

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction's (the ministry) reconsideration decision dated May 25, 2018 which determined that under section 9(2) of the *Employment and Assistance for Persons with Disabilities Regulation (EAPWDR)*, the appellant was not eligible for disability assistance because his family unit's net income determined under Schedule B of the *EAPWDR* exceeded the amount of disability assistance determined under Schedule A of the *EAPWDR*.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Act (EAPWDA) Section 1(1)
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Sections 1, 9 and 24
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Schedule A, Section 2
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Schedule B, Sections 1, 2, 3(1)(b), 6, and 7

PART E – SUMMARY OF FACTS

Documents and Information Before the Minister at Reconsideration

The evidence before the ministry at the time of the reconsideration decision included

1. The decision to be reconsidered dated April 9, 2018
2. The Appellant's Request for reconsideration dated April 25, 2018, in which the Appellant stated
 - that he has been treated unfairly with all the misdirection of his being a Person with a Disability
 - that he has had four strokes, cancer, has high blood pressure and has chronic joint pain
 - that he cannot work until he gets a hip replacement
 - that he may be able to do something
 - that he cannot live as he is and has had four brain injuries
 - that he does not cope with stress well in this process has him "really upset"
 - that he challenges the ministry and believes it has said he is not a person with a disability
 - that his wife makes \$14.85 per hour and is a labourer at (age) 62 and he questions what would happen if "something should happen to her"
 - he looks forward to getting back to work and consideration in procedural fairness is needed
3. The Appellant's original Application for Assistance dated October 23, 2017 in which he sets out
 - that he is married
 - that he has net Canada Pension Plan Benefits of \$168 per month
 - that he has rental property income of \$750 per month
 - that his wife's income from employment is \$1,500 per month
 - his assets including monies on deposit at various financial institutions, in the name of himself and his spouse, his assets, and his ongoing debts
4. A letter from the ministry dated March 1, 2018 advising him that he has been approved as a Person with Disabilities (PWD), effective from March 1, 2018
5. A Monthly Report dated March 7, 2018 in which he reports his wife's employment income of \$1,639.22, net Canada Pension Plan benefits of \$187.00 and rental income of \$750
6. His wife's bank statement for the period to December 27, 2017 to January 26, 2018 showing his wife's net pay on January 5, 2018 of \$850.15 for two weeks and on January 19, 2018 \$789.07 (which the panel notes totals the \$1,639.22 employment income reported in the Monthly Report of March 7, 2018)
7. A second Monthly Report dated March 7, 2018 in which he reports his wife's employment income of \$1,834.48, net Canada Pension Plan benefits of \$187.00, rental income of \$750 and other income of \$250
8. His wife's bank statement for the period January 27, 2018 to February 26, 2018 showing his wife's net pay on February 2, 2018 of \$874.15 for two weeks and on February 16, 2018 for \$960.33 (which the panel notes totals the \$1,834.48 employment income reported in the monthly report dated March 7, 2018)

9. New Evidence - Ministry

The ministry representative said that just this morning (that is the date of this Appeal hearing) he had looked up the Appellant's wife's employee benefits from her employment, and said that they were excellent, even better than the government provides for its employees.

Appellant's Position on New Evidence from the Ministry

The Appellant did not object to the introduction of this new evidence.

Panel Finding on New Evidence

The panel finds that the evidence of the Appellant's wife's employee benefits is neither information nor records that were before the minister when the decision being appealed was made and is not oral testimony in support of such information and records, and is therefore not admissible, pursuant to section 22 *Employment and Assistance Act*. Further, the panel finds that the evidence, if it were admissible, would be irrelevant.

PART F – REASONS FOR PANEL DECISION

Issue on Appeal

The issue on appeal is whether the Ministry of Social Development and Poverty Reduction's (the ministry) reconsideration decision dated May 25, 2018 which determined that under section 9(2) of the *Employment and Assistance for Persons with Disabilities Regulation (EAPWDR)*, the appellant was not eligible for disability assistance because his family unit's net income determined under Schedule B of the *EAPWDR* exceeded the amount of disability assistance determined under Schedule A of the *EAPWDR*, was a reasonable application of the legislation in the circumstances of the appellant or was reasonably supported by the evidence.

