

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated November 9, 2012, which held that the appellant is not eligible for disability assistance in November 2012. The ministry determined that the appellant's income for September 2012 was greater than the amount of assistance he was eligible to receive pursuant to sections 1, 9, and 24 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), sections 1, 2, and 4 of the Schedule A of the EAPWDR and sections 2 and 3 of the Schedule B of the EAPWDR.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation – sections 1, 9, 24
Employment and Assistance for Persons with Disabilities Regulation – Schedule A sections 1, 2, 4
Employment and Assistance for Persons with Disabilities Regulation – Schedule B sections 2, 3.

PART E – Summary of Facts

Information before the Ministry at Reconsideration included:

- A copy of a Payroll account dated September 14, 2012 including a copy of a cheque in the amount of \$1,512.38 payable to the appellant;
- A copy of a Payroll account dated September 28, 2012 including a copy of a cheque in the amount of \$620.13 payable to the appellant;
- Request for reconsideration signed by the appellant on November 5, 2012.

The payroll account of September 14, 2012 states that the appellant's gross pay was \$2455.62 and net pay was \$1512.38 for the pay period from August 26 to September 8, 2012. The payroll account dated September 28, 2012 indicates that the appellant's gross pay was \$1045.39 and net pay was in the amount of \$620.13 for the pay period between September 9 and September 22, 2012.

The panel was informed that the appellant contacted the Tribunal an hour prior to the hearing, informing the office that he was not able to attend the hearing. The panel was further informed that the appellant was given an option of sending a friend or a relative to sign a release form and request for an adjournment. The appellant or his representative did not attend the hearing. After establishing that the appellant had been informed of the hearing the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation (EAR).

The appellant in the request for reconsideration said that he was honest and informed the ministry of his income. The appellant said that he was told that certain amount of his earning would be deducted from his cheque and he would have some money to pay for his rent and food. The appellant said that he did not receive any disability assistance in November 2012. The appellant further said that he has been given 5 days to pay rent in the amount of \$400 or has 10 days to leave his residence with an eviction notice. The appellant said that he is a mentally disabled person who is scared of becoming homeless. The appellant requested receiving part of his disability assistance for the month of November 2012.

The appellant in the Notice of the Appeal signed on November 19, 2012 stated that on September 26, 2012 he informed the ministry that he had received an income in the amount of \$1,512.38 and forwarded a copy of his paystub to the ministry. The appellant stated that he told the ministry he might be receiving another cheque in the next few days. The appellant said that a ministry staff told him that the income could be declared on the November stub and was told to attach a copy of the paystub to the declaration form. The appellant further stated that he suffers from mental health issues and finds that the ministry has given him conflicting information which has confused and frightened him. The appellant feels that failure of the ministry to relieve his stress and the unnecessary delay could very well have triggered a mental health episode for him. The appellant is requesting that the ministry pay him \$300.00 disability assistance for the month of November in order to prevent him from being homeless.

The panel admits the appellant's submission as being in support of information and records that were before the minister at the time of the reconsideration pursuant to section 22(4) of the EAA.

At the hearing, the Ministry confirmed that it had determined that the appellant received \$2,132.51 earned income in September 2012 which should be deducted from his disability assistance. The ministry stated that after deducting the \$800 exemption, the appellant's earned income is in excess of his disability assistance and as such, he is not eligible to receive assistance for the month of November. The ministry further stated that the RRSP amount deducted from the appellant's pay-cheque is considered an earned income because it is a voluntary deduction.

The Appellant in the request for reconsideration and the Notice of Appeal does not dispute that the amount of

\$2,132.51 received by him on September 14 and September 28, 2012 was an earned income. However, the appellant argues that the second pay-cheque should be calculated and deducted separately in the following month.

The panel finds that:

- The appellant is a single recipient of disability assistance;
- The appellant's disability assistance and shelter assistance is \$906.42 per month;
- The appellant had an earned income of \$2,132.51 in September 2012.

PART F – Reasons for Panel Decision

The issue on this appeal is whether the ministry's reconsideration decision which held that the appellant's income for September 2012 was greater than the amount of assistance he was eligible to receive was a reasonable application of the legislation pursuant to sections 1, 9, and 24 of EAPWDR, sections 1, 2, and 4 of the Schedule A of the EAPWDR and sections 1, 2, 3, 4 of the Schedule B of the EAPWDR

Legislation

EAPWDR

Definitions

1 (1) In this regulation:

"**earned income**" means

- (a) any money or value received in exchange for work or the provision of a service,....

