



PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of August 7, 2013 in which the Ministry of Social Development and Social Innovation (the Ministry) denied the appellant disability assistance for income in excess of the ministry's disability rate for his family unit size. The maximum disability assistance rate for a single person is \$906.42. The appellant's net monthly unearned non-exempt income is \$1,323.54. Under section 9(2) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) the appellant's net income exceeds the disability assistance rate for his family unit size, and he is therefore not eligible for disability assistance.

The Ministry added that it had not yet determined the appellant's eligibility for medical services only, and advised him to contact his local employment and assistance office to request a determination on his eligibility for medical services only.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) - sections 1, 9 and 24

Schedule A - sections 1, 2, 4 and 5

Schedule B - sections 1, 6, 7, 7.1, and 8



PART E - SUMMARY OF FACTS

The evidence before the minister at reconsideration was:

- The appellant is a single applicant with Persons with Disabilities designation. No dependants.
- The appellant was a previous recipient of medical services only. His ministry file was closed in December 2011. Reason given for file closure was that the appellant had moved out of the province.
- On June 27, 2013 the appellant contacted the ministry to advise that he had been living in [another province] and had returned to B.C. He requested that his medical services file be reopened.
- On July 9, 2013 a ministry worker interviewed the appellant for disability assistance. During that interview the worker explained to the appellant that his income exceeded the disability IA rates. The appellant stated that he was in receipt of disability assistance prior to moving back to B.C. from [another province], in April 2013. The worker informed the appellant that CPP, OAS and GIS were deducted dollar-to-dollar and the appellant remarked that he was aware of that.
- On July 11, 2013 the ministry denied the appellant disability assistance stating that the appellant's CPP and OAS income was in excess of the ministry's disability assistance rate of \$906.42 monthly for his family unit size. The appellant provided the ministry with copies of his 2012 T4A(P) and T4A(OAS) which showed monthly non-exempt income of CPP \$86.91; OAS \$542.55; GIS \$694.08 for a total of \$1,323.54 which was in excess of the disability assistance rate.
- The appellant indicated that he wished to submit a request for reconsideration.
- In the appellant's request for reconsideration dated July 24, 2013 the appellant's advocate states:

``[The appellant] submits that on July 9, 2013 he did have an interview with a worker. [The appellant] submits he was never trying to apply for income assistance. [The appellant] submits that his intention was to apply for medical services only.

[The appellant] has been in receipt of PWD benefits with the Ministry of Social Development since 1979 when he was injured at work. When [the appellant] turned 65 his file transferred over to Medical Services Only. [The appellant] then moved to [another province] in July of 2012. He was told at the time from a supervisor at the local MSD office that he could restart his MSO benefits as long as he returned to BC within a year. [The appellant] returned to BC in March 2013, 9 months after he left the province.

[The appellant] submits that if he does not receive MSO he will not be able to afford the \$210.00 worth of medications that he needs to survive.

Advocate quoted EAPWDR 61.1 relating to requirements for eligibility for medical services only.



PART E - SUMMARY OF FACTS (continued)

[The appellant] submits that he should be eligible for MSO benefits with the Ministry of Social Development.

1. *[The appellant] was considered a persons (sic) with disabilities with the Ministry of Social Development who ceased to be eligible the day he turned 65. [The appellant] since the age of 65 has been in receipt of CPP retirement, Old Age Security and Guaranteed Income Supplement.*
2. *[The appellant] submits that he would have never left the province of BC if he had been told he would never be able to receive MSO benefits again. [The appellant] made sure he returned to BC in the timeframe that he was informed of from his local supervisor at the time``*

- August 7, 2013 the minister reviewed the appellant`s request for reconsideration.



PART F – Reasons for Panel Decision

The issue on appeal is whether the Ministry's decision to deny the appellant disability assistance due to his income being in excess of the ministry's disability rate for his family unit size in terms of EAPWDR section 9(2), is reasonably supported by the evidence and is a reasonable application of the applicable legislation in the circumstances of the appellant.

The applicable legislation in this matter is:
EAPWDR section 1: "unearned income" means any income that is not earned income, and includes without limitation, any type of Canada Pension Plan and Federal Old Age Security and Guaranteed Income Supplement payments.
EAPWDR section 9(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 the disability assistance determined under schedule A for a family unit matching that family unit.
EAPWDR section 24: a person's income (calculated under schedule B of the regulation), must be deducted from their disability assistance (calculated under schedule A of the regulation). Schedule B explains that all unearned income must be deducted from your disability assistance except that which meets the exemption criteria.
Schedule B sections 1,6,7,7.1 and 8: list the deductions and exemptions from unearned income that are allowed for the purposes of calculating net income. Money received from OAS and CPP are not included as an amount that may be deducted or exempted.

The ministry argued that notwithstanding the appellant's claim in his advocate-assisted submission of July 24, 2013 that the intent of his July 9, 2013 interview with the ministry worker was to apply for medical services only, the ministry records show that the worker interviewed the appellant for disability assistance and that during that meeting the worker explained to the appellant that his (the appellant's) income exceeded the disability assistance rates. The ministry's reconsideration decision of August 7, 2013 therefore denied the appellant disability assistance for income in excess of the ministry's disability rate for his family unit size. The panel recognizes that whilst the following does not reflect in the ministry's reconsideration decision, the ministry took the position at the hearing that the appellant does not qualify for MSO because it was determined that he did not qualify for disability assistance and that the appellant was, in fact, so informed.

The appellant, in his advocate-assisted submission of July 24, 2013, claimed that he was not trying to apply for disability assistance and that his intention was to apply for medical services only. In a statement dated August 12, 2013 attached to his Employment and Assistance Tribunal appeal, the appellant stated that he was not applying for disability assistance. His only request was to ask for medical coverage to pay for his prescription drugs costing around \$210.00 per month. He wrote that he was previously on disability pension before leaving temporarily for [another province] to assist his son and daughter-in-law with their marital problems. He said that prior to his departure to [other province] he was informed by [local ministry worker] that as long as he returned within one year he would be able to have medical coverage. He now felt that he was being treated unfairly by leaving to go temporarily to [another province] and being discriminated against because of his age.



PART F - Reasons for Panel Decision (continued)

The panel limited its findings to the reconsideration decision which was to deny the appellant disability assistance on the basis that his non-exempt unearned income was in excess of the ministry's disability rate for his family unit size. The ministry directed the appellant to his local employment and assistance office to request a determination on his eligibility for MSO only.

The appellant provided the ministry with copies of his 2012 T4A(P) and T4A(OAS) which showed monthly non-exempt unearned income of CPP \$86.91; OAS \$542.55; GIS \$694.08 for a total of \$1,323.54 which under EAPWDR section 9(2) is in excess of the disability assistance rate of \$906.42 per month for his family unit.

Based on the foregoing the panel finds that the ministry's decision to deny the appellant disability assistance was reasonably supported by the evidence and is a reasonable application of the applicable legislation in the circumstances of the appellant. The panel therefore confirms the ministry's decision.