

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (ministry) dated February 11, 2014 in which the ministry held that the appellant was not eligible for income assistance from May 2013 – January 2014 because the appellant's family unit had a Registered Retirement Savings Plan (RRSP) with a total value in excess of the legislated limit of \$4,000 as set out in section 11(2) of the Employment and Assistance Regulation (EAR). The ministry determined that the RRSP is a cash asset under section 1 of the EAR; had a value of \$7,228.67 at the time the ministry calculated the overpayment; and is not exempt from the calculation of total assets under section 11(1). As a result, the ministry found that the appellant is liable to repay income assistance of \$7,228.67 in accordance with section 27 of the *Employment and Assistance Act (EAA)*.

PART D – Relevant Legislation

Employment and Assistance Act, sections 1 and 27
Employment and Assistance Regulation, sections 1 and 11

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 November 29, 2013, signed by the appellant's spouse and stating that:
 - They showed their RRSP when they applied (for income assistance) so it was not their mistake;
 - If they got the right information about the RRSP they could have been eligible (for assistance) after 1-2 months;
 - The maximum amount of the asset, \$7,228 is reduced by 10-20% upon cashing it in;
 - The ministry estimated (the appellant) had that amount in cash when actually it will be reduced by 10-20%.
- 2) Three financial declaration forms initialed and signed by the appellant as follows:
 - Application for Income Assistance (Part 2), dated January 21, 2013. Under "Applicant Financial" and "Dependent Financial" (financial headings), the Retirement Savings Plan (RSP) boxes were left blank.
 - Employment and Assistance Review, dated April 29, 2013. Under the financial headings, the RSP boxes were left blank.
 - Employment and Assistance Review, dated November 28, 2013. Under the Dependent Financial heading, the amount of \$7,227.96 was entered in the box for RSP.
- 3) Two Bank Profiles signed by the appellant's financial institution and indicating an RRSP balance of \$7,217.96 as of April 26, 2013; and \$7,228.67 as of November 28, 2013.
- 4) Letter from the Ministry dated November 20, 2013, addressed to the appellant and requesting RRSP transaction printouts from January 2013 to the current date for the purpose of a file review.
- 5) Two ministry Overpayment Charts for assistance months June 2013 – October 2013:
 - The first chart indicates total eligibility of \$543.05 for income assistance, and an overpayment of \$7,228.67. Comments are: the appellant's spouse was added to the file in May 2013 and had an RRSP with a value of \$7,228.67 as of November 29, 2013. "As such this family unit has not been eligible since May 14, 2013 to the current date as assets in excess."
 - The second chart lists the RRSP account balance as "Assets" during four assistance months: \$7,217.96 for June 2013, \$7,221.16 for July, \$7,224.22 for August, and \$7,225.70 for September.
- 6) Appellant's bank print out dated September 30, 2013 showing "Summary of contributions to and withdrawals from registered investments" for 2013: \$5,000 contribution (undated); and "Registered investment details on September 30, 2013": RRSP balance \$7,225.70.

7) Ministry's "BC Employment and Assistance Rate Tables" indicating an asset exemption limit of \$4,000 for couples or one-two parent families.

In her Notice of Appeal dated February 18, 2014, the appellant stated that:

- On her application to add her husband, she provided the ministry with all of the required documents;
- It was not the appellant's fault; if they had known from the start that their RRSP was over they would understand and manage, but now the ministry wants a lot of money from them;
- On withdrawal from the RRSP, the money decreases by 10%.

Attached to the Notice of Appeal was the appellant's spouse's RRSP "Transaction History List" dated February 18, 2014 showing the RRSP with a current balance of \$3,953.52. Two withdrawals are indicated: \$555.56 on December 18, 2013 with a handwritten notation next to it, "\$611.01"; and \$2,722.22 on January 15, 2014 with a handwritten notation, "\$2,994.44." Below these amounts is a further handwritten notation, "withhold tax 10%".

