

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated October 26, 2015 in which the ministry determined that the appellant had reached her annual earnings exemption limit for earned income under section 5 of the Employment and Assistance for Persons with Disability Act (EAPWDA) which must be deducted from disability payments under the Employment and Assistance for Persons with Disability Regulations (EAPWRD) section 1,9,24 and Schedule B. Specifically, the ministry found that the appellant was ineligible for October 2015 disability assistance.

PART D – Relevant Legislation

*Employment and Assistance for Persons with Disabilities Act (EAPWDA), Section 5*

*Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Section 1, 9, 24, Schedule B section 1, 2,3 and 4 and schedule A section 1,2, and 4*

## PART E – Summary of Facts

The information before the ministry at the time of reconsideration included the following:

- Advocate letter, no date.
- Two Work Safe BC letters dated September 23, 2015.
- Bank statements for June 24-July 24 2015, July 24-August 24 2015, August 24-September 24 2015.
- Therapist note dated October 9, 2015
- 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated October 7, 2015
- Pay stubs dated July 7, 14, 21, 29,- 2015; August 6, 13, 27- 2015
- Request for Reconsideration dated October 9, 2015

No additional submissions were made by the appellant or the ministry for the written appeal.

The appellant is a sole recipient with Persons with Disabilities (PWD) designation. She received PWD designation in August 2014.

Persons receiving disability assistance are eligible for an annual earnings exemption (AEE) up to \$9,600 for the year without a monthly maximum. Each calendar year, AEE covers qualifying earned income received from January 1- December 31.

The appellant submitted paystubs showing she was paid for employment beginning June 30, 2015 and was paid July 7, 2015. Paystubs for July 2015 indicate that the appellant received a total of \$4605.03 net pay for the month of July 2015.

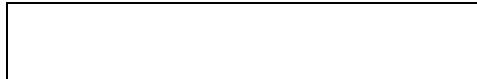
Appellant paystubs for August 2015 indicate that the appellant received a total of \$12,443.69 net pay for the month of August 2015.

On September 28, 2015 the ministry advised the appellant that she had reached her earnings exemption limit and her net income had exceed the ministry's rate of disability assistance for a sole recipient and as a result she was ineligible for October disability assistance.

In the appellant's Request for Reconsideration, she wrote:

- She worked for 2 months
- As a result her mental health lapsed and she is now sick
- She is trying to get herself better but needs basic support of food and rent

The appellant's advocate stated the appellant had been offered work through to January 2016. However, she had to quit due to stress and the reoccurrence of her previous work injury. A good deal of money had been spent on expenses related to working again and longstanding debts to family and friends were paid. The advocate notes also the stressful situation triggered a manic episode which meant the appellant lost impulse control and other spending became an issue. As a result, no money is left. The appellant is aware the money which she made above the annual limit must be repaid to the ministry. She is hoping it might be possible to pay this back over time as she is facing eviction.



In her letter, the Concurrent Disorders Clinician states she has been working with the appellant for the past year and a half. She states that when faced with stress or life transitions, she experiences manic episodes and she can be impulsive in her behaviors. Her impulsivity can include spending money, spontaneously moving, changing her medication regime, or substance use.

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision, which found that the appellant is not eligible for October disability assistance, was reasonably supported by the evidence or was a reasonable application of the applicable legislation in the circumstances of the appellant. Section 29 of the EAPWDR explains that a person must report changes that may affect eligibility, including income, by the 5<sup>th</sup> day of the month following the month of receipt. The appellant's August earnings were declared on September 5<sup>th</sup> which affected the October benefits. The ministry determined that the appellant's net income had exceeded the ministry's rate of assistance for the family unit size therefore as per Section 9(2) EAPWDR she was not eligible for disability assistance for October 2015.

