



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry's) reconsideration decision dated November 4, 2013 in which the ministry found that pursuant to section 10(2) of the Employment and Assistance Regulation (EAR), the appellant was not eligible for her July income assistance of \$945.58 because she had non-exempt unearned income (\$1,200 student aid) in excess of her assistance rate. The ministry found that although it made it an error in paying \$945.58, the appellant is required to repay it pursuant to section 27 of the *Employment and Assistance Act* (EAA), and the ministry may deduct it from subsequent assistance payments pursuant to section 28 of the EAA.

In reaching its decision, the ministry found that the appellant is not eligible for any exemptions or deductions for her education costs under section 8 of Schedule B of the EAR because there are no exemptions for employable recipients who are enrolled in a funded program of studies. As well, she is not exempt from employment related obligations under section 29(4) of the EAR.

PART D – Relevant Legislation

Employment and Assistance Act, sections 2, 4, 27 and 28
Employment and Assistance Regulation, sections 1, 10, 28, and 29
Employment and Assistance Regulation Schedule A, sections 1, 2 and 4; and Schedule B, sections 1, 6, 7 and 8.

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration consisted of:

- 1) The appellant's Request for Reconsideration dated October 23, 2013 which states that:
 - In May 2013, the appellant submitted all documents to the ministry indicating that she planned to take a course and was going to receive student aid;
 - she received no response from the ministry office and proceeded to enroll and begin her studies;
 - in September, she again submitted documents to the ministry office based on an apparent "green light" from both the ministry and the Financial Aid advisor (advisor) at the post-secondary school (the school) indicating that since these monies were for tuition, textbooks, compulsory fees, and childcare and not for shelter or related living expenses, they were exempt from being considered as income; the advisor assured her that "it would not be a problem.";
 - if the appellant had known back in May that the student aid monies would result in her having to repay income assistance, she would not have continued studying in September;
 - the social worker at the ministry office admitted the ministry had made a mistake; and due to the ministry not responding to the information the appellant gave them in May and waiting five months to (find that she had an overpayment), the appellant has been put in a "terrible position" and does not know how she can come up with the money to pay the government back;
 - she would not have studied if the ministry had told her right away that she would not be eligible for assistance; and
 - she is requesting the minister's discretion to exempt her student aid income for her May studies.
- 2) Letter from the school's advisor dated October 17, 2013 and addressed to the ministry, confirming that the appellant has applied for part-time studies funding for the period September 3 – December 31, 2013. The amount of funding for the Fall semester is \$1,920 and it only covers school-related expenses and costs including tuition, compulsory fees, textbooks, and childcare. Part-time studies funding does not cover shelter and/or related living expenses. In addition, the appellant applied for part-time studies for the period May 1 – August 31, 2013 and was eligible for \$1,200 to cover school-related expenses.
- 3) Appellant's payment stub, indicating entitlement to total assistance of \$945.58 for the next cheque issue on May 22, 2013.
- 4) Undated Monthly Report for continuing assistance with \$1,200 entered in the box for Training Allowance/ Student Loans and an illegible amount entered in the box for Basic Child Tax Benefit.
- 5) Illegible note from the appellant that appears to be undated.
- 6) Notice of Assessment from the Ministry of Advanced Education dated April 8, 2013, regarding Financial Aid for Part-time Studies and indicating that the appellant is eligible for \$1,200 in funding. Her assessed need for tuition, fees, books, transportation, miscellaneous, and childcare is \$1,306

and the eligible funding in the form of a student grant is \$1,200. The funding will be disbursed through a Certificate of Eligibility, with \$1,200 scheduled for April 19, 2013 and a negotiable date of May 6th.

7) Certificate of Eligibility Part-time Student Loans and Grants dated April 9, 2013 indicating that a Canada Student Grant of \$1,200 was issued to the appellant on April 19, 2013 and would be advanced to her on or after May 6, 2013.

8) Appellant's course schedule for the week of May 6, 2013 indicating enrollment in one course.

9) Appellant's bank account statements for the period of May 1-31, 2013 indicating that \$1,140 was deposited to her account on May 6, 2013 and \$60 was paid to the school.

10) Ministry's Overpayment Chart for the July 2013 assistance month indicating that the appellant is required to repay \$945.58 for assistance in July due to student aid income of \$1,200 received in May 2013.

