

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “Ministry”) reconsideration decision dated April 3, 2014 which held that the appellant was ineligible for income assistance because the appellant’s net income exceeds the maximum assistance rate pursuant to section 10 of the Employment and Assistance Regulation.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), sections 1 and 10.
Schedule A sections 1, 2, 4 and Schedule B section 6.

PART E – Summary of Facts

The appellant was not in attendance at the hearing. After confirming that the appellant was notified, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation.

The evidence before the ministry at reconsideration was as follows:

An Application for Assistance, (Part 2) for the appellant as a single person dated March 19, 2014 which indicated that the appellant received a monthly income of \$1,100 from Old Age Security (OAS) and had cash assets in a bank account of \$20,000, a Retirement Savings Plan of \$200,000 and a vehicle valued at \$500. No monthly expenses were noted.

A Request for Reconsideration dated March 25, 2014.

On appeal, the appellant stated that he has to pay lawyer bills due to “this problem” and that he has spent \$40,000 on lawyer fees.

At the hearing, the ministry representative indicated that he had questions concerning the appellant’s age and whether he had applied for a Senior’s supplement. The ministry representative further stated that the appellant did not request a shelter allowance. When questioned by the panel, the ministry representative indicated that they do not deal with applicants who are over 65 years of age. The ministry representative confirmed however, that the amount of support for an applicant over 65 years of age is \$531.42 and with or without a maximum shelter allowance of \$375, the appellant’s income of \$1,100 would still exceed the maximum allowable rate.

Findings of Fact

The appellant is a sole applicant.

The appellant has requested income assistance and no allowance for shelter.

The appellant receives \$1,100 monthly from OAS.

The appellant is over 65 years of age.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry decision which held that the appellant was ineligible for income assistance pursuant to section 10 of the Employment and Assistance Regulation was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Relevant Legislation under the EAR

Definition of "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;
- (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;
- (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;
- (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;

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

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.

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.

Column 1	Column 2	Column 3
Family unit composition	Age or status of applicant or recipient	Amount of support
Sole applicant/recipient and no dependent children	Applicant/recipient is under 65 years of age	\$235.00
Sole applicant/recipient and no dependent children	Applicant/recipient is 65 or more years of age	\$531.42

Monthly shelter allowance

4 (1) For the purposes of this section:

"family unit" includes a child who is not a dependent child and who resides in the parent's place of residence for not less than 40% of each month, under the terms of an order or an agreement referred to in section 1 (2) of this regulation;

(2) The monthly shelter allowance for a family unit to which section 15.2 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	Column 2
Family Unit Size - 1 person	Maximum Monthly Shelter - 1 person \$375

Schedule 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.

The ministry argues that the appellant is not eligible for assistance because his \$1,100 net income exceeds the \$610 maximum assistance rate.

The appellant argues that he is entitled to the allowable rate of monthly support allowance.

The panel finds that the evidence establishes that the appellant's net income from OAS of \$1,100 per month does exceed the maximum allowable rate of monthly support allowance as set out in the legislation for a sole recipient over 65 years of age of \$531.42 and that the ministry reasonably determined that the appellant was not eligible for income assistance pursuant to section 10 of the EAR. The panel notes that the appellant did not request a shelter allowance, nevertheless should the maximum shelter allowance for the appellant of \$375 be included, it would total \$906.42 which is still less than the appellant's net monthly income of \$1,100.

Therefore, the panel confirms the ministry's reconsideration decision.