

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction's (the ministry) reconsideration decision dated April 6, 2020, which determined:

- Pursuant to section 9(2) of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), the appellant was not eligible for disability assistance (DA) for the months of June through October 2019 because their employment income from April through September 2019, determined under Schedule B of the EAPWDR, exceeded the DA rate determined under Schedule A of the EAPWDR; and
- which resulted in an overpayment of assistance for the months of June through October 2019 that the applicant is required to repay in accordance with section 18 of the Employment and Assistance for Persons With Disability Act (EAPWDA).

PART D – RELEVANT LEGISLATION

EAPWDR Sections 1, 9(2), 24, 29 and Schedules A and B
EAPWDA Sections 18 and 19

PART E – SUMMARY OF FACTS

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the Employment and Assistance Act.

The applicant is a recipient of disability assistance with a spouse who has Persons with Disabilities (PWD) designation and two dependent children.

The evidence before the ministry at reconsideration included:

- Request for Reconsideration (RFR) dated March 12, 2020 which included the following background information:
 - A worker reviewed the appellant’s file in December 2019 as it was noted that no monthly report had been submitted since March 24, 2019 which included a declaration of employment income, and the next monthly report submitted on November 5, 2019 which included a declaration of \$3,000 employment income;
 - The annual earnings exemption had been maxed out in March 2019;
 - The ministry requested pay information from the appellant;
 - An overpayment of assistance was determined due to late reporting of employment income, resulting in the family unit receiving DA after exceeding the Annual Earnings Exemption (AEE)
- As the reason for requesting a reconsideration the appellant wrote:
 - they had good intentions and had used all their income to pay off an old debt;
 - they have two children, a disabled wife and is no longer working due to a job related accident
 - to please cancel the overpayment
- Ministry Overpayment Notification signed by the appellant and spouse on March 18 acknowledging they had received an overpayment of \$8,313.89;
- A letter from the ministry dated March 12, 2020 explaining that because the appellant had received assistance for which they were not eligible (an overpayment) due to inaccurate or incomplete reporting that a monthly reduction of \$25 each month for three months will be imposed. The letter informed the appellant of their right to appeal this decision;
- Fourteen copies of cancelled cheques dated from December 28, 2018 to September 5, 2019, payable to the same person, which were for various amounts totalling \$39,585.69;
- Customer receipt from a bank dated January 31, 2019 which shows a cheque clearing in the amount of \$2,626;
- Ministry chart for 2019 which shows the income received for each of the months from January through September and the exemption amounts for each corresponding month;
- Overpayment Chart calculations for each month from March 2019 to November 2019 show:

Month	Earnings Amt	AEE	Assistance Amt	Eligible Amt	OP Amount
March	\$6,656	\$14,400	\$1,213.74	\$1,213.74	\$0
April	3,100	7,744	1,313.74	1,313.74	0
May	5,464	4,644	1,313.74	1,313.74	0
June	3,433.94	0	1,313.74	52.00	1,261.74
July	5,807.30	0	1,313.83	52.00	1,261.83
August	3,778.07	0	1,574.58	52.00	1,522.58
September	3,582.02	0	1,474.58	52.00	1,422.58
October	6,627.09	0	1,474.58	52.00	1,422.58
November	3,763.27	0	1,474.58	52.00	1,422.58
TOTALS	\$42,211.69		\$12,467.11	\$4,153.22	\$8,313.89

- Letter from the ministry to the appellant dated March 12, 2020 explaining the overpayment amount, repaying the funds, possible sanctions and the right to a review of the decision.

On the Notice of Appeal (NOA) the appellant wrote the same explanation as provided on the RFR.

For the written submission the appellant included:

- The NOA;
- a signed Release of Information form that did not indicate any information about a representative;
- a note from a person who acknowledged they received \$30,910 from the appellant as part of an old debt that was owed;
- a statement showing a monthly breakdown from April to October totalling \$30,910 and that these funds were for debt payments owing; and
- a note explaining the same reasoning as provided on the RFR.

The ministry did not provide a written submission.

Admissibility of Additional Information

The panel admitted the appellant's written submission, which included a confirming statement from the person who received the debt payments, in accordance with section 22(4) of the Employment and Assistance Act because the information was reasonably required for a full and fair disclosure of all matters related to the decision under appeal. The ministry did not object to the submission.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is whether the ministry decision dated April 6, 2020, which determined:

- Pursuant to section 9(2) of the EAPWDR the appellant was not eligible for DA for the months of June through October 2019 because their net income from April through September 2019 (determined under Schedule B of the EAPWDR) exceeded the DA rate (determined under Schedule A of the EAPWDR);
- which resulted in an overpayment of DA for the months of June through October 2019 and, consequently, the applicant being required to repay the ministry in accordance with section 18 of the EAPWDA,

was reasonably supported by the evidence or is a reasonable interpretation of the legislation.

The relevant legislation is as follows:

EAPWDR**Definitions**

1 (1) In this regulation: "earned income" means

- (a) any money or value received in exchange for work or the provision of a service,
- (b) Repealed. [B.C. Reg. 197/2012, Sch. 2, s. 1 (a).]
- (c) pension plan contributions that are refunded because of insufficient contributions to create a pension,
- (d) money or value received from providing room and board at a person's place of residence, or
- (e) money or value received from renting rooms that are common to and part of a person's place of residence;

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.