11) Letter from the ministry to the appellant dated October 22, 2013 stating that the ministry believes the appellant received an overpayment of \$945.58 "because of an error made by the ministry." The ministry has set up an appointment with the appellant for October 22nd in which the appellant may be given an overpayment notification form to acknowledge that she received assistance for which she was not eligible. The ministry states that the appellant is not required to sign the form, but will have a minimum monthly deduction of \$10 from future assistance cheques until the overpayment is repaid.

12) Ministry's Overpayment Notification dated October 21, 2013 witnessed by an illegible signature and containing a handwritten note from the appellant: "I chose not to sign until Reconsideration decision made (Recon package being prepared for it)".

The hearing proceeded by way of written submissions. The appellant's Notice of Appeal dated November 7, 2013 consisted of her submission, while the ministry relied upon its reconsideration decision summary.

Appellant's Submission

In her written submission dated November 8, 2013, the appellant states that she is appealing the ministry's decision to "cease my income assistance and make me pay back the overpayment I received in May and September 2013." In May 2013, she submitted documents to the ministry indicating that she was planning to take a course at the school and was going to receive student aid. As she did not receive any response from the ministry she proceeded to enroll and began to study.

In September, she again submitted documents to the ministry based on the apparent "green light" from the ministry, and the school's advisor who indicated that the monies were for tuition, textbooks, compulsory fees and childcare, and not for living expenses and that these monies were exempt from being considered "income". The advisor assured the appellant that "it would not be a problem."

The appellant states that had she known back in May that the grant would result in her having to repay income assistance, she would not have studied in May and she certainly would not have continued to study in September. She explains that when she consulted with the school counsellor about her career path, the counsellor advised her of available funding to help the appellant achieve her career goals, and reaffirmed several times that the student aid would not affect the appellant's assistance. The appellant states that she made every effort to inform the ministry of her plans to attend the school and since it was the ministry who made the mistake it is not good enough for the ministry to simply apologize.

The appellant adds that the ministry should compensate or fix its own mistakes as the appellant is already under enough stress and hardship and is daily counting pennies to make ends meet. Even though the ministry gave the appellant the option of deducting \$10 per month from her assistance until the money is paid back, the appellant "couldn't add more burden on my plate" and has already informed Student Aid that she wants to put a stop to the second portion of funding for the September term.

The appellant states that she understands "the policy that exemption is given to those who are taking an unfunded program." But the reason she is taking this program is to build her career path, and the program she chose suits her ability and passion and will help her provide for her family. As well, there are no free or unfunded programs in her field.

The appellant states that she will obtain a "support and explanation letter" from her MP and is requesting a "compassion exemption based on humanity (sic) grounds" as she is strained for resources and is barely surviving. Lastly, she asks the tribunal to exempt her from having to repay \$945.58.

In a second submission, dated November 29, 2013, the appellant adds that the ministry notified her on October 16th that the student grant she received for courses in May resulted in an "overpayment" even though she had checked with the ministry in advance and believed they had given her permission to receive student aid and study in May and September. The ministry admitted that it made a mistake in waiting five months to inform the appellant that her student aid was "(un)earned income". The appellant states that she used the student aid money to pay for courses; the money did not go into her pocket; and the ministry is being "unreasonable and heartless" in making her come up with \$945.58 for the May course. The appellant states that she has done everything above board but the ministry has not taken responsibility for its mistake.

On October 22nd, the ministry advised the appellant that a "Ministry Error Overpayment of \$945.58" had occurred. However, the appellant cannot recoup the Student Aid money as she used it for her studies. The ministry's mistake and requiring repayment have left the appellant in a "desperate situation" and is her "worst nightmare." If the ministry garnishes the money, the appellant will not be able to pay her rent. The appellant states that she "understands that the ministry has policies and rules" but the Minister "could have made an exception under the Act's policies (Part 3: Appeals) and did not. The appellant adds that it would only take a small amount of money for the ministry to right the situation but it is an "astronomical" amount when she has to pay it back.

As the appellant's submissions relate to her enrollment at the school, the information she provided to the ministry regarding her courses and student aid; and the effect of the ministry's mistake on her

well-being, the panel admits them as argument that is in support of the records that were before the ministry at the time the reconsideration decision was made pursuant to section 22(4)(b) of the *EAA*.

