

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (Ministry) reconsideration decision dated January 2, 2013, which held that the appellant's earned income of \$216.18 must be deducted from his income assistance. The Ministry determined that the appellant's gross income for September 2012 was \$416.18 and as such \$216.18 would be deducted from the appellant's November 2012 income assistance pursuant to sections 1 and 28 of the Employment and Assistance Regulation (EAR), sections 1, 2, and 4 of the Schedule A and the Schedule B of the EAR.

PART D – Relevant Legislation

Employment and Assistance Regulation – sections 1 and 28
Employment and Assistance Regulation – Schedule A – Sections 1, 2 and 4
Employment and Assistance Regulation – Schedule B

PART E – Summary of Facts

Information before the Ministry at Reconsideration included:

- A copy of a Psychological Report dated February 6, 2012;
- A handwritten document signed by the appellant on December 31 requesting Persons with Persistent Multiple Barriers (PPMB) designation;
- A handwritten, undated request for reconsideration respecting "Sanction";
- A handwritten undated request for reconsideration respecting "Overpay Chart";
- Two pages of Calendar for 2011 and 2012;
- A copy of a letter from the Ministry to the appellant dated December 7, 2011 requesting information;
- Copies of the Ministry's decision;
- A copy of the Provincial Court of B.C. order in action number E06128 dated March 30, 2004;
- A copy of the Supreme Court of B.C. order in action number D040150 dated June 18, 2009;
- A copy of the Background Performer Voucher dated September 10, 2012;
- Copies of a receipt of payments for commission for March to October 2012 indicating that the appellant paid the following amounts:
 1. March 28/12 \$29.92
 2. April 4/12 \$30.07
 3. April 4/12 \$275.40
 4. April 24/12 \$43.38
 5. May 18/12 \$112.71
 6. June 12/12 \$25.31
 7. August 21/12 \$50.48
 8. October 10/12 \$29.92
- 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 December 31, 2012;

The appellant in the November 28, 2012 requested additional 10 days in order to complete and submit his request for reconsideration.

In the request for reconsideration dated December 31, 2012 the appellant stated that he is requesting reconsideration to three decisions of the Ministry:

1. Overpayment for Income Earned \$416.18 – September 10 or 11/2012
2. Overpayment for Income Earned \$2,629 – March 12, 2012
3. Sanction for 1st time \$75.00

Respecting the decision before the panel which is the \$216.18 deduction from the appellant's November 2012 income assistance, the appellant wrote that he does not agree with the Ministry decision because the Ministry miscalculated his earning. The appellant stated that the amounts deducted from his cheque including the HST, the Union Permit fee, the Agent Fee and the amount that is garnished from his income under the Family Maintenance Enforcement Program should be deducted from his monthly earning. The appellant stated that his "true Net income" in September 2012 was \$170.50 and that \$245.68 was deducted from his income. The appellant further stated that the Ministry disallowed the deductions stating that he was considered self-employed. The appellant said that based on the legislation union dues must be permitted as allowable deductions.

The appellant in the Notice of the Appeal signed on January 15, 2013 stated that he is dissatisfied and disagrees with the Ministry's reconsideration decision because

- a) "my net income is miscalculated;
- b) ~~the Ministry's Acts for net income calculation re: deduction and allowed exemptions were mis-~~administered;
- c) the decision is unfair, created undue hardships, contradicts the Ministry's and Government's message of expected to work client and Families First Agenda;
- d) I filed for an FOI on December 29, 12 which never got processed or I received at Office EAW".

At the hearing the appellant submitted the following:

1. Union Permit Fee

The appellant submitted that the union permit fee is the same as union dues. He said that although he is not a full member of the union, he is an apprentice member and in order to work, he must pay the union permit fee. The appellant submitted that the Ministry should have interpreted the legislation to include the union permit fee as it is "a necessary expense".