In her oral testimony the appellant explained that she initially applied for income assistance in 2012, with only her children named as dependents. Her spouse was out of the country for several months visiting relatives and she and her spouse were neither separated nor divorced. At the time of her initial application, the RRSP had a balance of \$2,000 well below the asset limit of \$4,000. When her spouse returned to Canada in April 2013 he could not find work so she added him as a dependent to her income assistance file in May. In February 2013, he made a \$5,000 contribution to the RRSP and they disclosed in the May application to add her spouse that the RRSP had a balance of \$7,000.

She added that the ministry indicated that the application was complete and paid them income assistance each month. Then in November 2013, the ministry told them that the application was not complete. The appellant provided all of her documents once again and the ministry told them the RRSP was over the limit and cut them off of income assistance in January 2014.

The appellant stated that she has since reduced the RRSP to under the \$4,000 limit and re-applied for income assistance. Regarding the overpayment of \$7,228.67 that the ministry is requiring them to repay, the appellant stated that they do not have \$7,000 due to losing 10% for taxes when cashing in the RRSP: they received only \$555.56 for a withdrawal of \$611.01, and \$2,722.22 for a withdrawal of \$2,994.44. She added that the correct amount of the overpayment is \$3,228.67 because \$4,000 is exempt, and she does not know how or when to repay the ministry.

At the hearing the ministry relied on its reconsideration decision summary and explained that clients have an obligation to use any assets to support themselves before applying for income assistance and to declare all assets and any changes in the value of assets. The ministry stated that it requires both the applicant's initials and signature on the application so that the applicant can verify that the information is complete and correct. The ministry further explained that its records indicated that the RRSP had a balance of over \$7,000 between May 2013 and January 2014 inclusive and when a family has assets in excess of the \$4,000 limit, it is not eligible for income assistance during the whole time period in which it has the asset.

In response to questions, the ministry stated that it does not know why the appellant was paid assistance when her documentation indicated an RRSP asset of over \$7,000, and it does not know why the file was flagged for review. Nevertheless, since the appellant's withdrawals from the RRSP were not made until December 2013 and January 2014 and the appellant was still receiving income assistance in December, the overpayment for the purpose of the reconsideration decision was the total value of the RRSP in November, \$7,228.67. Therefore, this is the amount of the required repayment, and in any event the amount of the overpayment is not appealable under the *EAA* section 27(2).

Regarding the tax withholding, the ministry stated that according to Government of Canada regulations, the withholding is an obligation to pay taxes and not necessarily a reduction in the value of the asset. While the ministry is willing to reduce the overpayment by the amount of the withholding, the appellant would need to provide supporting documentation such as a T4A in order to verify the amount that was withheld. In addition, the ministry is willing to work with the appellant to schedule repayment amounts that are manageable.

The panel admits the information in the Notice of Appeal and attached Transaction History List, along with the oral testimony of the appellant and ministry, under section 22(4)(b) of the *Employment and Assistance Act* as testimony in support of information that was before the ministry at the time the decision being appealed was made. The panel finds that the appellant's statements relate to the history of the RRSP account, ministry's exemption limit, and amount of overpayment; and the ministry's oral statements provide the basis for its finding that the appellant has an overpayment of \$7,228.67.

The panel makes the following findings of fact:

1. The appellant receives income assistance as a family unit with dependent spouse and children, and added her spouse to the file as a dependent in May 2013.
2. The appellant has an RRSP asset in her spouse's name that had a value of approximately \$7,000 during the time period May 2013 - January 2014.
3. The asset exemption limit for the appellant's family size is \$4,000.
4. The appellant disclosed an RRSP balance of approximately \$7,000 to the ministry in April 2013 and continued to receive income assistance payments from May 2013 until January 2014 when the ministry closed the file.
5. The appellant is liable for a tax withholding of approximately 10% upon cashing in the RRSP.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the following determinations of the ministry were reasonably supported by the evidence, or were a reasonable interpretation of the legislation in the circumstances of the appellant:

- The appellant was not eligible for income assistance from May 2013 – January 2014 pursuant to section 11(2) of the EAR because her family unit had an RRSP with a total value in excess of the legislated asset limit of \$4,000;
- The RRSP is a cash asset under section 1 of the EAR;
- The RRSP is not exempt from the calculation of total assets under section 11(1) of the EAR; and
- The appellant has an overpayment of \$7,228.67 and is liable to repay income assistance in accordance with section 27 of the *EAA*.