Relevant Legislation

EAPWDA

1 (1) In this Act:

"**applicant**" means the person in a family unit who applies under this Act for disability assistance, hardship assistance or a supplement on behalf of the family unit, and includes

- (a) the person's spouse, if the spouse is a dependant, and
- (b) the person's adult dependants;

"**dependant**", in relation to a person, means anyone who resides with the person and who

- (a) is the spouse of the person,
- (b) is a dependent child of the person, or

"**family unit**" means an applicant or a recipient and his or her dependants;

"**spouse**" has the meaning in section 1.1;

Meaning of "spouse"

1.1 (1) Two persons, including persons of the same gender, are spouses of each other for the purposes of this Act if

- (a) they are married to each other, or

EAPWDR Section 1 - "Earned Income" & "Unearned Income"

"**earned income**" means

- (a) any money or value received in exchange for work or the provision of a service

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

- (f) any type or class of Canada Pension Plan benefits;
- (u) Federal Old Age Security and Guaranteed Income Supplement payments;

EAPWDR Section 9 - Limits on 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.

EAPWDR Section 24 - 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.

EAPWDR Schedule A Section 1

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.

EAPWDR Schedule A Section 2 - Monthly support allowance

2 (0.1)

.....

- (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).....

Item	Column 1 Family unit composition	Column 2 Age or status of applicant or recipient	Column 3 Amount of base support (\$)
1	Two applicants / recipients and no dependent children	One applicant / recipient is a person with disabilities, the other is not a person with disabilities and is under 65 years of age	927.56

3

EAPWDR Schedule A Section 4 - 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;

.....

- (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	2 persons	\$570

EAPWDR - Schedule B - Net Income Calculation

Section 1 - 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 ©.]
 - (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.

EAPWDR – Schedule B – Deductions from earned income

Deductions from earned income

2 The only deductions permitted from earned income are the following:

(a) any amount deducted at source for

- (i) income tax,
- (ii) employment insurance,
- (iii) medical insurance,
- (iv) Canada Pension Plan,
- (v) superannuation,
- (vi) company pension plan, and
- (vii) union dues;

(b) if the applicant or recipient provides both room and board to a person at the applicant's or recipient's place of residence, the essential operating costs of providing the room and board;

(c) if the applicant or recipient rents rooms that are common to and part of the applicant's or recipient's place of residence, 25% of the gross rent received from the rental of the rooms.

EAPWDR – Schedule B – Annual exemptions – qualifying income

3. In this section:

"base amount" means

(b) \$1 200, in the case of a family unit that includes two recipients, only one of whom is designated as a person with disabilities

EAPWDR – Schedule B – Deductions from unearned income

6 Deductions from unearned income

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.

EAPWDR – Schedule B – Exemptions – unearned income

7 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) © 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.
- (2) Subsection (1) (d.1) and (d.3) (ii) applies in respect of a person only if
- (a) the person has entered into a settlement agreement with the defendant in relation to a claim for damages in respect of personal injury or death, and
 - (b) the settlement agreement requires the defendant to
 - (i) make periodic payments to the person for a fixed term or the life of the person,
 - (ii) purchase a single premium annuity contract that
 - (A) is not assignable, commutable or transferable, and
 - (B) is designed to produce payments equal to the amounts, and at the times, specified in the settlement agreement,
 - (iii) make an irrevocable direction to the issuer of the annuity contract to make all payments under that annuity contract directly to the person, and
 - (iv) remain liable to make the payments required by the settlement agreement.
- (2.1) Repealed. [B.C. Reg. 204/2015, App. 2, s. 4 (b).]
- (3) Repealed. [B.C. Reg. 197/2012, Sch. 2, s. 13 (f).]

PARTIES' POSITIONS AT APPEAL

Appellant's Position

The Appellant said in his Notice of Appeal dated May 30, 2018 that he understands the money issue but is still a Person with Disabilities and asks why is the Ministry at taking that away (medical).

At the Appeal, the appellant submitted that the main reason for his appeal was his medical condition and said that while his wife is currently earning enough money for their needs, he is concerned about the burden of being the main earner and of working as a labourer on her because she is 62 years old and the work is getting too much for her. He said that it is expensive for her to go to work, costing about \$500 per month in transportation costs for the 75 km round trip from their home to her job. He said that he is 64 years old and that he is applying for the Guaranteed Income Supplement but does not yet receive it. He said that he has bad arthritis and reiterated his medical conditions as outlined in his original application, specifically that he has had a number of strokes, cancer, and surgery. He said that he has a number of expenses, such as property taxes, utilities and other expenses. He doesn't understand why he does not qualify for assistance as he is disabled. He said that he is fortunate in that he receives medical benefits from his wife's employment. He explained that his \$750 per month rental income is from a basement suite that he rents to a family member and that that is the gross rent, not rent less expenses

attributable to that suite. He said that his wife's health is "not the greatest" and he is concerned that his wife will not be able to work past the end of this year and wonders what will happen to them when her income is no longer available. When asked by the ministry if he has access to health benefits from his wife's employment he said yes and he takes advantage of it to recover a percentage of the cost of his medication and as well the benefits have paid for a medical aid. He said that he thought he had been denied Persons With Disabilities status.

