

Section 22(4) of the *Employment and Assistance Act* (the “Act”) states that “a panel may admit as evidence only (a) the information and records that were before the minister when the decision being appealed was made, and (b) oral or written testimony in support of the information and records referred to in paragraph (a).”

Section 22(4) confers discretion on the Tribunal to admit new evidence in limited circumstances. This means that an appeal is not strictly just a review on the record below but rather a review on the basis of all admissible evidence. Accordingly, instead of asking whether the decision under appeal was reasonable at the time it was made, panels should ask themselves whether the decision under appeal was reasonable based on all admissible evidence, including any new evidence admitted under s. 22(4) of the Act.