

PART C – Decision under Appeal

In a reconsideration decision dated 23 April 2013, the Ministry denied the Appellant an earnings exemption of \$400 from her April income assistance (IA) as a family unit because it determined her allowable exemption for her family unit was \$200 as per the Employment and Assistance Act, Section 1(1) and the Employment and Assistance Regulation, Section 28 and 3(6) of Schedule B.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) Section 1- Interpretation “family unit” and “dependent”
Employment and Assistance Regulation (EAR) Section 1 – definition “earned income”
Employment and Assistance Regulation (EAR) Section 28
Employment and Assistance Regulation (EAR) Schedule B, Section 1, 2, and 3

PART E – Summary of Facts

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

- A benefit receipt signed by the Appellant for March 2013.
- A declaration stating an employment income of \$200.00 for the Appellant and \$200.00 for her dependent spouse with cheque stubs confirming the amounts.

In a handwritten note dated May 29, 2013 the Appellant states her reasons for appeal. She states she and her spouse were not confused when they were told by the Ministry that they could each earn \$200, exempt. She says the Ministry made the conversation confusing and insists she had been previously told by the Ministry that each of them could earn \$200 exempt, and concludes they were incorrectly informed by the Ministry.

In the reconsideration decision, the Ministry confirms the Appellant is an employable recipient of IA with an employable dependent spouse and no dependent children. On March 5, 2013 the Appellant and her spouse both declared \$200 earned income on their stub for continued assistance for the month of April. On March 19, 2013 the Ministry issued IA for the month of April in the amount of \$677.22 to the Appellant (\$307.22 support and \$570 shelter minus \$200 deducted earnings). Rent at \$650 was paid directly to the landlord and the balance of \$27.22 was paid to the Appellant.

The Ministry explained to the Appellant and her spouse on March 22, 2013 that she is eligible for a \$200 earnings exemption for the family unit on the file, not per person. Her spouse stated if he had known this he would have spent the time looking for full time employment rather than working and that the exemption rule is not fair and that both he and the Appellant should be able to earn \$200 without deductions.

The Ministry concludes that the Appellant's family unit is not eligible for higher earning exemptions because she and her spouse are employable with no dependent children. The Ministry summarizes that the Appellant's earned income of \$400 for her family unit in February 2013, was declared in March 2013 and \$200 must be deducted from her IA in April 2013.

PART F – Reasons for Panel Decision

The issue in this case is the reasonableness of the Ministry's decision to deny the Appellant an earnings exemption of \$400 from her April IA as a family unit because it determined her allowable exemption for her family unit was \$200 as per the EAA, Section 1(1) and the EAR, Section 28 and 3(6) of Schedule B. The pertinent legislation in this case is as follows:

EAA Interpretation

1 (1) *In this Act: "family unit" means an applicant or a recipient and his or her dependants;*

EAR Definitions

1 (1) *In this regulation: "earned income" means*

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

Amount of income assistance

28 *Income assistance may be provided to or for a family unit, for a calendar month, in an amount that is not more than*

(a) the amount determined under Schedule A, minus

(b) the family unit's net income determined under Schedule B.

Exemption — earned income

Schedule B, 3 (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.

(6) The exempt amount for a 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;

The Appellant argues the Ministry had incorrectly informed her about the exemptions and that subsequent explanations from the Ministry were confusing.

The Ministry argues that the Appellant's family unit, defined as she and her spouse, who is an employable dependent, are eligible for a \$200 exemption, not the declared \$400.

The fact that the Appellant was under the impression her family unit had a \$400 exemption for the month does not alter the specific legislation that directs the Ministry as per exemptions. The Panel finds, given that the Appellant is an employable recipient of IA with an employable dependent spouse and no dependent children, that the EAR, Schedule B, Section 3(6)(a) is applicable and the Ministry reasonably determined the Appellant was eligible for a \$200 rather than a \$400 exemption. The Panel confirms the decision.