

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 April 17, 2019 which found that the monthly income that the Appellant receives as a result of a Workers' Compensation Board (WorkSafeBC) award decision meets the definition of unearned income under Section 1 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR or the Regulation), did not qualify for an exemption under Schedule B of the Regulation, and therefore must be deducted from the amount of assistance to which the Appellant is entitled, resulting in a discontinuance of disability assistance in accordance with Section 24 of the Regulation.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Act (EAPWDA) Section 5
EAPWDR Sections 1 and 24, Schedule A Sections 1, 2 and 4, and Schedule B Sections 1, 3 and 6
Workers Compensation Act (WCA) Sections 23.1, 29 and 30

PART E – SUMMARY OF FACTS

The Appellant is a sole disability assistance recipient who has a Persons with Disabilities (PWD) designation.

The evidence before the Ministry at the time of the Reconsideration Decision included:

1. Request for Reconsideration, dated March 20, 2019, in which the Appellant stated that she was asking for reconsideration of the Ministry's original decision because her WorkSafeBC loss of wages (LOW) award "*is Section 23.1*". She wrote that WCA "*sections 29 and 30 only cover (LOW)*", and that she had asked WorkSafeBC to confirm that WCA sections 29 and 30 "*are part or applicable*". She also stated that she was waiting for documents from WorkSafeBC and, due to loss of function, she was requesting more time;
2. Letter from WorkSafeBC dated February 15, 2019 (February 2019 Letter) confirming that the Appellant was receiving a disability pension from WorkSafeBC and attaching a list of monthly payments paid to the Appellant since inception. The February 2019 Letter also stated that the disability pension was payable until March 20, 2029, subject to an annual cost of living adjustment (COLA) which is applied in January of each year;
3. 16 page worksheet showing monthly payments to the Appellant for "Loss of Earnings (LOE) Term Mthly Pymt" ranging between \$1,654.84 and \$1,831.31 for each month from February 1, 2007 through February 1, 2019 and monthly payments for "Mandatory RBB Cont" ranging between \$82.74 and \$91.57 for each month over the same period;
4. 13 pages of bank statements in the name of the Appellant for the period November 1, 2018 to February 14, 2019. The statements include 2 deposits from WorkSafeBC in the amount of \$1,805.23 on November 26, 2018 and December 20, 2018, and a deposit from WorkSafeBC in the amount of \$1,831.31 on January 25, 2019; and
5. Part of the first page and the third page of a Letter from a WorkSafeBC Case Manager (the Case Manager) dated June 21, 2012 (June 2012 Letter) addressed to the Appellant indicating that the Case Manager has concluded that "*there are suitable and reasonably available positions which would partially restore (the Appellant's) pre-injury earning capacity*", and that therefore "*the award assessed under Section 23(1) of the (WCA) is not the appropriate compensation for the permanent effects of the injury*". As a result the Appellant's permanent disability entitlement "*will be calculated using the LOE method of calculation*". The Case Manager also provides the then current earnings figure of \$1,742.32 per month, \$87.48 of which represents the functional portion of the Appellant's award, which is already being paid, plus \$1,654.84 related to the LOE part of the award.

Additional Information

In her Notice of Appeal (NOA) dated April 23, 2019, the Appellant states that there was no change or new information from her November 2018 application and that the only change from WorkSafeBC was a cost of living increase, which generated a review of her eligibility for PWD disability assistance.

At the hearing, the Appellant introduced the following additional written evidence:

1. The complete first page and the second page of the June 2012 Letter addressed to the Appellant indicating:
 - At the bottom of the first page, the total award amount of \$1,855.12 comprising \$1,761.97.46 (sic) representing the LOE part of the award and \$93.14 representing the functional portion of the award as of the date of the June 2012 Letter; and
 - On the second page, notification of the retroactive permanent disability entitlement amount for the period May 28, 2007 to June 30, 2012 of \$110,728.53, and indicating a deduction of \$9,368.91 to cover certain specified benefits, allowances and/or adjustments for amounts previously received, and indicating a retroactive retirement benefit amount as of the date of the June 2019 Letter in the amount of \$5,536.47. The second page also explains how the retirement benefit amount is calculated, the current monthly amount being set aside, and when the additional monthly disability benefit ceases and the retirement lump sum benefit will be paid; and,
2. An undated five page WorkSafeBC document titled "RECOMMENDATION TO DAC" relating to the Appellant and signed by the Case Manager containing:
 - A "Claim summary" (including details of the Appellant's injury);
 - A "PFI review" providing a chronology of WorkSafeBC's assessments as to which sections of the WCA should apply, and concluding "*The worker was thus entitled to a LOE assessment in order to determine whether he (sic) is to receive an award under section 23(3) [Payment of retirement benefits] instead of section 23(1) [Period of payment for total or partial disability] of the (WCA)*";
 - An "Employment Assessment" indicating that an employability assessment was completed on February 13, 2012 which concluded that an eventual return to work was possible and that "*in the long term the (Appellant) should be able to earn \$14.00 per hour ...*"; and,
 - A section titled "Conclusions" in which the Case Manager states "*Having regards the (sic) evidence on file, I conclude that there are suitable and reasonably available positions which would partially restore the (Appellant's) pre-injury earning capacity. Therefore, it is my decision that the award as assessed under Section 23(1) of the (WCA) is not the appropriate compensation for the permanent affects (sic) of the injury. The (Appellant's) permanent disability entitlement will be granted using the LOE method of calculation*".

