

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry)'s reconsideration decision dated May 27, 2013 which determined that the appellant had incurred an overpayment of \$18,761.21 that he was required to repay to the ministry pursuant to section 18(1) of the *Employment and Assistance for Persons with Disabilities Act* (EAPWDA).

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA) sections 1, 3, 11, 18, 19

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), sections 1, 9, 24, 29 and Schedule A & B

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration consisted of:

- 1) The appellant's Request for Reconsideration (RFR) dated May 8, 2013 with attached letter in which the appellant states that he did not understand that he was supposed to report all other income that he earned every month or provide the ministry with copies of his paystubs. The appellant states that he is an honest person and he would not have taken any money that did not belong to him on purpose. The appellant states that he now understands his reporting obligations and has been reporting his income correctly. The appellant states that although he is employed, he has student loans and a car loan and does not know how he could ever repay the overpayment amount. The appellant also states that on the application form it states that the BC Government is responsible for making sure that people who receive assistance are eligible and as the government did not check his eligibility in a timely manner, the overpayment arose due to the government's lack of responsibility;
- 2) Canada Revenue Agency (CRA) 2011 income tax return of the appellant indicating that the appellant had total T4 earnings of \$15,139, social assistance payments of \$10,612 for total income of \$25,751;
- 3) Application for Disability Assistance signed by the appellant on March 22, 2010;
- 4) Two ministry History (Query)'s printed April 15, 2013 indicating the appellant's income and tax benefits;
- 5) Overpayment Notification dated March 26, 2013 to the appellant indicating that the ministry had determined that he had an overpayment of \$18,761.21;
- 6) Overpayment Chart (OP Chart) for assistance months September 2010 through February 2013 listing the appellant's actual income, declared income, earnings exemptions, disability assistance amount received, and the overpayment amount;
- 7) Letter from the ministry investigative officer to one of the appellant's employers (Employer 1) dated February 20, 2013 requesting confirmation of the appellant's earnings from January 1, 2010 through February 20, 2013;
- 8) Confirmation of Earnings forms dated February 19, 2013 completed by Employer 1, providing information regarding the appellant's earnings for 2010 and 2011;
- 9) Fax Cover Sheet from Employer 1 to the ministry dated February 20, 2013 with attached Confirmation of Earnings forms for 2012 and 2013 and the appellant's 2012 T4 showing employment income of \$208;
- 10) Letter from another of the appellant's employers (Employer 2) to the ministry dated February 27, 2013 with copies of the appellant's pay statements from May 18, 2010 through August 21, 2012 with handwritten note indicating that a "wine card TB" deduction was earnings given in the form of a card that the appellant could use to make purchases at a store;
- 11) Fax cover from another of the appellant's employers (Employer 3) to the ministry dated March 21, 2013 with Confirmation of Earnings indicating the appellant's earnings from 2010 through 2012;

12) Letter from the ministry to the appellant dated March 26, 2013 advising that the ministry determined that the appellant had received disability assistance for which he was not eligible and an overpayment of \$18,761.21 had been recorded on his file. The letter states that the overpayment occurred because the appellant had failed to accurately declare his employment earnings from three employers from July 2010 to December 2012. The letter states that the documents obtained from the appellant's employer indicate that during this time he received \$41,789.05 net earnings as well as an income tax refund in May 2012 that he did not declare, resulting in the overpayment. The letter advises the appellant that he is liable to repay the overpayment amount. The letter also states that the appellant is required to accurately and completely report his income, assets and circumstances when he applies for assistance and to report any changes to that information.

13) Second letter from the ministry to the appellant dated March 26, 2013 advising that as the overpayment occurred because of inaccurate or incomplete reporting, the ministry was applying a sanction to the appellant's file, in the amount of a monthly reduction of \$25 each month for the next three months in accordance with EAPWDR section 28.1, starting on his 2013 May assistance cheque.

