

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of April 27<sup>th</sup>, 2015 wherein the ministry determined that under section 10(2) Employment and Assistance Regulation (EAR) the appellant was not eligible for income assistance for the month of April 2015 because the family unit’s net income determined under Schedule B EAR exceeded the amount of income assistance determined under Schedule A EAR for a family unit matching his family.

The ministry determined the \$1200.00 Canada Student Grant the appellant received in February 2015 is considered unearned income and is not exempt from the calculation of the family’s net income under Schedule B EAR for the month of March and therefore is deducted from the amount of assistance the family unit may be eligible to receive in April 2015.

The ministry determined the appellant’s family unit is eligible to receive income assistance of \$1061.06; \$660.00 for shelter and \$401.06 for support.

## PART D – Relevant Legislation

EAR – section 1, 28 and 29; and Schedule A section 1, 2 and 4; and Schedule B section 1, 6, 7, and 8.

## PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration:

- Appellant's bank account for period of February 1, 2015 to March 5, 2015;
- Notification of Assessment – Province of British Columbia - Financial Aid for Part-time Studies; dated December 18, 2014. Study period is January 5, 2015 to April 21, 2015. Tuition and assessed needs cost is \$1,911. Eligible Funding - Canada Student Loan – Part time studies \$1,200.
- Request for Reconsideration dated March 26, 2015.

The appellant is an employable recipient of income assistance with two dependants - an employable spouse and one dependent child. On January 14<sup>th</sup>, 2015 the appellant submitted a Notice of Assessment for Financial Aid for Part-Time Studies showing that he was approved for a Canada Student Grant of \$1200.00. On March 6<sup>th</sup>, 2015 the appellant submitted a bank statement confirming receipt of \$1200.00 on February 23, 2015 and on March 11, 2015 the appellant submitted a monthly reporting stub reporting that he had received a student grant of \$1200.00. On March 11, 2015 the ministry noted there is no exemption for student loans, grants, scholarship or Registered Retirement Education Program (RESP) disbursements for a person who is expected to work and who is attending part-time studies. The ministry determined the appellant is eligible to receive \$1061.06 in monthly income assistance (\$401.06 support and \$660 shelter) and that the \$1200.00 was unearned income and had to be deducted from his April 2015 assistance.

The appellant had requested more time to make his submission and on July 15, 2015 the appellant submitted a two-page email outlining his position. The appellant stated:

- the \$1200.00 grant received from Student Aid BC was for one year and was to cover his tuition fees for his part-time studies;
- if the money was paid directly to the educational institution would that make a difference and would he still have to declare the grant as income?
- The \$1200.00 would not cover all his expenses and he had to spend money from his employment earnings to cover all his expenses and he did this in hopes of making a better life for his family;
- His wife is not able to work because of her illness and he is only able to gain part-time employment;
- He is an honest person, respectful and speaks the truth and that is why he reported the grant even though he knew that one-day it may raise an issue.

The panel finds the appellant's statement does not contain any new information that was not before the ministry at the time the reconsideration decision was made and therefore is not considered as new evidence. The panel will consider the balance of the appellant's submission as argument.

Although the ministry's written submission on this matter was one-day late, the submission dated July 28, 2015 was accepted by the Panel. The ministry's written submission, which provided no new information, was the reconsideration summary provided in the Record of Ministry Decision.

## PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration wherein the ministry determined the appellant was not eligible to receive income assistance for the month of April 2015 as set out in section 10(2) EAR because he received a \$1200.00 Canada Student Grant that is considered unearned income and is not exempt when calculating the family's net income for March 2015 which may affect the amount of income assistance the appellant is eligible to receive in April 2015;

The legislation considered:

### Definitions

#### Section

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:

- (a) money, annuities, stocks, bonds, shares, and interest bearing accounts or properties;
- (b) cooperative associations as defined in the *Real Estate Development Marketing Act*, (B.C. Reg. 518/2004)
- (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; (B.C. Reg. 363/2012)
- (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; (B.C. Reg. 344/2004)
- (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; (B.C. Reg. 197/2012)

"**unfunded program of studies**" means a program of studies for which a student enrolled in it is not eligible for student financial assistance.

