

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision of September 25, 2017, which found the appellant not eligible for hardship assistance for August, September and October 2017 according to section 10 of the Employment and Assistance Regulation (EAR) because the amount of her EI benefits exceeds the amount of her hardship assistance.

PART D – Relevant Legislation

EAR sections 1, 10, 28, 33, 40, 43.
Schedule A and Schedule B.

PART E – Summary of Facts

The information before the ministry at reconsideration included the following:

Hardship assistance was approved as the appellant had a pending medical claim with Employment Insurance (EI).

The appellant is a single parent with 3 dependent children.

Her monthly assistance amount is calculated as \$1075.58 (\$375.58 support plus \$700 shelter).

She was issued \$2425.00 in June (\$700 shelter, \$375 pro-rated support, \$700 shelter crisis supplement plus \$650 security deposit supplement).

In July the appellant was issued \$337.63 (\$1075.58 minus \$737.95 May employment income).

On August 24 the appellant advised that her EI benefits had expired the previous week. She was advised to submit a monthly report form for September and October.

On August 25, 2017, the appellant submitted the August monthly report form indicating that she had received EI benefits of \$1456 in July.

On August 28, 2017 the appellant submitted the September monthly report form indicating she has received EI benefits of \$1456 in August.

The July benefits were deducted from her September assistance and the August EI benefits were deducted from her October assistance.

In her request for reconsideration dated September 12, 2017, the appellant states that she is in desperate need of income. Her last payment for medical EI was on August 26th. If she will not be approved for assistance until the end of October it will make 2 months without income. She is already behind on her rent and she has received an eviction notice. She is unable to provide for her children. She is receiving less child tax benefits – they went down from \$1600 to \$1125 per month. She is off work due to stress leave, and being in financial difficulties is not helping her to get better and potentially getting her back to work.

The appellant submitted a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated September 11, 2017 which states that she failed to pay \$700 rent that was due on September 1, 2017.

In a note dated September 5, 2017 the appellant's physician states that she "has been referred for further medical work up because of her job related incident. She is not fit to return work [sic] for the next 2 months."

In her Notice of Appeal dated September 26, 2017 the appellant states she is not able to return to work. Her EI ran out. She has an eviction notice. She has no money and has not had an income since August and her work disability still has not been completed. Her mental health can't take any more stress.

On October 16, 2017 the ministry submitted a 27 page document which included

- A letter from the ministry stating that this additional information was involved in the original reconsideration and that the appellant was provided a copy of these documents with the reconsideration package.
- A print-out from the appellant's My Service Canada Account indicating that she received "sickness-major attached benefits" for 14 weeks. Start date of claim: May 7, 2017. Waiting period: May 14 to May 20, 2017. Recovery date: August 26, 2017.
- The appellant's report for July listed the following income: Employment Insurance: \$1456. Child support \$364. Canada Pension Plan: \$480. Child Tax benefits: \$1226. At the hearing the ministry explained that the appellant was late in submitting this report – it should have been submitted by July 5th; nevertheless, the ministry accepted the report. The ministry remarked that the appellant's child support, CPP and Child Tax benefits are exempt from the calculation of her net income.
- 18 pages of legislation.

At the hearing the appellant stated she had no objection to this document being admitted into evidence.

She stated further that she was able to sort things out with her landlord - she has not been evicted and still lives at the same residence. She is in the process of getting all necessary documentation together for work disability benefits. She spent the \$2425 hardship assistance received in June on rent, food, bills, expenses ... she can't remember exactly what she spent it on. Her rent current is \$1300.

The ministry presented its reconsideration decision and added the following information: The appellant is receiving benefits under appeal.

Pursuant to section 22(4) of the Employment and Assistance Act, the panel admits the ministry's October 16 submission, and the appellant's appeal submission and her oral testimony as being in support of the information that was before the ministry at the time of reconsideration. The ministry's October 16 submission is admissible because this information was before the ministry at reconsideration and provides details on the appellant's EI income and her income in July. The appellant's appeal submission and her oral testimony corroborate the fact that she is still hoping to receive work disability benefits, that her place of residence is unchanged, and that she is still concerned about her health and financial situation.

PART F – Reasons for Panel Decision

The issue under appeal in this case is whether the ministry's decision that the appellant was not eligible for hardship assistance in August, September and October because the amount of her EI benefit exceeds the amount of her hardship assistance, was a reasonable application of the legislation or reasonably supported by the evidence.

The following legislation applies to this appeal:

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

10 ...

(2) A family unit is not eligible for income assistance if the net income of the family unit determined under Schedule B equals or exceeds the amount of income assistance determined under Schedule A for a family unit matching that family unit.

