



**PART C – Decision under Appeal**

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry's) reconsideration decision dated December 24, 2013 denying the appellant's request to deduct his car insurance from his net employment income. The ministry found that the appellant's wages are earned income; there are no provisions in the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) that would allow the ministry to deduct the appellant's car insurance payments from the calculation of his earned income, and no other exemptions or deductions apply under the EAPWDR.

**PART D – Relevant Legislation**

Employment and Assistance for Persons with Disabilities Regulation sections 1, and 24; and Schedule B, sections 1, 2, 3, 3.1 and 4.

## PART E – Summary of Facts

The evidence before the ministry at reconsideration consisted of:

- 1) Appellant's Request for Reconsideration dated December 17, 2013 which states that:
  - It is a requirement of his employment to have "valid delivery insurance" on his vehicle;
  - his insurance increased from \$140.35 to \$272.58 in November 2013;
  - he is incurring "quite high amounts of gas consumption" and the gas allowance is a partial compensation for expenditures he incurs while working; it should therefore be deducted from his wage as it is not part of his wage;
  - the amount (of wages) he gets after he pays insurance and gas is so small that if he is not able to exclude his insurance and gas expenses it is not worth his while to work and put wear and tear on his vehicle;
  - to maintain his employment opportunity and not exceed the (allowable) \$800 per month, he is turning away additional hours and the opportunity for additional responsibilities; and
  - if allowed to deduct his insurance and gas, he may be in a position where his current job turns into more substantial employment, allowing him to leave assistance. As it stands now, "the wage isn't worth my time."
- 2) Appellant's Statements of Earnings and Deductions (earnings statements) indicating he received net pay from his employer in the amount of \$389.41 for the period November 16-21, 2013; and \$346.26 for the period November 2-7, 2013. Total net pay for November is \$735.67; gas expenses and vacation pay are included in his wages, and "gov pen" and EI cont" are deducted; and
- 3) Appellant's Notice of Appeal dated December 20, 2013 in which he states that insurance is a requirement of his employment; his gas expense is in the hundreds; if he "exceeds the allowable" by \$260, his file is flagged as "Medical Services Only" and "this is not fair as I am working with various supports that require me to keep an active file."

The hearing proceeded by way of teleconference. The appellant provided a written appeal submission dated December 30, 2013 and Insurance Services Department printouts (insurance printouts) dated January 9, 2014 as summarized below. The ministry relied on its reconsideration decision summary for the hearing.

### **Appellant's Submission**

In his written submission dated December 30, 2013, the appellant states that his job requires his insurance to be "category for delivery." Gas is required to run his car, and his gas bill exceeds the gas compensation he receives. He states that "it is not fair" that if he exceeds the "Allowable Earnings" by \$260, the ministry "puts my file as Medical Services Only." He states that if his file is Medical Services Only, he loses all of the funding that he intends to use for school. He is working with a ministry funded employment counsellor and would lose his transportation allowance as well, and become ineligible for his housing subsidy; it would then not be worthwhile to continue working.

The appellant's insurance printouts dated January 9, 2014 indicate that the appellant made car insurance payments in 2013 as follows: \$164 on April 30<sup>th</sup>, \$162.67 on May 30<sup>th</sup>, \$140.35 on July 2<sup>nd</sup>,

July 30<sup>th</sup>, August 30<sup>th</sup>, September 30<sup>th</sup>, and October 30<sup>th</sup>; and \$272.58 on December 2<sup>nd</sup> and December 30<sup>th</sup>. Next to the \$140.35 amounts, the appellant provides a handwritten notation, "insurance cost as pleasure" and next to the \$272.58 amounts he writes "cost as delivery". In addition, in a fax cover sheet that accompanies the insurance printouts, an advocate states that the printouts show "insurance cost difference".