### Limits on income

#### Section 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.

### **Amount of income assistance**

#### Section 28

Income 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.

### **Consequences of failing to meet employment-related obligations**

#### Section 29

(4) Section 13 [*consequences of not meeting employment-related obligations*] of the Act does not apply to a family unit of an applicant or recipient who is in any of the following categories:

- (a) Repealed (B.C. Reg. 116/2003);
- (b) sole applicants or sole recipients who have at least one dependent child who
  - (i) has not reached 3 years of age, or
  - (ii) has a physical or mental condition that, in the minister's opinion, precludes the sole applicant or recipient from leaving home for the purposes of employment;
- (c) Repealed (B.C. Reg. 48/2010);
- (d) sole applicants or sole recipients who have a foster child who
  - (i) has not reached 3 years of age, or
  - (ii) has a physical or mental condition that, in the minister's opinion, precludes the sole applicant or recipient from leaving home for the purposes of employment;
- (e) persons who receive accommodation and care in a special care facility or private hospital;
- (f) applicants or recipients admitted to hospital because they require extended care;
- (g) persons who reside with and care for a spouse who has a physical or mental condition that, in the minister's opinion, precludes the person from leaving home for the purposes of employment;
- (h) applicants or recipients in a family unit that includes only applicants or recipients who are
  - (i) Repealed. (B.C. Reg. 160/2004)
  - (ii) persons who are participating in a treatment or rehabilitation program approved by the minister, if their participation in that program, in the minister's opinion, interferes with their ability to search for, accept or continue in employment,
  - (iii) persons who have separated from an abusive spouse or relative within the previous 6 months, if, in the minister's opinion, the abuse or the separation interferes with their ability to search for, accept or continue in employment,
  - (iv) persons not described in section 7 (2) [*citizenship requirements*], or
  - (v) persons who have persistent multiple barriers to employment;
  - (vi) persons who have reached 65 years of age; (B.C.Reg. 116/2003)
- (i) Repealed (B.C. Reg. 48/2010);
- (j) sole applicants or sole recipients who are providing care under an agreement referred to in section 8 [*agreements with child's kin and others*] of the Child, Family and Community Service Act for a child who
  - (i) has not reached 3 years of age, or
  - (ii) has a physical or mental condition that, in the minister's opinion, precludes the sole applicant or recipient from leaving home for the purposes of employment; (B.C. Reg. 331/2003)
- (k) sole applicants or sole recipients who are providing care under an agreement referred to in section 93 (1) (g) (ii) [*other powers and duties of directors*] of the Child, Family and Community Service Act for a child who
  - (i) has not reached 3 years of age, or
  - (ii) has a physical or mental condition that, in the minister's opinion, precludes the sole applicant or recipient from leaving home for the purposes of employment. (B.C. Reg. 331/2003)

**Schedule A - Income Assistance Rates - (section 28 (a) )**

**Maximum amount of income assistance before deduction of net income**

Section 1

- (1) Subject to this section and section 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.
- (2) Despite subsection (1) but subject to subsection (3), income assistance may not be provided in respect of a dependent child if support for that child is provided under section 8 (2) or 93 (1) (g) (ii) of the *Child, Family and Community Service Act*.
- (3) If
- (a) an application is made by a parenting dependent child under section 5 (4) [*application by parent who is dependent youth*] of this regulation,
  - (b) the family unit is found eligible for income assistance, and
  - (c) support is provided for the parenting dependent child or his or her dependent child, or for both, under section 8 (2) or 93 (1) (g) (ii) of the *Child, Family and Community Service Act*,
- the restriction in subsection (2) does not apply, but the amount of income assistance that may otherwise be provided to the family unit is to be reduced by the amount of that support.