Ministry's Submission

In its reconsideration decision dated November 6, 2013 the ministry states that a payment to the appellant of \$945.58 in July 2013 had occurred in error and as a result, the appellant received \$945.58 that she was not entitled to, and these funds must be repaid. On May 6, 2013, the appellant received a \$1,200 Canada Student Grant for part-time studies and reported it to the ministry in June. The ministry exempted the grant in error on the basis that it was not for living expenses and would not interfere with the appellant's work search. The ministry states that on October 18th, it advised the appellant of its error and told her that the student aid was not exempt because there are no exemptions for employable recipients. As a result of its error, the ministry advised the appellant that she was required to repay \$945.58.

The ministry states that unearned income includes student aid under section 1 of the *EAR* and that pursuant to section 10(2) of the *EAR* the family unit is not eligible for assistance if they have net income, which includes unearned income, in excess of the income assistance rate for the family size. All unearned income must be deducted unless it is subject to allowable deductions and exemptions under Schedule B, sections 6, 7, and 8.

The ministry states that it may exempt a student's education and daycare costs but that the exemptions do not apply in the appellant's circumstances because she is not exempt from employment related obligations pursuant to section 29(4) of the *EAR*. The appellant's income assistance rate is \$945.58, and an amount in excess of this rate that is not subject to allowable exemptions must be deducted from the income assistance cheque in the month that follows the month in which the excess income was reported. The ministry states that the appellant's \$1,200 net income for July exceeded the \$945.58 support for her family size; she was not eligible to receive it; and is required to repay it pursuant to section 27 of the *EAA*.

The panel makes the following findings of fact:

1. The appellant is an employable income assistance recipient with one dependent child and her monthly assistance rate is \$945.58 based on her family unit size..
2. The appellant was enrolled at the school for the May and September 2013 terms and this appeal relates to the student aid that she received in May 2013 and reported on her June stub for continuing assistance.
3. The appellant is eligible for \$1,200 in funding. Her assessed need for tuition, fees, books, transportation, miscellaneous, and childcare is \$1,306 and the eligible funding in the form of a student grant is \$1,200. The funding will be disbursed through a Certificate of Eligibility, with \$1,200 scheduled for April 19, 2013 and a negotiable date of May 6th.
4. The appellant received \$1,140 in student aid as deposited to her bank account on May 6, 2013; \$60 was paid to the school for a total of \$1,200 in funding in May 2013.
5. The ministry made an error leading the appellant to believe that student aid for school-related expenses was exempt.
6. The appellant received \$945.58 from income assistance in July 2013.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry reasonably determined that the appellant received \$945.58 of income assistance in July 2013 for which she was not eligible and is liable to repay. The ministry accepts that the overpayment resulted from a ministry error which exempted \$1200.00 of student aid income even though it did not meet any of the exemption criteria set out in Schedule B of the EAR.

The relevant sections of the legislation are as follows:

Employment and Assistance Act

Part 1 — Introductory Provisions

Eligibility of family unit

2 For the purposes of this Act, a family unit is eligible, in relation to income assistance, hardship assistance or a supplement, if

(a) each person in the family unit on whose account the income assistance, hardship assistance or supplement is provided satisfies the initial and continuing conditions of eligibility established under this Act, and

(b) the family unit has not been declared ineligible for the income assistance, hardship assistance or supplement under this Act.

Part 2 — Assistance

Income assistance and supplements

4 Subject to the regulations, the minister may provide income assistance or a supplement to or for a family unit that is eligible for it.

Part 4 — General Provisions

Overpayments

27 (1) If income assistance, hardship assistance or a supplement is provided to or for a family unit that is not eligible for it, recipients who are members of the family unit during the period for which the overpayment is provided are liable to repay to the government the amount or value of the overpayment provided for that period.

(2) The minister's decision about the amount a person is liable to repay under subsection (1) is not appealable under section 17 (3) [reconsideration and appeal rights].



Liability for and recovery of debts under Act

28 (1) An amount that a person is liable to repay under this Act is a debt due to the government that may be

(a) recovered in a court that has jurisdiction, or

(b) deducted in accordance with the regulations, from any subsequent income assistance, hardship assistance or supplement for which the person's family unit is eligible or from an amount payable to the person by the government under a prescribed enactment.

(2) Subject to the regulations, the minister may enter into an agreement, or accept any right assigned, for the repayment of an amount referred to in subsection (1).