In his oral testimony, the appellant explained that his insurance rate increased because he needs to use his vehicle for deliveries at work. He is asking the ministry to exempt the difference between his vehicle insurance for personal use (\$140.35/ month) and his higher insurance rate (\$272.58/ month) which includes the use of his vehicle for deliveries. His car consumes a lot of gas and he appreciates that the ministry does not count his gas allowance as income; however, he is not asking them to exempt all of his operating expenses such as car maintenance. He is only asking for \$132.23 per month to be exempt, a "trivial amount" that is necessary for his job.

His boss wants him to work an additional shift for 4 shifts per week, but due to the earnings limit, he can't take on extra work and still receive disability assistance. He is currently working 3 shifts per week at 4-5 hours per shift and his boss has said he is doing a good job. Turning down work does not secure future employment, and his boss may prefer to hire someone "who is not on the system". The appellant has worked for 3 months now and wants to keep his job in order to pay down his student loans and go back to school. His goal is to become employed full-time, get off of assistance, and return to school. He doesn't need hassles along the way.

If the ministry puts him on "Medical Services Only" he would lose his transportation subsidy, even if he goes over the earnings limit by only \$260. He would also not get funding for school from the employment and training program he is in, and he would lose his housing subsidy. He wants to take on extra shifts, but does not want "to walk away" from the other benefits he gets "from being on the system".

In response to a question from the ministry, the appellant stated that he is not ready for full-time work right now as he is still regaining his mental and physical health following surgery complications. He would like to leave disability in 6-9 months and "remove CPP disability from his income" in 2-3 months. Receiving an exemption for his insurance would allow him to continue on the positive path of getting healthier, paying his bills, and staying at work.

In response to questions from the panel and ministry, the appellant stated that his employer cannot give him an insurance allowance at this time; it's not part of his employment package but maybe in the future if he gets a full-time opportunity. He has to have the extra insurance no matter how many shifts he works, to protect against any claims involving his vehicle during a shift. He explained that he generally does not receive tips because he works day shifts and gets a gas allowance in lieu of tips.

His employment income is currently under the \$800 earnings limit but one extra shift (per week) would put him approximately \$260 above the limit. Currently, he receives a monthly income consisting of approximately \$650 from CPP Disability along with a ministry top up of approximately \$273 for Disability Assistance (DA). He does not think it's fair that making only \$260 more would put him over the earnings limit; he feels it is "discrimination based on employment" because people on straight DA can make \$800 and still receive the full amount of DA, while his DA is already reduced due to his CPP income.

The appellant's appeal submission and insurance printouts relate to his need for additional car insurance and the premiums he pays; and to his concerns about the insurance not being exempt. The ministry did not object to admitting these into evidence. The panel accepts the argument and admits the information as it 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 *Employment and Assistance Act*.

### **Ministry's Submission**

In its reconsideration decision dated December 24, 2013, the ministry notes that the appellant is a sole recipient of DA whose file was reopened in 2009. On November 29th, the ministry received the appellant's pay stubs showing a net income of \$735.67. The ministry approved the appellant's request to exclude his gas reimbursement from the calculation of his net income, determining that this reimbursement does not meet the definition of income. However, the appellant also requested to have his car insurance deducted from the calculation of net income and the ministry denied his request.

In response to questions from the panel, the ministry explained that even though the appellant is providing his own vehicle and paying for its maintenance, he is not considered to be self-employed because he is not in a self-employment program. His earnings statements indicate that he is receiving wages from one employer and is not an independent contractor of a delivery service. In terms of his "Medical Services Only" concerns, the ministry stated that it would not automatically switch him to Medical Services Only on the basis of one month where his income was above the \$800 earnings limit; the ministry would look at his earnings pattern, recognizing that the amount of shift work he receives can cause his DA to vary from month to month.