**Monthly support allowance**

Section 1

- (0.1) For the purposes of this section:
- "deemed dependent children", in relation to a family unit, means the persons in the family unit who are deemed to be dependent children under subsection (5);
- "maximum adjustment", in relation to a family unit, means the amount the family unit would receive for a calendar month as the national child benefit supplement if
- (a) the family unit were entitled to receive the national child benefit supplement for the calendar month,
  - (b) the income of the family unit, for the purposes of calculating the national child benefit supplement, were zero, and
  - (c) all dependent children and all deemed dependent children in the family unit were qualified dependants within the meaning of the *Income Tax Act (Canada)*;
- "warrant" has the meaning of a warrant in section 15.2 [*consequences in relation to outstanding arrest warrants*] of the Act. (B.C. Reg. 73/2010) (B.C. Reg. 197/2012)
- (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. (B.C. Reg. 197/2012)

1	Two applicants/recipients and one or more dependent children	Both applicants/recipients are under 65 years of age	\$401.06
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**Monthly shelter allowance**

Section 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;

“warrant” has the meaning of a warrant in section 15.2 [consequences in relation to outstanding arrest warrants] of the Act. (B.C. Reg. 73/2010)

(2) The monthly shelter allowance for a family unit to which section 15 (2) of the Act does not apply is the smaller of (B.C. Reg. 73/2010)

- (a) the family unit's actual shelter costs, and
- (b) the maximum set out in the following table for the applicable family size:

Item:	Family Unit Size	Maximum Monthly Shelter
3	3 persons	\$660

### **Schedule B - Net Income Calculation (section 28 (b) )**

#### **Deduction and exemption rules**

Section 1 When calculating the net income of a family unit for the purposes of section 28 (b) [amount of income assistance] of this regulation,

(a) the following are exempt from income:

- (i) any income earned by a dependent child attending school on a full-time basis;
- (ii) the basic family care rate paid for foster homes;
- (iii) Repealed (B.C. Reg. 48/2010)
- (iv) a family bonus, except the portion treated as unearned income under section 10 (1) of this Schedule;
- (v) the basic child tax benefit;
- (vi) a goods and services tax credit under the Income Tax Act (Canada);
- (vii) 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); (B.C. Reg. 180/2010)
- (viii) individual redress payments granted by the government of Canada to a person of Japanese ancestry;
- (ix) individual payments granted by the government of Canada under the Extraordinary Assistance Plan to a person infected by the human immunodeficiency virus;
- (x) individual payments granted by the government of British Columbia to a person infected by the human immunodeficiency virus or to the surviving spouse or dependent children of that person;
- (xi) individual payments granted by the government of Canada under the Extraordinary Assistance Plan to thalidomide victims;
- (xii) money that is
  - A. 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
  - B. 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; (B.C. Reg. 276/2004)
- (xiii) the BC earned income benefit;
- (xiv) money paid or payable under the 1986-1990 Hepatitis C Settlement Agreement made June 15, 1999, except money paid or payable under section 4.02 or 6.01 of Schedule A or of Schedule B of that agreement;
- (xv) a rent subsidy provided by the provincial government, or by a council, board, society or governmental agency that administers rent subsidies from the provincial government;
- (xvi) Repealed (B.C. Reg. 197/2012)
- (xvii) money paid or payable to a person in settlement of a claim of abuse at an Indian residential school, except money paid or payable as income replacement in the settlement;
- (xviii) post adoption assistance payments provided under section 28 (1) or 30.1 of the Adoption Regulation, B.C. Reg. 291/96;
- (xix) a rebate of energy or fuel tax provided by the government of Canada, the government of British Columbia, or an agency of either government,
- (xx) Repealed (B.C. Reg. 85/2012)

