

PART C – Decision under Appeal

The Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated December 19, 2016 where the ministry determined that the appellant is not eligible for income assistance or disability assistance or to apply for the Persons with Disabilities (PWD) designation, relying on section 9(2) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) it determined that the appellant's net income is more than the rates for both income assistance and disability assistance.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulations (EAPWDR), s. 1, 9, 24 and 29.
EAPWDR, Schedule A, s.1, 2, 4 and 5.
EAPWDR, Schedule B, s. 1, 2, 3 and 4.

[]

PART E – Summary of Facts

The information before the ministry at reconsideration included the following:

September 16, 2016 – the appellant applied for income assistance as a sole applicant indicating that she would like to apply for Persons with Disabilities (PWD) designation. The appellant provided pay slips from her employer with net income of \$510.34 on September 16 and October 2, 2016 and indicated that she was paid the same amount each time she received a pay cheque.

October 25, 2016 – the ministry found that the appellant's net income from employment was \$1,020.68 per month and as a result the appellant is not eligible for income assistance or an application to pursue PWD designation because her net income exceeded the rate of assistance for her family unit size.

December 2, 2016 – the appellant signed the request for reconsideration stating, in part, the following:

- I require financial security and support with my medical costs and benefits.
- I am working but I am having difficulty maintaining the demands of my job.
- My chronic pain/bursitis diagnosis affects my ability to complete the physical requirements of my job. I have difficulty standing too long, sitting too long, lifting heavy objects and reaching above my head.
- My bursitis affects me in every job I have had and it makes it hard for me to work enough hours in a week to be able to support myself and keep a job long term.
- My husband and I have recently split and he is unable to provide support for me.
- As well as my pain, I have a cognitive disability. I have difficulty learning new information, retaining new information and managing instructions and tasks. This makes me overwhelmed and I forget information provided to me.
- PWD would help me supplement my current employment income so I can meet my basic needs.
- I am scared that without PWD supports my mental and physical health will decline due to the stress of working more than I am capable.

December 2, 2016 – attached to the request for reconsideration, the appellant provided support letters from Community Living BC dated December 2, 2016 and a mental health clinician and a registered nurse dated December 2, 2016 providing information in support of the appellant's PWD application.

Notice of Appeal dated January 3, 2017, the Appellant stated the following:

My income is slightly more than \$983/month but is still only barely enough to pay for my basic needs. I cannot afford medical services, such as dental on my current income. My cognitive disability and chronic pain prevent me from working more / finding a new job.

At the hearing

The appellant stated:

1. Has been struggling with her disability all her life and even failed grade 2. The disability has caused her to lose several jobs over the years.
2. She has chronic pain which is getting worse and increases her anxiety.
3. She needs the disability status in order to provide her with added security.
4. Without PWD status, she has no medical coverage.

The Advocate stated:

1. If the appellant waited until she lost her job and had no income, she would lose her apartment and become homeless, which is not a desirable way to plan her future.
2. The current system requires her to have low income before she is eligible for the available benefits. She needs extended health.
3. There are inconsistencies in the application process and the current system is extremely unfair.

The Ministry stood by the record and reiterated that the appellant's income is in excess of the disability rate of \$983.42 per month that is contained in the legislation.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's decision determining that the appellant is not eligible for income assistance or disability assistance or to apply for the Persons with Disabilities (PWD) designation, relying on section 9(2) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) it determined that the appellant's net income is more than the rates for both income assistance and disability assistance was reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the appellant.

Relevant Legislation:

Section 1 (1) of the EAPWDR defines earned income:

“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. 2, 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;*

EAPWDR:

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

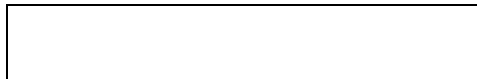
- (a) the amount determined under Schedule A, minus*
- (b) the family unit's net income determined under Schedule B.*

Schedule 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.*
- (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

(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

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, and

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

The ministry argued that the appellant's wages were earned income and the appellant did not dispute that. Schedule B of the EAPWDR sets out exemptions and deductions in calculating monthly income and s.9 (2) of the EAPWDR imposes limits on eligibility for disability assistance based on net income:

9. (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.

The appellant did not dispute that her monthly net income is more than the rates for both income assistance and disability assistance.

Panel decision:

The evidence in this appeal is that the appellant has earned income of \$1,020.34 per month and is requesting disability assistance and the PWD designation. Schedule A EAPWDR calculates the disability rate to be \$983.42 per month. The family unit's net income calculated under Schedule B EAPWDR is \$1,020.34 which exceeds that rate of both income assistance of \$610 and disability assistance of \$983.42. Eligibility for disability assistance in accordance with section 9(2) EAPWDR would be the amount provided in Schedule A - \$983.42 minus the amount determined in Schedule B - \$1,020.34. The ministry reasonably determined that there are no available exemptions under Schedule B EAPWDR. After applying s.9(2) EAPWDR the result is the appellant is ineligible for disability assistance and is therefore ineligible to apply for the Persons with Disability (PWD) designation.

Conclusion:

For all of these reasons and taking into account the evidence presented, the panel finds the ministry's reconsideration decision determining that the appellant was not eligible for income assistance or disability assistance under s.9(2) EAPWDR and therefore the appellant is not eligible to apply for PWD designation is a reasonable application of the legislation in the circumstances of the appellant and confirms the ministry's decision.

The appellant is not successful in her appeal.