The panel makes the following findings of fact:

1. The appellant is a sole recipient of DA whose file has been opened since 2009.
2. The appellant receives CPP and a DA top each month.
3. His earnings exemption is \$800 per month pursuant to section 3 of Schedule B of the EAPWDR.
4. He is not a self-employed contractor.
5. The appellant received net employment income of \$735.67 (less \$125 gas allowance) in November 2013.
6. His car insurance increased by \$132.23 per month in November 2013



**PART F – Reasons for Panel Decision**

The issue in this appeal is whether the ministry reasonably determined that the appellant's net wages are his earned income; that there are no provisions in the EAPWDR that would allow it to deduct the appellant's car insurance payments from the calculation of his earned income; and that no other exemptions or deductions apply to his earned income under the EAPWDR.

The relevant sections of the EAPWDR are as follows:

**Definitions**

1(1) In this regulation:

"earned income" means

- (a) any money or value received in exchange for work or the provision of a service,

**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.

**Net Income Calculation (section 24(b))**

**Deduction and exemption rules**

1 When calculating the net income of a family unit for the purposes of section 24 (b) [amount of disability assistance] of this regulation,

- (a) the following are exempt from income:
  - (i) any income earned by a dependent child attending school on a full-time basis;
  - (ii) the basic family care rate paid for foster homes;
  - (iii) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 2 (c).]
  - (iv) a family bonus, except the portion treated as unearned income under section 10 (1) of this Schedule;
  - (v) the basic child tax benefit;
  - (vi) a goods and services tax credit under the Income Tax Act (Canada);
  - (vii) a tax credit under section 8 [refundable sales tax credit], 8.1 [low income climate action tax credit] or 8.2 [BC harmonized sales tax credit] of the Income Tax Act (British Columbia);
  - (viii) individual redress payments granted by the government of Canada to a person of Japanese ancestry;
  - (ix) individual payments granted by the government of Canada under the Extraordinary Assistance Plan to a person infected by the human immunodeficiency virus;

- (x) individual payments granted by the government of British Columbia to a person infected by the human immunodeficiency virus or to the surviving spouse or dependent children of that person;
- (xi) individual payments granted by the government of Canada under the Extraordinary Assistance Plan to thalidomide victims;
- (xii) money that is
- (A) paid or payable to a person if the money is awarded to the person by an adjudicative panel in respect of claims of abuse at Jericho Hill School for the Deaf and drawn from a lump sum settlement paid by the government of British Columbia, or
- (B) paid or payable to or for a person if the payment is in accordance with the settlement agreement approved by the Supreme Court in Action No. C980463, Vancouver Registry;
- (xiii) the BC earned income benefit;
- (xiv) money paid or payable under the 1986-1990 Hepatitis C Settlement Agreement made June 15, 1999, except money paid or payable under section 4.02 or 6.01 of Schedule A or of Schedule B of that agreement;
- (xv) a rent subsidy provided by the provincial government, or by a council, board, society or governmental agency that administers rent subsidies from the provincial government;
- (xvi) Repealed. [B.C. Reg. 197/2012, Sch. 2, s. 11 (a).]
- (xvii) money paid or payable to a person in settlement of a claim of abuse at an Indian residential school, except money paid or payable as income replacement in the settlement;
- (xviii) post adoption assistance payments provided under section 28 (1) or 30.1 of the Adoption Regulation, B.C. Reg. 291/96;
- (xix) a rebate of energy or fuel tax provided by the government of Canada, the government of British Columbia, or an agency of either government;
- (xx) money paid by the government of British Columbia, under a written agreement, to a person with disabilities or to a trustee for the benefit of a person with disabilities to enable the person with disabilities to live in the community instead of in an institution;
- (xxi) Repealed. [B.C. Reg. 85/2012, Sch. 2, s. 7.]
- (xxii) payments granted by the government of British Columbia under section 8 [agreement with child's kin and others] of the Child, Family and Community Service Act;
- (xxiii) payments granted by the government of British Columbia under the Ministry of Children and Family Development's At Home Program;
- (xxiv) Repealed. [B.C. Reg. 85/2012, Sch. 2, s. 7.]
- (xxv) payments granted by the government of British Columbia under an agreement referred to in section 93 (1) (g) (ii) of the Child, Family and Community Service Act, for contributions to the support of a child;
- (xxvi) a loan that is
- (A) not greater than the amount contemplated by the recipient's business plan, accepted by the minister under section 70.1 of this regulation, and
- (B) received and used for the purposes set out in the business plan;
- (xxvii) payments granted by the government of British Columbia under the Ministry of Children and Family Development's
- (A) Autism Funding: Under Age 6 Program, or
- (B) Autism Funding: Ages 6 — 18 Program;
- (xxviii) that portion of the maintenance paid for and passed on to a person with disabilities or a person aged 19 or older under a maintenance order or agreement filed with a court;
- (xxix) payments made by a health authority or a contractor of a health authority to a recipient, who is a "person with a mental disorder" as defined in section 1 of the Mental Health Act, for the purpose of