- (xxi) payments granted by the government of British Columbia under section 8 of the *Child, Family and Community Service Act [agreement with child's kin and others]*;
- (xxii) payments granted by the government of British Columbia under the Ministry of Children and Family Development's At Home Program. (B.C. Reg. 115/2003)
- (xxiii) Repealed (B.C. Reg. 85/2012) (BC Reg. 209/2003)
- (xxiv) 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.
- (xxv) a loan that is
- (A) not greater than the amount contemplated by the recipient's business plan, accepted by the minister under section 77.2 of this regulation, and
  - (B) received and used for the purposes set out in the business plan.
- (xxvi) payments granted by the government of British Columbia under the Ministry of Children and Family Development's
- (A) Autism Funding: Under Age 6 Program, or
  - (B) Autism Funding: Ages 6 - 18 Program, (B.C. Reg. 22/2005)
- (xxvii) that portion of the maintenance paid for and passed on to a person with disabilities or a person aged 19 or older under a maintenance order or agreement filed with a court. (B.C. Reg. 91/2005)
- (xxviii) payments made by a health authority or a contractor of a health authority to a recipient, who is a "person with a mental disorder" as defined in section 1 of the *Mental Health Act*, for the purpose of supporting the recipient in participating in a volunteer program or in a mental health or addictions rehabilitation program. (B.C. Reg. 90/2005)
- (xxix) a refund provided under Plan I as established under the Drug Plans Regulation; (B.C. Reg. 146/95);
- (xxx) 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. (B.C. Reg. 192/2006)
- (xxxi) a Universal Child Care Benefit provided under the *Universal Child Care Benefit Act* (Canada).
- (xxxii) 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. (B.C. Reg. 195/2007)
- (xxxiii) money withdrawn from a registered disability savings plan, (B.C. Reg. 362/2007)
- (xxxiv) a working income tax benefit provided under the *Income Tax Act* (Canada), (B.C. Reg. 48/2008)
- (xxxv) Repealed (B.C. Reg. 180/2010)
- (xxxvi) the climate action dividend under section 13.02 of the *Income Tax Act*, (B.C. Reg. 94/2008)
- (xxxvii) 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, (B.C. Reg. 87/2008)
- (xxxviii) 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.
- (xxxix) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Family Support Services program; (B.C. Reg. 85/2012)
- (xl) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Supported Child Development program; (B.C. Reg. 85/2012)
- (xli) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Aboriginal Supported Child Development program. (B.C. Reg. 85/2012)
- (xlii) money paid or payable from a fund that is established by the government of British Columbia, the government of Canada and the City of Vancouver in relation to recommendation 3.2 of the final report of the Missing Women Commission of Inquiry, (B.C. Reg. 31/2014)
- (xliii) payments granted by the government of British Columbia under the Temporary Education Support for Parents program, (B.C. Reg. 172/2014)
- (xliv) a BC early childhood tax benefit, (B.C. Reg. 41/2015)
- (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 of this Schedule,

(c) all earned income must be included, except the deductions permitted under section 2 and any earned income exempted under sections 3 and 4 of this Schedule, and  
**(d) all unearned income must be included, except the deductions permitted under section 6 and any income exempted under sections 7 and 8 of this Schedule.**

### **Deductions from unearned income**

#### Section 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.

### **Exemptions – unearned income**

#### Section 7

(0.1) In this section:

"disability-related costs", means a disability-related cost referred to in paragraph (a), (b) or (c) of the definition of disability-related cost in section 13 (1) [*assets held in trust for person receiving special care*] of this regulation;

"disability-related cost to promote independence", means a disability-related cost referred to in paragraph (d) of the definition of disability-related cost in section 13 (1) of this regulation;

"intended registered disability savings plan or trust" in relation to a person referred to in section 13.1 (2) [*temporary exemption of assets for person applying for disability designation or receiving special care*] of this regulation, means an asset, received by the person, to which the exemption under that section applies;

"structured settlement annuity payment", means a payment referred to in subsection (2) (b) (iii) made under the annuity contract referred to in that subsection.

(1) The following unearned income is exempt: (B.C. Reg. 83/2012)

- (a) the portion of interest from a mortgage on, or agreement for sale of, the family unit's previous place of residence if the interest is required for the amount owing on the purchase or rental of the family unit's current place of residence;
- (b) \$50 of each monthly Federal Department of Veterans Affairs benefits paid to any person in the family unit;
- (c) a criminal injury compensation award or other award, except the amount that would cause the family unit's assets to exceed, at the time the award is received, the limit applicable under section 11 [*asset limits*] of this regulation;
- (d) a payment made from a trust to or on behalf of a person referred to in section 13 (2) [*assets held in trust for person receiving special care*] of this regulation, if the payment is applied exclusively to or used exclusively for
  - (i) disability-related costs,
  - (ii) the acquisition of a family unit's place of residence,
  - (iii) a registered education savings plan, or
  - (iv) a registered disability savings plan;
- (d.1) subject to subsection (2), a structured settlement annuity payment made to a person referred to in section 13 (2) (a) of this regulation if the payment is applied exclusively to or used exclusively for an item referred to in subparagraph (i), (ii), (iii) or (iv) of paragraph (d) of this subsection;
- (d.2) money expended by a person referred to in section 13.1 (2) [*temporary exemption of assets for person applying for disability designation or receiving special care*] of this regulation from an intended registered disability savings plan or trust if the money is applied exclusively to or used exclusively for disability-related costs;
- (d.3) subject to subsection (2.1),