Amount of income assistance

28 Income 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.

Part 4 – Hardship Assistance...

Rules about applications, payments, etc.

40 Subject to this Part, the following sections apply in respect of hardship assistance:

...

(f) section 10 *[limits on income]*;

...

Applicants who have applied for income from another source

43 The minister may provide hardship assistance to a family unit that is not eligible for income assistance because an applicant has applied for income from another source if

- (a) the minister considers that undue hardship will otherwise occur, and
- (b) the applicant provides the type of security specified by the minister for the repayment of the hardship assistance.

Schedule A

Monthly support allowance

2

Item	Column 1 Family unit composition	Column 2 Age or status of applicant or recipient	Column 3 Amount of support
4	Sole applicant/recipient and one or more dependent children	Applicant/recipient is under 65 years of age	\$375.58

Monthly shelter allowance

4

Item	Column 1 Family Unit Size	Column 2 Maximum Monthly Shelter
4	4 persons	\$700

Schedule B

Net Income Calculation

Deduction and exemption rules

1 When calculating the net income of a family unit for the purposes of section 28

(b) [*amount of income assistance*] of this regulation,

(a) the following are exempt from income:

...

(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;

...

(xliv) a BC early childhood tax benefit;

(xlv) child support;

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 appellant submits that she is in desperate need of income and is unable to provide for her children. Her last payment for medical EI was on August 26th and she will not have any income in September and October. Her child tax benefits decreased from \$1600 to \$1125. She is on stress leave and not able to go back to work. She is still in the process of getting all necessary documentation together for work disability benefits.

It is the ministry's position that the appellant was not eligible for August, September and October assistance because the amount of her EI benefits exceeded the amount of her hardship assistance. The July EI benefits were deducted from the appellant's September assistance and the August EI benefits were deducted from her October assistance. As the amount of the EI benefits exceeded the amount of her hardship assistance she was not eligible for assistance

Under section 1 of the EAR EI benefits are unearned income.

Under section 28 EAR the amount of assistance is determined by deducting the amount of income calculated under Schedule B from the amount of shelter/support/transportation allowances calculated under Schedule A.

Under schedule A sections 2 and 4 a family unit of one adult and 3 dependent children is eligible for \$1075.58 shelter/support/transportation allowances.

Schedule B sections 1, 6, and 7 list types of unearned income that may be exempted from the calculation of the amount of income received. EI benefits are not listed as a type of unearned income that may be exempted from the calculation of the amount of income received other than income tax deducted at the source. As income tax has not been included in the amount of EI received the entire amount the appellant received must be deducted from her assistance.

Under section 10 of the EAR a person is not eligible for assistance if the amount of income calculated under Schedule B exceeds the amount of assistance calculated under schedule A. As the amount of the EI exceeded the amount of shelter/support/transport allowances she was eligible to receive she was not eligible for assistance.

Under section 33 of the EAR a person is required to report income by the 5th days of the month following the month the income was received. The income is applied to the calculation of the amount of assistance a person is eligible to receive at the first opportunity, which is the month following the month the income is reported. For example, EI benefits received in June, reported in July are applied to August assistance; the EI benefits received in July are applied to September assistance and the EI benefits received in August are applied to October assistance.

Panel Decision

Section 10(2) of the EAR holds that a family unit is not eligible for income assistance if the net income of the family unit determined under Schedule B equals or exceeds the amount of income assistance determined under Schedule A. Section 40 provides that section 10 income limits apply to hardship assistance.

While the appellant submits that she has no money and needs assistance the panel finds that the ministry was reasonable in determining that according to section 10 of the EAR the appellant is not eligible for assistance because her net income of \$1456 in August, September and October exceeds the amount of her monthly assistance of \$1075.58.

The panel finds that the ministry reasonably determined the following: the appellant's EI benefits in June, July and August are deemed net income as EI is considered unearned income and is not an exempted item according to Schedule B. Income tax has not been included in the amount of EI received and therefore the entire amount must be considered net income. The appellant's June, July and August benefits of \$1456 per month were applied to her August, September and October assistance in accordance with section 33 of the EAR and as a result the appellant's net income in these 3 months exceeds her monthly shelter/support allowance of \$1075.58.

While the appellant claims she receives no assistance for September and October there is evidence that she receives benefits under appeal, child support, CPP and child tax benefits.

The panel finds, therefore, that the ministry's reconsideration decision was reasonably supported by the evidence and was a reasonable application of the applicable regulation in the circumstances of the appellant. The ministry's reconsideration decision is confirmed.