supporting the recipient in participating in a volunteer program or in a mental health or addictions rehabilitation program;

(xxx) a refund provided under Plan I, "Fair PharmaCare", of the PharmaCare program established under the Continuing Care Programs Regulation, B.C. Reg. 146/95;

(xxxii) payments provided by Community Living BC to assist with travel expenses for a recipient in the family unit to attend a self-help skills program, or a supported work placement program, approved by Community Living BC;

(xxxiii) a Universal Child Care Benefit provided under the Universal Child Care Benefit Act (Canada);

(xxxiv) money paid by the government of Canada, under a settlement agreement, to persons who contracted Hepatitis C by receiving blood or blood products in Canada prior to 1986 or after July 1, 1990, except money paid under that agreement as income replacement;

(xxxv) money withdrawn from a registered disability savings plan;

(xxxvi) a working income tax benefit provided under the Income Tax Act (Canada);

(xxxvii) Repealed. [B.C. Reg. 180/2010, s. 2 (b).]

(xxxviii) the climate action dividend under section 13.02 of the Income Tax Act;

(xxxix) money paid or payable to a person under the Criminal Injury Compensation Act as compensation for non-pecuniary loss or damage for pain, suffering mental or emotional trauma, humiliation or inconvenience that occurred when the person was under 19 years of age;

(xl) money that is paid or payable to or for a person if the payment is in accordance with the settlement agreement approved by the Supreme Court in Action No. S024338, Vancouver Registry;

(xi) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Family Support Services program;

(xli) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Supported Child Development program;

(xlii) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Aboriginal Supported Child Development program;

(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,

(c) all earned income must be included, except the deductions permitted under section 2 and any earned income exempted under sections 3, 3.1 and 4, and

(d) all unearned income must be included, except the deductions permitted under section 6 and any income exempted under sections 7, 7.1, 7.2 and 8.

### **Deductions from earned income**

**2** The only deductions permitted from earned income are the following:

- (a) any amount deducted at source for
  - (i) income tax,
  - (ii) employment insurance,
  - (iii) medical insurance,
  - (iv) Canada Pension Plan,
  - (v) superannuation,
  - (vi) company pension plan, and
  - (vii) union dues;
- (b) if the applicant or recipient provides both room and board to a person at the applicant's or recipient's place of residence, the essential operating costs of providing the room and board;

(c) if the applicant or recipient rents rooms that are common to and part of the applicant's or recipient's place of residence, 25% of the gross rent received from the rental of the rooms.

### **Calendar month exemption — earned income**

**3** (1) Subject to subsections (2) and (2.1), the amount of earned income calculated under subsection (3) is exempt for a family unit.

(2) If an application for disability assistance (part 2) form is submitted to the minister, the family unit may not claim an exemption under this section in relation to the first calendar month for which the family unit becomes eligible for disability assistance unless

(a) a member of the family unit who is designated as a person with disabilities previously received disability assistance under the Act or a former Act, or

(b) a member of the family unit received income assistance under the Employment and Assistance Act for the calendar month immediately preceding that first calendar month.

(2.1) A new family unit described in section 3.1 (3) (b), (4) (b), (10) (b) or (11) (b) that does not provide written notice to the minister in accordance with section 3.1 (3) (c), (4) (c), (10) (c) or (11) (c), as applicable, may claim an exemption under this section except in relation to the calendar month in which the new family unit forms.