- (i) a payment made from a trust to or on behalf of a person referred to in section 13 (2) of this regulation,
  - (ii) a structured settlement annuity payment that, subject to subsection (2), is made to a person referred to in section 13 (2) (a) of this regulation, or
  - (iii) money expended by a person referred to in section 13.1 (2) of this regulation from an intended registered disability savings plan or trust
- if the payment, structured settlement annuity payment or money is applied exclusively to or used exclusively for disability-related costs to promote independence;  
(B.C. Reg. 83/2012) (B.C. Reg. 197/2012)
- (e) the portion of Canada Pension Plan Benefits that is calculated by the formula  $(A - B) \times C$ , where  
A = the gross monthly amount of Canada Pension Plan Benefits received by an applicant or recipient;  
B =
- (i) in respect of a family unit comprised of a sole applicant or a sole recipient with no dependent children, 1/12 of the amount determined under section 118 (1) (c) of the *Income Tax Act* (Canada) as adjusted under section 117.1 of the Act; or
  - (ii) in respect of any other family unit, the amount under subparagraph (i), plus 1/12 of the amount resulting from the calculation under section 118 (1) (a) (ii) of the *Income Tax Act* (Canada) as adjusted under section 117.1 of that Act;
- C = the sum of the percentages of taxable amounts set out under section 117 (2) (a) of the *Income Tax Act* (Canada) and section 4.1 (1) (a) of the *Income Tax Act*. (B.C. Reg. 57/2003)
- (f) a tax refund. (B.C. Reg. 197/2012)
- (2) Subsection (1) (d.1) and (d.3) (ii) applies in respect of a person only if (B.C. Reg. 197/2012)
- (a) the person has entered into a settlement agreement with the defendant in relation to a claim for damages in respect of personal injury or death, and
  - (b) the settlement agreement requires the defendant to
    - (i) make periodic payments to the person for a fixed term or the life of the person,
    - (ii) purchase a single premium annuity contract that
      - (A) is not assignable, commutable or transferable, and
      - (B) is designed to produce payments equal to the amounts, and at the times, specified in the settlement agreement,
    - (iii) make an irrevocable direction to the issuer of the annuity contract to make all payments under that annuity contract directly to the person, and
    - (iv) remain liable to make the payments required by the settlement agreement. (B.C. Reg. 83/2012)
- (2.1) The maximum amount of the exemption under subsection (1) (d.3) is \$8 000 in a calendar year, calculated as the sum of all payments, structured settlement annuity payments and money that, during the calendar year, are applied exclusively to or used exclusively for disability-related costs to promote independence. (B.C. Reg. 197/2012)
- (3) Repealed (B.C. Reg. 83/2012) (B.C. Reg. 197/2012)

### **Minister's discretion to exempt education related unearned income**

#### Section 8

(1) In this section:

**“education costs”** means the amount required by a student for tuition, books, compulsory student fees and reasonable transportation costs for a semester;

**“day care costs”** means the difference between a student's actual day care costs and the maximum amount of child care subsidy that is available under the *Child Care Subsidy Act* to a family unit matching the student's family unit, for a semester.

(2) The minister may authorize an exemption for a student described in subsection (3) up to the sum of the student's education costs and day care costs from the total amount of

- (a) a training allowance,
- (b) student financial assistance, and

**(c) student grants, bursaries, scholarships or disbursements from a registered education savings**

**plan received for the semester.**

- (3) An exemption under subsection (2) may be authorized in respect of a student who is
- (a) a dependent child enrolled as a student in either a funded or an unfunded program of studies,
  - (b) an applicant or a recipient enrolled
    - (i) as a part-time student in an unfunded program of studies, or
    - (ii) with the prior approval of the minister, as a full-time student in an unfunded program of studies,
  - or
  - (c) a person in a category listed in section 29 (4) [*consequences of failing to meet employment-related obligations*] of this regulation enrolled as a part-time student in a funded program of studies.

