

### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated May 9, 2013 which found that:

- the appellant is not eligible for \$2.19 of assistance for the month of March 2011, pursuant to Section 24 of the EAPWDR, due to an increase in her net income;
- the appellant is not eligible for disability assistance for the month of April 2011, under Section 9 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), as the net monthly income of the family unit exceeded the amount of disability assistance payable;
- the appellant is not eligible for assistance received from May 2011 to March 2013 inclusive due to possession of assets in excess of the legislated limit, pursuant to Section 10(2) of the EAPWDR;
- the appellant is liable to repay to the government the amount or value of the overpayment provided, pursuant to Section 18 of the EAPWDA.

### PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Sections 1, 9, 10, 24, 29 and Schedules A and B

Employment and Assistance for Persons With Disabilities Act (EAPWDA), Sections 11 and 18

## PART E – Summary of Facts

The appellant consented to the attendance of a ministry representative, as an observer, at the hearing.

The evidence before the ministry at the time of the reconsideration decision included:

- 1) Application for Income Assistance (Part 1) dated November 23, 2009 which sets out, in part, sections for "rights" and "responsibilities", including "...to provide accurate and complete information when I apply for and continue to receive assistance," and "I must report all money and assets that I receive each month";
- 2) Letter dated January 24, 2013 from the ministry to the appellant requesting information and documents;
- 3) Statement of Account for a bank account for the period January 1, 2011 through March 31, 2011;
- 4) Statement of Account for a bank account in the appellant's name for the period from January 31, 2011 (showing a deposit of \$16,451.52 in February 2011) to April 29, 2011 (balance of \$1,563.69 on May 31);
- 5) Statement of Account for a bank account in the appellant's name for the period from January 31, 2011 (balance of \$5,002.06 on February 28) through July 31, 2012 (balance of \$7,173.28 on August 31);
- 6) Transaction details showing balances as follows:
  - August 31, 2012- \$7,173.28
  - September 28, 2012- \$7,181.53
  - October 31, 2012- \$7,190.06
  - November 30, 2012- \$7,198.33
  - December 31, 2012- \$7,206.88
  - January 31, 2013- \$7,217.59
- 7) Letter dated January 16, 2013 from Work Safe BC stating in part that the appellant is in receipt of a disability pension with detailed payments from February 2008 through 2013;
- 8) Print out of CPP income query for February 6, 2013 (2) and March 5, 2013;
- 9) International Money Order dated February 27, 2013 payable to the appellant in the sum of \$3,000;
- 10) Letter dated March 5, 2013 from the ministry to the appellant stating in part that an appointment has been scheduled to discuss a possible overpayment of assistance and enclosing an overpayment chart;
- 11) Letter dated March 14, 2013 from the ministry to the appellant stating in part that a letter was sent to her on March 5, 2013 asking her to attend a meeting by telephone to discuss her file but she did not attend. A review of her assistance between March 1, 2011 and March 5, 2013 was completed and it was determined that she received assistance for which she was not eligible in the amount of \$3,027.64 and an overpayment chart is attached;
- 12) Overpayment Chart for excess income from March 2011 through March 2013 and for excess asset for period from May 2011 through March 2013;
- 13) Bank Profile Statement dated March 22, 2013 showing a personal chequing account with a balance of \$1.77 and a RDSP [registered disability savings plan] with a balance of \$3,000; and,
- 14) Request for Reconsideration- Reasons dated April 24, 2013.

Prior to the hearing, the appellant provided additional documents as follows:

- 1) Statement of Account for a bank account for the period January 1, 2011 through February 28, 2011;
- 2) Notices of Deposit for October 26, 2011 (\$96.45) and February 22, 2012 (\$76.89) from the ministry payable to the appellant;
- 3) "Staying in Touch" publication of Human Resources and Skills Development Canada for February 2013;
- 4) Notice dated March 20, 2013 from the ministry to the appellant stating in part that the appellant is required to submit further information to confirm her eligibility.

Prior to the hearing, the ministry provided a missing page from the Application for Income Assistance (Part 1) dated November 23, 2009.