2. Family Maintenance Enforcement Program (FMEP)

The appellant submitted that he has two children aged 22 and 19 and he is required to pay support by the court order. The appellant stated that his payment through FMEP should be considered as an exemption from income based on Section 1 of Schedule B of the EAR. The appellant submitted that the legislation is clear and states that the portion of the maintenance paid for and passed on to a person aged 19 or older under a maintenance order is exempt from income. Furthermore, the appellant submitted that the funds that FMEP garnished from his pay cheque should not be considered as income, and this should be an exception to subsection (b) of the Section 1 of Schedule B which states that any amount garnished from income is considered to be income.

3. HST and Agent Fee

The appellant stated that the Ministry should interpret the legislation in his favour as he has to pay the agent fee and HST in order to work. The appellant said that "having an agent is an integral part of the industry I worked in". The appellant said that the Agent fee is a necessary expense and the Ministry should consider it as an allowable expense. The appellant further submitted that it is not fair that the legislation, in the Self Employment Program for Persons With Disabilities (PWD), states that the agent fee is an allowable expense. The appellant further submitted that the HST is the same as Agent Fee and he must pay the tax in order to work.

4. The appellant submitted that the Ministry deducted the amount without any consultation or prior notice. This has created severe and punitive financial hardship for him.

5. Inconsistent decisions

The appellant submitted that the Ministry made a decision in his favour in 2011 in that he was allowed deductions from gross income for funds garnished by FMEP, agents' fees, HST and permit fees. The next investigator officer ruled differently, on the same facts. The appellant

further stated that the Ministry-contradicted itself by making yet another decision in his favour.

6. Freedom of Information request

The appellant said that he has filed a FOI to receive information from his files but the Ministry has not responded to his request.

The appellant further submitted that "the Ministry should have had discretion to interpret the gray areas of the legislation in favour of its clients".

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 EAR.

The Ministry relied on its reconsideration decision, stating the following:

1- Union Permit Fee

Union permit fee is a permit to work and it is a requirement to work; however, union dues are membership fees for those who are members of the union. The investigative officer had contacted the union and asked if union permit fees were equivalent to union dues, and had been advised they were different. The Ministry has to follow the legislation and uses the legislation to apply the rules. The Ministry cannot interpret the legislation in favour of one client and make different decision on a similar issue for another client. The legislation is clear and only permits union dues as deductions from earned income. The Ministry further submitted that the small business exemptions are only allowed under the Self Employment Program and for those clients who are designated PWD.

2- FMEP

The Ministry submitted that the amount garnished from the appellant's pay cheque under the FMEP is part of the appellant's gross income. Funds garnished by FMEP are not-listed among the deductions permitted from earned income pursuant to Section 2 of the Schedule B of the EAR. The Ministry said that the amount garnished from the appellant's income is considered to be income and it is not considered as an exemption.

3. HST and Agent Fee

The Ministry submitted that HST and Agent Fee are not stipulated in the legislation as exemptions. The Ministry further stated that the Ministry has no discretion to change the legislation and or apply a rule that is not part of the legislation. The Ministry further stated that the appellant is not registered in the Self Employment program.

4. The Ministry stated that the appellant failed to report his income and as such, after a thorough investigation, the Ministry deducted the overpayment amount from the appellant's income assistance.

5. Inconsistent decision

The Ministry said that the investigator officer making the first decision made an error and did not calculate the deductions. The Ministry can, at any time, review any parts of the client's file. In this case, a new investigative officer reviewed the appellant's file and calculated the amount that was not considered as an exemption based on the legislation. The Ministry further reviewed this decision and found out that the second investigative officer made an error by not

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crediting the appellant \$200 for the October 2012 based on the new legislation. The Ministry revised the decision and deducted the allowable income exemption.

6. FOI

The Ministry submitted that it does not have any information or knowledge about the appellant's request under FOI. This request is dealt with, directly, by the FOI office.

The panel makes the following findings of fact:

- The appellant is a sole recipient of income assistance;
- The appellant submitted a paystub indicating gross income of \$416.18 for the month of September 2012;
- The appellant had certain deductions from his gross income, by way of garnishment by FMEP, permit fees, agent fees and HST and that he reported his net income to the Ministry;
- The appellant is not registered in the Self Employment Program and is not eligible for exemption related to this program.