The relevant sections of the legislation are as follows:

Employment and Assistance Act

Interpretation

1 (1) In this Act:

"applicant" means the person in a family unit who applies under this Act for income assistance, hardship assistance or a supplement on behalf of the family unit, and includes

- (a) the person's spouse, if the spouse is a dependant, and
- (b) the person's adult dependants;

"dependant", in relation to a person, means anyone who resides with the person and who

- (a) is the spouse of the person,
- (b) is a dependent child of the person, or
- (c) indicates a parental role for the person's dependent child;

"family unit" means an applicant or a recipient and his or her dependants;

"income assistance" means an amount for shelter and support provided under section 4 [income assistance and supplements];

"recipient" means the person in a family unit to or for whom income assistance, hardship assistance or a supplement is provided under this Act for the use or benefit of someone in the family unit, and includes

- (a) the person's spouse, if the spouse is a dependant, and
- (b) the person's adult dependants;

"spouse" has the meaning in section 1.1;

(3) For the purpose of the definition of "dependant", spouses do not reside apart by reason only that a spouse is employed or self-employed in a position that requires the spouse to be away from the residence of the family unit for periods longer than a day.

Meaning of "spouse"

1.1 (1) Two persons, including persons of the same gender, are spouses of each other for the purposes of this Act if

- (a) they are married to each other, or
 - (b) they acknowledge to the minister that they are residing together in a marriage-like relationship.
- (2) Two persons who reside together, including persons of the same gender, are spouses of each other for the purposes of this Act if
- (a) they have resided together for at least
 - (i) the previous 3 consecutive months, or
 - (ii) 9 of the previous 12 months, and
 - (b) the minister is satisfied that the relationship demonstrates
 - (i) financial dependence or interdependence, and
 - (ii) social and familial interdependence, consistent with a marriage-like relationship.

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.

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.

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.

Reporting obligations

11 (1) For a family unit to be eligible for income assistance, a recipient, in the manner and within the time specified by regulation, must

(a) submit to the minister a report that

(i) is in the form prescribed by the minister, and

(ii) contains the prescribed information, and

(b) notify the minister of any change in circumstances or information that

(i) may affect the eligibility of the family unit, and

(ii) was previously provided to the minister.

(2) A report under subsection (1) (a) is deemed not to have been submitted unless the accuracy of the information provided in it is affirmed by the signature of each recipient.

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:

"**asset**" means

- (a) equity in any real or personal property that can be converted to cash,
- (b) a beneficial interest in real or personal property held in trust, or
- (c) cash assets;

"**cash assets**" in relation to a person, means

- (a) money in the possession of the person or the person's dependant,
- (b) money standing to the credit of the person or the dependant with
 - (i) a savings institution, or
 - (ii) a third party that must pay it to the person or the dependant on demand,
- (c) the amount of a money order payable to the person or the dependant, or
- (d) the amount of an immediately negotiable cheque payable to the person or the dependant;

Asset limits

11 (1) The following assets are exempt for the purposes of subsections (2) and (2.1):