Admissibility of Additional Information

Section 22(4) of the Employment and Assistance Act (EAA) provides that panels may admit as evidence (i.e. take into account in making its decision) the information and records that were before the Ministry when the decision being appealed was made and "oral and written testimony in support of the information and records" before the Ministry when the decision being appealed was made – i.e. information that substantiates or corroborates the information that was before the Ministry at reconsideration. Because a panel can accept oral and written testimony in support of the information and records before the Ministry when the decision was made, there is limited discretion for a panel to admit new evidence. Accordingly, instead of asking whether the decision under appeal was reasonable at the time it was made, panels must determine whether the decision under appeal was reasonable based on all admissible evidence, including any new evidence admitted under EAPWDA Section 22(4).

The Panel considered the additional information contained in the NOA to be argument.

As all but the last paragraph of the first page and the entire third page of the June 2012 Letter were included in the evidence provided by the Ministry in the appeal documents, the Panel admitted the last paragraph of the first page and the entire second page of the June 2012 Letter as being either information and records that were before the Ministry when the Reconsideration Decision was made (and inadvertently excluded from the appeal documents) or written testimony in support of the information and records that were before the Ministry when the Reconsideration Decision was made, in accordance with Section 22(4) of the EAA.

The Panel further determined that the evidence contained in the WorkSafeBC Recommendation comprised background information in support of the Case Manager's decision as expressed in the June 2012 Letter, and therefore the Panel admitted this additional evidence as being in support of the information and records that were before the Ministry at the time the Reconsideration Decision was made, in accordance with Section 22(4)(b) of the EAA.

The Ministry did not object to the Panel admitting any of the additional written evidence submitted at the hearing.

Oral Evidence Presented at the Hearing

The Appellant was represented by an Advocate at the hearing. The Advocate provided further information on the events leading up to the awarding of compensation from WorkSafeBC. The Advocate stated that the Appellant had originally been awarded a small permanent disability amount as a result of a workplace injury suffered in 2007, but that WorkSafeBC had denied her the larger LOE amount. The Appellant subsequently challenged this decision in court, and the court rendered a judgment in the Appellant's favour in 2012, resulting in a large lump sum payment to the Appellant for the 5 years between the injury and the court award, and monthly LOE payments thereafter.

The Advocate stated that the Appellant does not understand what has changed since the Appellant applied for and was determined eligible for disability assistance in November 2018. The Appellant explained that she had not applied for disability assistance from the Ministry following her workplace accident in the years prior to November 2018 because, while she had been able to survive on her WorkSafeBC income prior to that, living costs had increased significantly in recent years such that 50% of her WorkSafeBC earnings were now required to cover her rent and she was unable to survive on the balance.

The Advocate stated that when the Appellant applied for disability assistance in November 2018 she provided all of the documentation necessary for the Ministry to evaluate her application and the Ministry's conclusion at the time was that the WorkSafeBC payments were considered exempt unearned income. The Advocate stated that the Ministry subsequently decided to review the Appellant's entitlement when it became aware of an annual COLA to the amount of the Appellant's WorkSafeBC income, which was duly reported to the Ministry by the Appellant in her Monthly Report after the annual COLA was applied. At that time the Ministry again asked the Appellant for the same documentation that she had provided with her initial disability assistance application, following which the Ministry decided that the Appellant was not eligible for disability assistance after all, even though the only thing that had changed was the COLA adjustment.

The Advocate explained that he had contacted the Ministry on the Appellant's behalf to try to convince the Ministry to ask WorkSafeBC which sections of the WCA applied in the Appellant's case, but that the Ministry was not prepared to do that. The Advocate stated that in the past he had worked for the Ministry and that he was aware that it was standard practice under these circumstances for the Ministry's Manager of Policy Program Implementation (MPPI) to contact his or her counterpart at WorkSafeBC to

confirm the section(s) of the WCA which applied when a particular award had been made, and that, in this example, whether it was Section 29 or 30 that might apply. In response to a question from the Panel, the Appellant stated that she considered her injury to be partial and permanent.

