive a written response from the ministry within 10 business days from the date you submitted your request form. This written response is called the Employment and Assistance Reconsideration Decision form (decision form).

The decision form will tell you whether or not you are granted the benefit you requested. It should list the sections of the legislation that explain why you were granted or denied the benefit.

The decision form also has a section that states whether or not you can go to an appeal tribunal to challenge the reconsideration decision. If the form says that you cannot appeal the reconsideration decision, talk to an advocate about what you can do. If it is marked on the form that you have the right to proceed to appeal tribunal, consider what you want to do next.

Deciding what to do next

In some cases, you should not appeal further if you lose at the reconsideration level. For instance, if you submitted your application for reconsideration quickly or without the help of an advocate, it may be better not to go ahead with the appeal tribunal. If you did, you would have only a short time to get ready for a more complicated hearing, and you would likely be allowed to present only the same information as you did at reconsideration.

In this situation, it may be best to find an advocate or friend to help you gather as much information in support of your request as possible, and then to apply again for the benefit. If your request is denied even after you have submitted all the evidence you have, you can ask for reconsideration. If this second reconsideration is denied, you can then go ahead to an appeal tribunal with all the evidence possible to support your argument.

If you decide that you should go to an appeal tribunal right away, it is important to understand the time limits you must meet and the evidence you will be allowed to present. For more information about appeal tribunals, see *Welfare fact sheet #8b*.

This fact sheet refers to the acts and regulations that set out the law about welfare in BC. It also refers to the BC Employment and Assistance Manual, which is not law but sets out the ministry's interpretation of the law.

You can find these acts and regulations at <http://www.mhr.gov.bc.ca/publicat/vol1/Part3/3-2.HTM>. Or ask for help at your public library.

For more help understanding the law and ministry policy, talk to an advocate. Visit <http://www.povnet.org/> and click on "Find an Advocate" in the left-hand column to see a map of advocates in BC, or contact your local library to find a community group that can help you.

This information comes from reliable sources. However, more information is coming out regularly. Please watch the LSS website (<http://www.lss.bc.ca>) or the PovNet website (<http://povnet.org>) for up-to-date information and new fact sheets.



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