PART F – Reasons for Panel Decision

The issue on this appeal is whether the Ministry's reconsideration decision which held that the appellant's earned income of \$216.18 must be deducted from his income assistance was a reasonable application of the legislation. The Ministry determined that the appellant's gross income for September 2012 was \$416.18 and as such \$216.18 would be deducted from the appellant's November 2012 income assistance

Legislation

EAR

Section 1 – Definitions of earned income

earned income" means

- (a) any money or value received in exchange for work or the provision of a service,
- (b) tax refunds,
- (c) pension plan contributions that are refunded because of insufficient contributions to create a pension,
- (d) money or value received from providing room and board at a person's place of residence, or
- (e) money or value received from renting rooms that are common to and part of a person's place of residence;

Section 28 - Amount of income assistance

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

Maximum amount of income assistance before deduction of net income

1 Subject to sections 3 and 6 to 10 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.

2 Monthly support allowance

(0.1) For the purposes of this section, "**warrant**" has the meaning of warrant in section 14.2 [*consequences in relation to outstanding arrest warrants*] of the Act.

(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, plus
- (b) the amount calculated in accordance with subsections (2) to (5) for each dependent child in the family unit.

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

Monthly shelter allowance

4 (1) For the purposes of this section:

"family unit" includes a child who is not a dependent child and who resides in the parent's place of residence for not less than 40% of each month, under the terms of an order or an agreement referred to in section 1 (2) of this regulation;

"warrant" has the meaning of warrant in section 14.2 [consequences in relation to outstanding arrest warrants] of the Act.

(2) The monthly shelter allowance for a family unit to which section 14.2 of the Act does not apply 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	Column 2
	Family Unit Size	Maximum Monthly Shelter
1	1 person	\$375

Schedule B of the EAR

Section 1 – Deduction and exemption rules

When calculating the net income of a family unit for the purposes of section 28 (b) [amount of income assistance] of this regulation,

(a) the following are exempt from income:

(i) any income earned by a dependent child attending school on a full-time basis;

(ii) the basic family care rate paid for foster homes;

(iii) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 1 (b).]

(iv) a family bonus, except the portion treated as unearned income under section 10 (1) of this Schedule;

(v) the basic child tax benefit;

(vi) a goods and services tax credit under the *Income Tax Act* (Canada);

(vii) a tax credit under section 8 [refundable sales tax credit], 8.1 [low income climate action tax credit] or 8.2 [BC harmonized sales tax credit] of the *Income Tax Act* (British Columbia);

(viii) individual redress payments granted by the government of Canada to a person of Japanese ancestry;

(ix) individual payments granted by the government of Canada under the Extraordinary Assistance Plan to a person infected by the human immunodeficiency virus;

(x) individual payments granted by the government of British Columbia to a person infected by the human immunodeficiency virus or to the surviving spouse or dependent children of that person;