- (a) clothing and necessary household equipment;
- (b) subject to subsection (2.3), one motor vehicle generally used for day to day transportation needs if
 - (i) the equity in the motor vehicle does not exceed \$10 000,
 - (ii) the motor vehicle has been significantly adapted to accommodate the disability of a recipient in the family unit,
 - (iii) the motor vehicle is used to transport a disabled dependent child, or
 - (iv) the motor vehicle is used to transport a disabled foster child, if the child is in the care of the applicant or recipient;
- (c) a family unit's place of residence;
- (d) money received or to be received from a mortgage on, or an agreement for sale of, the family unit's previous place of residence if the money is
 - (i) applied to the amount owing on the family unit's current place of residence, or
 - (ii) used to pay rent for the family unit's current place of residence;
- (e) a Canada child tax benefit;
- (f) a goods and services tax credit under the Income Tax Act (Canada);
- (g) 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);
- (h) an uncashed life insurance policy with a cash surrender value of \$1 500 or less;
- (i) business tools;
- (j) seed required by a farmer for the next crop-year;
- (k) basic breeding-stock held by a farmer at the date of the applicant's submission of the application for income assistance (part 2) form, and female stock held for stock replacement;
- (l) essential equipment and supplies for farming and commercial fishing;

- (m) fishing craft and fishing gear owned and used by a commercial fisher;
- (n) prepaid funeral costs;
- (o) individual redress payments granted by the government of Canada to a person of Japanese ancestry;
- (p) individual payments granted by the government of Canada under the Extraordinary Assistance Plan to a person infected by the human immunodeficiency virus;
- (q) individual payments granted by the government of British Columbia to a person infected by the human immunodeficiency virus;
- (r) individual payments granted by the government of Canada under the Extraordinary Assistance Plan to thalidomide victims;
- (s) money that is
- (i) 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
- (ii) 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;
- (t) money paid under the 1986-1990 Hepatitis C Settlement Agreement made June 15, 1999, except money paid under section 4.02 or 6.01 of Schedule A or of Schedule B of that agreement;
- (u) Repealed. [B.C. Reg. 197/2012, Sch. 1, s. 6 (e).]
- (v) money paid to a person in settlement of a claim of abuse at an Indian residential school, except money paid as income replacement in the settlement;
- (w) post adoption assistance payments provided under section 28 (1) or 30.1 of the Adoption Regulation, B.C. Reg. 291/96;
- (x) for a recipient who is participating in a self-employment program funded or established by the minister under section 7 of the Act,
- (i) up to a maximum of \$5 000 kept by the recipient in a separate account described in section 4 (2) (b) (ii) of Schedule B, and
- (ii) up to a maximum of \$50 000, or a greater amount approved by the minister, consisting of
- (A) the value of assets used by the recipient in operating a small business under the self-employment program, and
- (B) a loan that is not greater than the amount contemplated by the recipient's business plan, accepted by the minister under section 77.2 of this regulation, and received and used for the purposes set out in the business plan;
- (y) assets exempted under
- (i) section 12 (2) [asset development accounts],
- (ii) section 13 (2) [assets held in trust for person receiving special care], or
- (iii) section 13.1 (2) [temporary exemption of assets for person applying for disability designation or receiving special care];
- (z) Repealed. [B.C. Reg. 85/2012, Sch. 1, s. 3.]
- (aa) 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;
- (bb) payments granted by the government of British Columbia under the Ministry of Children and Family Development's At Home Program;
- (cc) Repealed. [B.C. Reg. 85/2012, Sch. 1, s. 3.]
- (dd) 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;

- (ee) payments granted by the government of British Columbia under the Ministry of Children and Family Development's
- (i) Autism Funding: Under Age 6 Program, or
 - (ii) Autism Funding: Ages 6 — 18 Program;
 - (ff) funds held in a registered education savings plan;
 - (gg) 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;
 - (hh) a Universal Child Care Benefit provided under the Universal Child Care Benefit Act (Canada);
 - (ii) 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;
 - (jj) funds held in, or money withdrawn from, a registered disability savings plan;
 - (kk) a working income tax benefit provided under the Income Tax Act (Canada);
 - (ll) Repealed. [B.C. Reg. 180/2010, s. 1 (b).]
 - (mm) the climate action dividend under section 13.02 of the Income Tax Act;
 - (nn) 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;
 - (oo) 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;
 - (pp) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Family Support Services program;
 - (qq) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Supported Child Development program;
 - (rr) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Aboriginal Supported Child Development program;
 - (ss) a tax refund;
 - (tt) a BC basic family bonus.

