

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “Ministry”) reconsideration decision, dated July 13, 2017 (the “Reconsideration”), in which the Ministry determined, pursuant to section 24 of the *Employment and Assistance For Persons With Disabilities Regulation* (“EAPWDR”), that:

1. the Appellant was not eligible for income assistance in the month of June, 2017, due to having received a lump sum CPP payment in the amount of \$7,174.00 (the “Lump Sum CPP Payment”) that exceeded the amount of assistance which she was eligible to receive; and
2. ongoing Canada Pension Plan (“CPP”) benefits, in the amount of \$557.17, which commenced on May 1, 2017 (the “Monthly CPP Benefits”) are deductible from her monthly assistance,

## PART D – Relevant Legislation

EAPWDR, sections 1, 9, 24, 29 and Schedules A and B

## PART E – Summary of Facts

### **Information before the ministry at Reconsideration**

The following information was before the Ministry at the Reconsideration:

- screen print of CPP data match, showing the Lump Sum CPP Payment;
- screen print of CPP data match, confirming the information about the Monthly CPP Benefits;
- letter from the Appellant to the Ministry, dated June 1, 2017;
- the Appellant's monthly income worksheet for June, 2017, dated June 1, 2017;
- letter from the Appellant, dated July 1, 2017;
- undated letter from the Appellant, describing various mental health issues;
- the Appellant's Request for Reconsideration ("RFR"), dated June 29, 2017;

### **Information provided on appeal**

- The Appellant's Notice of Appeal, dated July 19, 2017 and received by the tribunal on July 26, 2017, to which was attached an undated letter from the Appellant, describing a history of past hospitalizations and her current work and volunteer activities.

The Ministry indicated that it would be relying on its reconsideration in the hearing of the appeal and the Appellant made no submissions other than those contained in her Notice of Appeal and attached letter.

The Appellant is a sole recipient of income assistance, pursuant to the EAPWDR, eligible for monthly assistance in the amount of \$1,033.42, pursuant to Schedule A to the EAPWDR.

During the month of April, the Appellant received the Lump Sum CPP Payment. Beginning in May, 2017, the Appellant began to receive the Monthly CPP Benefits.

In June, 2017, the Ministry deducted the amount of the Lump Sum CPP Payment from the Appellant's income assistance and advised the Appellant that, starting in July, 2017, the Appellant's the amount of the Appellant's Monthly CPP Benefits would be deducted from her monthly disability assistance.

### **Admissibility of New Information**

The panel finds that the letter attached to the Appellant's Notice of Appeal is admissible as argument and on the basis that it is in support of information that was before the Ministry at the time of Reconsideration in that it elaborates on information set out in both the undated letter and the letters, dated June 1, 2017 and July 1, 2017. In particular, the letter attached to the Notice of Appeal describes the effects of hospitalizations and injections referenced in the undated letter that was before the Ministry at the time of Reconsideration and expands on the work and volunteer history the Appellant described in the letters, dated June 1, 2017 and July 1, 2017. Finally, the letter describes the Appellant's vegetarian diet, providing elaboration on the spiritual practices and diet that the Appellant referenced in her undated letter to the Ministry.

## PART F – Reasons for Panel Decision

The issue under appeal is whether the Ministry's reconsideration decision that the Appellant was ineligible for assistance in the month of April, 2017, resulting in no disability being paid to the Appellant in June, 2017, and that the Monthly CPP Benefits were deductible from her monthly disability assistance, as determined by Schedule A to the EAPWDR, starting in July, 2017, pursuant to section 24 of the EAPWDR, was a reasonable application of the relevant statutory provisions in the EAPWDR or was reasonably supported by the evidence before the Ministry at the time of the Reconsideration.

### ***Applicable Legislation***

Section 1 of the EAPWDR defines the term unearned income:

**"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 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;
- (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;
- (x) gifts of money, annuities, stocks, bonds, shares, and interest bearing accounts or properties;
- (y) gifts in the form of payment by another person of a debt or obligation.

Section 9 of the EAPWDR limits eligibility for disability assistance to circumstances where a family unit's net income is less than the amount of disability assistance determined under Schedule A to the 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.