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.

Reporting requirement

29 For the purposes of section 11 (1) (a) [*reporting obligations*] of the Act,

(a) the report must be submitted by the 5th day of the calendar month following the calendar month in which one or more of the following occur:

...

(ii) a family unit receives earned income as set out in paragraph (b) (vi);

...

(b) the information required is all of the following, as requested in the monthly report form specified by the minister:

- (i) change in the family unit's assets;
- (ii) change in income received by the family unit and the source of that income;
- (iii) change in the employment and educational circumstances of recipients in the family unit;
- (iv) change in family unit membership or the marital status of a recipient;
- (v) any warrants as described in section 14.2 (1) of the Act;
- (vi) the amount of earned income received by the family unit in the calendar month and the source of that income;
- (vii) the amount of unearned income that is compensation paid under section 29 or 30 of the Workers Compensation Act received by the family unit in the calendar month.

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.

Monthly support allowance

Item	Column 1 Family unit composition	Column 2 Age or status of applicant or recipient	Column 3 Amount (\$)
6	Two applicants / recipients and one or more 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	1 121.56

Monthly Shelter Allowance

Item	Column 1 Family Unit Size	Column 2 Maximum Monthly Shelter
4	4 persons	\$700\$ 700

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;
- (ii) Repealed. [B.C. Reg. 96/2017, App. 2, s. 2 (a).]
- (iii) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 2 (c).]
- (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 [*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.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,
- (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;

(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;

(lviv) 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),

(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 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.

Annual exemption — qualifying income

3 (1) 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,

...

"initial qualifying month", in respect of a family unit and a calendar year, means the calendar month specified for the family unit under subsection (5);

"qualifying income" means

(a) earned income, except the deductions permitted under section 2, and

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

"qualifying month", in respect of a family unit and a calendar year, means

(a) the initial qualifying month for the family unit in the calendar year, and

(b) any subsequent calendar month in the calendar year that is a calendar month for which the family unit is eligible to receive disability assistance under the Act;

"recognized family unit", in respect of a calendar year, means a family unit that

- (a) forms during the calendar year, and
- (b) includes at least one person who
- (i) is designated as a person with disabilities, and
 - (ii) was previously a recipient in another family unit that was eligible to receive disability assistance under the Act for a calendar month in the calendar year.
- (2) For the purposes of section 1 (c) and (d), the lesser of the following amounts is exempt income of a family unit for a qualifying month:
- (a) the qualifying income of the family unit for the qualifying month;
 - (b) the exemption limit of the family unit for the qualifying month calculated in accordance with subsection (3).
- (3) The exemption limit of a family unit for a qualifying month for the family unit in a calendar year is the following:
- (a) in the case of the initial qualifying month for the family unit in the calendar year, the amount calculated in accordance with subsection (4);
 - (b) in the case of any other qualifying month for the family unit in the calendar year, the amount calculated in accordance with subsection (7).
- (4) For the purposes of subsection (3) (a), the exemption limit of a family unit for the initial qualifying month for the family unit in a calendar year is calculated as follows:
- (a) in the case of a family unit other than a recognized family unit, the exemption limit is the product of
 - (i) the base amount for the family unit, and
 - (ii) 12 minus the number of calendar months in the calendar year that are before that initial qualifying month;
 - (b) in the case of a recognized family unit that includes only one recipient, the exemption limit is the product of
 - (i) the base amount for the recognized family unit,
 - (ii) 12 minus the number of calendar months in the calendar year that are before that initial qualifying month;
 - (c) in the case of a recognized family unit that includes two recipients, the exemption limit is the sum of the carryover amounts for the recipients calculated in accordance with subsection (6).
- (5) For the purposes of subsection (4), the initial qualifying month for a family unit is the following:
- (a) in the case of a family unit described in subsection (4) (a), the initial qualifying month is
 - (i) the first calendar month for which the family unit is eligible to receive disability assistance under the Act, if
 - (A) a member of the family unit who is designated as a person with disabilities previously received disability assistance under the Act or a former Act, as a person with disabilities, or
 - (B) a member of the family unit received income assistance under the Employment and Assistance Act for the calendar month immediately preceding that first calendar month, or
 - (ii) if subparagraph (i) does not apply, the first calendar month, after the first calendar month referred to in that subparagraph, for which the family unit is eligible to receive disability assistance under the Act;
 - (b) in the case of a family unit described in subsection (4) (b), the initial qualifying month is the first calendar month, after the calendar month in which the family unit forms, for which the family unit is eligible to receive disability assistance under the Act;
 - (c) in the case of a family unit described in subsection (4) (c), the initial qualifying month is (i) the calendar month in which the family unit forms, if the family unit is eligible to receive disability assistance under the Act for that calendar month, or (ii) if subparagraph (i) does not apply, the first calendar month, after the calendar month in which the family unit forms, for which the family unit is eligible to receive disability assistance under the Act
-
- (7) For the purposes of subsection (3) (b), the exemption limit of a family unit for any other qualifying month (an "index qualifying month") for the family unit in the calendar year is the greater of
- (a) nil, and
 - (b) the exemption limit of the family unit for the last qualifying month for the family unit before the index qualifying month, adjusted as follows:
 - (i) by deducting the qualifying income of the family unit in that last qualifying month;

....

EAPWDA

Overpayments – Section 18

18 (1) If disability assistance, hardship assistance or a supplement is provided to or for a family unit that is not eligible for it, recipients who are members of the family unit during the period for which the overpayment is provided are liable to repay to the government the amount or value of the overpayment provided for that period.

(2) The minister's decision about the amount a person is liable to repay under subsection (1) is not appealable under section 16 (3) [*reconsideration and appeal rights*].

Liability for and recovery of debts under Act 19

(1) An amount that a person is liable to repay under this Act is a debt due to the government that may be

(a) recovered in a court that has jurisdiction, or

(b) deducted, in accordance with the regulations, from any subsequent disability assistance, hardship assistance or supplement for which the person's family unit is eligible or from an amount payable to the person by the government under a prescribed enactment.

(2) Subject to the regulations, the minister may enter into an agreement, or accept any right assigned, for the repayment of an amount referred to in subsection (1).

(3) An agreement under subsection (2) may be entered into before or after the disability assistance, hardship assistance or supplement to which it relates is provided.

(4) A person is jointly and separately liable for a debt referred to under subsection (1) that accrued in respect of a family unit while the person was a recipient in the family unit.

The appellant's position is they used their earned income in 2019 to put towards a debt owing and thought they would still be eligible for disability assistance.

The ministry's position is the appellant's earned income in 2019 exceeded the ministry rates and pursuant to EAPWDR section 9(2), this resulted in an overpayment of disability assistance in the amount of \$8,313.89, which is now a debt owing and must be repaid, pursuant to EAPWDA section 27.

Panel Decision

Section 3 of Schedule B of the EAPWDR provides for a declining monthly balance of earned income that is exempt from inclusion in calculating a recipient's family unit's net income. This declining monthly balance is referred to as a family unit's Annual Earnings Exemption (AEE). Based on the composition of the family unit and the first month of the calendar year that the family unit receives DA, section 3 provides for the calculation of the exemption limit for that month and each subsequent month. In effect, the qualifying (earned) income of the family unit each month is deducted from the AEE until the exemption limit reaches \$0. In the appellant's circumstance, the AEE is \$14,400. The panel reviewed the allowable exemptions provided in section 1 of Schedule B of the EAPWDR and note that paying a debt owing from earnings is not an allowable exemption.

Section 9 (2) of the EAPWDR states that a family unit is not eligible for disability assistance if the net income of the family unit exceeds the amount of disability assistance determined in Schedule A. In the appellant's situation the DA rate is \$1,821.56 per month. There are copies of cancelled cheques in the appeal record that indicates the appellant had \$42,210.75 earnings from January through September 2019. The earnings exemption calculation from the ministry, as well as the cancelled cheques, clarifies that after applying the appellant's annual earnings exemption of \$14,400, the AEE was used up after the March earnings were applied, for DA benefit month May 2019. The earnings for the remainder of 2019 would affect the amount of DA the appellant would be eligible for. The panel notes the earnings from April through September 2019 were not declared by the appellant, however, the evidence provided, by way of cancelled cheques, confirms earnings in each of those months. The ministry's overpayment chart calculation clearly identifies the earnings received against the amount of DA received for each of the benefit months of June through November 2019. The panel notes in each of these months the appellant's earnings were higher than the DA rate, which resulted in an overpayment of DA totalling \$8,313.89.

The panel finds that because the appellant did not dispute having these earnings from April through September 2019 and because these earnings were higher than the legislated rates, the ministry was reasonable in determining the appellant was not eligible for DA for June through November 2019.

Section 18(1) of the EAPWDA states that if DA is provided to a family unit that is not eligible for it, recipients who are members of the family unit during the period for which the overpayment is provided are liable to repay to the government the amount of the overpayment provided for that period. The ministry has indicated that the appellant is to repay the \$8,313.89 that was received for June through November 2019, due to not being eligible for it. The panel finds that the ministry was reasonable to apply the overpayment as is required by section 18(1) of the EAPWDA as the appellant received \$8,313.89 for which they were not eligible.

The appellant indicated, as one of the reasons for requesting a reconsideration, they were no longer employed due to an injury and the panel notes the ministry informed the appellant that an overpayment of assistance does not affect their current eligibility for DA.

Conclusion

The panel finds that the ministry's reconsideration decision, which determined the appellant was not eligible for DA June through November 2019 DA, pursuant to EAPWDR section 9(2), which resulted in an overpayment that they are required to repay, pursuant to EAPWDA section 18(1), was reasonably supported by the evidence before the ministry at the time of reconsideration. The appellant is not successful in their appeal.

APPEAL NUMBER
2020-00118

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
Janet Ward

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)
2020 May 22

PRINT NAME
David Kendrick

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)
2020 May 22

PRINT NAME
Jean Lorenz

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)
2020 May 22