



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (Ministry) Reconsideration Decision dated October 22, 2015, which found the Appellant ineligible for income assistance due to having income from employment and Work Safe BC (WCB) benefits in excess of the legislated limit. Section 10(2) of the Employment and Assistance Regulation (EAR) states that a family unit is not eligible for income assistance if the net income of the family unit determined under Schedule B, EAR meets or exceeds the amount of income assistance determined under Schedule A. The Ministry also determined that no exemptions or deductions apply to the Appellant's employment income and WCB payments under Schedule B of the EAR.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) sections 1, 10; Schedule B, sections 1, 2, 3, 4, 5, 6, 7

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Schedule A, sections 1, 2, 3, 4, 5

PART E – Summary of Facts

The Appellant was not in attendance at the hearing. After confirming that the Appellant was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

Information before the minister at reconsideration included:

- Invoice no. 333 dated September 15, 2015 in the amount of \$252.00.
- Invoice no. 332 dated September 15, 2015 in the amount of \$1,908.38.
- Invoice no. 331 dated September 15, 2015 in the amount of \$735.00.
- Invoice no. 329 dated September 15, 2015 in the amount of \$252.00.
- Invoice no. 328 dated September 15, 2015 in the amount of \$811.13.
- Invoice no. 326 dated September 15, 2015 in the amount of \$2,338.89.
- Invoice no. 324 dated September 15, 2015 in the amount of \$3,005.63.
- Invoice no. 331 dated September 15, 2015 in the amount of \$735.00.
- Invoice no. 335 dated September 15, 2015 in the amount of \$3,493.88.
- Invoice no. 397 dated September 15, 2015 in the amount of \$1,247.40.
- Invoice no. 396 dated September 15, 2015 in the amount of \$2,700.00.
- Invoice no. 394 dated September 15, 2015 in the amount of \$2,494.80.
- Invoice no. 394 dated September 15, 2015 in the amount of \$7,626.15.
- Bank statements for the period August 5 to September 13, 2015.
- The Appellant's Application for Disability Assistance dated September 25, 2015.
- Invoice no. 393 dated June, 2015 in the amount of \$14,175.00.
- Invoice no. 397 redated by hand to September 8, 2015.
- Invoice no. 396 redated by hand to August 21, 2015.
- Invoice no. 395 in the amount of \$3,742.20, originally dated September 15, 2015, redated by hand to July 31, 2015.
- Invoice no. 394 in the amount of \$7,626.15 redated to July 16, 2015.
- Invoice no. 392 dated June 22, 2015 in the amount of \$312.35.
- Invoice no. 391 dated June 22, 2015 in the amount of \$415.80.
- Invoice no. 390 dated June 22, 2015 in the amount of \$2,079.00.
- Invoice (no number) dated June 7, 2015 in the amount of \$13,500.00.
- Invoice no. 394 dated July 16, 2015 in the amount of \$2,494.80.
- Invoice no. 394 in the amount of \$2,494.80 redated to July 15, 2015.
- Invoice no. 339 redated to May 14, 2015.
- Invoice no. 333 redated to May 14, 2015.
- Bank statement for the period March 31 to April 4, 2015, with a credit amount of \$2,338.88 dated April 4 circled with a notation "invoice #326".
- Invoice no. 326 redated to April 4, 2015.
- Invoice no. 331 redated to April 10, 2015.
- Invoice no. 332 redated to April 10, 2015.
- Invoice no. 329 redated to April 3, 2015.
- Invoice no. 328 originally dated September 15, 2015 redated to April 3, 2015 in the amount of \$811.13.
- Invoice no. 324 redated to March 8, 2015.
- Bank statement for the period February 28 to September 13, 2015, with a credit amount of \$1,247.40 dated September 8 circled with a notation "Invoice #397", a notation by a credit amount of \$2,700.00 dated August 21 with the notation "Invoice #396", a credit amount of \$3,200.00 dated July 31 with a notation "Invoice #395, a notation "WCB" by a credit amount of \$369.74 dated July 25, a credit amount of \$2,494.80 with a notation "Invoice #394", a credit amount of \$4,383.75 dated May, with a notation "No invoice", a credit amount of \$9,169.15 dated June 23 with a notation "Invoice #389", notations of "No invoice" for credits on May 1, June 8 and April 7, a credit amount of \$1,050.00 dated March 6 with a notation "Invoice #324" and a credit amount of \$1,575.00 dated March 13, with a notation "Invoice

[Redacted]

#324". The bank statements show deposits of \$369.74 in May, July and August with the notation "WCB".