(3) An agreement under subsection (2) may be entered into before or after the income assistance, hardship assistance or supplement to which it relates is provided.

(4) A person is jointly and separately liable for a debt referred to under subsection (1) that accrued in respect of a family unit while the person was a recipient in the family unit.

Employment and Assistance Regulation

Definitions

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:

(q) education or training allowances, grants, loans, bursaries or scholarships;

"unfunded program of studies" means a program of studies for which a student enrolled in it is not eligible for student financial assistance.

Limits on Income

10 (1) For the purposes of the Act and this regulation, "**income**", in relation to a family unit, includes an amount garnished, attached, seized, deducted or set off from the income of an applicant, a recipient or a dependant.

(2) A family unit is not eligible for income assistance if the net income of the family unit determined under Schedule B equals or exceeds the amount of income assistance determined under Schedule A for a family unit matching that family unit.

Consequences of failing to meet employment-related obligations

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.

29 (1) For the purposes of section 13 (2) (a) [consequences of not meeting employment-related obligations] of the Act,

(a) for a default referred to in section 13 (1) (a) of the Act, the income assistance or hardship assistance provided to or for the family unit must be reduced by \$100 for each of 2 calendar months starting from the later of the following dates:

- (i) the date of the applicant's submission of the application for income assistance (part 2) form under this regulation;
- (ii) the date the default occurred, and

(b) for a default referred to in section 13 (1) (b) of the Act, the income assistance or hardship assistance provided to or for the family unit must be reduced by \$100 for each calendar month until the later of the following occurs:

- (i) the income assistance or hardship assistance provided to the family unit has been reduced for one calendar month;
- (ii) the minister is satisfied that the applicant or recipient who committed the default is demonstrating reasonable efforts to search for employment.

(2) The reduction under subsection (1) applies in respect of each applicant or recipient in a family unit who does anything prohibited under section 13 (1) [consequences of not meeting employment-related obligations] of the Act.

(3) For the purposes of section 13 (2) (b) [consequences of not meeting employment-related obligations] of the Act, the period of ineligibility for income assistance lasts

(a) for a default referred in to section 13 (1) (a) of the Act, until 2 calendar months have elapsed from the later of the following dates:

(i) the date of the applicant's submission of the application for income assistance (part 2) form under this regulation;

(ii) the date the default occurred, and

(b) for a default referred to in section 13 (1) (b) of the Act, until the later of the following has occurred:

(i) the family unit has been ineligible for income assistance for one calendar month;

(ii) the minister is satisfied that the applicant or recipient who committed the default is demonstrating reasonable efforts to search for employment.

(4) Section 13 [consequences of not meeting employment-related obligations] of the Act does not apply to a family unit of an applicant or recipient who is in any of the following categories:

(a) Repealed. [B.C. Reg. 116/2003, Sch. 1, s. 2 (a).]

(b) sole applicants or sole recipients who have at least one dependent child who

(i) has not reached 3 years of age, or

(ii) has a physical or mental condition that, in the minister's opinion, precludes the sole applicant or recipient from leaving home for the purposes of employment;

(c) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 1 (b).]

(d) sole applicants or sole recipients who have a foster child who

(i) has not reached 3 years of age, or

(ii) has a physical or mental condition that, in the minister's opinion, precludes the sole applicant or recipient from leaving home for the purposes of employment;

Schedule A Income Assistance Rates – (section 28 (a))

Maximum amount of income assistance before deduction of net income

1 (1) Subject to this section and sections 3 and 6 to 10 of this Schedule, the amount of income assistance referred to in section 28 (a) [amount of income assistance] of this regulation is the sum of

(a) the monthly support allowance under section 2 of this Schedule for a family unit matching the family unit of the applicant or recipient, plus

(b) the shelter allowance calculated under sections 4 and 5 of this Schedule.

Monthly support allowance

2 (0.1) For the purposes of this section:

(b) Sole applicant/recipient and one or more dependent children Applicant/recipient is under 65 years of age \$375.58

Monthly shelter allowance

4 (2) The monthly shelter allowance for a family unit to which section 15 (2) of the Act does not apply is the smaller of (B.C. Reg. 73/2010)

(a) the family unit's actual shelter costs, and

(b) the maximum set out in the following table for the applicable family size:

Item	Family Unit Size	Maximum Monthly Shelter
2	2 persons	\$570

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:

(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.