The ministry did not object to the admissibility of the Statement of Account or the Notices of Deposit but objected to admissibility of the Staying in Touch publication as relating to a federal government program not

relevant to this appeal and also objected to the Notice dated March 20, 2013 as relating to other matters between the parties. The panel reviewed the documents and did not admit the Staying in Touch publication as it relates to a federal government program and is not in support of information or records before the ministry on reconsideration. The panel admitted the other documents as relating to the circumstances around the alleged overpayment and being in support of information before the ministry on reconsideration, pursuant to Section 22(4) of the Employment and Assistance Act. The appellant did not object to the admissibility of the missing page from the Application for Income Assistance and as this was information that was before the ministry on reconsideration but was erroneously missed on photocopying, the panel finds that it is admissible.

In her Notice of Appeal, the appellant wrote that the federal and provincial governments have an agreement and the federal government reports everything. The appellant stated that the bank statements, that she submitted with her Request for Reconsideration, are proof that deductions were made by the ministry before she had an opportunity to report her income. The appellant wrote that the stub she received already had a deduction showing. The appellant stated that when she saw that the deduction had been made, she came to the conclusion that the ministry received the reports from the federal government and they, being the trained professionals, or by automatic computer program, have made their appropriate calculations and the deductions are proper. The appellant wrote that she had no reason to imagine that the ministry made a mistake and that later on she would end up being held accountable.

The appellant further wrote that with all her health problems, being sick and in pain all the time, and her mother also being sick and with no one to help them, her energies and attention are concentrated on daily living tasks, doctor visits, and trying to make it through the day. The appellant stated that if the ministry had waited for her to report her income, she would have been paid the full amount of \$948 instead of just \$76, and so the ministry took off an extra month of \$948. The appellant wrote that whenever CPP provides an increase in cost of living the cheques from the ministry are adjusted automatically without her having to report it. The appellant stated that it is difficult for her to keep track of the \$1 change since she does not receive any notices from the WCB [Workers' Compensation Board] or bank statements.

The appellant wrote that when she applied for Persons With Disabilities designation, she was already on income assistance and had zero funds. She had no clue there was something wrong with having money as she never received any notice from the ministry and they never withheld any funds from her (i.e. the balance of \$76). When the ministry wanted to clarify a matter with her, or needed further information, in the past, they would withhold her cheque and send her a notice to come into the office and provide further information before she could receive the cheque. When she received the payment from CPP, she was not called to the office and was never given any indication that there was something requiring action on her part. The appellant wrote that after paying off her debts, she kept the remainder in a TFSA account which she thought was similar to an RDSP.

In her Request for Reconsideration by way of letter dated April 24, 2013, the appellant wrote that Canada Pension informed the ministry that they sent her payments, as set out in the bank statements. Her cheque for \$16,451.52 arrived in early February 2011. She deposited the cheque in her bank on February 11, 2011 and waited for the ministry notice of deposit and stub to fill in and declare her income. The appellant wrote that the notice of deposit dated February 13, 2011 from the ministry shows \$96.45 after deductions and she thought that the ministry had already made the deductions and there was no need for her to declare her income again. The appellant stated that there was a deposit to her account on February 23, 2013 for CPP of \$698.53 and the fact that the ministry already made the deduction in February before she had an opportunity to fill in the stub, proves that the ministry was notified by CPP. The appellant wrote that if the ministry made an accounting error with deductions, it is not her fault and she should not be penalized.

The appellant further wrote that when she received the cheque she immediately paid all her debts and she had \$7,000 remaining. The ministry did not issue her any warnings or notices regarding what she is allowed to keep or that she should deposit the money in an RDSP account. The appellant stated that she assumed that

the TFSA account was good enough. The appellant wrote that if she had known about the RSDP account, she would have been more than happy to transfer the funds, especially since this is her "old age nest egg" after losing all her savings and being subject to Internet fraud and going through bankruptcy a few years ago. The appellant stated that when she signed the forms, she had no money at all and this was done in ignorance. The appellant wrote that she should have received a warning regarding fund management and the \$5,000 rule. At the hearing, the appellant stated that her bank account statements show that the federal government shares information with the ministry and that the deductions are automatic. The appellant stated that she deposited her cheque for \$16,451.52 on February 11, 2011 and the deposit from the ministry on February 13, 2011 shows \$96.45 after deductions, rather than her regular disability assistance amount. She thought that the ministry had already made the deductions and there was no need for her to declare her income. The appellant stated that if the ministry had not made the deduction from her February 2011 assistance, she would have filled out her reporting stub and reported the CPPD payment received and she would have insisted to speak to the ministry about what will happen with her assistance. The appellant stated that if the ministry had not "jumped the gun" and waited for her to report her income, she would have received her full assistance in February 2011 and she is, therefore, short \$794.98 (her disability assistance less the WCB monthly payments).