In his Notice of Appeal dated June 17, 2013, the appellant states that the ministry's reconsideration decision is full of errors and misinformation and that he cannot contemplate how the ministry determined the overpayment. With his Notice of Appeal, the appellant submitted a letter dated June 11, 2013, amended June 16, 2013 (20 pages) stating that there are various errors in the ministry documents. For example, the appellant states that with respect to Employer 1, his employer is his mother and that he only received a salary or stipend of \$150 per week and that the other amounts declared are loans. The appellant reports that he showed his mother the overpayment chart but she has refused to assist him. The appellant indicates that there are a number of blank pages in the ministry records and that he cannot be considered liable for a blank page. He also reports that one of the Confirmation of Earnings forms provided by Employer 3 for 2010 is not accurate as he did not start employment with Employer 3 until 2011.

Admissibility of New Information

Prior to the hearing the appellant submitted 6 email submissions dating from July 15 to September 24, 2013 that included the following:

1) Emails dated July 15 to August 1, 2013 with statements about various communications the appellant has had with other agencies such as community programs/advocates, mental health associations, ombudsperson office, and a dispute with CRA. The appellant also reports that he has to make student loan payments and his hard drive was stolen. He also reports that there was a 30-month family crisis and everyone seems to be turning him away.

2) Emails dated July 23 to September 2, 2013 (24 pages) in which the appellant advises that his hard drive with student loan data was stolen, that he has an employment standards tribunal with respect to one of his employers, that the employment standards branch has been refusing him service, information as to his different residences within the province, that he needs an advocate, that he has been discriminated against by his employer and co-workers, that he was mistreated by one of his employers, that he is innocent, that he is terrified of what is happening and does not want to go to prison that he is losing sleep every night, his work shifts are being cut back and he has received a written warning from Employer 3, information regarding one of his co-workers or not, and stating that

he wants to make sure that the agents who audited and managed his file are stable and have proper legal authority and authorization with the ministry, and that he wanted to make sure that they didn't "outsource" their audit because the presentation and quality were not good.

3) Emails dated September 23 and 24, 2013 requesting information regarding a privacy commissioner complaint, comments regarding advocates that he was asking for assistance, that it is insane to have an audit commencing January 15, 2013 when his step-father passed away and that he is being mistreated and refused assistance by other community agencies.

Pursuant to section 22(4) of the *Employment and Assistance Act*, the tribunal may admit new evidence provided that it is in support of information and records that were before the ministry at the time of reconsideration. The panel finds that the appellant's submissions relate to various other matters and issues with other agencies and are not in support of information and records that were before the ministry at the time of reconsideration. Therefore, the panel has not admitted the appellant's submissions into evidence.

Prior to the hearing, the ministry provided submissions as follows:

- 1) Letter from the ministry dated July 25, 2013 stating that the minister's opinion that the appellant received assistance for which he was not eligible and thus incurred an overpayment which he is required to repay is supported by the evidence included in the reconsideration decision.
- 2) Submissions dated August 7, 2013 (13 pages) setting out the ministry's position that the purpose of the appeal is to determine if the overpayment and the appellant's liability for the overpayment are reasonable decisions. The submissions also included MIS Relevant Notes 1 and 2, and copies of the appellant's application for disability assistance, Parts 1 and 2, and excerpts of the EAPWDA legislation. The MIS Relevant Notes 1 and 2 are new evidence.
- 3) Email dated September 12, 2013 stating that the ministry had no further submissions and would be relying on the reconsideration decision and two written submissions already provided.

The panel has accepted the ministry's submission dated July 25, 2013 as a submission only as it does not contain any new evidence. The panel has also accepted the ministry's submission dated August 7, 2013 into evidence. While most of the submission is a restatement of the ministry's position, the MIS Relevant Notes 1 and 2 are admitted into evidence as they are in support of information before the ministry at the time of reconsideration as they relate to the appellant's eligibility for PWD designation which impacts his earnings exemption.