- (xi) individual payments granted by the government of Canada under the Extraordinary Assistance Plan to thalidomide victims;
- (xii) money that is
- (A) paid or payable to a person if the money is awarded to the person by an adjudicative panel in respect of claims of abuse at Jericho Hill School for the Deaf and drawn from a lump sum settlement paid by the government of British Columbia, or
- (B) paid or payable to or for a person if the payment is in accordance with the settlement agreement approved by the Supreme Court in Action No. C980463, Vancouver Registry;
- (xiii) the BC earned income benefit;
- (xiv) money paid or payable under the 1986-1990 Hepatitis C Settlement Agreement made June 15, 1999, except money paid or payable under section 4.02 or 6.01 of Schedule A or of Schedule B of that agreement;
- (xv) a rent subsidy provided by the provincial government, or by a council, board, society or governmental agency that administers rent subsidies from the provincial government;
- (xvi) an income tax refund, or part of an income tax refund, that arises by reason of a payment made by the government of British Columbia to the government of Canada on behalf of a person who incurred a tax liability due to income received under the Forest Worker Transition Program;
- (xvii) money paid or payable to a person in settlement of a claim of abuse at an Indian residential school, except money paid or payable as income replacement in the settlement;
- (xviii) post adoption assistance payments provided under section 28 (1) or 30.1 of the Adoption Regulation, B.C. Reg. 291/96;
- (xix) a rebate of energy or fuel tax provided by the government of Canada, the government of British Columbia, or an agency of either government;
- (xx) Repealed. [B.C. Reg. 85/2012, Sch. 1, s. 5.]
- (xxi) payments granted by the government of British Columbia under section 8 [agreement with child's kin and others] of the *Child, Family and Community Service Act*;
- (xxii) payments granted by the government of British Columbia under the Ministry of Children and Family Development's At Home Program;
- (xxiii) Repealed. [B.C. Reg. 85/2012, Sch. 1, s. 5.]
- (xxiv) payments granted by the government of British Columbia under an agreement referred to in section 93 (1) (g) (ii) of the *Child, Family and Community Service Act*, for contributions to the support of a child to a person other than a parent of that child;
- (xxv) a loan that is
- (A) not greater than the amount contemplated by the recipient's business plan, accepted by the minister under section 77.2 of this regulation, and
- (B) received and used for the purposes set out in the business plan;
- (xxvi) payments granted by the government of British Columbia under the Ministry of Children and Family Development's
- (A) Autism Funding: Under Age 6 Program, or
- (B) Autism Funding: Ages 6 — 18 Program;
- (xxvii) that portion of the maintenance paid for and passed on to a person with disabilities or a person aged 19 or older under a maintenance order or agreement filed with a court;
- (xxviii) payments made by a health authority or a contractor of a health authority to a recipient, who is a "person with a mental disorder" as defined in section 1 of the *Mental Health Act*, for the purpose of supporting the recipient in participating in a volunteer program or in a mental health or addictions rehabilitation program;
- (xxix) a refund provided under Plan I, "Fair PharmaCare", of the PharmaCare program established

under the Continuing Care Programs Regulation, B.C. Reg. 146/95;

(xxx) payments provided by Community Living BC to assist with travel expenses for a recipient in the family unit to attend a self-help skills program, or a supported work placement program, approved by Community Living BC;

(xxxi) ~~a Universal Child Care Benefit provided under the *Universal Child Care Benefit Act* (Canada);~~

(xxxii) money paid by the government of Canada, under a settlement agreement, to persons who contracted Hepatitis C by receiving blood or blood products in Canada prior to 1986 or after July 1, 1990, except money paid under that agreement as income replacement;

(xxxiii) money withdrawn from a registered disability savings plan;

(xxxiv) a working income tax benefit provided under the *Income Tax Act* (Canada);

(xxxv) Repealed. [B.C. Reg. 180/2010, s. 1 (b).]

(xxxvi) the climate action dividend under section 13.02 of the *Income Tax Act*;

(xxxvii) money paid or payable to a person under the *Criminal Injury Compensation Act* as compensation for non-pecuniary loss or damage for pain, suffering mental or emotional trauma, humiliation or inconvenience that occurred when the person was under 19 years of age,

(xxxviii) money that is paid or payable to or for a person if the payment is in accordance with the settlement agreement approved by the Supreme Court in Action No. S024338, Vancouver Registry,

(xxxviii) money that is paid or payable to or for a person if the payment is in accordance with the settlement agreement approved by the Supreme Court in Action No. S024338, Vancouver Registry;

(xxxix) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Family Support Services program;

(xl) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Supported Child Development program;

(xli) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Aboriginal Supported Child Development program,

(b) any amount garnished, attached, seized, deducted or set off from income is considered to be income, except the deductions permitted under sections 2 and 6 of this Schedule,

(c) all earned income must be included, except the deductions permitted under section 2 and any earned income exempted under sections 3 and 4 of this Schedule, and

(d) all unearned income must be included, except the deductions permitted under section 6 and any income exempted under sections 7 and 8 of this Schedule.

Section 2 – Deductions from earned income

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;
- (b) if the applicant or recipient provides both room and board to a person at the applicant's or recipient's place of residence, the essential operating costs of providing the room and board;
- (c) if the applicant or recipient rents rooms that are common to and part of the applicant's or recipient's place of residence, 25% of the gross rent received from the rental of the rooms.