The appellant stated that she realizes that for WCB there is no such communication and she wants to sign a Release so that WCB will provide information of increases to the ministry. The appellant stated that the increase is for a yearly cost of living adjustment of \$1-\$2 and the WCB does not send her regular statements. The appellant stated that she has never received a reminder about her responsibilities for reporting from the ministry, as she has received from the federal government. The appellant stated that she has experienced many mistakes by the ministry in the last few months and she believes there have been errors in communication regarding her responsibilities, and she thought it was safe to assume that they knew what they were doing. The appellant stated that she had many problems with her health in 2011 and more important concerns than filling out forms. The appellant stated that she had not wanted to apply for income assistance because her goal was to apply for disability assistance but she had no money at that time and would not have paid attention to any information about having assets because that would have seemed like a joke to her at the time. The appellant stated that she has received income assistance two times in the past. The appellant stated that no one from the ministry gave her financial advice so that she could have transferred her money into an RDSP, which was exempt, rather than the TFSA which she thought was exempt.

The ministry relied on its reconsideration decision which included evidence that the appellant's file re-opened in November 2009 and she currently receives disability assistance as a single recipient at the rate payable under Schedule A of \$906.42 per month. At the hearing, the ministry clarified that the applicable asset limit for a sole recipient with no dependants was \$3,000 in February 2011 and this was increased to \$5,000 by legislative amendment effective October 1, 2012. The ministry also explained at the hearing that the system is income and asset tested to ensure that payments are being made by the ministry to those who are in need of assistance. The ministry stated that there is a data, or "tape," match with the federal government for some types of payments received, such as the monthly CPP amounts received by the appellant, but not for the lump sum, retroactive payment. The ministry clarified that it does not give financial advice to recipients but will sometimes explain what other clients have done upon receiving a large sum of money. The ministry stated that if the appellant had reported the lump sum payment for CPP, she would have not received any assistance for April 2011 and she would have been requested to attend at the ministry office to provide proof of the amount received and there would have been an opportunity for further discussion with her.

## PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry decision, which found that the appellant was not eligible for income assistance as the net monthly income of the family unit exceeded the amount of disability assistance payable and she had assets in excess of the legislated limit and, therefore, she is liable to repay to the government the amount or value of the overpayment provided, pursuant to Section 18 of the EAPWDA, was reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

Section 9 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) provides that:

### 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.

Section 24 of the EAPWDR provides that:

### Amount of disability 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 of the EAPWDR sets out the total amount of disability assistance payable as the sum of the monthly support allowance for a family unit matching the family unit of the applicant or recipient plus the applicable shelter allowance.

Section 1 of the EAPWDR defines:

"unearned income" to mean "...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; . . .
- (j) workers' compensation benefits and disability payments or pensions..."

"asset" means

- (a) equity in any real or personal property that can be converted to cash,
- (b) a beneficial interest in real or personal property held in trust, or
- (c) cash assets;

"cash assets" in relation to a person, means

- (a) money in the possession of the person or the person's dependant,

- (b) money standing to the credit of the person or the dependant with
  - (i) a savings institution, or
  - (ii) a third party
    - that must pay it to the person or the dependant on demand,
- (c) the amount of a money order payable to the person or the dependant, or
- (d) the amount of an immediately negotiable cheque payable to the person or the dependant;

In calculating the net income of a family unit under Schedule B, specific exemptions and deductions from unearned income are provided for as follows:

#### **Deduction and exemption rules**

1 When calculating the net income of a family unit for the purposes of section 24 (b) [*amount of disability assistance*] of this regulation, . . .

- (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 unearned income**

6 The only deductions permitted from unearned income are the following:

- (a) any income tax deducted at source from employment insurance benefits;
- (b) essential operating costs of renting self-contained suites.

#### **Exemptions — unearned income**

7 . . .

