

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (ministry) reconsideration decision dated September 16, 2013 in which the ministry determined that the appellant's one month advance (\$348,78) for her delayed Family Bonus cheque must be deducted from her next month's income assistance cheque pursuant to the Employment and Assistance Regulation (EAR) section 28, and Schedule B sections 1, 10.

PART D – Relevant Legislation

Employment and Assistance Regulation –Section 28, Schedule B sections1, 10

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision consisted of copies of the following:

- The appellant's request for reconsideration dated 2013/09/20
- Ministry cheque allowances and deductions statement dated 2013/09/16 showing \$697.50 Family Bonus was paid to the appellant and that she received a Family Bonus Temporary Top Up of \$384.74.

The ministry did not attend the hearing. After confirming that the ministry was notified the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

The appellant is a sole recipient of income assistance, since January 2012, with two dependent children. Her Family Bonus cheque was delayed due to the appellant filing her taxes late. Under section 61 of the Employment and Assistance Regulation the appellant was found eligible for a delayed, suspended or cancelled Family Bonus. The ministry provided the appellant with a temporary family bonus supplement of \$348.78 on 2013/07/24 due to the delay. In August 2013 the appellant received \$697.50 for a Family Bonus supplement of which \$348.78 was the scheduled amount and \$348.78 was the backdated amount. The backdated amount was deducted from the appellant's August 28th 2013 income assistance cheque.

In the appellant's request for reconsideration she states that she disagrees with the ministry's reconsideration decision as she was not informed that she could lose such a large amount of money and she thought she could keep her Family Bonus cheque every month. She states that she was late in submitting her income taxes due to a mistake made by the income tax company who compiled her tax return, so she did not receive a Family Bonus cheque for July and then she received a double cheque in August. She states that she was not aware that the family bonus cheque is deductible income so she used the August money to pay back money she borrowed from friends and family. As well she states that her roommate left her and she then had to pay the \$1300 a month rent on her own and this has caused major hardship and she is in debt.

At the hearing, the appellant stated that when her roommate left in May without any notice she did not have the \$1300 a month she needed to cover her rent. After paying the full rental amount for two months, she did not have any money for her next month's rent so she was evicted. She had to move in with her mother and did not understand that the ministry deducted the shelter portion of her income assistance when she was not paying rent. She thought the ministry was penalizing her and that the ministry was taking both her shelter money and her Family Bonus cheque. She stated that no one told her that the rental portion of her income assistance could be deducted if she did not pay rent or that she would have to pay back the Family Bonus cheque. She stated that the ministry did not explain to her that that she would have to pay back the advance for the Family Bonus cheque

The appellant was under the impression that this hearing would take into consideration the ministry deduction of the shelter portion of her income assistance cheque as well as the Family Bonus cheque.

The ministry reconsideration decision stated that supplements for delayed, suspended or cancelled family bonus are advances only and fully repayable to the ministry once the backdated amount is received from the BC Family Bonus program, and are automatically deducted from the next

assistance cheque. The reconsideration decision stated that it was the ministry decision that the \$348.78 backdated family bonus amount received by the appellant in July 2013 must be deducted from the appellant's income assistance.

The panel makes the following findings of facts:

- The appellant is a sole recipient of income assistance since January 2012 with two dependent children.
- The appellant's Family Bonus cheque was delayed due to her filing her taxes late.
- The ministry provided the appellant with a Family Bonus supplement of \$348.78 due to the delay.
- In August 2013 the appellant received \$697.50 Family Bonus from the Federal Government of which \$348.78 was the scheduled amount and \$348.78 was a backdated amount. The backdated amount was deducted from the appellant's September assistance.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's decision at reconsideration dated 2013/16/13 in which the \$348.78 backdated Family Bonus supplement received by the appellant and deducted from her income assistance pursuant to section 28 and Schedule B sections 1, 10 of the EAR was reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

Employment and Assistance Regulation section 28 and Schedule B sections 1, 10 provides:

Schedule B

Net Income Calculation (section 28(b))

Deduction and exemption rules

1. When calculating the net income of a family unit for the purposes of section 28 (b) (amount of income assistance) of this regulation,
 - (a) The following are exempt from income:
 - (iv) a family bonus, except the portion treated as unearned income under section 10(1) of the Schedule;
 - (v) the basic child tax benefit;
 - (vi) the BC earned income benefit;
 - (xxxi) a Universal Child Care Benefit provided under the Universal Child Care Benefit Act (Canada).
 - (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 of this Schedule,
 - (c) all earned income must be included, except the deductions permitted under section 2 and any earned income exempted under sections 3 and 4 of this Schedule, and
 - (d) all unearned income must be included, except the deductions permitted under section 6 and any income exempted under sections 7 and 8 of this Schedule.

Backdated family bonus treated as unearned income

10 (0.1) In this section:

“backdated family bonus payment”, in relation to a child benefits cheque, means the portion of the cheque, if any, attributable to the family bonus for one or more calendar months preceding the calendar month in which the cheque is issued;

“supplement”, means a supplement referred to in section 61 (supplement for delayed, suspended or cancelled family bonus) of this regulation.

- (1) If a person in the applicant's or recipient's family unit receives a backdated family bonus payment and all or part of the payment is attributable to one or more calendar months for which the family unit was also provided with a supplement, the lesser of the following amounts must be treated as unearned income:
 - (a) The portion of the backdated family bonus payment that is attributable to those calendar months for which the family unit was provided with a supplement;
 - (b) The sum of the supplements that are attributable to those calendar months for which the family unit received the backdated family bonus payment.

The appellant states that she was not told by the ministry that her Family Bonus cheque or the shelter portion of her income assistance would be deducted. She disagrees with the ministry's position as she was not told that she could lose such a large amount of assistance.

The ministry's position is that supplements for delayed, suspended or cancelled Family Bonus are advances only and fully repayable to the ministry once the backdated amount is received from the BC Family Bonus program.

The panel finds that Schedule B section 1(a) states that the amount received for Family Bonus and child tax benefits is exempt, except the amount received as a supplement as an advance for the delayed Family Bonus amount.

The panel finds that under Schedule B, section 10 (1) supplements for delayed, suspended or cancelled Family Bonus are advances only and fully repayable to the ministry once the backdated amount is received from the BC Family Bonus Program, and are automatically deducted from the next cheque.

Therefore the panel finds that the ministry was reasonable to conclude that the backdated amount of the Family Bonus cheque must be deducted from the appellant's income assistance. The issue of the appellant's shelter allowance is not before the panel as it was not addressed in the reconsideration decision under appeal.

Accordingly the panel finds that the ministry's reconsideration decision is reasonably supported by the evidence and is a reasonable application of the applicable enactment in the circumstances of the appellant. The panel confirms the ministry's decision.