

PART C – Decision under Appeal

The appellant appeals the Ministry of Social Development (the ministry) Reconsideration Decision dated February 5, 2013, which reduced the Appellant's income assistance for the month of February 2012 by \$283.32 under section 28 of the *Employment and Assistance Regulation* as that amount of earned income was in excess of the \$500 exemption for Persons with Persistent Multiple Barriers (PPMP) status.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) Section 1 Definitions "earned income"; Sections 10 & 28, , and Schedule A & B

PART E – Summary of Facts

Information before the Ministry at Reconsideration included:

- The appellant's Request for Reconsideration, signed January 28, 2013;
- A copy of the appellant's cheque history dated January 25, 2013;
- One page of copies of the appellant's statements of earnings and deductions;
- An undated copy of Monthly report;
- A copy of an electronic deposit for the month of January 2013.

In the request for reconsideration, the appellant stated that she received a letter from the ministry regarding increases in earning exemptions. She said that the letter listed the different types of clients on assistance but she could not find anything stating PPMB clients. The appellant said that she assumed that the exemption for PPMB clients were the same as Persons with Disabilities (PWD). The appellant stated that she called the ministry to confirm but one of the staff told her that she was not sure but she thought that PWD and PPMB would have the same exemptions.

In the Notice of Appeal dated February 15, 2013 the appellant stated that a letter that was sent out by the ministry clearly stated that the increases are for all clients with regards to earning exemption. The appellant said that she called the ministry to inquire about the letter. The ministry's staff said that she was not quite sure if there was an increase to the PPMB client's earning exemption. The appellant stated that the ministry said that "it looks as if that may be the case because according to the letter PWD client's exemptions were increasing, most likely PPMB clients should have an increase also". The panel notes that the appellant did not include the letter with her submission and it is not included in the appeal package.

The appellant further stated that she now understands that there has not been an increase for PPMB clients but in December 2012 she was not aware of this. She said that since it was Christmas time and she need to purchase gifts for her four children; she decided to work some extra hours. The appellant stated that she did not expect to have her cheque reduced the following month. The appellant said that she is now aware that there has been no change to PPMB client's earning exemptions and she will accept any deductions that will have to come off her future cheques.

The appellant did not attend the hearing. After establishing that the appellant had been notified of the hearing, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation (EAR).

At the hearing, the Ministry said that it had determined that the \$783.32 received by the appellant in December 2012 was earned income from working in a store that reduced her PPMB assistance for February 2013 by \$283.32. The ministry further stated that the appellant in the request for reconsideration stated that the letter she received was regarding increases to the earning exemptions. The ministry said the letter was sent to all recipients of assistance to inform them of changes made to various parts of the legislation and it did not specifically indicate an increase to the earning exemption for recipients with PPMB status. The letter directs the reader to visit the ministry's website or call the ministry office for more information.

The Appellant, in the request for reconsideration and the Notice of Appeal does not dispute that the amount of \$783.32 received by her in December 2012 is earned income; however, she stated that she did not know that there was no change to the legislation regarding earning exemptions for PPMB clients. On her monthly reporting stub submitted to the Ministry on January 17, 2013, the Appellant declared \$783 received as employment income for two pay periods, November 26, 2012 to December 7, 2012 and December 10, 2012 to December 21, 2012.

PART F – Reasons for Panel Decision

The issue on this appeal is whether the Ministry's decision to deduct the amount of \$283.32 as "earned income" from the Appellant's monthly income assistance for the month of February 2013, under section 28 of the EAR, is a reasonable application of the legislation.

Legislation

EAR

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

10 (1) For the purposes of the Act and this regulation, "**income**", in relation to a family unit, includes an amount garnished, attached, seized, deducted or set off from the income of an applicant, a recipient or a dependant.

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

Amount of income assistance

28 Income 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 - Income Assistance Rates

Section 1 – Maximum amount of income assistance before deduction of net income

Subject to sections 3 and 6 to 11 of this Schedule, the amount of income assistance referred to in section 28(a) [amount of income 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 Family unit composition	Column 2 Age or status of applicant or recipient	Column 3 Amount of support
1	Sole applicant/recipient and no dependent children	Applicant/recipient is under 65 years of age.	\$235.00

....

Section 4 – Monthly shelter allowance

....

- (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 section 3 Exemption — earned income

- (1) Subject to subsection (2), the amount of earned income calculated under subsection (6) is exempt for a family unit.
- (5) The amount of earned income calculated under subsection (6) (c) is exempt for the family unit if any person in the family unit is a person who has persistent multiple barriers to employment.
- (6) the exempt amount for a family unit that qualifies under this section is calculated as follows:
- (c) in the case of a family unit to which subsection (5) applies, the exempt amount is calculated as the lesser of \$500, and the family unit's total earned income in the calendar month of calculation.

The Appellant in the request for reconsideration and the Notice of Appeal stated that she was not sure whether there were any changes to the earning exemptions for the PPMB clients. She said that she called the ministry and was told that "it looks as if that may be the case". The appellant said she should not be penalized for receiving wrong information from the ministry; however, she said that she is now aware that there has been no change to PPMB client's earning exemptions and she will accept any deductions that will have to come off her future cheques.

The Ministry stated that it had determined that the amount of \$783.32 was earned income as expressly set out in the definition of "earned income" in section 1(1)(a) of the EAR, and that it was to be deducted from the appellant's PPMB assistance as per the legislation.

The Panel finds that the appellant received earned income of \$783.32 in December 2012. The panel further finds that the appellant does not dispute that \$783.43 was earned income. The Panel finds that the ministry was reasonable in concluding that the \$500 exemption under section 3 (6) (c) of Schedule B of the EAR applied. The Panel concludes that the ministry's decision to reduce the appellant's income assistance for February 2013 by the amount of \$283.32 under s. 28 of the EAR was a reasonable application of the applicable legislation in the circumstances of the appellant and was reasonably supported by the evidence. The Panel therefore confirms the ministry's decision.