Section 24 of the EAPWDR sets out the method by which the Ministry is to calculate the amount of assistance which may be provided to a recipient:

## 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.

Section 29 of the EAPWDR requires recipients of assistance to report income received in the previous calendar month:

## Reporting requirement

**29** For the purposes of section 11 (1) (a) [*reporting obligations*] of the Act,

(a) the report must be submitted by the 5th day of the calendar month following the calendar month in which one or more of the following occur:

- (i) a change that is listed in paragraph (b) (i) to (v);
- (ii) a family unit receives earned income as set out in paragraph (b) (vi);
- (iii) a family unit receives unearned income that is compensation paid under section 29 or 30 of the *Workers Compensation Act* as set out in paragraph (b) (vii), and

(b) the information required is all of the following, as requested in the monthly report form prescribed under the Forms Regulation, B.C. Reg. 95/2012:

- (i) change in the family unit's assets;
- (ii) change in income received by the family unit and the source of that income;
- (iii) change in the employment and educational circumstances of recipients in the family unit;
- (iv) change in family unit membership or the marital status of a recipient;
- (v) any warrants as described in section 14.2 (1) of the Act;
- (vi) the amount of earned income received by the family unit in the calendar month and the source of that income;
- (vii) the amount of unearned income that is compensation paid under section 29 or 30 of the *Workers Compensation Act* received

by the family unit in the calendar month.

Schedule A sets out the monthly Disability Assistance Rates for recipients of varying circumstances. In the case of the Appellant, who is a sole recipient with disabilities and with no dependent children, the prescribed monthly support allowance is set out in section 2 as follows:

Item	Column 1 <b>Family unit composition</b>	Column 2 <b>Age or status of applicant or recipient</b>	Column 3 <b>Amount of base support (\$)</b>	Column 4 <b>Amount of transportation support (\$)</b>
1	Sole applicant / recipient and no dependent children	Applicant / recipient is a person with disabilities	606.42	52.00

Section 4 of schedule A sets out the monthly shelter allowance for which a recipient may be eligible. In the case of the Appellant, section 4(2) applies:

- (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 <b>Family Unit Size</b>	Column 2 <b>Maximum Monthly Shelter</b>
1	1 person	\$375

Section 1 of Schedule B to the EAPWDR sets out the deduction and exemption rules pertaining to income and the specific types of income that are exempt from inclusion of the calculation of net income:

### **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,
    - (a) the following are exempt from income:
      - (i) any income earned by a dependent child attending school on a full-time basis;
      - (ii) Repealed. [B.C. Reg. 96/2017, App. 2, s. 2 (a).]

- (iii) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 2 (c).]
- (iv) a family bonus, except the portion treated as unearned income under section 10 (1) of this Schedule;
- (iv.1) the Canada child benefit, 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. 2, s. 11 (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) money paid by the government of British Columbia, under a written agreement, to a person with disabilities or to a trustee for the benefit of a person with disabilities to enable the person with disabilities to live in the community instead of in an institution;

(xxi) Repealed. [B.C. Reg. 85/2012, Sch. 2, s. 7.]

(xxii) 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*;

(xxiii) payments granted by the government of British Columbia under the Ministry of Children and Family Development's At Home Program;

(xxiv) Repealed. [B.C. Reg. 85/2012, Sch. 2, s. 7.]

(xxv) 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;

(xxvi) a loan that is

(A) not greater than the amount contemplated by the recipient's business plan, accepted by the minister under section 70.1 of this regulation, and

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

(xxvii) 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;

(xxviii) Repealed. [B.C. Reg. 148/2015, App. 2, s. 1 (a).]

(xxix) 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;

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

(xxxi) 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;

(xxxii) a Universal Child Care Benefit provided under the ***Universal Child Care Benefit Act***(Canada);

(xxxiii) 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;

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

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

(xxxvi) Repealed. [B.C. Reg. 180/2010, s. 2 (b).]