(1.1) Despite subsection (1), assets described in subsection (1) (x) (ii) (A) are not exempt under subsection (1) (i), (j), (k), (l) or (m).

(2) A family unit is not eligible for income assistance if any of the following apply:

- (a) subject to paragraph (c), a sole applicant or sole recipient has no dependent children and has assets with a total value of more than \$2 000;
- (b) subject to paragraph (c), an applicant or a recipient has one or more dependents and the family unit has assets with a total value of more than \$4 000;
- (c) an applicant or a recipient receives accommodation and care in a private hospital or a special care facility, other than an alcohol or drug treatment centre, or is admitted to a hospital for extended care, and
 - (i) has no dependents and has assets with a total value of more than \$5 000, or
 - (ii) has one or more dependents and the family unit has assets with a total value of more than \$10 000.

Monthly reporting requirement

33 (1) For the purposes of section 11 (1) (a) [reporting obligations] of the Act,

- (a) the report must be submitted by the 5th day of each calendar month, and
 - (b) the information required is all of the following, as requested in the monthly report form prescribed under the Forms Regulation, B.C. Reg. 95/2012:
 - (i) whether the family unit requires further assistance;
 - (ii) changes in the family unit's assets;
 - (iii) all income received by the family unit and the source of that income;
 - (iv) the employment and educational circumstances of recipients in the family unit;
 - (v) changes in family unit membership or the marital status of a recipient;
 - (vi) any warrants as described in section 15.2 (1) of the Act.
- (2) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 1 (b).]

Appellant's position

The appellant's position is that she was always honest and up front about her family's RRSP asset and it is not her fault that the ministry found her eligible for income assistance and continued to pay her despite it knowing the value of the RRSP. She finds it strange that when she added her spouse as a dependant the ministry then told her that her application was incomplete and when she resubmitted all of the documents again, they told her she had an overpayment. The appellant contends that if the ministry had advised her in the first place to cash in the RRSP to reduce it to below \$4,000, an overpayment could have been avoided as she would have waited before applying for income assistance. In any event, the appellant argues that the RRSP is not worth \$7,228.67 because of the 10% tax withholding, and she should only have to repay \$3,228.67 because the first \$4,000 is an exempt asset.

Ministry's position

The ministry's position is that although it paid the appellant income assistance when she had assets in excess of the legislated limit of \$4,000 as set under section 11(2) of the EAR, the fact of the matter is that the RRSP was valued at over \$7,000 during assistance months May 2013 – January 2014 and as a result the appellant was not eligible for assistance and has an overpayment of \$7,228.67; i.e., the total value of the RRSP as of the most recent Bank Profile dated November 28, 2013.

The ministry argued that the RRSP is considered an asset as defined in section 1 of the EAR because it can be converted to cash, and an RRSP is not included in the list of exempt assets as set out in section 11(1). Further, the ministry's position is that the appellant is liable to repay the overpayment of \$7,228.67 pursuant to section 27 of the EAA. While the ministry submits that the amount of an overpayment is not appealable under subsection 27(2) and a reduction in the account upon withdrawal does not mean the value of the asset has changed, it is willing to adjust the overpayment amount to equal the converted cash value of the RRSP upon the appellant providing documentation to verify the tax withholding.

Decision

1. Definition of Asset, EAR section 1.

An asset as defined in section 1 of the EAR includes equity in personal property that can be converted to cash, paragraph 1(a), or cash assets, paragraph 1(c). Cash assets includes money in the possession of a person or their dependent, paragraph (1)(a); as well as a credit at a savings institution, clause 1(1)(b)(i). Though an RRSP is not specifically defined in the EAR, an RRSP is personal property that can be converted to cash as noted by the ministry in its reconsideration decision. The appellant did not dispute that the RRSP is an asset under the EAR, and the panel finds that the ministry reasonably determined that the appellant's RRSP is an asset as defined in section 1.