- The Appellant's Request for Reconsideration dated October 10, 2015 with a note stating that the Appellant's computer did not change the dates on the invoices to the dates they were sent to the client, so the worker was under the assumption that the money is still owed to the Appellant and the invoices are for the last six months. He wrote that he paid his workers in cash and has no records of how much has been paid. He wrote that he coupled the invoices to the bank statements and that his company has gone bankrupt.

In his Notice of Appeal to the Tribunal the Appellant wrote that his application has been misunderstood as far as earnings, etc., and that his case is more complicated than usual.

At the hearing, the Ministry stated that the Appellant applied for assistance stating that he is no longer able to work. The Ministry compared the Appellant's potential income assistance rate and disability assistance rates, including his wife as a potential recipient, and concluded that the Appellant's income exceeded the maximum assistance for his family unit. The Ministry stated that when a person applies for disability assistance they are first assessed for income assistance, then for disability assistance. If they do not qualify for income assistance, the application is not sent on for review for disability assistance. As this was the Appellant's situation, the application did not proceed. The Ministry stated that the Appellant appears to have ongoing Worker's Compensation (WCB) payments deposited to his account as well as the cheque deposits.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry decision which found the Appellant ineligible for income assistance due to having income from employment and Work Safe BC (WCB) benefits in excess of the legislated limit. Section 10(2) of the Employment and Assistance Regulation (EAR) states that a family unit is not eligible for income assistance if the net income of the family unit determined under Schedule B, EAR meets or exceeds the amount of income assistance determined under Schedule A. The Ministry also determined that no exemptions or deductions apply to the Appellant's employment income and WCB payments under Schedule B of the EAR.

Legislation

EAR

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, Sch. 1, s. 1 (a).]
- (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;

"**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*;
- (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;
- (l) a trust or inheritance;
- (m) rental of tools, vehicles or equipment;

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- (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;
 - (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;

Limits on income

- 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.

Schedule B

Net Income Calculation

Deduction and exemption rules

- 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 in respect of a child in care;
 - (iii) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 1 (b).]
 - (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);
 - (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;
 - (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, Sch. 1, s. 22 (a).]
 - (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, Sch. 1, s. 5.]
 - (xxi) payments granted by the government of British Columbia under section 8 [*agreement with child's kin and others*] of the *Child, Family and Community Service Act*;
 - (xxii) payments granted by the government of British Columbia under the Ministry of Children and Family Development's At Home Program;
 - (xxiii) Repealed. [B.C. Reg. 85/2012, Sch. 1, s. 5.]
 - (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;

(xxvii) Repealed. [B.C. Reg. 148/2015, App. 1, s. 1 (a).]

(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;

(xxix) a refund provided under Plan I as established under the Drug Plans Regulation;

(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;

(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;

(xxxiii) money withdrawn from a registered disability savings plan;

(xxxiv) a working income tax benefit provided under the *Income Tax Act* (Canada);

(xxxv) Repealed. [B.C. Reg. 180/2010, s. 1 (b).]

(xxxvi) the climate action dividend under section 13.02 of the *Income Tax Act*;

(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;

(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;

(xl) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Supported Child Development program;

(xli) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Aboriginal Supported Child Development program;

(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;

(xlili) payments granted by the government of British Columbia under the Temporary Education Support for Parents program;

(xliv) a BC early childhood tax benefit;

(xlv) child support;

(xlvi) orphan's benefits under the *Canada Pension Plan Act* (Canada),

(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 earned income

2 The only deductions permitted from earned income are the following:

(a) any amount deducted at source for

- (i) income tax,
- (ii) employment insurance,
- (iii) medical insurance,
- (iv) Canada Pension Plan,
- (v) superannuation,
- (vi) company pension plan, and
- (vii) union dues;

(b) if the applicant or recipient provides both room and board to a person at the applicant's or recipient's place of residence, the essential operating costs of providing the room and board;

(c) if the applicant or recipient rents rooms that are common to and part of the applicant's or recipient's place of residence, 25% of the gross rent received from the rental of the rooms.

