

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision of July 12, 2013, which found the appellant not eligible for July 2013 disability assistance according to section 9 (2) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) because her net income in June exceeded the amount of disability assistance she was eligible for.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 1, 9, 24, Schedule A and B.

PART E – Summary of Facts

The information before the ministry at the time of reconsideration included the following:

- A letter from the ministry dated June 21, 2013 advising the appellant that her next income assistance cheque will be held until the appellant submits record of all EI payments up to issue day June 26, 2013 for assessment of July benefit. A decision on the appellant's eligibility will be determined once all documentation is reviewed. The appellant is requested to contact the ministry as soon as possible in order to resolve the above and to avoid having her cheque held.
- A 1 page chart titled Full Text Screens listing the appellant's report weeks between March 17 and June 13 2013.
- The appellant's Request for Reconsideration dated June 28, 2013.

In her request for reconsideration the appellant states that she is in extreme hardship, especially right now. The deduction comes as a complete surprise to her. She is shocked and stressed, she expected and needs this money and needs a notice of "no pension" if that is the case for the month in question. Stress is very bad for her health. She declared May's income: she had no EI. She thought that May income would be reported in June and that the assistance payment would be affected at the end of June for the month of July (2 months staggered). She believes that as she reports all June earnings by July 5th, that her assistance, if taken away, would come off July's payment for the month of August. Had she been given notice – no one told her – there would have been no surprise and she could prepare for being homeless and broke. She is trying to stay calm being vulnerable to panic attacks which may end up causing a heart attack, as she has a heart condition. She has severe bipolar depression, seizures, fibromyalgia, heart condition, panic attacks, anxiety, anemia, hypothyroidism, scoliosis, these just being the main documented issues. She stated her doctor told her she could easily die from depression or a heart attack.

She spends \$ 500 per month on interest from student loans, \$ 200 per month on nutrition for health/vitamins, which adds up and is taken from the \$700 she receives plus \$ 400 in rent. This money is already spent without groceries, that's why she needs to work. She got paid \$1800 in June but had no income since March 13th, April and May and thus had a backlog of bills; and over 4 months it leaves only \$ 450 to live on. The \$1800 went to past bills and interest on loans. The bank charged her \$100 for a number of NSF.

On Wednesday June 26 she was expecting a cheque but found out that she will have no money. She was shocked. She wondered how she would pay her bills. She was faced with becoming homeless. Luckily she had \$100 to survive for a few days. She is in great debt because she tried to go to school, get a good job and tried to be independent and use her skills to help people who suffer like her. Even though it does not appear on the outside she suffers more than a person in a wheelchair. She is wondering why she does not get respect and help. She understands that the ministry does not want people "doubledipping".

Her concluding paragraph reads: "...I journal a lot so can really write (another passion)". Her final remark says that Med EI is insurance paid as compensation for a destroyed asset, her health.

In her Notice of Appeal the appellant states that she simply disagrees on the fact that all EI was given in the month of June, not May, thus it should not be taken off the June 26 payment, but rather the July 23rd payment. It put her into a crisis. It hurt her emotionally and physically and she suffered due to the error.

At the hearing the appellant adds that she was only notified on June 26 when she received the letter from the ministry that she would not receive disability assistance and she had no prior notice. She got a severe shock and became suicidal as a result – she has been sick since March and she had been suicidal before. She states that how the ministry handled her case goes against the regular protocol. She further relates that a few days after June 26, approximately on June 28, the ministry gave her a loan of approximately the amount of her disability assistance, and on July 23 she received her assistance payment for August. She has not started to repay this loan but heard that if she has to repay it she can make arrangements with the ministry.

Pursuant to section 22(4) of the Employment and Assistance Act, the panel admits the appellant's oral testimony as providing additional information about her being cut off from disability assistance, as being in support and directly related to the information and record that was before the ministry at the time of reconsideration.

The ministry relied on its reconsideration decision and added the following information: The loan mentioned by the appellant is a reconsideration supplement. The ministry was aware that the appellant received EI through data match with Service Canada by using the ministry's internal verification process but was not aware of the amount. When the appellant came into the office on June 26 the ministry did not make a decision that day, just verified how much EI she received.

PART F – Reasons for Panel Decision

The issue under appeal in this case is whether the ministry's decision that the appellant was not eligible for disability assistance for July 2013 under s.9 (2) of the EAPWDR because her net income in June exceeded the amount of disability assistance, was a reasonable application of the legislation or reasonably supported by the evidence.

1 (1) In this regulation:

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

...

(g) employment insurance; ...

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 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.

Schedule A

(section 24 (a))

Monthly support allowance

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 2) The monthly shelter allowance for a family unit ... 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

Schedule B**Net Income Calculation**

(section 24 (b))

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...

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.

The appellant argues that she is eligible for disability assistance for July 2013 and that the ministry committed an error denying her this assistance. The EI she received in June should have been deducted from her August assistance, not from her July assistance. As a result of the way the ministry handled her case her health and life were put at risk and she was faced with financial hardship and the prospect of homelessness. She argues that the ministry should abide by its policy of reporting by the 5th and deducting income from the following month's payment.

The ministry argues that the appellant received \$1,805 unearned income in June 2013 under Schedule B (EAPWDR) and is therefore not eligible for July 2013 disability assistance under section 24 (EAPWD) because this amount exceeds \$ 906.42, the maximum amount of assistance the appellant would otherwise be entitled to according to Schedule A (EAPWDR). This maximum amount is calculated according to Schedule A (EAPWDR) as the sum of \$531.42 for support and a maximum of \$375 for shelter allowance.

The panel finds that the income received by the appellant in the form of EI amounting to \$1,805 does meet the definition of "unearned income" under section 1 of the EAPDWR. Further the panel finds it was reasonable for the ministry to determine under section 24 of the EAPWDR that this amount received in June exceeded the maximum amount of disability assistance that would be payable to a family unit of that size. The panel also finds it was reasonable for the ministry to determine that EI payments are not a permitted deduction under section 6 of Schedule B of the EAPWDR.

The panel notes that the ministry used data match to flag EI payments the appellant received from another government and departed from its usual practice of assessing income the month following based on declarations made on or prior to the 5th of the month. In the appellant's case the ministry cut off her disability assistance immediately while under its usual practice her disability assistance would have been cut off the following month. This literal application of the legislation had serious implications for the appellant, but the panel also notes that the ministry issued a loan to prevent acute financial hardship. The panel notes further that while the appellant reports how her health and well-being was severely compromised she provides no medical documentation to confirm this.

The panel finds, therefore, that the ministry was reasonable in concluding that pursuant to section 9 (2) of the EAPWDR the appellant was not eligible for disability assistance for July 2013 because her net income in June exceeded the amount of disability assistance she would otherwise have been eligible for. The panel finds the ministry's reconsideration decision was reasonably supported by the evidence and was a reasonable application of the applicable regulation in the circumstances of the appellant. Therefore the panel confirms the ministry's reconsideration decision.