



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of February 22, 2016 wherein the ministry determined that the appellant was not eligible for disability assistance for the month of February 2016 as per section 9(2) Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”) because his net income of \$1188.60 in December 2015 exceeded his monthly disability assistance rate of \$906.42.

PART D – Relevant Legislation

EAPWDR – section 1, 9; Schedule A – section 1, 2, and 4; Schedule B section 1, 3, 6 and 7.

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 EAR.

The evidence before the ministry at the time of reconsideration:

- Pay stub for month of December 2015 showing earnings of \$488.00;
- Bank statement for month of December 2015;
- Ministry Monthly Income Report for December 2015 showing employment income of \$854.64;
- Ministry Monthly Income Report for November 2015 showing employment income of \$1091.91;
- Ministry Monthly Income Report for October 2015 showing employment income of \$1061.63;
- Ministry Monthly Income Report for September 2015 showing employment income of \$883.57;
- Ministry Monthly Income Report for August 2015 showing employment income of \$1,081.61;
- Ministry Monthly Income Report for July 2015 showing employment income of \$895.39;
- Request for Reconsideration dated February 18, 2016 with a two-page letter from appellant attached in which he stated, "I am aware that I went over my earnings exemption. I am hoping that I can be reconsidered for another grant/loan from the government so I can avoid getting evicted".

The appellant is a sole recipient of disability assistance and is eligible to receive \$906.42 of disability assistance per month. On December 30, 2015 the appellant submitted his monthly report to the ministry showing that he had earned \$854.64 in employment income. In addition, the appellant also receives \$745.29 CPP per month income which is not exempt from his net income calculation, giving him a net income of \$1,599.93 for December 2015. The appellant is eligible to receive a monthly income exemption of \$800 or \$9600 annually and the ministry records indicated that as of December 1, 2015 the appellant had \$411.33 remaining for that exemption. Income received in December 2015 must be reported by the 5th day of January 2016 which affects the following (February 2016) monthly disability assistance. The ministry calculated that the appellant's net income for December 2015 was \$1,599.93 - \$411.43 for a net income calculation of \$1,188.60. Since his net income in December 2015 exceeded his monthly disability assistance rate of \$906.42, the ministry advised the appellant that he was not eligible to receive disability assistance in February 2016.

In the Notice of Appeal the appellant requested that he be granted a Crisis Supplement and have that paid back over the next year in 30-40\$ monthly payments because he lost his job due to a car accident and needs the crisis grant to get back on his feet. The panel's jurisdiction is limited to the issue under appeal and has no jurisdiction to review the appellant's request for a crisis supplement.

The ministry relied on its reconsideration decision and provided no additional evidence.

The Panel makes the following finding of fact:

1. The appellant's net income for December 2015 was \$1,188.60.
2. The appellant's monthly disability assistance rate is \$906.42.
3. Of his 2015 \$9600 annual earnings exemption, the appellant had \$411.43 remaining for December 2015.

PART F – Reasons for Panel Decision

The issue under appeal is the ministry's reconsideration decision that held that pursuant to section 9(2) of the EAPWDR the appellant was not eligible for disability assistance for the month of February 2016 because his net income of \$1188.60 in December 2015 exceeded his monthly disability assistance rate of \$906.42 was reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the appellant.

The legislation considered: EAPWDR

Definitions

Section 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

"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;

...

Limits on income

Section 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.

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

Deduction and exemption rules

1 When calculating the net income of a family unit for the purposes of section 24 (b) [*amount of disability assistance*] of this regulation,

...

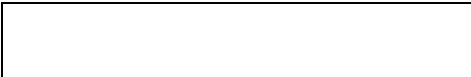
- (c) all earned income must be included, except the deductions permitted under section 2 and any earned income exempted under sections 3 and 4, and (B.C. Reg. 332/2012) (B.C. Reg. 226/2014)
- (d) all unearned income must be included, except the deductions permitted under section 6 and any income exempted under sections 7 and 8. (B.C. Reg. 332/2012) (B.C. Reg. 123/2013) (B.C. Reg. 226/2014)

Deductions from earned income

Section 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;

...



Annual Exemption – qualifying income

Section 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, and
- (c) \$1 600, in the case of a family unit that includes two recipients who are designated as persons with disabilities;

"initial qualifying month", in respect of a family unit and a calendar year, means the calendar month specified for the family unit under subsection (5);

"qualifying income" means

- (a) earned income, except the deductions permitted under section 2, and
- (b) unearned income that is compensation paid under section 29 or 30 of the *Workers Compensation Act*;

"qualifying month", in respect of a family unit and a calendar year, means

- (a) the initial qualifying month for the family unit in the calendar year, and
- (b) any subsequent calendar month in the calendar year that is a calendar month for which the family unit is eligible to receive disability assistance under the Act;

...

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

A list of sources of unearned income, none of which apply to this appeal.]

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

Maximum amount of disability assistance before deduction of net income

Section 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.

(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 shelter allowance

Section 4

...

(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:

Table

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

Monthly support allowance

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

Ministry's position:

The ministry's position is that as the appellant has been a sole recipient of disability assistance for all of 2015 and therefore has a base earnings exemption of \$800 per month or \$9600 annually and once he reaches this threshold any additional earnings are deducted dollar for dollar from their disability assistance. The ministry records indicated that as of December 1, 2015 the appellant had \$411.33 remaining of his \$9600 exemption limit. The ministry argued that income for December and reported in January 2016 affects his eligibility to receive assistance in February. The ministry's position is that the appellant's net income of \$1188.60 in December 2015 exceeded his monthly disability assistance rate of \$906.42 for February 2016 and since he had reached his earnings exemption limit for 2015 is not eligible to receive disability assistance for February 2016.

Appellant's position:

The appellant's position is that he was in a car accident and needs assistance to get back on his feet. The appellant argued that it would be more reasonable to deduct \$30-\$40 monthly than \$400 all at once in one month. The appellant argued that the winter is already a hard time for people on disability.

Panel's Decision:

Section 9(2) EAPWDR states that 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.

The panel has found as fact that the appellant had reached his maximum earnings exemption for 2015 and that his net income for December 2015 was \$1188.60 as determined under Schedule B. This amount exceeded his February 2016 disability assistance rate of \$906.42 as determined under Schedule A.

Therefore, pursuant to section 9(2) of the EAPWDR, the panel therefore finds the ministry decision that the appellant was not eligible to receive disability assistance for February 2016 is reasonably supported by the evidence and confirms the decision.