At the hearing, the Ministry relied on its Reconsideration Decision. In response to a question from the Panel, the Ministry acknowledged that the statement in its Reconsideration Decision which says that upon application for assistance in November 2018 the Ministry had determined that the Appellant's WorkSafeBC income "*qualified for the annual exemption*" was, in retrospect, a determination made in error.

The Ministry also explained that Ministry staff assessing an application for disability assistance would usually only consult with an MPPI concerning the need for a discussion with WorkSafeBC staff as to which section of the WCA applies in the case of a Ministry client if the issue is "*outside of standard guidelines*", which was not the case in this instance.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is whether the Ministry's decision, which found that the monthly WorkSafeBC disability entitlement that the Appellant received met the definition of unearned income under section 1 of the EAPWDR and was not exempt from disability assistance and therefore must be deducted in accordance with Section 24 of the EAPWDR, is reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the Appellant.

The relevant Section of the EAPWDA is as follows:

Disability assistance and supplements

5 Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

The relevant Sections of the EAPWDR are as follows:

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:

... (j) workers' compensation benefits and disability payments or pensions; ...

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 A**Disability Assistance Rates**

(Section 24 (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 ...

Item	Column 1 Family unit composition	Column 2 Age or status of applicant or recipient	Column 3 Amount (\$)
1	Sole applicants / recipient and no dependent children	One 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 Family Unit Size	Column 2 Maximum Monthly Shelter
1	1 person	\$375

Schedule B

Net Income Calculation

(Section 24 (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,

- (a) the following are exempt from income:
 - (i) any income earned by a dependent child attending school on a full-time basis; ...
 - (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; ...
- (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; ...
- (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; ...
- (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; ...
- (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;
- (xxxii) 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;
- (xxxiii) a Universal Child Care Benefit provided under the Universal Child Care Benefit Act (Canada);
- (xxxiv) 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;
- (xxxv) money withdrawn from a registered disability savings plan;
- (xxxvi) a working income tax benefit provided under the Income Tax Act (Canada); ...
- (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;
- (liv.1) 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 of Children

and Family Development, that ministry, an employee of that ministry or a person retained under a contract to perform services for that ministry;

(liv.2) money that is paid or payable by the government of British Columbia to or for a person because the person was a resident of Woodlands School;

(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;

(lviii) money that is paid or payable from a settlement in respect of Treaty No. 8 agricultural benefits;

(Ivii) money that is paid or payable from a settlement under

(A) the Cadboro Bay Litigation Settlement Agreement, dated for reference November 1, 2017, between the Esquimalt Nation and Canada, or

(B) the settlement agreement, dated for reference October 30, 2017, between the Songhees Nation and Canada;

(Ix) money that is paid or payable under the Memorial Grant Program for First Responders established under the authority of the Department of Public Safety and Emergency Preparedness Act (Canada), ...

(d) all unearned income must be included, except the deductions permitted under section 6 and any income exempted under section ... 3 ...

Annual exemption — qualifying income

3(1) In this section: ...

"qualifying income" means ...

(b) unearned income that is compensation paid under section 29 or 30 of the *Workers Compensation Act*;

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 relevant Sections of the WCA are as follows:

Permanent partial disability or disfigurement

23(1) ... if a permanent partial disability results from a worker's injury, the Board must

- (a) estimate the impairment of earning capacity from the nature and degree of the injury, and
- (b) pay the worker compensation that is a periodic payment that equals 90% of the Board's estimate of the loss of average net earnings resulting from the impairment.

Period of payment for total or partial disability

23.1 Compensation payable under section ... 23(1) ... may be paid to a worker, only

- (a) if the worker is less than 63 years of age on the date of the injury, until the later of the following:
 - (i) the date the worker reaches 65 years of age;
 - (ii) if the Board is satisfied the worker would retire after reaching 65 years of age, the date the worker would retire, as determined by the Board ...

Temporary total disability

29(1) ... if a temporary total disability results from a worker's injury, the Board must pay the worker compensation that is a periodic payment that equals 90% of the worker's average net earnings.

(2) The compensation awarded under this section must not be less than an amount equal to \$415.79 per week, unless the worker's average earnings are less than that sum per week, in which case the worker must receive compensation in an amount equal to the worker's average earnings

Temporary partial disability

30(1) ... if a temporary partial disability results from a worker's injury, the Board must pay the worker compensation that is a periodic payment that equals 90% of the difference between

- (a) the worker's average net earnings before the injury, and
- (b) whichever of the following amounts the Board considers better represents the worker's loss of earnings:
 - (i) the average net earnings that the worker is earning after the injury;
 - (ii) the average net earnings that the Board estimates the worker is capable of earning in a suitable occupation after the injury.