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

(xxxviii) 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;

(xxxix) 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;

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

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

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

(xliii) 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;

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

(xlv) a BC early childhood tax benefit;

(xlvi) child support;

(xlvii) orphan's benefits under the *Canada Pension Plan Act* (Canada);

(xlviii) money or other value received, by will or as the result of intestacy, from the estate of a deceased person;

(xlix) gifts;

(l) education and training allowances, grants, bursaries or scholarships, other than student financial assistance;

(li) money withdrawn from a registered education savings plan;

(lii) compensation paid or payable under section 17 [*compensation in fatal cases*] or 18 [*addition to payments*] of the *Workers Compensation Act* to a dependant, as defined in section 1 of that Act, who is a child, as defined in section 17 of that Act;

(liii) money that is paid or payable by or for Community Living BC to or for a person if the payment is in accordance with an award in a legal proceeding or with a settlement agreement in respect of a claim for injury, loss or damage caused by Community Living BC, an employee of Community Living BC or a person retained under a

contract to perform services for Community Living BC;

(liv) money that is paid or payable by the government of British Columbia to or for a person if the payment is in accordance with an award in a legal proceeding or with a settlement agreement in respect of a claim for injury, loss or damage caused by the minister, the ministry, an employee of the ministry or a person retained under a contract to perform services for the ministry;

(lv) a disabled contributor's child's benefit paid or payable under the *Canada Pension Plan*;

(lvi) payments granted under an agreement referred to in section 94 of the *Child, Family and Community Service Act*;

(lvii) money that is paid or payable, in respect of a child, from property that comes into the control of, or is held by, the Public Guardian and Trustee,

(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,

(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

(d) all unearned income must be included, except the deductions permitted under section 6 and any income exempted under sections 3, 7 and 8.

The permitted deductions from unearned income are set out in section 6 of Schedule B to the EAPWR as follows:

### **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.

The exemptions for unearned income in sections 3, 7, and 8 of Schedule B to the EAPWDR are as follows:

## **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;

**"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;

**"recognized family unit"**, in respect of a calendar year, means a family unit that

- (a) forms during the calendar year, and
- (b) includes at least one person who
  - (i) is designated as a person with disabilities, and
  - (ii) was previously a recipient in another family unit that was eligible to receive disability assistance under the Act for a calendar month in the calendar year.

## Exemptions — unearned income

7 (0.1) In this section:

**"disability-related cost"** means a disability-related cost referred to in paragraph (a), (b), (c) or (e) of the definition of disability-related cost in section 12 (1) [*assets held in trust for person with disabilities*] 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 12 (1) of this regulation;

**"intended registered disability savings plan or trust"**, in relation to a person referred to in section 12.1 (2) [*temporary exemption of assets for person with disabilities or person 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 10 [*asset limits*] of this regulation;

(d) a payment made from a trust to or on behalf of a person referred to in section 12 (1) [*assets held in trust for person with disabilities*] 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 12 (1) 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 12.1

(2) [*temporary exemption of assets for person with disabilities or person 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) any of the following if applied exclusively to or used exclusively for disability-related costs to promote independence:

(i) a payment made from a trust to or on behalf of a person referred to in section 12 (1) of this regulation;

(ii) a structured settlement annuity payment that, subject to subsection (2), is made to a person referred to in section 12 (1) of this regulation;

(iii) money expended by a person referred to in section 12.1 (2) of this regulation from an intended registered disability savings plan or trust;

(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;

(g) a benefit paid under section 22, 23 or 23.2 of the *Employment Insurance Act* (Canada) to any person in the family unit.

### **Minister's discretion to exempt education related unearned income**

8 (1) In this section:

**"day care costs"** means the difference between a student's actual day care costs and the maximum amount of child care subsidy that is available under the *Child Care Subsidy Act* to a family unit matching the student's family unit;

**"education costs"**, in relation to a student and a program of studies, means the costs, including the costs of tuition, student fees, books, equipment, supplies and transportation, that, in the opinion of the minister, are reasonably required for the student to participate in the program of studies.

(2) The minister may authorize an exemption for a student up to the sum of the student's education costs and day care costs, for a period of study, from the total amount of student financial assistance received by the student for the period of study.

### ***Positions of the Parties***

#### **Appellant's Position**

The Appellant's position, as set out in her RFR, the Notice of Appeal and in the various letters attached thereto is that she is hoping to be able to supplement her disability pension with the Lump Sum CPP Payment and the Monthly CPP Benefits in the same manner in which a recipient is eligible to supplement their disability assistance with paid employment income. The Appellant points out that she volunteers for an environmental conservation organization and hopes to secure similar opportunities in the future. The Appellant states that she believes her volunteer time is well spent and that, in the result, it would be fair for her to be able to continue to receive both the Monthly CPP Benefits and her disability assistance.

