

APPEAL NUMBER

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated October 15, 2019 which found that the appellant is not eligible for disability assistance (DA) for the month of October 2019, pursuant to Section 9(2) of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR), as the net monthly income of the family unit exceeded the amount of assistance payable due to unearned income received by the appellant in August 2019 from Employment Insurance (EI).

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) – Sections 1 and 9
Schedule A – Sections 1, 2 and 4
Schedule B – Sections 1, 6, 7 and 8

PART E – SUMMARY OF FACTS

The appellant was not in attendance at the hearing. After confirming that the appellant was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

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

1. Monthly Report, signed and dated October 7, 2019, which indicated an EI payment of \$444.00 and stated “I am no longer eligible for EI”.
2. 6-page information report from Service Canada, which, in part, indicated that the appellant was issued \$444.00 for the period from August 25, 2019 to August 31, 2019 from EI, and;
 - The type of benefit was sickness;
 - The claim start date was May 12, 2019 and last report was processed on September 8, 2019;
 - Total insurable earnings were \$17,940.00;
 - Weekly benefit rate was \$449.00;
 - Federal tax deducted was \$5.00; and
 - Total weeks paid was 15.
3. Request for Reconsideration, which signed and dated October 1, 2019.

Evidence on Appeal

Notice of Appeal, signed and dated October 18, 2019 and stated “Part of a long process. I feel that the decision was unfair and miscalculated”.

Evidence at the Hearing

At the hearing the ministry relied on its reconsideration decision and explained the systems in place to report monthly income and that the ministry considers only the income the recipient is eligible to receive and not what was actually paid out from other sources of income. That is, in this case, the appellant was eligible to receive \$444 per week (after tax) and any other deductions that the appellant had were not excluded from the eligible earnings. Therefore, though some weeks the appellant received less than \$444.00 due to EI deductions, the ministry would consider the eligibility amount of \$444.00 as income.

PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether the ministry’s decision, which found that the appellant is not eligible for income assistance for the month of October 2019, pursuant to Section 9(2) of the EAPWDR, as the net monthly income of the family unit exceeded the amount of assistance payable, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

The applicable legislation is as follows:

EAPWDR

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:

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.

Schedule A

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.

Monthly support allowance

2 (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) Repealed. [B.C. Reg. 193/2017, s. 9 (a).]

- (b) the amount calculated in accordance with subsections (2) to (4) for each dependent child in the family unit.

Item	Column 1 Family unit composition	Column 2 Age or status of applicant or recipient	Column 3 Amount (\$)
1	Sole applicant / recipient and no dependent children	Applicant / recipient is a person with disabilities	808.42

Monthly shelter allowance

4 (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	Column 2
	Family Unit Size	Maximum Monthly Shelter
1	1 person	\$375

Schedule B**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.

Section 1, 7 and 8 list the exemptions to unearned income and EI for sickness is not listed as an exemption to unearned income.

The Appellant's Position

The appellant's position is that the ministry's decision reflects a miscalculation.

The Ministry's Position

The ministry argued that the appellant received unearned income from EI in August 2019 in excess of the rate of assistance for the family unit size and therefore the appellant is ineligible for DA for the month of October 2019.

In its reconsideration decision the ministry noted that EI benefits are classified as unearned income pursuant to section 1 of the EAPWDR. It stated that the appellant received \$1776.00 from EI in August 2019 for sickness and noted that the appellant does not dispute receiving this amount.

The ministry noted that Schedule A of the EAPWDR indicates that the eligibility for DA for a recipient of the appellant's classification (a sole recipient) is a maximum of \$1183.42, and the Schedule B does not include EI for sickness on the list of exemptions for unearned income.

The ministry also notes that section 9(2) of the EAPWDR indicates that a family unit is not eligible for DA if the net income of the family unit determined under Schedule B, (in this case unearned income from EI benefits of \$1776.00), equals or exceeds the amount of DA determined under Schedule A for a family unit, (in this case \$1183.42).

The Panel's Decision

The evidence clearly indicates that the appellant was eligible to receive \$444.00 per week for 15 weeks, which translates to \$1776.00 for the month of August 2019 and the appellant did not dispute this. The legislation clearly states that EI benefits for sickness are unearned income and are not exempt from deductions from DA. Section 9(2) of the EAPWDR clearly states that a recipient is not eligible for DA if the recipient's income is equal to or exceeds the amount of DA the recipient is eligible for. In the circumstances of the appellant, the panel finds that the ministry's decision, which found that the appellant

is not eligible for DA for the month of October 2019 because of the EI benefits they were eligible for in August 2019 exceeds the eligible amount of DA, was a reasonable application of the applicable legislation and was reasonably support by the evidence.

Conclusion

The panel finds that the ministry's reconsideration decision, which determined that the appellant was not eligible for DA for the month of October 2019 for EI benefits received in August 2019, was reasonably supported by the evidence and was a reasonable application of the applicable enactment, and therefore confirms the decision. The appellant is not successful on appeal.

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PARTG-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)

PARTH-SIGNATURES

PRINT NAME

Neena Keram

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/11/07

PRINT NAME

Jennifer Armstrong

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/11/07

PRINT NAME

David Handelman

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/11/07