(1) The following unearned income is exempt: . . .

- (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*.

#### **Calendar month exemption — workers compensation**

7.1 (1) Subject to subsection (2), unearned income that is compensation paid under section 29 or 30 of the Workers Compensation Act is exempt for a family unit. . . .

#### **Calendar year exemption — workers compensation**

7.2 (1) Despite section 7.1 but subject to this section, the amount of unearned income in a calendar year that is compensation paid under sections 29 and 30 of the Workers Compensation Act, as calculated under subsection (2)

of this section, is exempt for a family unit

(a) if . . . [requirements for various scenarios]

**Backdated CPP treated as unearned income**

11 (1) In this section, "pension benefit" means a pension or other payment under the Canada Pension Plan (Canada).

(2) If

- (a) disability assistance is provided to a family unit for a calendar month or any portion of a calendar month that would not have been provided if a pension benefit had been paid for that calendar month, and
- (b) subsequently a pension benefit becomes payable or payment of a pension benefit may be made under the Canada Pension Plan (Canada) to a recipient in the family unit for that calendar month or any portion of that calendar month the amount of the pension benefit that becomes payable for that month or portion of that month must be treated as unearned income and is considered to have been received by the recipient in that month.

Section 10 of the EAPWDR provides:

**Asset limits**

10 (1) The following assets are exempt for the purposes of subsection (2):

... (jj) funds held in, or money withdrawn from, a registered disability savings plan;

(2) A family unit is not eligible for disability assistance if any of the following apply:

- (a) a sole applicant or sole recipient has no dependent children and has assets with a total value of more than \$5 000;
- (b) an applicant or recipient has one or more dependants and the family unit has assets with a total value of more than \$10 000.

Section 11 of the EAPWDA provides:

**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.

Section 18 of the EAPWDA provides:

**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].

The ministry's position is that the appellant is a single recipient of disability assistance and is therefore eligible

for a total allowance of \$906.42 per month under Schedule A of the EAPWDR. The ministry argued that the appellant was in receipt of CPP benefits of approximately \$16,000 in February 2011, which are included in the definition of "unearned income" in Section 1 of the EAPWDR. The ministry pointed out that Section 11 of Schedule B of the EAPWDR also specifically includes backdated lump sum payments of CPP as "unearned income." The ministry argued that there are no legislative exemptions or deductions for CPP income other than Schedule B, Section 7(1)(e) which does not apply in the appellant's case. As the monthly net income of the appellant's family unit (\$16,000) exceeded the disability assistance rate (\$906.42), the appellant was not eligible for assistance for the month of April 2011, pursuant Section 9 of the EAPWDR.

The ministry's position is further that the appellant receives monthly WCB benefits and, in January 2011, the amount increased from \$151.44 to \$153.63 and the increase was not reported to the ministry. The ministry argued that WCB payments are also included in the definition of "unearned income" in Section 1 of the EAPWDR. The ministry argued that there are no legislative exemptions or deductions for WCB income other than Schedule B, Section 7.1 which does not apply in the appellant's case since her benefits are issued under Section 23 of the *Workers' Compensation Act*, as was confirmed to the ministry by the WCB. The ministry argued that Section 24 of the EAPWDR requires that all of the appellant's net income calculated under Schedule B must be deducted from her disability assistance payable under Schedule A and, therefore, the appellant is ineligible for \$2.19 of assistance for the month of March 2011.

The ministry's position is that the appellant is a sole recipient with no dependants and, therefore, the applicable asset limit under Section 10(2)(a) of the EAPWDR is \$5,000. The ministry pointed out at the hearing that the applicable limit in February 2011 was \$3,000 prior to an amendment to the legislation effective October 1, 2012 which increased the limit to \$5,000. The ministry argued that Section 1 of the EAPWDR defines "assets," in part, as "cash assets", which is further defined as money in the possession of the person or money standing to the credit of the person with a savings institution or a third party. The ministry argued that the appellant's bank statements confirm that her cash assets have been in excess of \$3,000 since February 2011 to October 1, 2012, and in excess of \$5,000 from October 1, 2012 to February 2013. The ministry acknowledged that the appellant withdrew \$3,000 from her bank account on February 27, 2013 and deposited these funds in a registered disability savings plan (RDSP) and that the \$3,000 held in an RDSP are exempt from the calculation of her assets, pursuant to the exemption in Section 10(1)(jj) of the EAPWDR. The ministry argued that the appellant's funds held in her bank account were considered as assets, as opposed to income, in March 2011 and were at a level above the applicable legislated limit until February 2013 and that, therefore, she is ineligible for disability assistance from May 2011 to March 2013 inclusive pursuant to Section 10(2)(a) of the EAPWDR.

