

PART C – Decision under Appeal

This is an appeal of a reconsideration decision of the Ministry of Social Development ('the ministry') dated May 6, 2013, in which the ministry determined that the appellant received \$947.67 in earned income and \$736.56 in unearned income (CPP payment) during January 2013. The \$947.67 in earned income was reduced by \$800 as an earned income exemption, leaving \$147.67 earned income, and \$736.56 in unearned income to be applied against the appellant's disability assistance payment of \$906.42. The result was a March 2013 disability payment of $\$906.42 - \$147.67 - \$736.56 = \22.19 . The ministry noted additional deposits totaling \$1482.67 were unidentified and sought the appellant's assistance in determining their source.

The ministry relied on the *Employment and Assistance for Persons with Disabilities Act* (EAPWDA), section 5, the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR), sections 1, 9, 24, Schedule B sections 1, 2, 3, 3.1, 4, and 7.

PART D – Relevant Legislation

EAPWDA section 5

EAPWDR sections 1, 24 and Schedule B sections 1, 2, 3, 3.1, 6, 7, 7.1 and 8

PART E – Summary of Facts

The following information was before the ministry at the time of reconsideration, relevant to the appellant's appeal:

- Bank statements for the appellant. Of relevance to this appeal are the following deposits:
Earned income
 - January 3, 2013: "Work detailing cars for body shop" \$480.00
 - January 10, 2013: "Payment for work" \$159.07
 - January 24, 2013: "Sold wax products" \$208.00
 - January 31, 2013: "Pot deal" \$100.00
Unearned Income
 - January 29, 2013: "Credit memo Canada" \$736.56
- In its reconsideration decision the ministry noted deposits in January 2013 totaling \$1482.67, which it could not characterize and asked the appellant for assistance in clarifying their source(s).
- In his request for reconsideration, the appellant stated "the deposit for the amount of \$1601.22, is from a personal loan from a family member, in order to be able to catch up on rent arrears, to prevent eviction."

At the Hearing

The appellant did not have the appeal record with him for reference during the teleconference and declined an opportunity to locate it. The panel notes that it was successfully delivered to him on May 17, 2013.

The ministry pointed out the deposits it used in calculating the appellant's earned and unearned income (listed above).

The appellant stated that the deposit of \$1601.22 was a cash gift from family members. He agreed that none of the items relied upon by the ministry were gifts from family members and did not dispute the ministry's characterization of the sources of the deposits. He stated that he must pay back some of the deposits to his employer in repayment of outstanding rent.

Under section 22(4)(b) of the Employment and Assistance Act, the Panel admitted the additional evidence as it is in support of information and records which were before the Ministry when the decision being appealed was made.

PART F – Reasons for Panel Decision

The issue to be decided is whether the ministry's decision to deduct \$147.67 in earned income and \$736.56 in unearned income in January 2013, from the appellant's March 2013 disability payment of \$906.42 was reasonably supported by the evidence, or was a reasonable application of the applicable enactment in the circumstances of the person appealing the decision.

EAPWDA section 5 permits the minister to "provide disability assistance or a supplement to or for a family unit that is eligible for it."

EAPWDR section 1 includes as "earned income":

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

The same section includes as "unearned income":

1(f) any type or class of Canada Pension Plan benefits.

EAPWDR section 24 states that:

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 B sections 1, 2, 3, 3.1, 6, 7, 7.1 and 8 set out the permissible deductions and exemptions. Section 3(3) states:

- The exempt amount for a family unit that qualifies under this section is to be calculated as follows:
- (a) in the case of a family unit that includes only one recipient who is designated as a person with disabilities, the exempt amount is calculated as the lesser of
 - (i) \$800, and
 - (ii) the family unit's total earned income in the calendar month of calculation;

The ministry argues that the reconsideration decision should be upheld in that it accurately calculated the appellant's earned and unearned income for January 2013. While the ministry did not consider any deposit which was characterized as a gift, it remained unclear as to the source of the \$1482.67 of deposits. As well, despite the appellant's assertion that he must pay some of his wages back to his employer for back rent, the ministry argues that it is still classified as earned income.

The ministry argued that the following deposits were earned income:

- January 3, 2013: "Work detailing cars for body shop" \$480.00
- January 10, 2013: "Payment for work" \$159.07
- January 24, 2013: "Sold wax products" \$208.00
- January 31, 2013: "Pot deal" \$100.00

The appellant did not dispute the ministry's characterization of these deposits.

The panel notes that these deposits total \$947.07; a discrepancy of \$0.50 from the figure of \$947.67 stated in the reconsideration decision, however does not consider this small amount sufficient to disturb the ministry's findings in this regard. The ministry was reasonable in its characterization of these deposits given the provisions of EAPWDR 1(a).

The ministry argued that the following deposit was unearned income:

- o January 29, 2013: "Credit memo Canada" \$736.56

The ministry characterized the \$736.56 the appellant received as a CPP payment as unearned income, which is consistent with EAPWDR 1(f).

EAPWDR Schedule B, section 3(3) permits an exempt amount of \$800 from a recipient's earned income, in other words the appellant can earn \$800 in income each month before it affects his disability payment of \$906.42.

None of the other exemptions or deductions listed in Schedule B apply to the earned and unearned income received by the appellant in January 2013, and used by the ministry in its calculations for his March 2013 disability payment.

Despite the appellant's reference to the amount received as a gift from family members, the panel finds the ministry reasonable in its characterization of the earned and unearned deposits listed above as they are consistent with the definition contained in EAPWDR 1(a) and (f).

Similarly, the panel finds the ministry was reasonable in its calculation of the appellant's March 2013 payment. The \$947.67 in earned income was reduced by \$800, consistent with EAPWDR Schedule B section 3(3), leaving \$147.67 in earned income to be calculated. The \$736.56 in unearned income from CPP was not subject to any exemptions. Together, the earned and unearned income totaled \$884.23, which was deducted from the appellant's disability payment of \$906.42, leaving \$22.19.

In conclusion, the panel finds the ministry's decision was reasonably supported by the evidence.

The decision is confirmed.