

### PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated August 7, 2013 wherein the ministry denied the appellant disability assistance because they found that her income for the month of August 2013 was impacted by the unearned income she declared in July 2013. Specifically, the ministry found that the appellant's impacted income for August was in excess of the ministry's assistance rates for Persons with Disabilities in accordance with sections 9 and 24 of the Employment and Assistance for Persons with Disabilities Regulations.

### PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities (EAPWD) Regulations sections 1, 9 and 24  
EAPWD Regulations Schedule A, sections 1, 2, 4, and 5  
EWPWD Regulations Schedule B, sections 1, 6, 7, 7.1, and 8

## PART E – Summary of Facts

The appellant is a single recipient with Persons with Disabilities designation with one dependent child.

On June 6, 2013 the appellant received \$4,915.54 as the beneficiary of her mother's life insurance policy. On July 9, 2013, the ministry advised the appellant that she was required to declare the insurance proceeds, that the money was considered "unearned income", and that it may affect her August disability assistance. On July 23, 2013, the appellant complied with the disclosure requirement following which the ministry advised the appellant that she was, in fact, ineligible for August disability assistance because the money received was in excess of the ministry's disability assistance rate.

On July 25, 2013 the appellant requested a reconsideration. On August 7, 2013, the Ministry issued a reconsideration decision on the income in excess decision and again denied the appellant's application. It is the reconsideration decision that is now under appeal.

At reconsideration, the appellant stated that her mom passed away on May 7, 2013 following a lengthy illness. The appellant further stated that she thought she had complied with all necessary notifications to the ministry and, had she understood that she had not, she would not have spent all the insurance proceeds she received. She said that if she knew what was expected of her, she would have better managed her funds to carry her into the month of August. She said that she has been trying to sell her personal belongings in order to make ends meet, that she is ill and now has her own additional health related expenses to incur, and that she also has several other outstanding expenses still to pay such as a \$1626.38 funeral bill.

In her notice of appeal, the appellant sets out a detailed background regarding the care arrangement in place for her mother prior to her passing. She also explains that of the \$5,000 (approximate) insurance proceeds received, \$1692.09 is still owing to the funeral home for cremation and miscellaneous expenses, another \$1600 (approximately) was spent for transportation expenses to have her mother transported back to another province so she could be buried with her father, and another \$1800 has been incurred for her vehicle which recently died. The appellant states, "What else was I suppose [sic] to do but to cash the cheque and pay for all the expenses. This money isn't something I asked for. Why am I left feeling like I did something wrong."

The panel has considered the new evidence submitted by the appellant and finds that it is admissible under section 22(4) of the *Employment and Assistance Act*. The evidence further explains the circumstances surrounding the appellant's receipt of the insurance proceeds and her various expenses, and therefore it is evidence in support of the information and records that were before the ministry when the reconsideration decision was made.

The appellant receives monthly disability assistance in the amount set out by the applicable legislation. The regular monthly amount is not in dispute. The only issue in dispute is whether the ministry reasonably concluded that the unearned income declared by the appellant in July 2013 ought to have impacted the disability assistance that was issued to the appellant in August 2013.

## PART F – Reasons for Panel Decision

The issue on this appeal is whether the ministry reasonably concluded that the appellant's application for income assistance should be denied on the basis of income in excess (for August 2013) of the ministry's assistance rates for Persons with disabilities.

Under section 1 of the EAPWD Regulations, "unearned income" means any money that is not earned income, and includes insurance benefits. The following additional sections of the Regulations are relevant:

### **Limits on income**

**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.

The appellant contends that she used the insurance proceeds to pay of necessary expenses and to carry out her mother's final wishes. In the letter submitted with her notice of appeal, she suggests that had she known that she would be cut off of assistance for August, she would have spent the money differently and budgeted accordingly.

The Ministry's position is that the insurance money received by the appellant in June and declared by the Appellant in August is "unearned income" pursuant to the Ministry's regulations and in particular section 1 of the Regulations.

The Ministry says that, regardless of what the appellant did with the money or what necessary expenses she has had to incur, it has no discretion in finding that the appellant had "income in excess" and that the legislation was correctly applied. More specifically, the Ministry says that the money received by the appellant in June 2013 (\$4,915.84) and declared by the appellant in July impacts the appellant's August disability assistance causing it to exceed the disability assistance limits as prescribed by the legislation. As such the ministry finds the appellant is not eligible for assistance for August. The ministry contends that there is nothing in the legislation which allows it to make any allowances for the appellant, despite her difficult circumstances.

Considering the evidence, the panel finds that the appellant was likely aware from her discussions with the ministry in July 2013 that the insurance proceeds may have an impact on her August assistance. However, even if that point were not clear to the appellant, the panel further finds that

after the appellant paid for the necessary funeral and burial transportation costs, there was still approximately \$1,500 remaining from the life insurance proceeds for the appellant's benefit. The appellant provided various receipts to explain how the remaining monies were spent, and states that the bulk of the remaining monies were used to repair her vehicle which had broken down. The fact is, however, that regardless of how the appellant used these monies, the fact that she received them in the first place placed her outside of the allowable legislated disability assistance limits.

As such, the panel finds that the ministry reasonably determined that the insurance proceeds fall within the definition of "unearned income" as defined in section 1 of the Regulations, and that the income received by the appellant falls outside of the authorized disability assistance rates as prescribed by sections 9 and 24 of the legislation. As such, the panel finds that the Ministry's decision was reasonably supported by the evidence and confirms the decision pursuant to section 24(1)(a) and 24(2)(a) of the *Employment and Assistance Act*.