Deductions from unearned income

6 The only deductions permitted from unearned income are the following:

Exemptions — unearned income

7 (0.1) In this section:

(1) The following unearned income is exempt:

Minister's discretion to exempt education related unearned income

8 (1) In this section:

"day care costs" means the difference between a student's actual day care costs and the maximum amount of child care subsidy that is available under the Child Care Subsidy Act to a family unit matching the student's family unit, for a semester;

"education costs" means the amount required by a student for tuition, books, compulsory student fees and reasonable transportation costs for a semester.

(2) The minister may authorize an exemption for a student described in subsection (3) up to the sum of the student's education costs and day care costs from the total amount of

(a) a training allowance,

(b) student financial assistance, and

(c) student grants, bursaries, scholarships or disbursements from a registered education savings plan received for the semester.

(3) An exemption under subsection (2) may be authorized in respect of a student who is

- (a) a dependent child enrolled as a student in either a funded or an unfunded program of studies,
- (b) an applicant or a recipient enrolled
- (i) as a part-time student in an unfunded program of studies, or
- (ii) with the prior approval of the minister, as a full-time student in an unfunded program of studies, or
- (c) a person in a category listed in section 29 (4) [consequences of failing to meet employment-related obligations] of this regulation enrolled as a part-time student in a funded program of studies.

Appellant's position

The appellant's position in her Request for Reconsideration is that the Minister should use his discretion to exempt her education related unearned income for her May studies. The ministry made an error and led her to believe that student aid for school-related expenses and daycare (as opposed to her living expenses) would be treated as exempt income. The appellant made every effort to notify the ministry of her plans to attend the school and she provided the ministry with proper documentation. Nevertheless, the ministry waited five months to (notify her of an overpayment). The appellant would not have gone to school had she known her student aid was not exempt, and she has been put in a "terrible position" and doesn't know how she can repay the ministry or pay her rent if the ministry garnishes her assistance.

The appellant stated that she is "extremely upset" with the decision and she feels that the ministry should "compensate and/or fix its own mistake." Other people with similar situations have had their student aid exempted, and though she "understands the policy that exemption is given to those who are taking an unfunded program", she is requesting a "compassion exemption" on humanitarian grounds. It is "the ministry's responsibility to do what's right" and the Minister could have made an exception under the *EAA* (Part 3: Appeals). She asks the tribunal to exempt her from having to repay \$945.58 from May.

Ministry's position

The ministry's position is that although it paid the appellant \$945.58 by mistake and erroneously exempted \$1,200 student aid, the appellant has an overpayment which must be repaid pursuant to the *EAA* section 27. Further, section 28 of the *EAA* allows the ministry to deduct the repayment from the family's subsequent assistance cheques.

The ministry's position is that the appellant's student aid is "unearned income" that must be included in the calculation of net income, and net income in turn, must be deducted from income assistance pursuant to section 28 of the *EAA*. As well, pursuant to section 10(2) of the *EAR*, a family is not eligible for income assistance where it has non-exempt net income (\$1,200 in the appellant's case) that exceeds the assistance rate for the family size (\$945.58 for the appellant and her child).

Further, the ministry submits that the appellant is not eligible for any exemptions under sections 1, 6, 7, or 8 of Schedule B or section 29 (4) of the EAR because she is enrolled in a funded program of studies, and she is not exempt from employment related obligations.

Decision

1. Ministry's Error/ Compassion Exemption

While the panel acknowledges the appellant's argument that the ministry should exercise its discretion due to its error in initially exempting her student aid income, the panel's jurisdiction is limited to looking at the reasonableness of the ministry's decision to not apply a "compassion exemption." The ministry in turn, is limited to applying its legislation, and it found that there is no compassion exemption in the *EAA* or *EAR*. The panel also notes that there is no compassion exemption under the legislation, and thus finds that the ministry was reasonable in determining that it could not grant an exemption on compassionate grounds.

With regard to the appellant's request for the panel or "the Minister himself" to exempt her from repaying \$945.58, the panel notes that pursuant to the *EAA* section 19(1), the tribunal has jurisdiction to determine the reasonableness of the ministry's reconsideration decision to find that a recipient is ineligible for assistance. There is nothing in the *EAA* that authorizes the tribunal (or its panel) to grant its own exemption on the basis of compassion, or refer the decision to the "Minister himself" for his personal reconsideration.

