

### **PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction's (the "ministry") Reconsideration Decision of February 19<sup>th</sup>, 2018 in which the ministry determined that the appellant was ineligible for income assistance for February 2018, because the assets of the family unit was in excess of the asset limit rate; pursuant to Section 1(s) of "unearned income" and Schedule B, section 7(1)(c) and Section 11(2) of the Employment and Assistance Regulation.

### **PART D – RELEVANT LEGISLATION**

EAR *Employment and Assistance Regulation: Section 1(s) of "unearned income" and Schedule B, Section 7(1)(c) and Section 11(2)*

## **PART E – SUMMARY OF FACTS**

The information before the ministry at the time of reconsideration included the following:

- 1) The recipient receives income assistance for herself and one dependent child at a rate of \$1048.23 per month.
- 2) **November 20<sup>th</sup>, 2017** – A letter sent to the appellant from the (Province) Justice and Solicitor General indicating that the appellant was awarded a \$6500.00 Victims of Crime financial benefit and that she would receive the amount some time in December 2017.
- 3) **January 25, 2018** – the appellant was advised by the ministry that her \$6500.00 award, while except from unearned income, was \$2500.00 in excess of the \$4000.00 unearned income asset limit.
- 4) **February 5, 2018** – the ministry received the appellant request for reconsideration.

### **Additional Information**

The ministry representative and appellant did not attend the hearing. After waiting for thirteen minutes and checking to ensure that both parties had been notified of the hearing, the panel proceeded in the absence of the parties, pursuant to Section, 86(b) of the Employment and Assistance Regulation.

## PART F – REASONS FOR PANEL DECISION

The issue under appeal is whether the Ministry of Social Development and Poverty Reduction's (the "ministry") Reconsideration Decision of February 19<sup>th</sup>, 2018 in which the ministry determined that the appellant was ineligible for income assistance for February 2018, because the assets of the family unit was in excess of the asset limit rate; pursuant to Section 1(s) of "unearned income", Schedule B, Section 7(1)(c) and Section 11(2) of the Employment and Assistance Regulation was a reasonable application of the legislation in the circumstances of the appellant or reasonably supported by the evidence.

### Employment and Assistance Regulation

#### Unearned income

**(1) "unearned income"** means any income that is not earned income, and includes, without limitation, money or value received from any of the following:

**(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;**

#### SCHEDULE B, SECTION 7(1)(C)

**(1) The following unearned income is exempt:**

**(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 11 [asset limits] of this regulation;**

#### Asset limits

**11(2) A family unit is not eligible for income assistance if any of the following apply:**

**(b) subject to paragraph (c), an applicant or a recipient has one or more dependents and the family unit has assets with a total value of more than \$4 000;**

#### Panel Decision

The ministry's position is that the appellant is a sole recipient with a dependent child with an income assistance rate of \$1048.23 and an asset limit of \$4,000. The award of \$6500 under the *Criminal Injury Assistance Act* exceeded the asset limit by \$2500 which must be deducted from the appellant's income assistance. As the rate exceeds the income assistance, the appellant is ineligible for assistance for February.

The appellant, as stated in her notice of appeal and reconsideration request, wanted to see if there was anything that could be done about the \$2500.00 over-and-above her asset limit, based on compassionate grounds, as she used the \$4000.00 to pay bills and get caught up.

Section (1)(s) of the Employment and Assistance Regulation (EAR) states that "unearned income" means any income that is not earned income, and includes, without limitation, money or value received from any of the following:

**(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;**

The panel finds that the evidence establishes that the appellant did receive a \$6500.00 award under the *Crime Victim Assistance Act* in December 2017, and therefore, the ministry was reasonable to consider that the award was unearned income in accordance to 1(s) of the EAR.

Schedule B, section 7(1)(c) states that a criminal injury compensation award or other award is exempt except for the amount that would cause the family' assets limits to exceed, at the time the award is received, the limit applicable under section 11 [asset limits] of this regulation.

Section 11 (2) of the EAR states that a family unit is not eligible for income assistance if any of the following apply: (b) subject to paragraph (c), an applicant or a recipient has one or more dependents and the family unit has assets with a total value of more than \$4 000. The appellant is a recipient who has one dependent and therefore her asset limit is \$4000. The panel finds that the evidence establishes that the ministry was reasonable to consider that the appellant's compensation award was \$2500.00 higher than her asset value limit of \$4000.00, as evidenced by the award letter provided by the (Province) Justice Solicitor General on November 20<sup>th</sup>, 2017 outlining a total award amount of \$6500.00 and therefore the asset exceeded the limit, making the appellant ineligible for February income assistance.

While the appellant asks if something can be done as she used the money to pay bills and catch up, the panel finds that the decision of the ministry to deny the appellant her February, 2018 income assistance due to her excess (\$2500.00) asset limit, was a reasonable application of the legislation in the circumstances of the appellant and the panel confirms the ministry's decision. The appellant is unsuccessful in her appeal.