#### **Ministry's Position**

The Ministry's position is that CPP benefits are not among the types of unearned income that is deductible from the calculation of a recipient's net income under section 6 of Schedule B to the EAPWDR or exempt from inclusion in the calculation of a recipient's net income under section 7 of Schedule B to the EAPWDR. As such, it is the Ministry's position that the Lump Sum CPP Payment was properly deducted from the Appellant's disability assistance for the month of June, 2017 and that the Monthly CPP Benefits are properly deductible from the Appellant's disability assistance for the months of July, 2017 onward.

### ***Panel's Decision***

The Lump Sum CPP Payment and the Monthly CPP Benefits are both captured by the definition of “unearned income” in section 1 of the EAPWDR. As such, both amounts are properly included in the calculation of the Appellant’s net income for the months in which they were received.

To be exempt from the calculation of the Appellant’s net income, both the Lump Sum CPP Payment and the Monthly CPP Benefits would need to meet one of the specific exemptions set out in sub-sections (i) through (lvii) of section 1(a) of schedule B to the EAPWDR. None of those specific exemptions apply to either. Moreover, section 1(d) of Schedule B to the EAPWDR sets out that “all unearned income must be included, except the deductions permitted under section 6 and any income exempted under sections 3, 7 and 8.”

To be deductible from the calculation of net income, pursuant to section 6 of Schedule B to the EAPWDR, the Lump Sum CPP Payment and the Monthly CPP Benefits would need to qualify as “income tax deducted at source from employment insurance benefits” or “essential operating costs of renting self-contained suites.” Accordingly, the panel finds that neither the Lump Sum CPP Payment nor the Monthly CPP Benefits are deductible pursuant to section 6 of Schedule B to the EAPWDR.

Section 3 of Schedule B to the EAPWDR sets out that the only unearned income that meets the definition of qualifying income is “compensation paid under section 29 or 30 of the Workers Compensation Act.” Accordingly, neither the Lump Sum CPP Payment nor the Monthly CPP Benefits are exempt from inclusion in the calculation of the Appellant’s net income as “qualifying income” under section 3 of Schedule B to the EAPWDR.

Section 7(1) of Schedule B to the EAPWDR sets out specific exemptions for unearned income, including a portion of CPP benefits, as calculated by the formula set out in 7(1)(e). However, the portion of the Lump Sum CPP Payment that would have been exempt under the formula contained in section 7(1)(e) of Schedule B to the EAPWDR is substantially less than the amount of the Lump Sum CPP Payment which would be included in the calculation of the Appellant’s net income for April, 2017. In the result, the panel finds that, even including an exemption for a small portion of the Lump Sum CPP Payment, the Appellant’s net income for April, 2017 was in excess of the \$1,033.42 of disability assistance for which the Appellant was eligible in April, 2017.

With respect to the Monthly CPP Benefits, the amount set out in item “B” of the formula contained in section 7(1)(e) of Schedule B to the EAPWDR is greater than the amount set out in item “A” of the same formula, which is the amount of the Monthly CPP Benefits themselves. In the result, applying the formula set out in section 7(1)(e) of Schedule B to the EAPWDR to the Monthly CPP Benefits will always result in a negative exemption amount and, in the result, the panel finds that that Appellant is not entitled to any exemption in respect of the Monthly CPP Benefits, applying the formula in section 7(1)(e) of Schedule B to the EAPWDR.

Finally, section 8 of the EAPWDR exempts certain education related unearned income from inclusion in the calculation of net income, none of which include either the Lump Sum CPP Payment or the Monthly CPP Benefits. As such, neither the Lump Sum CPP Payment nor the Monthly CPP Benefits are exempt from inclusion in the calculation of the Appellant’s net income, applying section 8 of the EAPWDR.

In view of the foregoing, the panel finds that the Ministry’s reconsideration decision, which determined that the appellant was ineligible for assistance in the month of April, 2017 due to having received the



Lump Sum CPP Payment and that the Appellant Monthly CPP Benefits are deductible from the amount of assistance for which she is otherwise eligible, as determined by Schedule A to the EAPWDR, was a reasonable application of section 24 of the EAPWDR. In the result, the panel confirms the Ministry's reconsideration decision and the Appellant is not successful in the appeal.