(3) The exempt amount for a family unit that qualifies under this section is to be calculated as follows:

(a) in the case of a family unit that includes only one recipient who is designated as a person with disabilities, the exempt amount is calculated as the lesser of

(i) \$800, and

(ii) the family unit's total earned income in the calendar month of calculation;

### **Calendar year exemption — earned income**

**3.1** (1) Despite section 3 but subject to this section, the amount of earned income in a calendar year calculated under subsection (2) of this section is exempt for a family unit

(a) if

(i) the family unit provides written notice to the minister on or before January 14 of the calendar year that the exemption under this section applies to the family unit's earned income in the calendar year,

(ii) a recipient in the family unit

(A) is designated as a person with disabilities for the consecutive 12 calendar month period, or longer, immediately preceding the calendar month in which the family unit provides notice in accordance with paragraph (a) (i), and

(B) is a recipient of disability assistance for the 2 calendar months, or longer, immediately preceding the calendar month in which the family unit provides notice in accordance with paragraph (a) (i), and

(iii) for at least one calendar month in the 12 calendar month period immediately preceding the calendar month in which the family unit provides notice in accordance with paragraph (a) (i), the family unit reported, under section 29, earned income in an amount that exceeded

(A) \$500, in the case of a family unit that includes only one recipient who is designated as a person with disabilities, or

(B) \$750, in the case of a family unit that includes two recipients who are designated as persons with disabilities, or

(b) if

(i) the family unit provides written notice to the minister on or before January 14 of the calendar year





that the exemption under this section applies to the family unit's earned income in the calendar year, and

(ii) an exemption under this section applied to the family unit's earned income in the immediately preceding calendar year.

(2) Subject to subsections (3) to (16), the exempt amount for a family unit that qualifies for an exemption under this section is calculated as follows:

(a) in the case of a family unit that includes only one recipient who is designated as a person with disabilities, the exempt amount is calculated as the lesser of

(i) \$9 600, and

(ii) the family unit's total earned income in the calendar year of calculation;

(17) Notice provided in accordance with subsection (1) (a) (i) or (b) (i), (3) (c), 4 (c), 10 (c) or 11 (c) is deemed not to have been provided unless the notice is affirmed by the signature of each recipient in the family unit.

(18) If a family unit provides notice in accordance with subsection (1) (a) (i) or (b) (i), (3) (c), (4) (c), (10) (c) or 11 (c) the family unit may not cancel the notice.

(19) If a family unit provides notice in accordance with a section set out in Column 1 of the following Table, the family unit is deemed to also provide notice in accordance with the section set out in Column 2 that corresponds with the entry in Column 1, if the family unit has not already provided notice in accordance with that section:

Column 1	Column 2
s. 3.1 (1) (a) (i)	s. 7.2 (1) (a) (i)
s. 3.1 (1) (b) (i)	s. 7.2 (1) (b) (i)
s. 3.1 (3) (c)	s. 7.2 (4) (c)
s. 3.1 (4) (c)	s. 7.2 (5) (c)
s. 3.1 (10) (c)	s. 7.2 (11) (c)
s. 3.1 (11) (c)	s. 7.2 (12) (c)

(20) If subsection (19) applies to a notice provided in accordance with this section and that notice is subsequently deemed to be cancelled as set out in the section listed in Column 1 of the following Table, the notice in section 7.2 that was deemed to be provided in accordance with subsection (19) is deemed to be cancelled as set out in the section listed in Column 2:

Column 1	Column 2
s. 3.1 (3) (d)	s. 7.2 (4) (d)
s. 3.1 (4) (d)	s. 7.2 (5) (d)
s. 3.1 (13) (d)	s. 7.2 (14) (d)

### Small business exemption

4 (1) In this section and section 5,

"permitted operating expenses" means costs, charges and expenses incurred by a person in the operation of a small business, under a self-employment program in which the person is participating, for the following:



