

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated September 19, 2014 which found that the appellant is not eligible for income assistance for the month of September 2014, pursuant to Section 10 of the *Employment and Assistance Regulation* (EAR), as the net monthly income of the family unit exceeded the amount of assistance payable due to earned income received by the appellant in July 2014.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), Sections 1, 10, and 28 and Schedules A and B

PART E – Summary of Facts

The appellant did not attend the hearing. After confirming that the appellant was notified of the date, time, and location, the hearing proceeded under Section 86(b) of the *Employment and Assistance Regulation*.

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

- 1) Pay stubs dated July 18, 2014 indicating net pay of \$604.68 and July 25, 2014 indicating net pay of \$729.78;
- 2) Record of Employment (ROI) dated August 7, 2014;
- 3) Letter dated September 15, 2014 to the ministry in which the appellant wrote that he believes there was an error in the way his new application for September income assistance was processed and which will be used to meet his needs for October. He found a job in July that was supposed to give him work for at least 3 months but he was caught by surprise when they terminated his employment after 3 weeks. He had his last pay cheque of about \$500 on August 1, 2014. He has been living 2 months since his last full-time pay cheque and he is out of money and will not be able to meet his subsistence needs for food and shelter on October 1 without income assistance help. He moved on September 1 and cannot afford to pay for a phone line; and,
- 4) The appellant's Request for Reconsideration dated September 8, 2014.

In his Request for Reconsideration, the appellant wrote that:

- He made money in July 2014 but 2 months later he is without money and asking for the September 2014 income assistance cheque for food and his rent for October 2014.
- Because of the distance of his residence from his work location and the bus schedule, he had arranged to start his shift later for the first 2 weeks. They agreed that he would pay for vehicle insurance after his first 2 weeks and then he would be able to start the shift on time.
- The vehicle insurance cost him about \$700.
- He had to go to the dentist after more than 2 years and that cost about \$200.
- He was living in a house where he was barricaded in the basement. He had to go to the Laundromat to do his laundry. He was not able to do any cooking to save money. He also had to pay for bus tickets and gas to go to work.

In his Notice of Appeal dated September 25, 2014 the appellant expressed his disagreement with the ministry's reconsideration decision and wrote that:

- All the earnings he received should have been put on the July monthly reporting card, including all the income received before August 5, 2014. He should have then been granted the amount in September 2014.
- He really needs the full amount of the September 24 cheque for paying his October rent and eating and, if he does not receive this money he will be put in the street and starving in October.
- He is alone and only has the ministry support.

The ministry relied on its reconsideration decision, as summarized at the hearing. The ministry provided information that:

- The appellant is a sole employable recipient of income assistance with no dependants. His total monthly rate is \$610, consisting of shelter of \$375, support of \$235.

- In July 2014, the appellant received net pay of \$604.68 on July 18 and \$729.76 on July 25, 2014 from his employment.
- The ministry stated that the appellant also received pay in August 2014 which resulted in a reduction in his October 2014 assistance, but that was not part of the appeal.
- Funds received in July are reported in August and deducted from the client's September 2014 assistance, which would be provided to the appellant by cheque in the last week of August.
- The appellant submitted his pay stubs with a ROE on August 8, 2014.

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's decision, which found that the appellant is not eligible for income assistance for the month of September 2014, pursuant to Section 10 of the *Employment and Assistance Regulation* (EAR), as the net monthly income of the family unit exceeded the amount of assistance payable, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

Section 10 of the *Employment and Assistance Regulation* (EAPWDR) provides:

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 of the EAR sets out the total amount of income assistance payable as the sum of the monthly support allowance for a family unit matching the family unit of the applicant or recipient plus the applicable shelter allowance. In calculating the net income of a family unit under Schedule B, various exemptions from income are provided for but, otherwise, all earned and unearned income must be included.

Section 1 of Schedule B of the EAPWDR provides as follows:

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

. . .

- (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.