Section 3 – Exemption – earn income – Before October 1, 2012

- (1) The amount of earned income calculated under subsection (2) is exempt for a family unit if
- (a) a recipient in the family unit has been receiving continuously for the 3 calendar months immediately preceding the calendar month for which the exemption is claimed
 - (i) income assistance under the Act,
 - (ii) disability assistance under the *Employment and Assistance for Persons with Disabilities Act*,
 - (iii) income assistance or a youth allowance under a former Act,
 - (iv) a disability allowance under the *Disability Benefits Program Act*, or
 - (v) any combination of the assistance and allowances referred to in subparagraphs (i) to (iv),
 - (b) each person in the family unit is under 65 years of age, and
 - (c) either
 - (i) any person in the family unit is a person who has persistent multiple barriers to employment, or
 - (ii) the family unit is composed of a sole recipient who
 - (A) has a dependent child, or
 - (B) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 1 (p).]
 - (C) has in his or her care a foster child,
 and the child has a physical or mental condition that, in the minister's opinion, precludes the sole recipient from leaving home for the purposes of employment or working, on average, more than 30 hours each week.
- (2) The exempt amount for a family unit that qualifies under subsection (1) is calculated as the lesser of the family unit's total earned income in the calendar month of calculation, and
- (a) \$300 in the case of a family unit that is composed of a sole recipient described in subsection (1)
 - (c) (ii), or
 - (b) \$500 in the case of a family unit described in subsection (1) (c) (i).
- (3) A transient is not entitled to an exemption under this section.

Section 3 – Exemption – earned income – Effective October 1, 2012

- (1) Subject to subsection (2), the amount of earned income calculated under subsection (6) is exempt for a family unit.
- (2) If an application for income assistance (part 2) form is submitted to the minister, the family unit may not claim an exemption under this section in relation to the first calendar month for which the family unit becomes eligible for income assistance unless a member of the family unit received disability assistance under the *Employment and Assistance for Persons with Disabilities Act* for the calendar month immediately preceding that first calendar month.
- (3) Unless otherwise provided under subsection (4) or (5), the amount of earned income calculated under subsection (6) (a) is exempt for a family unit that qualifies under this section.
- (4) The amount of earned income calculated under subsection (6) (b) is exempt for the family unit if;
 - a) The family unit includes a sole recipient who
 - (i) Has a dependent child, or
 - (ii) Has in his or her care a foster child, and
 - b) The child has a physical or mental condition that, in the minister's opinion, precludes the sole recipient from leaving home for the purposes of employment or working, on average, more than 30 hours each week.

- (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 family unit that qualifies under this section is calculated as follows:
- a) In the case of a family unit to which subsection (3) applies, the exempt amount is calculated as the lesser of
 - (i) \$200, and
 - (ii) The family unit's total earned income in the calendar month of calculation;

Section 7 – Exemptions – unearned income

- (1) The following unearned income is exempt:
- (a) the portion of interest from a mortgage on, or agreement for sale of, the family unit's previous place of residence if the interest is required for the amount owing on the purchase or rental of the family unit's current place of residence;
 - (b) \$50 of each monthly Federal Department of Veterans Affairs benefits paid to any person in the family unit;
 - (c) a criminal injury compensation award or other award, except the amount that would cause the family unit's assets to exceed, at the time the award is received, the limit applicable under section 11 [asset limits] of this regulation;
 - (d) a payment made from a trust to or on behalf of a person referred to in section 13 (2) [assets held in trust for person receiving special care] of this regulation if
 - (i) the payment is applied exclusively to or used exclusively for disability-related costs as defined in section 13 (1) of this regulation, and
 - (ii) the amount of the exemption under subparagraph (i) for all payments that, during a calendar year, are applied exclusively for the costs referred to in paragraph (d) of that definition does not exceed \$5 484;
 - (d.1) subject to subsection (2), a structured settlement annuity payment made to a person referred to in section 13 (2) (a) of this regulation if
 - (i) the payment is applied exclusively to or used exclusively for disability-related costs as defined in section 13 (1) of this regulation, and
 - (ii) the amount of the exemption under subparagraph (i) for all payments that, during a calendar year, are applied exclusively for the costs referred to in paragraph (d) of that definition does not exceed \$5 484;
 - (e) the portion of Canada Pension Plan Benefits that is calculated by the formula $(A-B) \times C$, where
 - A = the gross monthly amount of Canada Pension Plan Benefits received by an applicant or recipient;
 - B = (i) in respect of a family unit comprised of a sole applicant or a sole recipient with no dependent children, 1/12 of the amount determined under section 118 (1) (c) of the *Income Tax Act* (Canada) as adjusted under section 117.1 of that Act, or
 - (ii) in respect of any other family unit, the amount under subparagraph (i), plus 1/12 of the amount resulting from the calculation under section 118 (1) (a) (ii) of the *Income Tax Act* (Canada) as adjusted under section 117.1 of that Act;
 - C = the sum of the percentages of taxable amounts set out under section 117 (2) (a) of the *Income Tax Act* (Canada) and section 4.1 (1) (a) of the *Income Tax Act*.
- (2) Subsection (1) (d.1) applies in respect of a person only if
- (a) the person has entered into a settlement agreement with the defendant in relation to a claim for damages in respect of personal injury or death, and
 - (b) the settlement agreement requires the defendant to

