

PART C – DECISION UNDER APPEAL

The decision under appeal is the April 19, 2018 Ministry of Social Development and Poverty Reduction Reconsideration Decision which held that Employment Insurance (EI) funds received in March 2018 are considered unearned income according to section 1 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) and must be deducted from the appellant's May 2018 assistance amount to determine the amount he is eligible to receive in accordance with section 24 of the EAPWDR.

PART D – RELEVANT LEGISLATION

EAPWDR sections 1 and 24.
Schedule A.
Schedule B.

PART E – SUMMARY OF FACTS

The appellant advised the ministry that he was approved for medical EI benefits at the rate of \$ 170/weekly and that he received a total of \$ 340 in the month of March. On March 23, 2018 he submitted a screenshot of his online account with Service Canada outlining his EI payments.

On March 23, 2018 the ministry advised the appellant that the employment insurance he received would be deducted from his May 2018 assistance.

In his April 9, 2018 request for reconsideration submission the appellant stated that not classifying employment insurance as allowable under annual employment income allowance is morally and ethically wrong. Every employed person pays into insurance to protect against unforeseen problems which is intended to help mitigate the loss of employment income. "However, when someone on disability who had been working part-time has a medical crisis like I have recently the EI payments are deducted from their disability income resulting in no real offsetting measures to combat the lost income from my budget. This is not right."

In his Notice of Appeal dated April 25, 2018 the appellant writes that legislation unfairly punishes people with disabilities versus non-disabled people who gain quantitative benefits from EI while disabled people gain none.

PART F – REASONS FOR PANEL DECISION

The issue in this appeal is whether the ministry's reconsideration decision which held that EI funds received in March 2018 are considered unearned income according to section 1 of the EAPWDR and must be deducted from the appellant's May 2018 assistance amount to determine the amount he is eligible to receive in accordance with section 24 of the EAPWDR is a reasonable application of the legislation in the appellant's circumstances or is reasonably supported by the evidence.

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;...

Amount of disability assistance

24 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 B

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,

(d) all unearned income must be included, ...

Appellant's Position:

The appellant argues that his EI income should not be deducted from his disability assistance because legislation unfairly punishes people with disabilities; while non-disabled people gain quantitative benefits from EI, disabled people's EI does not offset their loss of income.

Ministry position:

Section 1 of the EAPWDR defines "unearned income" as any income that is not earned income, and includes, without limitation, money or value received from employment insurance. Schedule B sections 1, 6 and 7 set out types of unearned income that may be deducted or exempted from the calculation of the appellant's monthly income. Employment Insurance (EI) benefits are not listed as a type of unearned income that may be excluded from the calculation. Under section 24 of the EAPWDR the amount of monthly assistance is determined by deducting the amount of income calculated under Schedule B from the amount of shelter and support allowances calculated under Schedule A.

The ministry has established that the EI earnings the appellant received are considered unearned income as defined by legislation. There are no exemptions in the case of employment insurance; therefore, the unearned income must be deducted from the appellant's disability assistance. As he received \$ 340 in EI in March 2018 this must be deducted from his May 2018 disability assistance.

Panel Decision

Section 1 of the EAPWDR defines employment insurance as "unearned income".

Section 1(d) of Schedule B of the EAPWDR sets out that all unearned income must be included when calculating the net income of a family unit for the purposes of section 24(b).

Section 24 (b) of the EAPWDR provides that disability assistance may be provided to 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's net income under Schedule B.

While the appellant argues that his EI income should not be deducted from his disability assistance because legislation unfairly punishes people with disabilities the panel finds that as EI is defined as unearned income in section 1 of the EAPWDR EI amounts have to be taken into account in the calculation of the appellant's net income in accordance with section 1(d) of Schedule B; the resulting net income has to be deducted from the Schedule A assistance amount according to section 24(b) to determine the assistance amount the appellant is eligible to receive.

Thus the panel finds the ministry reasonably applied the applicable legislation when it determined that EI funds received in March 2018 have to be taken into account when calculating the assistance amount the appellant is eligible to receive in May 2018 according to section 24 (b).

Conclusion:

After considering all the evidence and the applicable legislation the panel finds that the ministry's reconsideration decision was reasonably supported by the evidence and was a reasonable application of the applicable legislation in the circumstances of the appellant. Therefore the panel confirms the decision and the appellant is not successful on appeal.

PART G-ORDER	
THE PANEL DECISION IS: (Check one) <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> BY MAJORITY	
THE PANEL <input checked="" type="checkbox"/> CONFIRMS THE MINISTRY DECISION <input type="checkbox"/> RESCINDS THE MINISTRY DECISION	
If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount? <input type="checkbox"/> Yes <input type="checkbox"/> No	
LEGISLATIVE AUTHORITY FOR THE DECISION:	
<i>Employment and Assistance Act</i>	
Section 24(1)(a) <input checked="" type="checkbox"/> and Section 24(1)(b) <input checked="" type="checkbox"/>	
and	
Section 24(2)(a) <input checked="" type="checkbox"/> or Section 24(2)(b) <input type="checkbox"/>	

PART H-SIGNATURES	
PRINT NAME Inge Morrissey	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2018/06/06

PRINT NAME Dawn Martin	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/06/06
PRINT NAME Andrew Murray	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/06/06