The panel does not admit the ministry's email dated September 12, 2013 as it is not new evidence and is not a submission.

With the consent of both parties the appeal proceeded by way of a written hearing.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry reasonably determined that the appellant had incurred an overpayment of \$18,761.21 that he was required to repay to the ministry pursuant to section 18(1) of the EAPWDA.

The relevant sections of the legislation are as follows:

EAPWDA**Reporting obligations**

11 (1) For a family unit to be eligible for disability assistance, a recipient, in the manner and within the time specified by regulation, must

(a) submit to the minister a report that

(i) is in the form prescribed by the minister, and

(ii) contains the prescribed information, and

(b) notify the minister of any change in circumstances or information that

(i) may affect the eligibility of the family unit, and

(ii) was previously provided to the minister.

(2) A report under subsection (1) (a) is deemed not to have been submitted unless the accuracy of the information provided in it is affirmed by the signature of each recipient.

Overpayments

18 (1) If disability assistance, hardship assistance or a supplement is provided to or for a family unit that is not eligible for it, recipients who are members of the family unit during the period for which the overpayment is provided are liable to repay to the government the amount or value of the overpayment provided for that period.

(2) The minister's decision about the amount a person is liable to repay under subsection (1) is not appealable under section 16 (3) [*reconsideration and appeal rights*].

Liability for and recovery of debts under Act

19 (1) An amount that a person is liable to repay under this Act is a debt due to the government that may be

(a) recovered in a court that has jurisdiction, or

(b) deducted, in accordance with the regulations from any subsequent disability assistance, hardship assistance or supplement for which the person's family unit is eligible or from an amount payable to the person by the government under a prescribed enactment.

(2) Subject to the regulations, the minister may enter into an agreement, or accept any right assigned, for the repayment of an amount referred to in subsection (1).

(3) An agreement under subsection (2) may be entered into before or after the disability assistance, hardship assistance or supplement to which it relates is provided.

(4) A person is jointly and separately liable for a debt referred to under subsection (1) that accrued in respect of a family unit while the person was a recipient in the family unit.

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,

(b) Repealed. [B.C. Reg. 197/2012, Sch. 2, s. 1 (a).]

[as it read prior to October 1, 2012: (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;

"unearned income" means any income that is not earned income, and includes, without limitation, money or value received from any of the following:

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

Limits on income

9 (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 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.

Reporting requirement

29 For the purposes of section 11 (1) (a) [reporting obligations] of the Act,

(a) the report must be submitted by the 5th day of the calendar month following the calendar month in which one or more

of the following occur:

- (i) a change that is listed in paragraph (b) (i) to (v);
 - (ii) a family unit receives earned income as set out in paragraph (b) (vi);
 - (iii) a family unit receives unearned income that is compensation paid under section 29 or 30 of the *Workers Compensation Act* as set out in paragraph (b) (vii), and
- (b) the information required is all of the following, as requested in the monthly report form prescribed under the Forms Regulation, B.C. Reg. 95/2012:
- (i) change in the family unit's assets;
 - (ii) change in income received by the family unit and the source of that income;
 - (iii) change in the employment and educational circumstances of recipients in the family unit;
 - (iv) change in family unit membership or the marital status of a recipient;
 - (v) any warrants as described in section 14.2 (1) of the Act;
 - (vi) (vi) if the calendar month is within the calendar year in respect of which the family unit qualifies for an exemption under section 3.1 of Schedule B, the amount of earned income received by the family unit in the calendar month and the source of that income;
 - (vii) (vii) if the calendar month is within the calendar year in respect of which the family unit qualifies for an exemption under section 7.1 of Schedule B, the amount of unearned income that is compensation paid under sections 29 and 30 of the *Workers Compensation Act* received by the family unit in the calendar month.

EAPWDR Schedule A

Maximum amount of disability assistance before deduction of net income

1 (1) Subject to this section and 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.