- (a) purchase of supplies and products;
  - (b) accounting and legal services;
  - (c) advertising;
  - (d) taxes, fees, licenses and dues incurred in the small business;
  - (e) business insurance;
  - (f) charges imposed by a savings institution on an account and interest;
  - (f.1) payments, including principal and interest, on a loan that is
    - (i) not greater than the amount contemplated by the recipient's business plan, accepted by the minister under section 70.1 of this regulation, and
    - (ii) received and used for the purposes set out in the business plan;
  - (g) maintenance and repairs to equipment;
  - (h) gross wages paid to employees of the small business, but not including wages paid to
    - (i) the person participating, or
    - (ii) a person in the family unit of the person participating;
  - (i) motor vehicle expenses;
  - (j) premiums for employment insurance or workers' compensation benefits;
  - (k) employer contributions for employment insurance, workers' compensation or the Canada Pension Plan;
  - (l) rent and utilities, excluding rent and utilities for the place of residence of the persons described in subparagraphs (i) or (ii) of paragraph (h) unless
    - (i) there is an increase for rent or utilities and the increase is attributable to the small business, and
    - (ii) the increase is not provided for in the calculation of the family unit's shelter allowance under Schedule A of this regulation;
  - (m) office expenses;
  - (n) equipment purchases or rentals.
- (2) Earned income of a recipient of disability assistance is exempted from the total income of the recipient's family unit if
- (a) the recipient is participating in a self-employment program, and
  - (b) the earned income is derived from operating a small business under the self-employment program in which the recipient is participating and
    - (i) is used for permitted operating expenses of the small business, or
    - (ii) is deposited in a separate account, established by the recipient in a savings institution, which account
      - (A) consists exclusively of funds reserved by the recipient for the purpose of paying permitted operating expenses of that small business, and
      - (B) the amount deposited does not increase the current balance of the separate account to a sum that exceeds \$5 000, or
      - (iii) is used for costs of renovations to the recipient's place of residence up to but not exceeding \$5 000 in total or a greater amount approved by the minister, if the renovations are part of a business plan accepted by the minister under section 70.1 of this regulation.

## Appellant's position

The appellant's position is that the ministry should exempt his car insurance for the following reasons:

- delivery insurance is required for his employment;
- his insurance premiums increased to \$272.58 per month and he has other operating expenses, but is only asking the ministry to exempt \$132.23;
- his boss has asked him to work an extra shift but if he makes \$270 extra the ministry will switch him to "Medical Services Only" and he will lose his transportation allowance and other benefits;
- he wants to continue on a positive path of getting healthier, paying his bills, and staying at work; his goal is to get off of assistance and go back to school; and
- it's not fair that people on straight DA can make \$800 per month without having their DA reduced while his is already reduced due to CPP and he can only make \$260.

## Ministry's position

The ministry's position is that there are no provisions in the EAPWDR that allow it to deduct insurance from the calculation of the appellant's earned income. Specifically:

- the appellant's net employment income is "earned income" under section 1 of the EAPWDR and section 24 and Schedule B require earned income, less applicable deductions and exemptions, to be deducted from DA;
- the appellant is eligible for an \$800 per month "earned income exemption" per section 3 of Schedule B and is not eligible for other exemptions or deductions from the earned income calculation pursuant to the EAPWDR;
- denying the appellant an insurance exemption is a reasonable application of the EAPWDR, and there are no additional benefits for car insurance;
- the ministry understands that the appellant is working towards independence and getting off of assistance, but it must abide by its regulations; and
- although the appellant is providing his own vehicle and paying for its maintenance, he is not considered to be self-employed; i.e., he is not in a self-employment program and he is not an independent contractor of a delivery service.

## Decision

### 1. Earned Income: wages

Earned income as defined in section 1 of the EAPWDR includes wages; i.e., "any money or value received in exchange for work or the provision of a service," The ministry and the appellant do not dispute that the appellant received net wages of \$735.67 from his employer. The ministry has also agreed to deduct the appellant's gas allowance (\$125) as it found that this is not earned income. The panel finds that the ministry reasonably determined that pursuant to the EAPWDR section 1, the appellant's earned income is his net pay (less the gas allowance).