The relevant legislation is as follows:

**EAPWDA Section 5**

**Disability assistance and supplements**

5 Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

**EAPWDR Section 1, 9, 24, Schedule B section 1, 2, 3, and 4 and Schedule A section 1, 2, and 4 Definitions**

1 (1) In this regulation:

"**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)
- (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;

**Limits on income**

**9** (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 disability assistance if the net income of the family unit determined under Schedule B equals or exceeds the amount of disability assistance determined under Schedule A for a family unit matching that family unit.

**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.

**Schedule B - Net Income Calculation (section 24 (b))**

**(A) Deduction and exemption rules-** no deductions or exemptions applied

**(D) Annual Exemption – qualifying income**

**3** (1) In this section:

"**base amount**" means

- (a) \$800, in the case of a family unit that includes only one recipient,
- (b) \$1 000, in the case of a family unit that includes two recipients, only one of whom is designated as a person with disabilities

**Schedule A - Disability Assistance Rates (section 24 (a))**

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

1 (1) Subject to this section and sections 3 and 6 to 9 of this Schedule, the amount of disability assistance referred to in section 24 (a) [amount of disability assistance] of this regulation is the sum of (B.C. Reg. 197/2012)

(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.

**Monthly support allowance**

2 (0.1) For the purposes of this section:

(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)

**Table**

Item	Column 1 Family unit composition	Column 2 Age or status of applicant or recipient	Column 3 Amount of support
1	Sole applicant/recipient and no dependent children	Applicant/recipient is a person with disabilities	\$531.42



### Monthly shelter allowance

4 (1) For the purposes of this section:

(2) The monthly shelter allowance for a family unit to which section 14.2 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:

**Table**

Item	Column 1 Family Unit Size	Column 2 Maximum Monthly Shelter
1	1 person	\$375

### Appellant's Position

The appellant is aware that the money she made is above the annual limit and must be repaid to the ministry. She is hoping this may be paid back over time as she is facing eviction. The appellant explained she had no funds available for rent or food as the stress of her employment caused a manic episode and as a result, impulsive spending leaving her with no funds in her bank account. No evidence was given that showed the appellant was eligible for assistance in October 2015.

### Ministry's position

The appellant's monthly disability rates (Schedule A) are \$375.00 shelter and \$531.42 support; a total of \$906.42. As the appellant has been a recipient of assistance for all of 2015 and she has Person With Disability (PWD) designation all of 2015, she is eligible to receive the maximum earnings exemption limit of \$9600.

The appellant's July earnings net pay of \$4605.03 was declared by August 5, 2015 and affected her September disability assistance. Her \$4605.03 net pay was deducted from the \$9600 exemption and as a result she was eligible for September disability assistance and was left with an earnings exemption balance of \$4994.97.

The appellant's August net pay was \$12,443.09 and was declared by September 5, 2015 and affected her October disability assistance. The remaining \$4994.97 earnings exemption was deducted from the \$12,443.09 net pay leaving a balance of \$7448.12 which the ministry determined was her net income for August.

August net income of \$7448.12 must be deducted from the October 2015 disability assistance rate of \$906.42 as per Section 24 of the EAPWDR. Therefore, as per Section 9(2) EAWPDR the appellant was not eligible for disability assistance for October as the net income of \$7448.12 exceeded the \$906.42 amount of disability assistance determined for her family unit size.

### **Panel Decision**

While the appellant argued she now has no funds, there is no dispute that the appellant exceeded her annual earnings exemption of \$9600 and earned \$7448.12 for August, which is over her monthly assistance rate of \$906.42.

The panel finds that the Ministry's reconsideration decision that the appellant was not eligible for disability assistance for October 2015 was reasonably supported by the evidence and was a reasonable application of section 9(2) of the EAPWDR in the Appellant's circumstances.

### **Conclusion**

Having reviewed and considered all of the evidence and relevant legislation, the panel finds that the ministry's reconsideration decision which determined that the appellant was not eligible for October assistance was reasonably supported by the evidence, and therefore confirms the decision.