

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (Ministry) August 12, 2014 reconsideration decision which determined that the Appellant received income assistance of \$610 for the month of January 2014 to which he was not entitled. In particular, the Ministry determined that the appellant received unearned income from an inheritance in November 2013 that must be deducted from his net income calculation. The Ministry further determined that pursuant to section 27 of the EAA the income assistance issued for January 2014 must be repaid.

PART D – Relevant Legislation

Employment and Assistance Act Section 11, 27 and 28
Employment and Assistance Regulation Section 33
Employment and Assistance Regulation Section 10(2)

PART E – Summary of Facts

The Ministry provided the following evidence:

1. The Appellant received and deposited \$5000 from an inheritance into his bank account on November 25, 2013.
2. The Ministry initially advised the Appellant that as a result of the inheritance income, he was ineligible for December income assistance due to his asset level (money in the bank being in excess of \$5000), and January income assistance due to income received in November and would need to repay the amount of income assistance received for those two months, totaling \$1,215.00
3. A bank statement was submitted which indicates that as of November 29, 2013, the Appellant had \$5,144.30 in his bank account.
4. The Appellant did not receive income assistance in February 2014.
5. The Ministry determined that by the end of February, 2014, the Appellant was within his \$5000 asset level, so issued assistance for March and April, 2014.
6. A bank statement indicates that the Appellants balance in his account on February 1st was \$3,703.00
7. On April 2, 2014, the Appellant provided information confirming the money had been spent on a variety of things, including tuition at a local college, running shoes, cable bills, a pillow, a heavy bag with stand, DVD's, payment to a creditor. The Appellant also provided two eviction notices; the first dated March 14, 2014 and the other dated April 1, 2014,
8. On May 15, 2014, the Appellant was asked to sign a repayment agreement in the amount of \$1215.00. The Appellant signed the repayment agreement but indicated his intention to appeal the overpayment. A copy of this document corroborates that he signed a form agreeing to repay \$1,215 to the Ministry.
9. The Request for Reconsideration was not completed right away because of technical issues with the Ministry's Integrated Case Management System.
10. On July 15, 2014 the Appellant submitted a letter to the Ministry in support of his reconsideration, in which he indicated that although he received \$5000 from his Grandmother's death, this money needed to be applied to outstanding \$40,000 debts and should not be treated as income.
11. At Reconsideration, the Ministry found that under section 1 of the EA Regulation, "unearned income" means any income that is not earned income, and includes without limitation money received from a trust or inheritance. The Ministry found that the amount of money from the inheritance deposited into the Appellant's bank account was not subject to the asset limits until February 1, 2014. By that date, the money available in the Appellant's bank account was below the asset exemption level. The Ministry determined that the Appellant received \$610 income assistance for January 2014 which he was not eligible to receive, and as a result he is required to repay \$610 to the government as per section 27 of the Act, not \$1215 as previously indicated.

The Appellant provided the following evidence:

1. The Appellant received and deposited \$5000 from an inheritance into his bank account on November 25, 2013.
2. The Appellant states that the inheritance is not income because he has \$40,000 in debt, and therefore no money, and no assets. Any money that he receives, goes towards his outstanding debts.
3. The Appellant states he was forced, against his will, to sign the repayment agreement, in order

to receive further social assistance. At the time, he had no money to pay rent, buy food, or other essentials and had a notice of eviction as he had not been able to pay his rent since February 2014. He would like to be granted relief from the \$1215 dollar debt because he does not have any assets and he never did.

4. The Appellant states that the delays with the reconsideration request caused him undue amounts of stress, and that he was ill advised by his advocate to sign the agreement.
5. The Appellant asks that he be compensated for expenses related to the filing and preparing for the reconsideration, as he had costs related to paper, ink, renting office space, computer time and hydro, internet costs, and hours of time spent researching and preparing to file this appeal.

PART F – Reasons for Panel Decision

The issue before the Panel is whether the Ministry reasonably determined that the Appellant received income assistance of \$610 for the month of January 2014 to which he was not entitled. In particular, the Ministry determined that the appellant received unearned income from an inheritance in November 2013 that must be deducted from his net income calculation. The Ministry further determined that pursuant to section 27 of the EAA the income assistance issued for January 2014 must be repaid.

The Employment and Assistance (EA) Regulation Section 1 states:

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

(l) a trust or inheritance;

Section 33 of the EA Regulations states:

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, (BC Reg. 334/2007)

(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. (B.C. Reg. 85/2012)

Section 10 (2) of the EA Regulations States:

(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.

Sections 27 and 28 of the Employment Assistance Act state:

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.

The Appellant argues that the \$5000 inheritance should not be considered income because of the size of his debt. The appellant also argues that he has stayed within the asset limits allowed by the legislation.

The Ministry argues that the inheritance must be treated as unearned income as defined in the EA Regulation 1(1) and 1(1)(l).

The Appellant and the Ministry agree that the money from the inheritance was deposited into his account at the end of November, 2013. The panel has determined that treating the inheritance as unearned income is a reasonable application of the legislation Section 1(1) of the EAR. The inheritance would need to be declared on the report submitted by December 5th, 2013, and would be deducted from his income assistance issued at the end of December, 2013 for the month of January, 2014.

Regarding the asset level, the panel notes that the Ministry's reconsideration decision did not determine that the Appellant exceeded the legislated asset limit for February, 2014. The Ministry's reconsideration decision determined the inheritance the appellant received in November 2013 is unearned income and, therefore, resulted in a \$610 overpayment for January, 2014, that needs to be repaid.

As the unearned income of \$5000 exceeds the income assistance received by the Appellant (\$610), the Panel finds that the Ministry's decision that the Appellant was not eligible to receive that income assistance is reasonably supported by the evidence.

The Panel finds that the Ministry decision that the Appellant is liable to repay the amount of \$610 was a reasonable application of Sections 27 and 28 of the EAA, and reasonably supported by the evidence. The Panel confirms the Ministry's decision.

On the matter of the Appellant's request to be reimbursed for his costs for preparing his Appeal, the Panel does not have jurisdiction to award costs.