* * * *

The Ministry's position is that the Appellant's income from WorkSafeBC is unearned income that does not qualify for an exemption, and that it therefore must be fully deducted from her disability assistance allowance. As the amount of the Appellant's non-exempt unearned income exceeds her assistance rate,

as represented by her monthly support allowance combined with her monthly shelter allowance, she is ineligible for disability assistance. The Appellant's position is that WorkSafeBC has not provided the Ministry with an explanation as to which sections of the WCA apply in her case, because the Ministry initially determined that she was eligible for disability assistance, and because nothing has changed since she made her initial application in November 2018 except for a COLA increase, she should still be entitled to receive the disability allowance.

The Panel's Decision

As to Whether the Payments in Question Meets the Definition of "Unearned Income"

Section 1(1) of the EAPWDR defines "unearned income" to include *without limitation* money or value received from workers' compensation benefits and disability payments or pensions (emphasis added). The Panel notes that the Appellant does not dispute the Ministry's determination that the benefits in question represent worker's compensation benefits in the form of a WorkSafeBC disability pension. The Panel further notes that Section 1(1) of the Regulation imposes no limitations on the amount of money or value received from such compensation benefits which must be included in unearned income.

Having considered all of the evidence, the Panel finds that the Ministry reasonably determined that the payments in question meet the definition of "unearned income".

As to Whether the Payments in Question is Exempt or Should Otherwise be Deducted from Unearned Income

Section 1 of Schedule B of the EAPWDR identifies payments that are exempt from income when calculating the net income of a family unit for the purpose of determining the amount of disability assistance to which that family unit is entitled. The Panel notes that worker's compensation benefits are not among the payments identified in that section of Schedule B of the Regulation. Section 1(d) of the Regulation says that all unearned income must be included in income, except for the deductions from unearned income permitted under EAPWDR Section 6 and any unearned income qualifying for an annual exemption under EAPWDR Section 3.

As deductions permitted under EAPWDR Section 6 are limited to income tax deducted at source from employment insurance benefits and essential operating costs of renting self-contained suites, the Panel finds that the Ministry reasonably determined that EAPWDR Section 6 is not applicable in this case.

EAPWDR Section 3 states that unearned income represented by *temporary* total disability compensation or *temporary* partial disability compensation resulting from a worker's injury is considered "qualifying income" and as such is subject to an annual exemption from unearned income. The Panel notes that the Appellant acknowledges that her disability from the workplace injury for which she receives the disability compensation from WorkSafeBC is both partial and *permanent*. The Panel finds that the Ministry has reasonably determined that EAPWDR Section 3 does not apply in the circumstances of the Appellant, and that therefore the WorkSafeBC compensation does not qualify for a deduction from her unearned income amount.

As to the Whether the Appellant is Entitled to Disability Assistance

Section 24 of the EAPWDR says that disability assistance may be provided to a family unit, for a calendar month, in an amount that is not more than the amount determined under Schedule A or the Regulation, minus the family unit's net income determined under Schedule B of the Regulation. In this

case, as the Appellant is a sole recipient with no dependent children, she is entitled to a monthly support allowance of \$808.42 per month and a monthly shelter allowance of \$375 per month, for a total of \$1,183.42 per month, less any non-exempt unearned income. As the Appellant's non-exempt unearned income is currently \$1,831.31 per month, the Panel finds that the Ministry reasonably determined that the Appellant is not entitled to any disability assistance.

Having considered all of the evidence, the Panel finds that the Ministry reasonably determined that the payments in question are non-exempt unearned income, and that therefore the Appellant is not entitled to any disability assistance because her income exceeds her disability assistance rate.

Conclusion

The Panel finds that the Ministry's decision that the Appellant is not eligible for disability assistance because she receives a WorkSafeBC permanent disability entitlement which meets the definition of unearned income under Section 1 of the EAPWDR, that the payment was not exempt from unearned income under Section 1 of Schedule B of the Regulation, and that the payment must therefore be deducted in accordance with Section 24 of the Regulation, was reasonably supported by the evidence and was a reasonable application of the applicable enactment in the circumstances of the Appellant. Therefore the Ministry's decision is confirmed. The Appellant is not successful in her appeal.

APPEAL NUMBER

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

Simon Clews

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/09/10

PRINT NAME

Vivienne Chin

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/09/12

PRINT NAME

Jeremy Sibley

DATE (YEAR/MONTH/DAY)