2. Unearned Income: Student Aid

Unearned income as defined in section 1 of the *EAR* includes "education or training allowances, grants, loans, bursaries or scholarships". Both the ministry and the appellant agree in their submissions that the appellant received \$1,200 student aid in May 2013, and the panel finds that the ministry reasonably determined that this \$1,200 is unearned income pursuant to the *EAR*, section 1.

Under Schedule B of the *EAR*, unearned income is to be included in the calculation of net income pursuant to section 1(d) of this Schedule. As well, non-exempt net income must be deducted from income assistance pursuant to section 28 of the *EAA*. The appellant does not dispute these interpretations and the panel finds that the ministry reasonably determined that the appellant has net income of \$975.58 that must be deducted from her July assistance payment.

3. Exemptions from Unearned Income – EAR sections 1,6,7 and 8 of Schedule B, and EAR section 29(4)

The ministry argues that the appellant is not eligible for any of the exemptions under the above noted sections of the *EAR* because she is enrolled part-time in an unfunded program of studies and is not exempt from employment related obligations. Sections 1, 6, and 7, allow deductions or exemptions for items that include benefits and tax credits for dependent children; payments from government legal settlements; income tax deducted from Employment Insurance benefits; operating costs for rental suites; disability-related costs; and legal settlements for personal injury. As student aid is not among the items listed in these sections, the panel finds that the ministry reasonably determined that

the exemptions and deductions in sections 1, 6, or 7 of Schedule B cannot be applied to the appellant's unearned income.

Section 8 of Schedule B provides the ministry with "discretion to exempt education related unearned income" including amounts required by a student for tuition, books, student fees, transportation costs, and day care. Section 8(3)(b) states that the exemption may be authorized in respect of a part-time student who is enrolled in an unfunded program of studies. Both the ministry and the appellant agree that the appellant's program is funded, by available student aid. The panel finds that the ministry reasonably determined that as this exemption applies only to a part-time student in an "unfunded program of studies", the appellant's student aid cannot be exempted under section 8(3)(b) of Schedule B of the EAR.

Section 8(3)(c) provides an exemption to part-time students who are enrolled in a funded program of studies and who are, at the same time, exempt from employment related obligations under section 29(4) of the EAR. Section 29(4) lists categories of recipients who are exempt from employment related obligations and the ministry found that the appellant's circumstances do not fulfill any of the exempt categories; the appellant does not dispute this finding. The panel finds that the ministry reasonably determined that because the appellant has employment related obligations while attending school, her student aid cannot be exempted under section 8(3)(c) of Schedule B.

4. Repayment Requirement - \$975.58

The ministry argues that the appellant received an overpayment and has a repayment obligation pursuant to section 27 of the EAA. Section 27(1) states:

If income assistance, hardship assistance, or a supplement is provided to or for a family unit that is not eligible for it, recipients who are members of the family unit during the period for which the overpayment is provided are liable to repay to the government the amount or value of the overpayment provided for that period.

Section 27(2) further states that ministry decisions regarding the amount a person is liable to repay are not appealable. The panel notes that there is no dispute regarding the amount of the overpayment and the panel's jurisdiction under section 27(2) is therefore not at issue in this appeal.

With regard to section 27(1), the ministry argues that in July 2013, it paid the appellant \$975.58 income assistance for which she was not eligible. The ministry determined that she was not eligible because she received \$1,200 student aid, an amount greater than her assistance rate of \$975.58. The appellant does not dispute that she received an overpayment but argues that the ministry made a mistake in paying her, leading her to believe that the \$1,200 student aid was exempt.

Though the ministry acknowledges that it paid the \$975.58 in error, it argues that the appellant must still repay this amount pursuant to section 27(1) of the EAA. As section 27(1) clearly sets out the requirement to repay, i.e., recipients "are liable to repay" an amount that they were not eligible for in a payment period, the panel finds that the ministry reasonably determined that the appellant is liable to repay the \$975.58 she received as an overpayment in July 2013.

[]

Conclusion

Accordingly, the panel finds that the ministry reasonably determined that the appellant was not eligible for her July income assistance of \$945.58 and is required to repay it because she had non-exempt student aid income that resulted in an overpayment. The panel confirms the ministry's reconsideration decision as being reasonably supported by the evidence and a reasonable application of the applicable legislation in the circumstances of the appellant.