

### PART C – Decision under Appeal

The Appellant appeals the January 19, 2015 reconsideration decision of the Ministry of Social Development and Social Innovation (Ministry), in which the Ministry deducted Canada Pension Plan (CPP) benefits of \$603.68 received in October 2014 from her December 2014 disability assistance. The Ministry determined that CPP is unearned income as defined in section 1(1)(f) of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR), and must be deducted from the Appellant's disability assistance under section 24 of the EAPWDR.

### PART D – Relevant Legislation

*Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR) sections 1, 24, 29 and Schedule B, sections 1, 6 and 7.

## PART E – Summary of Facts

The information before the Ministry at reconsideration included the Appellant's request for reconsideration dated January 9, 2015, as well as a copy of a letter from Service Canada to the Appellant dated December 16, 2014.

The Appellant is designated a person with disabilities ("PWD") with no dependants (sole recipient). On October 29, 2014, the Appellant received \$603.68 in CPP disability benefits. The Appellant reported receiving the \$603.68 CPP disability benefit to the Ministry on or before November 5, 2014. Service Canada informed the Appellant on October 31, 2014 that her CPP disability benefits were suspended pending a reassessment of her file. She has not received CPP disability benefits since October 29, 2014.

The Ministry notes that as a person receiving disability assistance, the Appellant is required to report any change in income (meaning any increase or decrease in the amount of income received) by the 5<sup>th</sup> day of the month following the month in which the income is received. The Appellant's December 2014 disability assistance was \$906.42 (\$531.42 support, plus \$375 shelter) (she also received a \$35 Christmas benefit in December 2014). The Ministry deducted \$603.68 from the Appellant's disability assistance for the month of December 2014 on the basis that she had received unearned income, CPP disability benefits, in October 2014.

## PART F – Reasons for Panel Decision

The issue on this appeal is the reasonableness of the Ministry's reconsideration decision to deduct \$603.68 CPP disability benefits received in October 2014 from the Appellant's disability assistance for December 2014, on the basis that CPP is unearned income under section 1(1)(f) of the EAPWDR, which must be deducted from the amount of disability assistance for her family unit under section 24 of the EAPWDR. Was the Ministry's reconsideration decision reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant?

Legislation – all references are to sections of the *EAPWDR*.

### 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.

### Monthly reporting requirement

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

(a) the report must be submitted by the 5<sup>th</sup> day of the calendar month following the calendar month in which there is a change that is listed on paragraph (b), and

(b) the information required is all of the following, as requested in the monthly report form prescribed under the Forms Regulation:

(i) ...

(ii) change in income received by the family unit and the source of that income;

....

Section 1 of Schedule B of the EAPWDR sets out deduction and exemption rules when calculating the net income of a family unit for the purposes of s. 24(b). Section 6 of Schedule B provides that the only deductions from unearned income are any income tax deducted at source from employment insurance benefits and essential operating costs of renting self-contained suites. Section 7 of Schedule B sets out exemptions to unearned income.

### Appellant's position

The Appellant does not dispute that on October 29, 2014, she received \$603.68 in CPP disability benefits and that she reported this to the Ministry on or before November 5, 2014. The Appellant argued that the legislative provisions (section 1(1)(f) of the EAPWDR) in which CPP disability benefits are defined as unearned income and are to be deducted from disability assistance as per section 24 of the EAPWDR) are unfair. The Appellant expressed her frustration stating that because of the

deduction of \$603.68 from her December 2014 disability assistance, she had difficulty paying her December rent and affording food, and that she finds her treatment by the Ministry to be demoralizing.

#### Ministry's position

The Ministry noted that s. 1 of the EAPWDR defines "unearned income" as any income that is not earned income, and includes, without limitation, any type or class of Canada Pension Plan benefits under s. 1(1)(f). The Ministry argued that CPP benefits are not included as a type of unearned income that may be exempted under sections 1, 6 and 7 of Schedule B of the EAPWDR. The Ministry noted that s. 24 of the EAPWDR provides that the amount of monthly disability assistance is determined by deducting the amount of income calculated under Schedule B from the amount of shelter and support allowances calculated under Schedule A. The Ministry noted that, as stipulated under s. 29 of the EAPWDR, the CPP benefits the Appellant received in October 2014 were to be reported to the Ministry by November 5, 2014, and affected the December 2014 disability assistance. The Ministry determined that under s. 24 of the EAPWDR, the \$603.68 in CPP benefits the Appellant received in October 2014 must be deducted from her December 2014 disability assistance, reducing it from \$906.42 to \$302.74 (\$906.42 minus \$603.68). The Appellant also received a \$35 Christmas supplement in December 2014.

#### Panel's decision

Section 1(1)(f) of the EAPWDR provides that "any type or class of CPP benefits" is unearned income for the purposes of calculating a recipient's income under Schedule B of the EAPWDR. The Appellant does not dispute that she received \$603.68 in CPP benefits in October 2014 and she does not dispute that the exemptions set out in the legislation (sections 1, 6 and 7 of the EAPWDR) do not apply to her CPP benefits. The panel finds that the Ministry's determination that the Appellant received unearned income - \$603.68 in CPP benefits in October 2014 - is a reasonable application of the legislation in the circumstances of the Appellant.

Section 29 of the EAPWDR provides that a recipient of disability assistance must report income received to the Ministry by the 5<sup>th</sup> day of the calendar month following the calendar month in which the recipient receives the income (whether earned or unearned). Under this section, the recipient must also report the source of that income. The Appellant does not dispute that she reported to the Ministry on or before November 5, 2014 that she received \$603.68 in CPP benefits on October 29, 2014. Section 24 of the EAPWDR sets out that disability assistance may be provided in an amount that is not more than the amount determined under Schedule A minus the recipient's net income as determined under Schedule B. The Appellant does not dispute that the amount of disability assistance for which she was eligible in December 2014 was \$906.42 (\$531.42 support, plus \$375 shelter). Accordingly, the panel finds that the Ministry's determination that the Appellant was eligible for \$302.74 disability assistance in December 2014 (\$906.42 minus \$603.68) was a reasonable application of the legislation in the Appellant's circumstances.

The panel confirms the Ministry's reconsideration decision.