



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry)'s reconsideration decision dated September 29, 2015, which found that the training allowance the appellant received in July 2015 is "unearned income" which must be deducted from the monthly disability assistance that the family unit is eligible for under Section 1 and 24 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), less transportation costs under s.8 of Schedule "B" of the EAPWDR.

PART D – Relevant Legislation

The relevant legislation is sections 1, 24 and Schedule B of the EAPWDR.

[Redacted]

PART E – Summary of Facts

The evidence before the ministry at reconsideration was:

The appellant receives disability assistance at the maximum single rate.

In July 2015 she received a training allowance in the amount of \$900 which she reported to the ministry. The ministry deducted the amount of the training allowance from the appellant's August disability benefits of \$926.42 because the training allowance is "unearned income" less a \$100 exemption for transportation costs.

The appellant states that she was advised twice verbally by a ministry employee at her local ministry office that the training allowance would not impact her disability assistance because there is a \$9600 annual income exemption.

The appellant submitted the following statement to the ministry at reconsideration:

It all started on August 19 when I phoned the ministry to inquire about the [training] program. No one returned my call. I started the [training] program on July 6. The very next day I went to the access centre (ministry) to find out if it would affect my disability income. I took a letter with me from [the training program] which stated that I would be making \$300 a week for 7 weeks. I spoke to a woman who I know has worked with the ministry for quite a few years and was told twice it would not affect my disability income because I am allowed to make \$9600 a year over my regular income. I even asked "Are you sure?". She said she was sure that it would not affect it. When my payment came in July I assumed I was given the right information from a lady with lots of experience in this matter. The surprise came in August when no money was deposited and no rent paid and no bills paid. My loans, insurance payments and checks started bouncing and I was charged \$40 each for a total of \$240 NSF charges. On August 27 I went to the ministry to find out why no deposit. ... On September 4 I was told I was denied.

The money that I made from the program went mostly to pay overdue bills and groceries. ... If I had only known that I was told a lie I would surely have managed the money I received from the training [program] differently. Unfortunately, as it is-I will be broke from August 26 until October 24.

So, as you can tell from the above, I am in great need of assistance. I try not to ask for help, but because of the misinformation I was given I just do not have a choice. She also writes that she is not in the right frame of mind for a proper interview.

In her appeal submission, the appellant disagrees with the reconsideration decision, stating it is unjust and unfair because it is taking advantage of a person with a disability. She has experienced a lot of stress and health issues over whether or not she would even have a place to live and if she had been told the truth by the ministry to begin with she would not be going through this hell. The NSF charges amount to \$288.00 plus unpaid bills amount to \$425.53, including her rent, hydro ICBC cable, etc for which she requests reimbursement..

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's reconsideration decision is reasonably supported by the evidence and/or is a reasonable application of the applicable legislation in the circumstances of the appellant. The ministry determined that the training allowance the appellant received in July 2015 is unearned income, less education costs which must be deducted from disability assistance under s.8 of Schedule Band section 24 of the EAPWDR.

The relevant legislation is sections 1 and 24 of the EAPWDR.

Part 1 — Interpretation

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:

...
(q) education or training allowances, ...

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.

The appellant's position is that had she not been given the incorrect advice by the ministry she would not have used the training allowance to pay off debts. She is in her current dire financial circumstances because she received misinformation from the ministry.

The ministry's position is that it is bound by the legislation which is clear in this case that the monies received by the appellant as a training allowance must be deducted from her disability assistance less any applicable exemptions.

The panel finds that the appellant's evidence is credible. The ministry does not dispute this. Therefore, as a direct result of the ministry's advice to the appellant she has been placed in dire financial circumstances, been charged \$288 in NSF and other charges and suffered significant stress.

However, the panel, like the ministry, is bound by the terms of the legislation. Sections 1 and 24 of the EAPWDR are very clear. Section 1 identifies a "training allowance" as "unearned income" and section 24 requires the ministry to deduct "unearned income" from the recipient's disability assistance. Other than the transportation exemption applied by the ministry, there are no other exemptions in Schedule "B" of the EAPWDR that apply in this instance. There are no legislative provisions which would allow this panel to rescind the Ministry's decision based on the fact that the circumstances in which the appellant finds herself are caused by a ministry employee providing incorrect advice.



Accordingly, the panel concludes that the ministry's deduction of the amount of the training allowance from the appellant's August disability assistance was a reasonable interpretation of the legislation in the circumstances and confirms the ministry's decision.