Monthly support allowance

2 (0.1) For the purposes of this section:

- (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 (4) for each dependent child in the family unit.

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 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 Family Unit Size	Column 2 Maximum Monthly Shelter
1	1 person	\$375

EAPWDR Schedule B – Net Income Calculation

Deduction and exemption rules

Section 1 provides that when calculating the net income of a family unit for the purposes of section 24(b) of the EAPWDR,

a) the following are exempt from income: income earned by a dependent child attending school on a full time basis, basic family care rate paid for foster homes, a family bonus exception an portion treated as unearned income, basic child tax benefit, GST credit, refundable sales tax credit, low income climate action tax credit or HST credit, specified government settlement payments, BC earned income benefit, energy or fuel tax rebates, monies paid under a written agreement in respect of benefits to enable a PWD to live in the community instead of an institution, payments granted pursuant to agreement under the Child, Family and Community Service Act, certain business loans, Fair Pharmacare refund

programs, payments provided by Community Living BC, money withdrawn from a registered disability savings plan, money paid pursuant to the Criminal Injury Compensation Act, settlements paid pursuant to agreements approved by the Supreme Court of BC, and payments granted under other specified government programs;

(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,

(c) all earned income must be included, except the deductions permitted under section 2 and any earned income exempted under sections 3, 3.1 and 4, and

(d) all unearned income must be included, except the deductions permitted under section 6 and any income exempted under sections 7, 7.1, 7.2 and 8.

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;

(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.

Calendar month exemption — earned income

3 (1) Subject to subsections (2) and (2.1), the amount of earned income calculated under subsection (3) is exempt for a family unit.

(2) If an application for disability 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 disability assistance unless

(a) a member of the family unit who is designated as a person with disabilities previously received disability assistance under the Act or a former Act, or

(b) a member of the family unit received income assistance under the *Employment and Assistance Act* for the calendar month immediately preceding that first calendar month.

(2.1) A new family unit described in section 3.1 (3) (b), (4) (b), (10) (b) or (11) (b) that does not provide written notice to the minister in accordance with section 3.1 (3) (c), (4) (c), (10) (c) or (11) (c), as applicable, may claim an exemption under this section except in relation to the calendar month in which the new family unit forms.

(3) 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 panel notes that EAPWDR Schedule B section 3 above is effective as of October 2012 and that prior to that date the legislation provided for a three month period before the earning exemption was allowed and that the earnings exemption for a single recipient was \$500.

Position of the Parties

The appellant's position is that he did not understand that he had to report all of his income but that he now understands his reporting obligations and is complying with them. The appellant's position is that he is an honest person and would not have purposely taken any money that did not belong to him. The appellant states that he is employed but has student loans, and a car loan and does not know how he could ever repay the overpayment amount. The appellant's position is that the income reported by Employer 1 should not be taken into account as Employer 1 is his mother and the reported income is only partly income and partly loans.

In addition, the appellant's position is that as the Application for Disability Assistance states that the BC Government is responsible for making sure assistance goes only to people who are eligible and as the BC Government did not check his eligibility in a timely manner, the overpayment arose due to the government's lack of responsibility.

The ministry's position is that the appellant applied for assistance as of March 2010, obtained his PWD designation in July 2010 which took effect August 2010. The ministry states that the appellant had no contact with the ministry from July 2010 through January 2013 and during that time, he received his disability assistance, minus only his CPP income, until a file review was started in January 2013 and revealed that the appellant had employment income from Employers 1, 2 and 3, and a tax refund, none of which had been declared.

The ministry states that EAPWDR section 9(2) sets out that 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. As the appellant is a single recipient of disability assistance, Schedule A states that his disability assistance rate is \$906.42 before deductions. Schedule B provides that a single PWD recipient is eligible for an earnings exemption, which was \$500 per month until September 2012 and \$800 per month effective October 2012.