Section 1 of the EAR defines "earned income" as:

"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, Sch. 2, s. 1 (a).]
- (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;

Section 3 of Schedule B of the EAR sets out specific exemptions from earned income as follows:

Exemptions — earned income

- 3 (1) Subject to subsection (2), the amount of earned income calculated under subsection (6) is exempt for a family unit.
- (2) If an application for income 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 income assistance unless a member of the family unit received disability assistance under the Employment and Assistance for Persons with Disabilities Act for the calendar month immediately preceding that first calendar month.
- (3) Unless otherwise provided under subsection (4) or (5), the amount of earned income calculated under subsection (6) (a) is exempt for a family unit that qualifies under this section.
- (4) The amount of earned income calculated under subsection (6) (b) is exempt for the family unit if
- (a) the family unit includes a sole recipient who
 - (i) has a dependent child, or
 - (ii) has in his or her care a foster child, and
 - (b) the child has a physical or mental condition that, in the minister's opinion, precludes the sole recipient from leaving home for the purposes of employment or working, on average, more than 30 hours each week.
- (5) The amount of earned income calculated under subsection (6) (c) is exempt for the family unit if any person in the family unit is a person who has persistent multiple barriers to employment.
- (6) The exempt amount for a family unit that qualifies under this section is calculated as follows:
- (a) in the case of a family unit to which subsection (3) applies, the exempt amount is calculated as the lesser of
 - (i) \$200, and
 - (ii) the family unit's total earned income in the calendar month of calculation;
 - (b) in the case of a family unit to which subsection (4) applies, the exempt amount is calculated as the lesser of
 - (i) \$300, and
 - (ii) the family unit's total earned income in the calendar month of calculation;
 - (c) in the case of a family unit to which subsection (5) applies, the exempt amount is calculated as the lesser of
 - (i) \$500, and
 - (ii) the family unit's total earned income in the calendar month of calculation.
- (7) A transient is not entitled to an exemption under this section. In this section:

Ministry's position

The ministry's position is that the amount of employment income received by the appellant in July 2014, less the applicable exemption of \$200, exceeded his monthly income assistance amount of \$610 and, pursuant to Section 10 of the EAR, the appellant is therefore not eligible for assistance for the month of September 2014. The ministry stated that the definition of "earned income" means any money received in exchange for work or the provision of a service. The ministry stated that, under Schedule B, all earned income must be included in the calculation of income except the exemption allowed for earned income under Section 3 of Schedule B, which, for a family unit with no dependants is \$200. The ministry stated that the appellant's total income earned from employment in July 2014 was \$1,334.46, less the \$200 exemption, for a total of \$1,134.46, which is more than the appellant's assistance rate of \$610.

Appellant's position

The appellant does not dispute that he was in receipt of employment income in July 2014 in the amount of \$1,334.46 but argued in his Request for Reconsideration and Notice of Appeal that he

made money in July 2014 but two months later he is without money and asking for the September 2014 income assistance cheque for food and his rent for October 2014. The appellant argued that all the earnings he received should have been put on the July monthly reporting card, including all the income received before August 5, 2014 and he should have then been granted the amount in September 2014. The appellant argued that he has incurred many expenses, such as vehicle insurance that cost him about \$700, gas and bus tickets so that he could get to work on time, going to the dentist after more than 2 years and that cost about \$200, and he was living in a house where he was barricaded in the basement so he had to go to the Laundromat to do his laundry and he was not able to do any cooking to save money.

Panel's decision

Under Section 1(d) of Schedule B of the EAR, all earned income *must* be included in the calculation of net income unless there is an allowed deduction or an amount is specifically exempted and, according to Section 1 of the EAPWDR, "earned income" is defined to mean "any money or value received in exchange for work or the provision of a service." The use of the word "must" in Schedule B of the EAR requires the ministry to include all earned income in the calculation of the net income of a family unit except for permitted deductions and applicable exemption amounts set out in the Schedule. Section 3(6)(a) of Schedule B of the EAR sets out an applicable exemption for earned income of the lesser of \$200 and the family unit's total earned income in the calendar month of calculation. The appellant does not dispute that he was in receipt of employment income in July 2014 in the amount of \$1,334.46, and the applicable deduction of \$200 yields a total net income for the month of July of \$1,134.46. The appellant also does not dispute that his income assistance amount as a sole employable recipient with no dependants is \$610 per month. The panel finds that the ministry reasonably concluded that the amount of the appellant's July 2014 net income (\$1,134.46) exceeded the amount of assistance determined under Schedule A for the appellant's family unit (\$610) and that the appellant is, therefore, not eligible for income assistance for the month of September 2014, pursuant to Section 10 of the EAR. While the appellant also argued that the additional employment income received before August 5, 2014 should have been included in the July reporting, the ministry pointed out that the appellant's eligibility for September income assistance is at issue on this appeal and not his eligibility for October income assistance.

Conclusion

The panel finds that the ministry reconsideration decision was reasonably supported by the evidence and confirms the decision pursuant to Section 24(2)(a) of the *Employment and Assistance Act*.