Exemption — earned income

3 (1) Subject to subsection (2), the amount of earned income calculated under subsection (6) is exempt for a family unit.

(2) If an application for income assistance (part 2) form is submitted to the minister, the family unit may not claim an exemption under this section in relation to the first calendar month for which the family unit becomes eligible for income assistance unless a member of the family unit received disability assistance under the *Employment and Assistance for Persons with Disabilities Act* for the calendar month immediately preceding that first calendar month.

(3)-(5) Repealed. [B.C. Reg. 145/2015, Sch. 1, s. 16.]

(6) The exempt amount for a family unit is the lesser of the family unit's total earned income in the calendar month of calculation and the following:

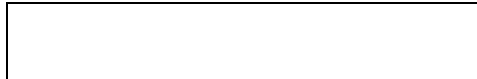
(a) \$200, if the family unit is not described in paragraph (b), (c) or (d);

(b) \$400, if the family unit

- (i) includes a recipient who
 - (A) has a dependent child, or
 - (B) provides care to a supported child, and
- (ii) is not described in paragraph (c) or (d);

(c) \$500, if

- (i) the family unit includes a recipient who
 - (A) has a dependent child, or



(B) provides care to a supported child,

(ii) the child has a physical or mental condition that, in the minister's opinion, precludes the recipient from leaving home for the purposes of employment or working, on average, more than 30 hours each week, and

(iii) the family unit is not described in paragraph (d);

(d) \$500, if the family unit includes a person who has persistent multiple barriers to employment.

(7) A transient is not entitled to an exemption under this section.

Small business exemption

4 (1) In this section and section 5,

"permitted operating expenses" means costs, charges and expenses incurred by a person in the operation of a small business, under a self-employment program in which the person is participating, for the following:

(a) purchase of supplies and products;

(b) accounting and legal services;

(c) advertising;

(d) taxes, fees, licences and dues incurred in the small business;

(e) business insurance;

(f) charges imposed by a savings institution on an account and interest;

(f.1) payments, including principal and interest, on a loan that is

(i) not greater than the amount contemplated by the recipient's business plan, accepted by the minister under section 77.2 of this regulation, and

(ii) received and used for the purposes set out in the business plan;

(g) maintenance and repairs to equipment;

(h) gross wages paid to employees of the small business, but not including wages paid to

(i) the person participating, or

(ii) a person in the family unit of the person participating;

(i) motor vehicle expenses;

(j) premiums for employment insurance or workers' compensation benefits;

(k) employer contributions for employment insurance, workers' compensation or the Canada Pension Plan;

(l) rent and utilities, excluding rent and utilities for the place of residence of the persons described in subparagraphs (i) and (ii) of paragraph (h) unless

(i) there is an increase for rent or utilities and the increase is attributable to the small business, and

(ii) the increase is not provided for in the calculation of the family unit's shelter allowance under Schedule A of this regulation;

(m) office expenses;

(n) equipment purchases or rentals.

(2) Earned income of a recipient of income assistance is exempted from the total income of the recipient's family unit if

(a) the recipient is participating in a self-employment program, and

(b) the earned income is derived from operating a small business under the self-employment program in which the recipient is participating and

(i) is used for permitted operating expenses of the small business, or

(ii) is deposited in a separate account, established by the recipient in a savings institution, which account

(A) consists exclusively of funds reserved by the recipient for the purpose of paying permitted operating expenses of that small business, and

(B) the amount deposited does not increase the current balance of the separate account to a sum that exceeds \$5 000, or

(iii) is used for costs of renovations to the recipient's place of residence up to but not exceeding \$5 000 in total or a greater amount accepted by the minister, if the renovations are part of a business plan accepted by the minister under section 77.2 of this regulation.

Withdrawals and expenditures from reserve account

5 The amount of any expenditure or withdrawal out of a separate account described in section 4 (2) (b) (ii) of this Schedule is earned income for all purposes of this regulation, unless

(a) the expenditure or withdrawal is for the payment of permitted operating expenses of the small business referred to in section 4 (2) of this Schedule, and

(b) in the case of a withdrawal, the amount withdrawn is used within one month after the date of withdrawal to pay permitted operating expenses of the small business referred to in section 4 (2) (b) (i) of this Schedule.

Deductions from unearned income

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

7 (0.1) In this section:

"disability-related cost" 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

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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:

(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;

(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 that 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*;

(f) a tax refund.