- (i) make periodic payments to the person for a fixed term or the life of the person,
 - (ii) purchase a single premium annuity contract that
 - (A) is not assignable, commutable or transferable, and
 - (B) is designed to produce payments equal to the amounts, and at the times, specified in the settlement agreement,
 - (iii) make an irrevocable direction to the issuer of the annuity contract to make all payments under that annuity contract directly to the person, and
 - (iv) remain liable to make the payments required by the settlement agreement.
- (3) In this section, "**structured settlement annuity payment**" means a payment referred to in subsection (2) (b) (iii) made under the annuity contract referred to in that subsection.

The appellant argues that the recent reconsideration decision overrides prior decisions made by the Ministry and that the Ministry's decision is wrong in that it did not allow deductions of Agent fee, Union Permit fee, HST, and the amount garnished from his income under the FMEP. The appellant further argues that he reported his net income and he is not appealing the Ministry's decision regarding sanction. The appellant further argues that pursuant to Section 1 (a) (xxvii) of the Schedule B of the EAR the portion of the maintenance paid for a person aged 19 or older under a maintenance order filed with a court should be considered an exemption from income. The appellant requests that the panel overturn the Ministry's decision.

The appellant does not dispute that the amount of \$416.18 was received by him in September 2012; however, the appellant argues that the amount that was deducted from his income under FMEP, HST, and union permit fee, and the amount he paid to his agent has to be calculated and deducted from the total amount of income.

The Ministry argues that the appellant is not eligible for exemptions related to a self-employment program and that the FMEP garnishment, the agent commission, and the union permit fee are not considered exempt income. The Ministry further submits that when the appellant completed the income assistance application he was made aware of his reporting obligations and that the reporting obligations are ongoing. In response to the appellant's argument that pursuant to section 1(a) (xxvii) of the schedule B of the EAR, he had paid maintenance that was passed on to a person aged 19 or older under a maintenance order, the Ministry submits that this section of the legislation pertains to a parent who receives the maintenance, not the person who pays the maintenance.

The panel notes that pursuant to Section 1 of the Schedule B of the EAR, all earned income must be included in the calculation of net income. The panel finds that the appellant's income from employment in September 2012 was \$416.18.

While the appellant has no choice about paying expenses such as union permit fee, HST, and agent fee in order to be employed, the panel finds that these are not deductions from earned income which are permitted by the legislation. Similarly, the panel finds that the legislation does not allow the FMEP garnishment to be considered as exempt income.

The panel also finds that although section 2 of the Schedule B of the EAR sets out the only deductions permitted from earned income, the appellant did not assert that any of the listed exemptions applied to his situation and the panel does not find any evidence to indicate that any of the listed exemptions would apply to the appellant's situation.

Accordingly, the Panel concludes that the Ministry's decision determining that the appellant's gross income for September 2012 was \$416.18 and as such \$216.18 should be deducted from his November 2012 income assistance 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