

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of December 27, 2013, which found that the appellant was not eligible for income assistance for the month of December, 2013 under Section 10(4) of the Employment and Assistance Regulation (EAR) due to having received income in excess of the legislated limit, as well as for failure to provide information requested by the ministry under Section 10(2) of the Employment and Assistance Act (EAA).

PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 10
Employment and Assistance Regulation (EAR), Section 1, Section 10, Schedule A(1) and (2), Schedule B(1)(c)(d)

PART E – Summary of Facts

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

- The appellant is currently receiving income assistance as a sole recipient, receiving \$395.00 per month shelter allowance and \$210.00 support allowance, for a total benefit of \$610.00 per month.
- A detailed statement of the appellant's bank account, dated November 5, 2013, provided by his banking institution, for the period of September 3, 2013 to November 1, 2013.
- The appellant's signed Request for Reconsideration (RFR), dated December 13, 2013. In Section 3 of the RFR, the appellant states that he went to another province to find work and did not think that putting a cheque written in his name into his bank account would be a problem. Appellant further stated that he did not gain anything from depositing the cheque into his bank account.
- Sections 1 and 2 of the RFR, dated December 11, 2013, completed by a ministry worker, which outlines the reasons that the appellant was not eligible for December, 2013 income assistance benefits. The ministry states that on November 8, 2013, appellant provided to the ministry a bank statement indicating that he had received a \$1996.00 deposit on October 4, 2013. Appellant advised the ministry that he had deposited a pay cheque for a friend. The ministry states that the bank statement also indicates that the money deposited was spent over the month of October at different locations and merchants, not withdrawn in one lump sum to be given to the friend for whom he supposedly cashed the cheque.

In the reconsideration decision, the ministry states that on November 13, 2013, the appellant was asked by the ministry to provide confirmation that the cheque was for his friend. Appellant stated that his friend's employer wrote the cheque for him (friend) in his (appellant's) name. Appellant was asked by the ministry to provide confirmation of this.

In the reconsideration decision, the ministry further states that on December 10, 2013, the appellant explained to the ministry that his friend was going through bankruptcy and that he (appellant) had cashed his friend's cheque as a favour. Appellant stated that he was unable to provide confirmation of this because it occurred in another province. The ministry advised the appellant that without confirmation of the source of income, he would be ineligible for December, 2013 income assistance.

In his Notice of Appeal, the appellant states that he disagrees with the ministry's decision because he feels that the ministry is not looking at the "whole picture". He adds that "all appeals are denied because it is in the government's hands if they don't have pay any moneys the(y) will deny you every time."

Admissibility of New Information

On January 31, 2014, the appellant sent an email message to the EAAT office, intended for the panel to read at his appeal. The panel determined that the additional information in the email was in support of the evidence before the ministry at the time of reconsideration, therefore is admissible under Section 22(4) of the *Employment and Assistance Act* (EAA).

The appellant's January 31, 2014's email message states that he was not deliberately trying to hide money from the ministry. He went to another province to find work and used the money his friend gave him, "to eat and have gas and for motel for 4 days".

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PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's reconsideration decision, which found the appellant ineligible for income assistance for the month of December, 2013 was reasonably supported by the evidence, or was a reasonable application of the applicable legislation in the circumstances of the appellant.

Specifically, was the ministry reasonable in determining that

- the appellant received income in excess of the legislated limit;
- the appellant failed to provide information requested by the ministry;
- the appellant was ineligible for income assistance for the month of December, 2013?

The relevant legislation is as follows:

EAA:

Information and verification

10. (1) For the purposes of

(a) determining whether a person wanting to apply for income assistance or hardship assistance is eligible to apply for it,

(b) determining or auditing eligibility for income assistance, hardship assistance or a supplement,

(c) assessing employability and skills for the purposes of an employment plan, or

(d) assessing compliance with the conditions of an employment plan,

the minister may do one or more of the following:

(e) direct a person referred to in paragraph (a), an applicant or a recipient to supply the minister with information within the time and in the manner specified by the minister;

(f) seek verification of any information supplied to the minister by a person referred to in paragraph (a), an applicant or a recipient;

(g) direct a person referred to in paragraph (a), an applicant or a recipient to supply verification of any information he or she supplied to the minister.

(2) The minister may direct an applicant or a recipient to supply verification of information received by the minister if that information relates to the eligibility of the family unit for income assistance, hardship assistance or a supplement.

(3) Subsection (1) (e) to (g) applies with respect to a dependent youth for a purpose referred to in subsection (1) (c) or (d).