The ministry states that the appellant received CPP income and as that is defined as "unearned income" and is deducted fully from assistance except the tax exempt amount, the appellant's CPP income was automatically entered and removed by the CPP data-match until his CPP was discontinued in November 2010.

The ministry's position is that the appellant began receiving disability assistance effective August 2010 and that the legislation in effect at the time included a 3 month wait before the earnings exemption could be applied. This means that the appellant was not eligible for the earnings exemption until November 2010. In calculating eligibility the ministry states that it works on a 2 month reporting cycle such that income earned in June is reported in July and affects August assistance. However, the ministry states that the appellant's earnings for May, June and July 2010 had no impact on his assistance because it was income received prior to the date of his eligibility and not relevant to the overpayment calculation.

The reconsideration decision states that the ministry reviewed the initial overpayment decision and all documents and confirms that the appellant incurred a \$18,761.21 overpayment that he is required to repay to the ministry. The ministry states that as the appellant was not eligible for assistance until August 2010 his income earned in July was not applied as a deduction to his September 2010 eligibility so there was no overpayment that month. The ministry notes that the original worker inaccurately noted the earnings exemption on the OP chart for September and October 2010 but that based on the pay records from the employers, the overpayment amount remained the same whether there was an earnings exemption or not as it was determined that the full \$606.57 he received was an overpayment. The reconsideration decision states that the ministry reviewed all the employment records, eligibility and overpayment amounts listed on the OP chart and is satisfied that the earnings exemption could be applied effective November 2010.

The ministry states that prior to October 1, 2012, income tax refunds were defined as "earned income" and deducted from assistance except amounts included in the return for the following: tax credits identified in 1(a)(vii), working income tax benefits (xxxv), climate action dividend (xxxvii), and a tax refund received because of a tax liability incurred participating in the Forest Worker Transition Program (xvi). As of October 1, 2012, the ministry notes that tax refunds are now included as "unearned income" and are exempt but that as the appellant's income tax refund was received May 2012, the legislation in effect must be applied, so the tax refund is considered "earned income" and must be deducted. However, the ministry also states that as the appellant already had income in excess of his eligibility he was ineligible for July 2012 benefits regardless of the income tax refund.

The ministry also states that amounts received from Employer 2 as a "wine card" credit must be included as earned income as it was received in exchange for work and is not an allowable exemption.

The ministry's position is that the appellant signed the Application for Disability Assistance indicating that he understood his responsibilities to report income and/or changes to the ministry but that he did not report any changes or income and had income from three different employers in excess of \$40,000 over the 2 ½ years in question. The ministry apologized for failing to review the appellant's file sooner but as he incurred an overpayment of assistance he is required to repay the \$18,761.21 that he was ineligible to receive.

Panel Decision

Section 18(2) of the EAPWDA provides that the minister's decision about the amount a person is liable to repay under section 18(1) is not appealable, so the panel notes that its jurisdiction is limited to whether or not the ministry reasonably determined that the appellant had incurred an overpayment that he was liable to repay but not the amount of the overpayment.

Although the appellant's position is that he did not understand that he had to report his income to the ministry, the panel finds that the appellant signed the Application for Disability Assistance which clearly states, on part 1, under the heading "My Responsibilities" that he must report all money and assets that he receives every month and that he must report all changes in his circumstances that might affect his eligibility for assistance.

The panel notes that the appellant states that the income from Employer 1 is not accurate and that Employer 1, who is also his mother, provided incorrect information and reported loans to him as income, and then would not cooperate with him in providing correct information to the ministry. However, the panel finds that without any documentation from Employer 1 confirming that the information is not accurate, and without any documentation from the appellant to dispute the reported earnings (such as statements indicating that he could not have earned income as reported as he was at college or at another job), the ministry was reasonable in making the calculation using the income from Employer 1 as reported.

The appellant does not dispute that the earnings reported by Employer 2 are accurate. The panel notes that the "wine card" that is provided to the appellant in exchange for earnings does not fall within any of the earnings exemptions set out in EAPWDR Schedule B section 1, and the ministry reasonably determined that the income provided through means of a "wine card" is "earned income" as defined in EAPWDR section 1 and should be included in the appellant's income calculation.

With respect to Employer 3, the appellant states that the information regarding his earnings is not correct as he did not begin working for Employer 3 until 2011. However, the panel notes that on the Confirmation of Earnings for 2010, Employer 3 has not included any income amounts and indicates on the form that the appellant did not start work until October 26, 2011. The panel also notes that the ministry, on the OP Chart, did not include any earnings from Employer 3 in respect to 2010. Accordingly, there is no error in the OP Chart in relation to the blank 2010 Confirmation of Earnings form.

With respect to the appellant's monthly disability assistance amount the panel finds that the ministry reasonably determined that the appellant, as a single recipient of disability assistance is entitled to monthly support of \$531.42 and monthly shelter of \$375 for total monthly disability assistance of \$906.42 as provided by EAPWDR Schedule A sections 2 and 4.

As noted above, the panel's jurisdiction is limited to a determination of whether there was an overpayment, not the amount of any overpayment. However, in order to determine if there was an overpayment it is necessary to review the OP Chart and the appellant's documented income in order to determine if the ministry reasonably determined that there was an overpayment.

With respect to the OP Chart, the panel has compared the income reported by the Employers 1, 2 and 3 with the amounts noted by the ministry for the time in issue and finds that the OP Chart accurately reflects the reported income and accurately calculates the overpayment amounts each month. For example, for November 2010, the appellant received disability assistance of \$606.57 and the ministry subsequently determined that he had income earned in September 2010 from Employer 1 in the amount of \$1,000, income from Employer 2 of \$1,095.70 and CPP income of \$214.85 for total income of \$2,310.55. The ministry applied the appropriate earnings exemption at the time of \$500 as provided by EAPWDR Schedule B section 3, and calculated the appellant's earned income from September 2010 that would be applied to his November 2010, pursuant to the 2 month reporting cycle, to be \$1,810.55. For the month of November 2010 the appellant received disability assistance of \$666.57 but as his earned income after the earnings exemption was \$1,810.55, he was not eligible for disability assistance pursuant to EAPWDR section 9(2) as his net income exceeded the amount of disability assistance to which he was entitled. Therefore, the panel finds that the ministry reasonably determined that the appellant received disability assistance for the month of November 2010 that he was not eligible for and is liable to repay.

The panel finds that the ministry reasonably determined that the appellant received disability assistance he was ineligible for, consistent with the OP Chart amounts for the months of October 2010 through February 2013. The panel also finds that the ministry reasonably determined that the appellant is liable to repay the overpayment, as is required by EAPWDA section 18.

The panel appreciates how the appellant may feel that the ministry ought to have conducted a review of his file earlier as the ministry would likely have discovered the appellant's failure to report his income before February 2013 which could have addressed the reporting problem earlier and resulted in a lesser overpayment amount. However, although the Application for Disability Assistance indicates that the government has a responsibility for making sure assistance goes only to people who are eligible, there is nothing in the application or the pertinent legislation (i.e. EAPWDA or EAPWDR) that requires the ministry to undertake file reviews at any specified times. There is however, a positive obligation on the appellant, as a recipient of disability assistance, to report all money and assets that he receives each month and to report all changes in his circumstances that might affect his eligibility for assistance. The panel does not accept the appellant's argument that the overpayment arose due to the ministry's lack of responsibility.

Conclusion

The panel finds the ministry's reconsideration decision that found that the appellant received disability assistance that he was not eligible for and is required to repay to the ministry pursuant to EAPWDR section 18 was reasonably supported by the evidence and a reasonable application of the legislation in the appellant's circumstances.

The panel therefore confirms the ministry's reconsideration decision.