Under section 24 of the EAPWDR, DA may be provided to or for a family unit, for a calendar month, in an amount that is not more than the rate for the family size "minus the family unit's net income

determined under Schedule B". The ministry notes that the appellant's net income is earned income from employment, less any applicable deductions and exemptions. The parties do not dispute that earned income less any allowable exemptions must be deducted from DA. The panel finds that the ministry reasonably determined that the appellant's earned income of \$735.67 (less his \$125 gas allowance) must be deducted from his DA unless any exemptions apply.

## 2. Exemptions from Earned Income: \$800 per calendar month, EAPWDR section 3 of Schedule B

The ministry determined that the appellant is eligible for an \$800 "Calendar month exemption" from Earned Income as set out in section 3 of Schedule B of the EAPWDR. Section 3(3) of the Schedule states that the exempt amount for a family unit that "qualifies" is "the lesser of \$800 and the family unit's total earned income in the calendar month of calculation". The ministry found that the appellant qualifies for the \$800 exemption because he is not newly eligible for DA as described in sections 3(2) and 3(2.1); and he is not on an annualized "Calendar year exemption" as described in section 3.1 of the EAPWDR Schedule B.

The appellant does not dispute that his current exemption is \$800 per calendar month but argues that it is unfair that his DA would be reduced if he makes only \$260 more considering that his "main source of income" is CPP Disability. The ministry stated at the hearing that the appellant's CPP is not relevant to this appeal and the panel also notes that the appeal does not concern the effect that CPP has on the amount of DA the appellant receives. The panel therefore finds that the ministry reasonably determined that the appellant is eligible for an \$800 per month "earned income exemption" per section 3 of Schedule B of the EAPWDR.

## 3. Other exemptions or deductions from Earned Income under the EAPWDR, Schedule B

The ministry argues that the appellant's car insurance is not an eligible deduction as it is not listed among the allowable deductions and exemptions in the EAPWDR, specifically section 1 of Schedule B. The ministry further argues that the appellant is not eligible for other exemptions or deductions from the earned income calculation per section 2, and his insurance cannot be deducted as a "Small business expense" per section 4 of Schedule B as he is not self-employed.

Section 1 of Schedule B allows deductions or exemptions that include income for dependent full-time students; benefits and tax credits for dependent children; tax credits and rebates for individuals; payments from government legal settlements and programs; rent subsidies and business loans; and programs for persons with mental and physical disabilities. The panel notes that as car insurance is not among these items, and that none of the items are reflected in the appellant's evidence for this appeal, the ministry reasonably determined that car insurance is not an eligible deduction under this section and that none of the listed deductions and exemptions apply to the appellant's earned income.

Section 2 of Schedule B restricts deductions from earned income to include only the following items: income tax, employment and medical insurance, Canada Pension and other pension plan contributions, and union dues deducted at source; as well as deductions for room and board and rental situations. The panel notes that the appellant's earning statements show that deductions were already made at source for pension and employment insurance, "gov pen" and EI cont", and that car insurance is not among the items listed in the section. The panel therefore finds that the ministry



reasonably determined that none of the deductions from earned income in section 2 of Schedule B apply to the appellant's net pay.

Finally, "Small business exemptions" are permitted under section 4 of Schedule B for persons who are participating in a self-employment program. The exemptions listed in this section include various operating expenses, as well as "motor vehicle expenses" under section 4(1)(i) for persons participating in self-employment. As there is no evidence to indicate that the appellant is participating in a self-employment program, the panel finds that the ministry reasonably determined that the exemptions in section 4 of Schedule B do not apply to the appellant.

**Conclusion**

Accordingly, the panel finds that the ministry reasonably determined that the appellant's car insurance payments cannot be deducted from his earned income pursuant to the EAPWDR. 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.