The ministry's position is that Section 18 of the EAPWDA states that if disability assistance is provided to a recipient who is not eligible for it, the recipient is liable to repay to the government the amount or value of the overpayment provided. The ministry argued that the appellant was not eligible for \$3,027.64 of assistance received by her for March 2011 through March 2013 and she is, therefore, required to repay it.

The appellant does not dispute that she was in receipt of CPP disability benefits in the total amount of \$16,451.52 in February 2011 or an increase in WCB payments in January 2011. The appellant also does not dispute that, after paying all her debts, she had \$7,000 remaining in her bank account until she transferred \$3,000 to an RDSP in February 2013. The appellant argued the federal and provincial governments have an agreement and the notice of deposit dated February 13, 2011 from the ministry shows \$96.45 after deductions and she thought that the ministry, as trained professionals, had received the report from the federal government and had already made the deductions and there was no need for her to declare her income again. The appellant further argued that with all her health problems, being sick and in pain all the time, her energies and attention were concentrated on daily living tasks, doctor visits, and trying to make it through the day. The appellant argued that if the ministry had waited for her to report her income, she would have been paid the full amount of \$948 instead of just \$76, and so the ministry took off an extra month of \$948. The appellant argued that whenever CPP provides an increase in cost of living the cheques from the ministry are adjusted automatically without her having to report it. The appellant argued that she does not receive any notices from



the WCB or bank statements so it is difficult for her to keep track of the \$1 change. The appellant argued that if the ministry made an accounting error with deductions, it is not her fault and she should not be penalized.

The appellant further argued that when she applied for Persons With Disabilities designation, she was already on income assistance and had zero funds and she had no clue there was something wrong with having money as she never received any notice from the ministry. The appellant argued that in the past when the ministry wanted to clarify a matter with her, or needed further information, they would withhold her cheque and send her a notice to come into the office and provide further information before she could receive the cheque. The appellant argued that when she received the payment from CPP, she was not called to the office and was never given any indication that there was something requiring action on her part. The appellant argued that after paying off her debts, she kept the remainder in a TFSA account which she thought was similar to an RDSP. The appellant argued that if she had known about the RDSP account, she would have been more than happy to transfer the funds earlier. The appellant argued that she should have received a warning regarding fund management and the \$5,000 rule.

The panel finds that it is not disputed that the appellant was in receipt of an increase in WCB payments in the total amount of \$2.19 in January 2011 and CPP disability benefits in the total amount of \$16,451.52 in February 2011. Money or value received from any type or class of Canada Pension Plan benefits as well as workers' compensation benefits and disability payments or pensions is specifically included in the definition of "unearned income" under Section 1(1) of the EAPWDR. Section 11 of Schedule B of the EAPWDR specifically includes backdated CPP as unearned income. Although the appellant argued that she believed that the ministry had received information from the federal government and had already made the necessary deductions as a result of her receipt of the lump sum payment, the appellant also admitted being aware of her ongoing obligation to report all income to the ministry and that she did not contact the ministry to check her assumption that reporting was not necessary in this situation. In the application for income assistance dated November 23, 2009 signed by the appellant, the appellant agreed to the statement that she must report all money and assets received each month, and the appellant stated that she has received income assistance twice in the past. The appellant argued that she had many health problems in 2011 and it is difficult for her to keep track of \$1-\$2 changes in her WCB payments; however, she acknowledged that she was aware that there was no sharing agreement between WCB and the ministry and she again admitted that she is aware of her ongoing obligation to report all changes in income to the ministry. Section 1(b) of Schedule B of the EAPWDR stipulates that when calculating the net income of a family unit for the purposes of section 24 (b) [amount of disability assistance] of the EAPWDR, 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.