2. Exempt Assets, EAR section 11(1)

The ministry argued that the appellant is not eligible for any of the exemptions under the above noted section of the EAR because an RRSP is not included among the listed items. The exempt items listed include household effects; vehicles; shelter related amounts, tax credits; life insurance policies; business assets, farming and fishing equipment; prepaid funeral costs; legal settlements; and government payments respecting children, families, and disabilities.

While the appellant argued that the RRSP should be exempt because the ministry approved her application for income assistance in error and the mistake was not her fault, the EAR allows an exemption only for those items listed in subsection (1). As an RRSP is not among the items listed in this section, the panel finds that the ministry reasonably determined that an RRSP is not an exempt asset under section 11(1).

3. Eligibility for Income Assistance, EAR section 11(2)

Paragraph 11(2)(b) of the EAR states that a family unit with dependants is not eligible for income assistance if the total value of their assets exceeds \$4,000. The ministry's evidence in its reconsideration decision was that the appellant's RRSP had a value of more than \$4,000 during the months of May 2013 – January 2014:

- \$7,217.96 on April 26, 2013;
- \$7,221.16 on July 1, 2013;
- \$7,222.69 on July 31, 2013;
- \$7,224.22 on August 31, 2013;
- \$7,228.67 on November 29, 2013;
- The balance in January 2014 was not listed in the ministry's reconsideration decision but the ministry noted that the appellant did not dispute that she continued to have the asset.

It is clear from the above amounts that the appellant had an RRSP worth more than \$4,000 during the months May – December 2013. The appellant's RRSP Transaction History List dated February 18, 2014 and filed with her Notice of Appeal, indicates two withdrawals from the RRSP in December and January: \$555.56 on December 18, 2013; and \$2,722.22 on January 15, 2014 reducing the RRSP account balance to \$3,953.52 as of February.

At the hearing, the ministry explained that it relies upon the Bank Profiles to verify information about a client's assets. The most recent Bank Profile dated November 29, 2013 showed an RRSP balance of \$7,228.67. As there is no evidence that the appellant provided the ministry with documentation regarding the withdrawals until she filed the Notice of Appeal, and the appellant also stated that she reapplied for income assistance after making the withdrawals from the RRSP, the panel finds that the ministry was reasonable in determining that the appellant had more than \$4,000 in assets during the period May 2013 – January 2014.

4. Overpayment and Repayment Obligation, EAA section 27

The ministry argued 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) adds that ministry decisions regarding the amount a person is liable to repay are not appealable.

With regard to section 27(1), the ministry argued that the appellant was not eligible for income assistance during the period May 2013 – January 2014 because she had assets with a value greater than \$4,000. The ministry therefore determined that there was an overpayment, and it set the amount of the overpayment to equal the total value of the RRSP, \$7,228.67 as of November 2013. The ministry noted that the overpayment is not the total amount of income assistance it paid to the family.

The appellant submitted that the overpayment was not her fault and could have been avoided had she been advised to cash in the RRSP before she applied to add her spouse as a dependant to her income assistance file. The ministry acknowledged that it paid the appellant income assistance even though it had received information regarding the value of her RRSP; however, it stated in its reconsideration decision that the decision was not regarding whose fault it was but rather whether the family unit was provided income assistance for which it was not eligible.

The appellant also disputes the amount of the overpayment and submitted that she doesn't have an asset worth \$7,000 due to the withholding tax, and that the overpayment should only be \$3,228.67 because \$4000 is exempt.

As the totality of the financial evidence including the Bank Profiles indicates that the RRSP had a balance in excess of the \$4,000 limit during the period May 2013 – January 2014 and the amount of the overpayment is not appealable under section 27(2) of the EAA, the panel finds that the ministry reasonably determined that the appellant has an overpayment of \$7,228.67 that she is liable to repay in accordance with section 27.

Conclusion

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.