**Ministry's position**

The ministry's position is that the \$1200.00 Canada Student grant received by the appellant in February 2015, reported to ministry in March 2015 is considered unearned income as defined in the EAR legislation and must be deducted from the income assistance to which the appellant may be eligible for in April 2015. The ministry argued unearned income is defined as any income that is not earned income, and includes, without limitation, money or value received and includes education or training allowances, grants, loans, bursaries or scholarships.

The ministry argued income 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 EAR. The ministry argued that for the month of April 2015 under Schedule A EAR the appellant was eligible to receive \$1061.06 in income assistance and under Schedule B his net income was \$1200.00 (Canada Student grant) so he was not eligible to receive any assistance for that month. The ministry argued Schedule B EAR sections 1, 6, 7 and 8 list the deductions and exemptions for unearned income that are allowed for the purposes of calculating net income. The ministry argued that under the deduction and exemption rules in Schedule B – Net Income Calculation - section 1(d) EAR states all unearned income must be included, except the deductions permitted under section 6 and any income exempted under sections 7 and 8 of this Schedule. The ministry argued a student loan is not listed as an exemption under section 6 or 7 Schedule B EAR and that it is not exempt under section 8 Schedule B EAR because the appellant doesn't fall within the exempted categories of persons set out in section 29(4) of the EAR.

**Appellant's position**

The appellant argues that the grant did not cover all his educational and other costs and he had to rely on his employment funds, which were very limited, to cover his additional costs. He argued that he is only able to get part-time employment and so funds a limited, that his wife is ill and not able to work and he is taking these courses to better himself so that he can provide a better way of life for his family. The appellant argued the panel should consider that if the student grant had been sent directly to the educational institution would the grant still be considered "unearned income"? The appellant stated that although he knew a problem might arise from receiving the student grant he is an honest, respectful person and speaks the truth. The appellant requested "a kind consideration regarding the matter" from the panel.

**Panel's Reasons and Decision:**

The evidence is that student grants are by the definition "unearned income" as stated in section 1(1)(q) EAR and Schedule B section 1(d) EAR states that all unearned income, that is not exempt, must be included in calculating the appellant's net income. Schedule B section 6 and 7 EAR set out specific deductions that may be made from "unearned income", however the panel finds that student grants or loans are not listed in either of these sections.

Schedule B section 8 EAR provides discretion to exempt educated related unearned income.

Section 8(2) EAR states that the minister may authorize an exemption for a student described under section

8(3) EAR up to the sum of the student grant. Section 8(3) EAR states the exemption may be authorized in respect of a student who is a) dependent child ...; b) an applicant enrolled in part-time student in unfunded program or with prior approval of the minister, as a full-time student in unfunded program of studies; or c) a person in a category listed in section 29(4) [ *consequences of failing to meet employment-related obligations*] of this regulation enrolled as a part-time student in a funded program of studies.

Section 29(4) EAR is related to section 13(2) Employment and Assistance Act and provides consequences of failing to meet employment-related obligations.

The panel finds the appellant is not a person described in subsection 3 of section 8 of Schedule B.

The panel finds that the ministry's reference to section 29(d) EAR in the reconsideration decision is a typewritten error and the reference should be section 29(4) EAR.

The panel finds that the ministry reasonably determined that the \$1200.00 Canada Student grant is considered "unearned income" and is not exempt from calculating the appellant's net income under Schedule B.

The panel finds that the appellant's net income for April 2015 (Schedule B) was \$1200.00 and his income assistance (Schedule A) was \$1061.06 and therefore, as set out in section 10(2) EAR, the ministry reasonably determined he was not eligible for income assistance for the month of April 2015.

Therefore, the panel finds that the Ministry's reconsideration decision is a reasonable application of the legislation supported by the evidence. The Ministry's decision is confirmed.