Section 6 relates specifically to income tax deducted from source for employment insurance benefits and essential operating costs of renting self-contained suites and Section 8 provides an exemption for education-related costs, neither of which apply to the appellant's circumstances. While Section 7(1)(e) provides an exemption for a portion of CPP benefits, it is for the tax portion when a person is taxable, the appellant did not argue that this exemption applies to the payment, and the panel finds that the ministry reasonably determined that this exemption is not applicable. While Section 7.1 provides an exemption for compensation paid under Sections 29 or 30 of the *Workers' Compensation Act*, the ministry stated that the appellant is in receipt of WCB payments under Section 23 of the *Workers' Compensation Act*, as confirmed by the WCB. The panel finds that the ministry reasonably determined that this exemption does not apply to the appellant.

The panel finds that the ministry reasonably concluded that there is no income exemption or deduction available in Schedule B of the EAPWDR to reduce the amount of the appellant's monthly income. It is not disputed that the appellant's monthly WCB payment for January 2011 increased by \$2.19 and the panel finds that the ministry reasonably concluded that all of the appellant's net income calculated under Schedule B must be deducted from her disability assistance payable under Schedule A and, therefore, the appellant is not eligible for \$2.19 of assistance for the month of March 2011, pursuant to Section 24 of the EAPWDR. The panel further finds that the ministry reasonably concluded that the net income of the family unit (\$16,451.52) in

February 2011 exceeded the amount of disability assistance determined under Schedule A of the EAPWDR for a family unit matching the appellant's family unit (\$906.42) and, therefore, no disability assistance was payable for the month of April 2011, pursuant to Section 9(2) of the EAPWDR.

The panel finds that it is not disputed that the appellant is a sole recipient of disability assistance with no dependants and that the applicable asset limit was \$3,000 up to October 1, 2012 and \$5,000 thereafter, pursuant to Section 10(2)(a) of the EAPWDR. Section 1 of the EAPWDR defines "assets," in part, as "cash assets", which is further defined as money standing to the credit of the person with a savings institution that must pay it to the person on demand. It is not disputed that the appellant's bank statements confirm that her cash assets have been in excess of \$3,000 since February 2011 to October 1, 2012, and in excess of \$5,000 from October 1, 2012 to February 2013. Although the appellant argued that when she received the payment from CPP, she was not called to the ministry office and was never given any indication that there was something requiring action on her part, the panel finds that the legislation places a positive responsibility on a recipient of disability assistance, in order to be eligible, to submit a report to the ministry each month, as set out in Section 11 of the EAPWDA. The appellant argued that she kept the remainder of the CPP funds in a TFSA account which she thought was similar to an RDSP and that the ministry should have provided financial advice to her so that she could have exempted these funds earlier. Section 10(1)(jj) of the EAPWDR provides an exemption for funds held in an RDSP, and the ministry acknowledged that the appellant withdrew \$3,000 from her bank account on February 27, 2013 and deposited these funds in an RDSP and that the \$3,000 then became exempt from the calculation of her assets. The appellant did not argue that there is an exemption provided in Section 10(1) of the EAPWDR for funds held in a TSFA and the panel finds that the ministry reasonably concluded that the appellant's funds held in her bank account were "cash assets", as opposed to income, with no applicable exemption. The panel further finds that the ministry reasonably determined that the value of the appellant's assets remained at a level above the applicable legislated limit until February 2013 and that, therefore, she is ineligible for disability assistance from May 2011 to March 2013 inclusive pursuant to Section 10(2)(a) of the EAPWDR.

Section 18 of the EAPWDA stipulates that if disability assistance is provided to a recipient who is not eligible for it, the recipient is liable to repay to the government the amount or value of the overpayment provided. The Overpayment Chart prepared by the ministry sets out in detail the assistance amount paid to the appellant each month, the amount for which she was eligible, and the overpayment amount for the period January 2011 through March 2013, for a total overpayment amount of \$3,027.64. Section 18(2) of the EAPWDA stipulates that the ministry's decision about the amount a person is liable to repay under subsection (1) is not appealable. The panel finds that the ministry reasonably concluded that disability assistance was provided to the appellant when she was not eligible to receive it, pursuant to Section 18(1) of the EAPWDA, and she is liable to repay to the government the amount of the overpayment provided.

The Panel finds that the ministry decision was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision.