

APPEAL NUMBER  
2020-00112

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated March 31, 2020 where the ministry denied the applicant's request that the appellant's spouse's employment insurance benefit (EI) not be deducted from the appellant's assistance.

**PART D – RELEVANT LEGISLATION**

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). Sections 1, 24 and 29.  
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). Schedule A, sections 1, 2 and 4.  
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). Schedule B, sections 1, 6 and 7.

## PART E – SUMMARY OF FACTS

Information before the ministry at reconsideration:

1. The appellant is a designated person with disabilities (PWD) and receives assistance as a couple with the appellant's spouse.
2. The appellant receives \$1649.56 per month including \$1027.56 as a supplement allowance, \$570.00 as a shelter allowance and \$52.00 for a transportation allowance.
3. On January 20, 2020, the appellant filed a monthly report and the appellant's spouse declared the \$1504.00 EI received in January.
4. On February 18, 2020, a ministry worker noticed that the EI received had been declared on previous monthly reports was undetected and was not deducted from the appellant's assistance. A ministry worker advised the appellant the EI would be deducted from the appellant's assistance going forward.
5. On February 24, 2020, the appellant's spouse attended the ministry office and stated that the EI is for compassionate care and should be exempt income. On March 5, 2020, the appellant provided the following documents:
  - Letter from Service Canada confirming that the appellants spouse was approved for EI compassionate care beginning October 27, 2019 for 26 weeks.
  - Appellant's medical release and certificate.
  - EI benefit statement confirming the appellant's spouse received \$756.00 on February 16, 2020.
  - Letter from the appellant's spouse written on March 3, 2020 explaining the challenges the family unit is undergoing with the appellant's illness, indicating that the spouse has no choice in this matter and that the family unit should not be penalized and have the stress this action brings.
6. On March 6, 2020, the appellant submitted the monthly report and the appellant's spouse reported \$1508 EI received in February.
7. On March 16, 2020, the appellant requested a reconsideration of the decision noting: "The EI exemption policy needs to be changed and in line with Service Canada. A sick child is not the only reason to be on EI. Service Canada has compassionate EI and the ministry should recognize that exemption as well".

### Notice of Appeal

On April 7, 2020, the appellant completed a Notice of Appeal. Under reasons for appeal the following was stated: "The ministry should align their policies with Service Canada and widen the parameters of EI exemption to include a critically ill spouse and not just a child for caregivers EI and compassionate EI deductions dollar-for-dollar of paid support".

### Hearing

The panel conducted a teleconference hearing at the request of the appellant on April 30, 2020. In attendance at the hearing were the panel, ministry representative and the appellant's spouse, attending the hearing and acting for the appellant under a Release of Information form dated April 29, 2020.

At the hearing, the appellant's spouse indicated that while the terms of the legislation might have been correctly applied in this case, it was important to state that this policy was unfair and should be changed. The appellant and spouse did not choose for a critical illness to occur or that the care provided be required. The availability of EI was appreciated, however the appellant and spouse are upset and angry with what they feel is discriminatory treatment of EI being included as unearned income and not included in the list of deductions for compassionate care of a spouse like that provided for the care of a child. It is important that notice of this discrepancy in the legislation be noted and hopefully acted upon.

The ministry representative stated that, while the ministry is empathetic to the appellant and spouse's circumstances, the ministry must follow the dictates of the legislation. EI is listed as unearned income; there is no allowance for it to be exempted in this situation and, therefore, must be deducted from assistance.

## **PART F – REASONS FOR PANEL DECISION**

The issue in this appeal is whether the Ministry's decision to deny the applicant's request that the appellant's spouses employment insurance benefit (EI) not be deducted from the appellant's assistance is reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the appellant.

### **Ministry Position**

The ministry in its reconsideration decision notes that the appellant's request must be considered in light of the legislated requirements as follows:

1. Under EAPWDR "unearned income", means any income that is not earned, and includes, without limitation, money or value received from EI.
2. EAPWDR, Section 24 says that the ministry calculates the amount of disability assistance provided to a family unit by subtracting the family unit's net income (under EAPWDR Schedule B) from the rate of income assistance under EAPWDR Schedule A.
3. EAPWDR Section 29 says that a person must report income by the fifth of the month the appellant receives it and the ministry uses this information to calculate the appellant's net income and eligibility for the next month's disability assistance.
4. EAPWDR Schedule A, sections 2 and 4 outlines the maximum allowable rate of support and shelter for the size of the family unit before net income deductions. For a couple in which one person has designation as a Person with Disabilities (PWD), the rate of support is \$1027.56, and the rate of shelter is \$570.00 for a total of \$1597.56.
5. EAPWDR, Schedule B shows how to calculate net income:
  - EAPWDR Schedule B, section 1 states that a family unit's net income includes all earned income, except for the specified deductions and exemptions.
  - EAPWDR Schedule B, section 3 explains the annual exemption for "qualifying income which includes earned income and unearned income that is compensation paid under EAPWDR Section 29 or 30 of the Workers Compensation Act. As the appellant's spouses EI is not qualifying income, it is not exempt under EAPWDR Schedule B, section 3.
  - EAPWDR Schedule B, section 6(a) states that the only deductions permitted from unearned income are any income tax deducted at the source from EI benefits.
  - EAPWDR Schedule B, section 7 lists unearned income that is exempt for the purposes of calculating net income. EI is not exempt as income unless it is a benefit paid under section 22, 23 or 23.2 of the Employment Insurance Act. These are pregnancy benefits, parental benefits or benefits to care for a critically child.

The ministry concludes by stating that they are sympathetic with the appellant's circumstances but that the legislation does not allow discretion in calculating the appellant's net income. EI is unearned income under EAPWDR, Section 1 and there are no exemptions for this type of income as the appellant's spouse EI is not for pregnancy benefits, parental benefits or benefits to care for a critically ill child. Therefore, the EI received by the appellant's spouse must be deducted from the appellant's disability assistance in accordance with the legislation.

### **Appellant Position**

The appellant's position is the ministry should align their policies with Service Canada and widen the parameters of EI exemption to include a critically ill spouse and not just a child for caregivers. The appellant adds that the appellant's spouse has no choice in the matter because of the appellant's critical illness and the family should not be penalized and put under stress. The appellant and spouse hopes the legislation is changed.

### **Panel Decision**

The panel notes and shares the sympathetic view of the ministry to the appellant's family unit in this matter but agrees that the ministry must adhere to the legislated requirements and the panel too must focus on this for determining the reasonableness of the ministry reconsideration decision. That reconsideration decision outlines, correctly in the panel's view, the legislated methods under EAPWDR for calculating the family unit's net income which under EAPWDR Schedule B, section 1 includes all earned income, except for the specified deductions and exemptions. The panel agrees that the appellant's spouse's EI must be included as unearned income as it is listed in the legislation and agrees that this EI is not included in any of the listed deductions and exemptions. The panel concurs with the ministry's calculations of assistance the appellant is entitled to under EAPWDR Schedule A, sections 2 and 4 (given the appellant's family unit), which is \$1597.56 and from which under EAPWDR Section 24,

the amount of any unearned income, including EI (listed under EAPWDR, Section 1(g) as unearned income) must be deducted. Quite clearly the EI received by the appellant's spouse must be deducted from the appellant's assistance.

**Conclusion**

The panel confirms the ministry reconsideration decision as it was a reasonable application of the legislation in the appellant's circumstances. The appellant is not successful upon appeal.

Employment and Assistance for Persons with Disabilities

**Part 1 – Interpretation Definitions**

(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;

(4) For the purposes of the Act and this regulation, two persons who are married to each other are not spouses if the minister is satisfied that the relationship does not demonstrate

(a) financial dependence or interdependence, and

(b) social and familial interdependence consistent with a marriage-like relationship

**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**

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.

(2) Despite subsection (1), disability assistance may not be provided in respect of a dependent child if support for that child is provided under section 8 (2) or 93 (1) (g) (ii)

**Monthly support allowance**

2 (0.1) For the purposes of this section:

"**deemed dependent children**", in relation to a family unit, means the persons in the family unit who are deemed to be dependent children under subsection (5);

"**warrant**" has the meaning of warrant in section 14.2 [consequences in relation to outstanding arrest warrants] of the Act.

(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;

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

Item	Column 1 <b>Family unit composition</b>	Column 2 <b>Age or Status of applicant or recipient</b>	Column 3 <b>Amount (\$)</b>
3	Two applicants/recipients and no Dependant children	One applicant/recipient is a person with disabilities, the other is not a person with disabilities and is under 65 years of age.	\$1027.56

**Monthly shelter allowance**

4. (1) For the purposes of this section:

"family unit" includes a child who is not a dependent child and who relies on the parent for the necessities of life and resides in the parent's place of residence for not less than 40% of each month;  
"warrant" has the meaning of warrant in section 14.2 [consequences in relation to outstanding arrest warrants] of the Act.

- (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
2	2 persons	\$570.00

### Schedule B

#### Net Income Calculation

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; (REP) Apr 01/17

(ii) Repealed.

(iii) Repealed,

(iv) a family bonus, except the portion treated as unearned income under section 10 (1) of this Schedule; (ADD) Jul 01/17

(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.

(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;

(xvii.1) money that is paid or payable to or for a person if the payment is in accordance with

(A) the Sixties Scoop Settlement made November 30, 2017, or

(B) the Federal Indian Day Schools Settlement made March 12, 2019, as amended May 13, 2019;

- (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.
- (xxii) payments granted by the government of British Columbia under section 8 of the Child, Family and Community Service Act [agreement with child's kin and others];
- (xxiii) payments granted by the government of British Columbia under the Ministry of Children and Family Development's at Home Program;
- (xxiv) Repealed.
- (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.
- (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; (ADD) Jun 23/06
- (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.
- (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 a 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;
- (lix) 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;
- (lx) 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),
- (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.

#### **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.

#### **Exemptions – unearned income (ADD)**

7. (01) 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.



**"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  $(AB) \times C$ , 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) (c) of the Income Tax Act (Canada) as adjusted under section 117.1 of that Act, or:

(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; (SUB) Oct 01/12 (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) (c) 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.

APPEAL NUMBER  
2020-00112

**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

Keith Lacroix

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2020/04/30

PRINT NAME

Angie Blake

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/04/30

PRINT NAME

Wesley Nelson

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/04/30