(2) Subsection (1) (d.1) and (d.3) (ii) applies in respect of a person only if

(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.

(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.

EAPWDR

Schedule A

Disability Assistance Rates

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

(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), disability 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*.



Monthly support allowance

2 (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 warrant in section 14.2 [*consequences in relation to outstanding arrest warrants*] of the Act.

(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.

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
2	Sole applicant/recipient and one or more dependent children	Applicant/recipient is a person with disabilities	\$672.08
3	Two applicants/recipients and no dependent children	One applicant/recipient is a person with disabilities, the other is not a person with disabilities and is under 65 years of age	\$700.56

Prorating of support allowance

3 In the calendar month that contains the date of the applicant's submission of the application for disability assistance (part 2) form, the monthly support allowance is prorated based on the number of days remaining in that calendar month, beginning with the date of that submission.

Monthly shelter allowance

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 warrant in section 14.2 [*consequences in relation to outstanding arrest warrants*] of the Act.

(2) The monthly shelter allowance for a family unit to which section 14.2 of the Act does not apply is the smaller of

(a) the family unit's actual shelter costs, and

(b) the maximum set out in the following table for the applicable family size:

Item	Column 1	Column 2
	Family Unit Size	Maximum Monthly Shelter
1	1 person	\$375
2	2 persons	\$570

How actual shelter costs are calculated

5 (1) For the purpose of this section, utility costs for a family unit's place of residence include only the following costs:

(a) fuel for heating;

(b) fuel for cooking meals;

(c) water;

(d) hydro;

(e) garbage disposal provided by a company on a regular weekly or biweekly basis;

(f) rental of one basic residential single-line telephone.

(2) When calculating the actual monthly shelter costs of a family unit, only the following items are included:

(a) rent for the family unit's place of residence;

(b) mortgage payments on the family unit's place of residence, if owned by a person in the family unit;

(c) a house insurance premium for the family unit's place of residence if owned by a person in the family unit;

(d) property taxes for the family unit's place of residence if owned by a person in the family unit;

(e) utility costs;

(f) the actual cost of maintenance and repairs for the family unit's place of residence if owned by a person in the family unit and if these costs have received the minister's prior approval.

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- (3) If utility costs fluctuate, they may be averaged over the periods
 - (a) beginning on October 1 and ending on March 31, and
 - (b) beginning on April 1 and ending on September 30.
 - (4) If 2 or more family units share the same place of residence, the actual shelter costs of any one of them are the smaller of
 - (a) the amount calculated by
 - (i) dividing the actual shelter costs for all the family units by the number of persons occupying that place of residence, and
 - (ii) multiplying the result by the number of persons in that one family unit, and
 - (b) the amount declared by the family unit as the shelter costs for that family unit.

The Appellant's position is that his application has been misunderstood as far as his earnings are concerned. He argued in his request for reconsideration that his computer changed the dates of invoices when they were printed, and they refer to a six-month period, April to August, 2015. He argued that if the invoices were checked against the bank statements the error would become clear, that he paid his workers in cash, and that money showed as owing is not owing to him, but to his workers.

The Ministry's position is that the Appellant is the owner of a business, that the money was deposited to his account and because the Appellant is not currently a recipient of income assistance or disability assistance, the Ministry looks at the deposits as of the date they are credited to his account without considering deductions, including deductions for self-employment, which are not available to applicants for assistance. The Ministry stated that from the bank records it appears that the Appellant has income in excess of the assistance rate for both income assistance and disability assistance for one or two persons.

The Panel notes that the invoices supplied by the Appellant do not lead to a clarification of his income. The bank records are for a business account that shows deposits as noted by the Ministry above. The Appellant wrote that he paid his workers in cash or through a labour contract, however no records other than the invoices and bank records have been provided as evidence to show that income received by the Appellant was not employment income. In the absence of clear documentation that distinguishes the Appellant's income from expenses, the Panel finds that the Ministry reasonably determined that the Appellant has income in excess of the legislated limit for income assistance pursuant to s.10, EAR and also in excess of his potential disability assistance rates. The Panel further finds that the Ministry reasonably determined that none of the exemptions or deductions in schedule B, EAR apply to the Appellant's employment income or WCB payments.

The Panel therefore confirms the Ministry decision as reasonably supported by the evidence.