



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry)'s reconsideration decision dated June 30, 2016, finding that the ministry properly applied the legislation in determining that the appellant is entitled to receive disability assistance in the amount of \$11.49 per month in accordance with section 24 of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR).

PART D – Relevant Legislation

The relevant legislation is sections 1, 24 and Schedule A sections 1, 2 and 4 and Schedule B sections 1, 2 and 4 of the EAPWDR.

PART E – Summary of Facts

The appellant was approved to receive disability assistance on June 4, 2015. As part of the approval process the ministry sent the appellant a letter requesting that he obtain a Statement of Contributions from Service Canada as he may be eligible for CPP Disability payments (CPPD).

On June 30, 2015 the appellant provided the ministry with a copy of his My Service Canada Account listing all of his annual CPP contributions.

On July 6, 2015, the ministry sent a letter to the appellant informing him that he may be eligible for CPPD and requested that he complete a number of forms in this regard.

On August 5, 2015, the ministry received these forms from the appellant. The forms clearly stated that the appellant agreed to the ministry recovering the payments it made to the appellant from CPP for periods during which he was eligible to receive CPP. These forms also set out that the amounts that the ministry had paid the appellant since June 2015.

On October 7, 2015, the ministry received a letter from Service Canada advising that the appellant's application for CPPD was approved and requesting confirmation of the payments made by the ministry to the appellant for the period September 2014 to November 2015.

On October 8, 2015, the ministry completed and submitted its response.

On December 22, 2015, Service Canada paid a lump sum of \$12,684.88 to the ministry representing the amount the ministry had paid to the appellant during the period he was eligible for CPPD. CPP also provided a lump sum of \$1401.68 to the appellant and began providing him with a monthly payment of \$894.93 effective January 29, 2016.

Beginning in March 2016, the ministry deducted the appellant's CPPD of \$894.93 from his disability assistance payments of \$906.42 and payed him the difference of \$11.49 monthly.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision finding that the ministry properly applied the legislation in determining that the appellant is entitled to receive disability assistance in the amount of \$11.49 per month.

The relevant legislation is sections 1, 24 and Schedule A sections 1, 2 and 4 and Schedule B sections 1, 2 and 4 of the EAPWDR:

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:

...

(f) any type or class of Canada Pension Plan benefits;

Amount of disability assistance

24 Subject to section 24.1 (3), 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 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

- (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

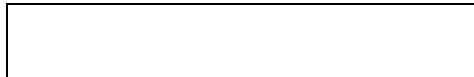
2 (0.1) For the purposes of this section:

"**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
 - (a.1) subject to section 24.1 [disability assistance in the form of transportation support allowance], the amount set out in Column 4 of the following table for the family unit, 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 base support	Column 4 Amount of transportation support
1	Sole applicant/recipient and no dependent children	Applicant/recipient is a person with disabilities	\$556.42	\$52.00

...

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

**Schedule B
Net Income Calculation**

...

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;

[]

This appeal was held by written hearing by consent of the parties in accordance with section 22(3)(b) of the *Employment and Assistance Act*.

The Appellant's Position

In his appeal submission the appellant states that he wants to receive disability assistance rather than CPPD and alleges that the BC Government is "scamming" CPP through this process. He would prefer to receive disability benefits because he believes that the Province rather than CPP is responsible for and can address the issues he faces in dealing with his disability and getting back to work. He states that he is the victim of persecution, discrimination and a criminal conspiracy. He goes on to state that he has contacted the police department and the Police Commissioners Office, as well as his mayor and the Premier and a federal official but is being ignored and indeed bullied. No doctors will help him. The appellant states that this situation has so psychologically traumatized him that he cannot leave his house or work and that this is the fault of the Provincial Government for refusing to help him and are now forcing him to access CPPD for the rest of his life. In his opinion, as the Province caused this situation the ministry should not be reimbursed by CPP.

The Ministry's Position

The ministry relied on its reconsideration decision in which it sets out the relevant legislative provisions. CPPD is "unearned income" as defined in section 1 of the EAPWDR. Section 24 of the EAPWDR provides that the monthly amount of disability payments is determined by subtracting the amount of income received from the amount of shelter and support allowance eligibility. Schedule B identifies CPP as deductible and Schedule A sets out the amount of shelter and support assistance. In this case, the appellant is receiving \$894.93 in CPPD and is entitled to 906.42 in disability assistance for net disability assistance of \$11.49.

The Panel's Decision

The appellant provided the panel with a considerable amount of background information regarding his history and current situation. The panel read through and considered all of this information, but found that the majority of it was not relevant to the issue which was the subject of the reconsideration decision, that is, the calculation of the amount of the appellant's monthly disability assistance. The panel's authority is limited to considering the reasonableness of the ministry's reconsideration decision given the facts and the legislation.

The panel notes that the appellant in his submissions does not argue that the ministry has not followed the legislation or that it has incorrectly calculated his monthly disability assistance amount. Rather, the appellant expresses his opposition to receiving CPPD rather than disability benefits as he feels the Province is responsible for his health issues and can help him deal with them and get back to work.

The panel finds that the ministry followed the relevant legislative provisions in calculating the appellant's monthly disability assistance amount. Section 24 of the EAPWDR provides that the monthly amount of disability payments is determined by subtracting the amount of income received from the amount of shelter and support allowance eligibility. Schedule B identifies CPP as deductible and Schedule A sets out the amount of shelter and support assistance. In this case, the appellant is receiving \$894.93 in CPPD and is entitled to 906.42 in disability assistance for net disability assistance of \$11.49. As noted, the appellant does not contest this. The appellant's objections to



receiving CPPD rather than disability assistance are not relevant to the issues regarding whether the ministry properly applied the relevant legislative requirements.

Accordingly, the Panel finds that the ministry's reconsideration decision finding that the ministry was correct in determining that the appellant is entitled to receive disability assistance in the amount of \$11.49 per month, was a reasonable application of the relevant legislation and confirms the ministry's decision.