(4) If an applicant or a recipient fails to comply with a direction under this section, the

minister may declare the family unit ineligible for income assistance, hardship assistance or a supplement for the prescribed period.

(5) If a dependent youth fails to comply with a direction under this section, the minister may reduce the amount of income assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

EAR:

Section 1 – Definitions

"earned income" means

- (a) any money or value received in exchange for work or the provision of a service,
- (b) Repealed (B.C. Reg.197/2012)
- (c) pension plan contributions that are refunded because of insufficient contributions to create a pension,
- (d) money or value received from providing room and board at a person's place of residence, or
- (e) money or value received from renting rooms that are common to and part of a person's place of residence;

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

- (a) money, annuities, stocks, bonds, shares, and interest bearing accounts or properties;
- (b) cooperative associations as defined in the *Real Estate Development Marketing Act*; (B.C. Reg. 518/2004)
- (c) war disability pensions, military pensions and war veterans'allowances;
- (d) insurance benefits, except insurance paid as compensation for a destroyed asset;
- (e) superannuation benefits;
- (f) any type or class of Canada Pension Plan benefits;
- (g) employment insurance;
- (h) union or lodge benefits;
- (i) financial assistance provided under the *Employment and Assistance for Persons with Disabilities Act* or provided by another province or jurisdiction;
- (j) workers'compensation benefits and disability payments or pensions;
- (k) surviving spouses' or orphans' allowances; (B.C. Reg. 363/2012)
- (l) a trust or inheritance;
- (m) rental of tools, vehicles or equipment;
- (n) rental of land, self-contained suites or other property except the place of residence

of an applicant or recipient;

(o) interest earned on a mortgage or agreement for sale;

(p) maintenance under a court order, a separation agreement or other agreement;

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

(r) a lottery or a game of chance;

(s) awards of compensation under the *Criminal Injury Compensation Act* or awards of benefits under the *Crime Victim Assistance Act*, other than an award paid for repair or replacement of damaged or destroyed property; (B.C. Reg. 344/2004)

(t) any other financial awards or compensation;

(u) Federal Old Age Security and Guaranteed Income Supplement payments;

(v) financial contributions made by a sponsor pursuant to an undertaking given for the purposes of the *Immigration and Refugee Protection Act* (Canada) or the *Immigration Act* (Canada);

(w) tax refunds; (B.C. Reg.197/2012)

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.

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 section 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 (B.C. Reg. 48/2010) (B.C. Reg. 197/2012)

(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

- (1) A monthly support allowance for the purpose of section 1 (a) is the sum of
- (a) the amount set out in Column 3 of the following table for a family unit described in Column 1 of an applicant or a recipient described in Column 2, plus
 - (b) the amount calculated in accordance with subsections (2) to (4) for each dependent child in the family unit. (B.C. Reg. 197/2012)

Item	Family unit composition	Age or status of applicant or recipient	Amount of support
1	Sole applicant/recipient and no dependent children	Applicant/recipient is under 65 years of age	\$235.00

Monthly shelter allowance

- (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
1	1 person	\$375

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,
- (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.

Panel Decision

As noted above, the appellant's position is that the cheque in the amount of \$1996.00, deposited into his bank account on October 4, 2013 was, in fact, money that was meant for his friend from his friend's employer. The appellant does not dispute the \$1996.00 deposit into his bank account, nor that the cheque was made out to him.

The ministry's position is that they requested further information regarding the cheque, as per EAA Section 10(2). Because the appellant did not provide a satisfactory response, the ministry declared him ineligible for income assistance for the month of December, 2013.

On the second issue determined by the ministry in its reconsideration decision, the panel finds that the ministry had no option but to consider the \$1996.00 in the appellant's net income calculation under Schedule B of the EAR. Because this income amount exceeded the \$610.00 of income support allowed the applicant as a sole recipient, (as per EAR, Schedule A), he was reasonably denied assistance for the month of December, 2013, in accordance with Section 10 of the EAR.

Having reviewed and considered the evidence and relevant legislation, the panel finds that when requested to do so by the ministry, the appellant failed to provide any confirmation or evidence that the deposited cheque was not intended for him to keep, belonged to the appellant's friend, or was issued by the friend's employer. As the appellant failed to provide the requested information, the panel finds that the ministry's decision, which found the appellant ineligible for income support for the month of December, 2013 pursuant to Section 10 of the EAA, is a reasonable application of the legislation in the circumstances of the appellant.

The panel thus confirms the ministry's decision.