

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision, dated November 16, 2016, which found that the appellant is not eligible for disability assistance (DA) for the month of November 2016, pursuant to Section 9(2) of the *Employment and Assistance for Persons with Disability Regulation* (EAPWDR), as the net monthly income of the family unit for the month of November 2016 exceeded the amount of DA payable.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation- sections 1, 9, and 24.  
Schedule A sections 1, 2, 4 and 5.  
Schedule B sections 1, 6, 7 and 8.

## PART E – Summary of Facts

The appellant did not attend the hearing. After confirming that the appellant was notified of the date, time, and location, the hearing proceeded under Section 86(b) of the *Employment and Assistance Regulation*.

The evidence before the ministry at the time of the reconsideration decision included:

1. The appellant is a sole recipient with Persons with Disabilities Designation, whose file opened on August 4, 2016 and is eligible to receive \$983.42 per month for DA (\$556.42 for support and \$375 for shelter). At that time he informed the ministry that he had applied for medical employment insurance;
2. The appellant informed the ministry in September 2016 that in August 2016 he received \$479 from EI and therefore he received \$504.42 from the ministry for the month of October 2016;
3. The appellant's EI web claim report indicated that the appellant received \$1912 (\$2148 - \$236 for taxes) from EI in September 2016;
4. Employment Insurance (EI) Claim Record, which shows that the appellant receives \$537.00 every 2 weeks from July 24, 2016 to July 22, 2017; and
5. Request for Reconsideration (RFR) signed and dated November 7, 2016, in which the appellant states that he agrees with the ministry's decision to deny him DA for November 2016 but that he still needs DA to pay rent. He also stated that he disagrees with the ministry's decision because he was honest about his relapse and has been seeking help.

### **Evidence on Appeal**

Notice of appeal, signed and dated December 12, 2016, which states that the appellant disagrees with the ministry's decision due to his medical condition.

### **Evidence at the Hearing**

At the hearing the ministry relied on its reconsideration decision.

## PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's decision, which found that the appellant is not eligible for disability assistance (DA) for the month of November 2016, pursuant to Section 9(2) of the *Employment and Assistance for Persons with Disability Regulation* (EAPWDR), as the net monthly income of the family unit for the month of November 2016 exceeded the amount of DA payable, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

The relevant legislation is as follows:

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:

(g) employment insurance;

### 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 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.

### Appellant's Position

The appellant argues that he has been honest with the ministry about his medical condition and relapse. He has sought help for his addiction as well. However, he still needs to pay his rent and therefore needs his DA benefits.

### Ministry's Position

The ministry argues that, pursuant to section 1(1) (g) of the EAPWDR, the appellant's EI is 'unearned income' and is part of his net income. It further argues that for the month of September 2016 the appellant's net income from his EI exceeded the amount allowable for DA, pursuant to section 24 of the EAPWDR and therefore pursuant to section 9(2) of the EAPWDR he is not eligible for DA for the

month of November 2016 as his September income is reported in October and affects his November assistance.

### **Panel's Decision**

Section 1(1) (g) of the EAPWDR defines EI as 'unearned income' and therefore the panel finds that the ministry was reasonable to conclude that the appellant's EI benefits is unearned income that is part of his net income.

Section 9(2) of the EAPWDR states that a family unit is ineligible for DA if its "net income" equals or exceeds the allowable limit for DA pursuant to Schedule A. In this case, the appellant does not dispute that his EI benefits received for the month of September 2016 (\$1912) were equal to or greater than his allowable DA and he agrees with the ministry's decision. According to Schedule A of the EAPWDR, as a sole recipient, the appellant is eligible for DA of \$983.42 per month. Section 24 of the EAPWDR states that in order to determine if a recipient received a net income that is equal to or exceeds his/her DA, subtract the eligibility amount pursuant to Schedule A from his/her net income from. In the case of the appellant, the net income for the month of September 2016 exceeded the allowable DA by \$928.58 (\$1912 - \$983.42). The panel finds that the ministry was reasonable to conclude that the appellant is ineligible for DA for the month of November 2016 pursuant to section 9(2) of the EAPWDR.

### **Conclusion**

The panel finds that the evidence establishes that the ministry reasonably concluded that the appellant was not eligible for disability assistance for November 2016 pursuant to section 9(2) of the EAPWRD. The panel confirms the ministry's decision. The appellant is not successful with his appeal.