

PART C – Decision under Appeal

Under appeal is the ministry's January 3, 2014 reconsideration decision that the \$238.48 in assistance issued to the appellant is the maximum for which he is eligible for October 2013, pursuant to section 24 and schedules A and B of the Employment and Assistance for Persons with Disabilities Regulation.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulations (EAPWDR)

PART E – Summary of Facts

With the consent of both parties the hearing was conducted as a written hearing pursuant to section 22 (3)(b) of the Employment and Assistance Act.

The evidence before the ministry at reconsideration was as follows:

- The appellant is a sole recipient of assistance with no dependants.
- The appellant receives monthly Canada Pension (CPP) payments of \$577.84 which is fully deducted from assistance.
- The disability assistance rate for a sole person with disabilities is \$531.42 support plus up to \$375 for actual shelter costs.
- The appellant does not have a set rent per month, but stays in a hotel as necessary and submits receipts.
- For the month of October 2013 the ministry issued to the appellant a total of \$238.48, consisting of \$531.42 support + \$284.90 actual shelter costs, for which the appellant submitted receipts, less \$577.84 CPP income.
- December 20, 2013 Request for Reconsideration form with a four page letter, in which the appellant states he sleeps outside and uses the shelter allowance to stay in hotels in bad weather, and explains the reasons for his opinion the ministry has not properly calculated the amount of his financial assistance by the amount of \$46.42.
- The appellant's hotel receipts for October 2013, for \$63.25, \$67.85, \$67.85, and \$85.95 .

Upon appeal the following were submitted:

- The appellant's January 21, 2014 Notice of Appeal
- February 7, 2014 letter from the appellant, which goes to argument (see Appellant's Position)
- February 14, 2014 letter from the ministry, which goes to argument (see Ministry's Position)

The panel finds it is undisputed by the parties that, as a sole person with disabilities, the appellant qualifies for monthly support of \$531.42 plus a maximum of \$375 for actual shelter costs, and that he has monthly CPP income of \$577.84.

PART F – Reasons for Panel Decision

The issue is the reasonableness of the ministry's reconsideration decision that the appellant received the maximum assistance available to him for October 2013.

Relevant Legislation

Employment and Assistance for Person with Disabilities Regulation (excerpts)

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:

(f) any type or class of Canada Pension Plan benefits;

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.

Schedule A

Disability Assistance Rates

Amount of support 1 Sole applicant/recipient and no dependent children Applicant/recipient is a person with disabilities \$531.42

Monthly shelter allowance

4 (2) *The monthly shelter allowance for a family unit to which section 14.2 of the Act does not apply is the smaller of*

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

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

Column 1 *Family Unit Size 1 person*

Column 2 *Maximum Monthly Shelter \$375*

How actual shelter costs are calculated

5 (2) *When calculating the actual monthly shelter costs of a family unit, only the following items are*

included:

- (a) rent for the family unit's place of residence;
- (b) mortgage payments on the family unit's place of residence, if owned by a person in the family unit;
- (c) a house insurance premium for the family unit's place of residence if owned by a person in the family unit;
- (d) property taxes for the family unit's place of residence if owned by a person in the family unit;
- (e) utility costs;
- (f) the actual cost of maintenance and repairs for the family unit's place of residence if owned by a person in the family unit and if these costs have received the minister's prior approval.

Schedule B

Net Income Calculation (section 24 (b))

) Deductions from unearned income

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

- (a) any income tax deducted at source from employment insurance benefits;
- (b) essential operating costs of renting self-contained suites.

Appellant's Position

The appellant argues that the method of calculating his financial assistance is flawed, leading to a forced deduction from income and assistance that is not intended by legislation. He says the deduction is discriminatory and results in serious hardship. The appellant says with the ministry's method of calculation it is not possible for him to receive the maximum assistance available to a single person with disabilities (\$531.42 support allowance + \$375 shelter allowance – total income \$577.84 = \$328.34) without spending \$46.43 from his CPP income. The appellant argues this amounts to a tax, is a burden, and since application for CPP is necessary before assistance is allowable, is discriminatory to all people with PWD status who have CPP benefits or other income greater than the maximum support allowance but less than the total allowance.

The appellant argues to produce the results intended by the legislation, receipts should be reimbursed dollar for dollar up to the maximum the client is eligible for, in his case: maximum eligible support \$531.34 + maximum eligible shelter \$375 less total income \$577.34 = \$328.34.

The appellant says he has additional shelter costs totalling \$170, consisting of about \$20 a month for sleeping equipment that must be light, compact and quick drying, plus \$150 for prepared food beyond what he would spend if he had an apartment with stove and fridge.

The appellant says his CPP income is \$46.42 in excess of the \$531.42 support allowance, and by deducting income from actual rent each month, the ministry deducts \$46.42 twice.

The appellant argues that when the amount of assistance is calculated by deducting income from actual rent each month, this fails to produce results that are consistent with the intent of the legislation to provide assistance to low income people, and this calculation is the source of his complaints of double deduction, inability to receive what he is eligible for, and that he is forced to pay rent out of CPP when he is eligible for more assistance.

Ministry's Position

The ministry argues that CPP income is considered unearned income pursuant to section 9 of the EAWPDR, and the full amount, \$577.84, must be deducted from the appellant's assistance pursuant to section 24. The ministry says the maximum amount available to the appellant is his monthly support allowance of \$531.42, plus actual shelter costs up to \$375, less his \$577.84 CPP income. For October 2013, the ministry's calculation of the total assistance was \$531.42 support + \$284.90 actual shelter cost less \$577.84 CPP = \$238.48.

The ministry says that because the appellant's CPP income exceeds his support allowance, the difference of \$46.42 will always be deducted from his shelter expenses. It is the ministry's position that \$46.42 is only deducted once.

Panel's Decision

The appellant has expressed his views clearly as to how he believes the applicable legislation should be interpreted and applied in his circumstances. He also points out that he has shelter related expenses in addition to hotel bills, but the panel finds these expenses are not included in the calculation of actual shelter costs as listed in section 5(2) of schedule A of the EAWPDR.

Section 24 of the EAWPDR says the monthly disability assistance is limited to the assistance amounts determined under schedule A, minus the net income determined under schedule B. The panel finds the ministry's calculation of \$531.42 support + \$284.90 actual shelter cost minus \$577.84 income = \$238.48 is consistent with the legislation.

The panel finds the ministry's decision was a reasonable application of the applicable enactment in the circumstances of the appellant, and confirms the decision.