Limits on income

9 (2) A family unit is not eligible for disability assistance if the net income of the family unit determined under Schedule B equals or exceeds the amount of disability assistance determined under Schedule A for a family unit matching that family unit.

Amount of disability assistance

24 Disability assistance may be provided to or for a family unit, for a calendar month, in an amount that is not more than

- (a) the amount determined under Schedule A, minus
- (b) the family unit's net income determined under Schedule B.

Schedule A - Disability Assistance Rates

Section 1 - Maximum amount of disability assistance before deduction of net income

Subject to sections 3 and 6 to 9 of this Schedule, the amount of disability assistance referred to in section

24(a) [amount of disability assistance] of this regulation is the sum of

- (a) the monthly support allowance under section 2 of this Schedule for a family unit matching the family unit of the applicant or recipient, plus
- (b) the shelter allowance calculated under sections 4 and 5 of this Schedule.

Section 2 – Monthly support allowance

(1) A monthly support allowance for the purpose of section 1(a) is the sum of

- (a) the amount set out in Column 3 of the following table for a family unit described in Column 1 of an applicant or a recipient described in Column 2 ...

Item	Column 1	Column 2	Column 3
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	Family unit composition	Age or status of applicant or recipient	Amount of support
1	Sole applicant/recipient and no dependent children	Applicant/recipient is a person with disabilities, .	\$531.42

Section 4 – Monthly shelter allowance

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- (2) The monthly shelter allowance for a family unit is the smaller of
- (a) the family unit's actual shelter costs, and
 - (b) the maximum set out in the following table for the applicable family size:

Item	Column 1 Family Unit Size	Column 2 Maximum monthly shelter
1	1 person	\$375

Schedule B Net Income Calculation

Deductions from earned income

2 The only deductions permitted from earned income are the following:

- (a) any amount deducted at source for
 - (i) income tax,
 - (ii) employment insurance,
 - (iii) medical insurance,
 - (iv) Canada Pension Plan,
 - (v) superannuation,
 - (vi) company pension plan, and
 - (vii) union dues;

Exemption – earned income

3(2) (a) The exempt amount for a family unit that qualifies under subsection (1),

- (a) in the case of a family unit that is composed of one recipient who is designated as a person with disabilities, is calculated as the lesser of
 - (i) \$500, (the amount has been increased to \$800 as of October 1, 2012) and
 - (ii) the family unit's total earned income in the calendar month of calculation.

The appellant in the Notice of Appeal argues that he volunteered the information to the ministry about his

income and was told that the second cheque he received in September could be declared on the November 5, 2012 income assistance stub declaration. The appellant stated that he suffers from mental health issues and the conflicting information given to him from the ministry's staff has been confusing and frightening. The appellant requested that the amount of \$620.13 income he received on September 28, 2012 should be applied and considered earning exemption for the month of November.

The Ministry relies on the reconsideration decision and states that the amount of \$2,132.51 that the appellant earned in September 2012 was earned income as expressly set out in the definition of "earned income" in the legislation and that it was to be deducted from the appellant's disability assistance as per of the legislation. The ministry further argues that the appellant received full amount of the disability assistance for September and October 2012 and \$2,132.51 earned income; accordingly the appellant has resources to pay his November rent and food expenses.

Respecting section 9 (2) of the EAPWDR, a family unit is not eligible for disability assistance if the net income of the family unit determined under Schedule B equals or exceeds the amount of disability assistance determined under Schedule A for a family unit matching that family unit. The appellant does not dispute that he earned \$2,132.51 in September 2012.

Schedule A of the EAPWDR determines the amount of disability assistance. In the case of the appellant, he is a single recipient of disability and receives monthly support allowance \$531.42 and shelter allowance \$375 for the total of \$906.42. Section 3(2)(a) of Schedule B of the EAPWDR states the exempt amount for a person with disabilities is calculated as the lesser of \$800 and the family unit's total earned income in the calendar month. The panel finds that the appellant received earned income of \$2,132.51 in September 2012. The appellant benefited from the \$800 exemption. The panel finds that after deducting the \$800 exemption, the appellant received \$1332.51 which is in excess of his disability assistance for the month of September.

Accordingly, the Panel concludes that the Ministry's decision not to pay support and shelter assistance to the appellant in November 2012 was a reasonable decision based on the evidence and a reasonable application of the applicable legislation in the circumstances of the appellant. Therefore, the panel confirms the reconsideration decision