Ministry Position

Ministry Submissions

The ministry confirmed that the Appellant is designated as a Person with Disabilities (PWD) and has not lost that status; the ministry representative clarified that the issue is whether or not the Appellant is to receive Persons with Disabilities assistance in any particular month, not whether the appellant has the designation of PWD.

The ministry submitted that it is the family unit that must apply for disability assistance. The ministry further submitted the Appellant and his wife are a family unit because, being married to each other, EAPWDA section 1.1 (1)(a) defines two people married to each other as a family unit. The ministry further submitted that the Appellant's and his wife's income must be cumulated because they are a family unit.

The ministry argued that the Appellant's Canada Pension Plan benefits are not exempt from income pursuant to EAPWDR Schedule B section 1, are not allowable deductions from earned income pursuant to Schedule B section 2, are not allowable deductions from unearned income under Schedule B section 6, and are not exemptions from unearned income permitted deductions from unearned income under Schedule B section 7, .

The ministry further argued that the Appellant's wife's earnings are "earned income" within the meaning of section 1 EAPWDR because they are derived from her job, and as they are net earnings there are no other deductions permissible under section 2 of EAPWDR Schedule B.

The ministry further submitted that the Appellant's rental income of \$750 per month is "unearned income", and that the Appellant's Canada Pension Plan benefits [\$187.00 per month] is unearned income, and his wife's employment income [\$1,639.22 in January 2018] earned income, came to a total of \$2,576.22. Because that exceeded the Appellant's monthly support allowance of \$927.56 under Schedule A section 2 plus the Monthly Shelter Allowance of \$570 under section 4 [which total \$1497.56], the appellant is not entitled to benefits for March 2018.

The ministry further argued that the situation was similar for the month of April 2018 in that the total of the Appellant's and his wife's earned income and unearned income exceeded the monthly support allowance plus monthly shelter allowance and therefore the Appellant was not entitled to assistance for April 2018.

The ministry submitted that in the case of the Appellant's family unit the Appellant's annual exemption for qualifying income was \$1,200 per month which is \$14,400 per year, and that the Appellant's wife's earned income after deductions exceeded the Appellant's annual exemption. Therefore the Appellant was not entitled to an annual exemption.

Panel Determination

There is no dispute as to whether or not the Appellant and his wife comprise a family unit because they are married to each other. As such, monies received by them must be cumulated and exemptions and deductions, if any, must be determined for each of the sources of money, because exemptions or deductions for "earned income" and "unearned income" are different.

The panel finds that the Appellant's Canada Pension Plan benefits are "unearned income", and is not subject to any exemptions. The panel finds that the Appellant's rental income of \$750 per month is "earned income" because it is money received in exchange for the provision of the service, namely accommodation, within the Appellant's own home. There were no expenses of maintaining the rental accommodation in evidence before the minister at reconsideration or before the panel at appeal, and therefore the panel finds that there are no deductions from that \$750 per month under EAPWDR Schedule B section 2.

The panel finds that the Appellant's Wife's employment income is "earned income" in the amounts in evidence before the Minister at reconsideration and were net amounts paid to her after deductions allowable under EAPWDR Schedule B section 2.

The panel finds that the Appellant's family unit income under Schedule B, comprised of both earned income and unearned income, exceeds the combined monthly support allowance and the monthly shelter allowance calculated under Schedule A for the family unit for the months of March and April 2018, and that therefore the Appellant, while he continues to be designated as a Person with Disabilities, is not entitled to disability assistance for those two months.

Having reviewed and considered all of the evidence and relevant legislation, the panel finds that the ministry's reconsideration decision, which determined that the appellant was not eligible for disability assistance for March and April 2018, was reasonably supported by the evidence and was a reasonable application of the applicable enactment in the appellant's circumstances.

The Appellant is not successful in his appeal.

PART G – ORDER

THE PANEL DECISION IS: (Check one)

 UNANIMOUS BY MAJORITY

THE PANEL

 CONFIRMS THE MINISTRY DECISION 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? Yes No

LEGISLATIVE AUTHORITY FOR THE DECISION:*Employment and Assistance Act*Section 24(1)(a) or Section 24(1)(b)

and

Section 24(2)(a) or Section 24(2)(b) **PART H – SIGNATURES**

PRINT NAME

Donald R. (Dan) McLeod

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2018/JUNE/22

PRINT NAME

Joan Bubbs

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/JUNE/22

PRINT NAME

Joan Cotie

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/JUNE/22