

APPEAL NUMBER
2020-00264

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated November 5, 2020, which determined that the appellant was not eligible for income assistance under the Employment and Assistance Regulation, section 10(2) because her net income exceeds the rate of income assistance for her family unit.

PART D – RELEVANT LEGISLATION

Employment and Assistance Regulation (EAR) sections 1, 2.1, 10 and 28, schedule A section 1, 2, and 4, and schedule B sections 1, 6, and 7

PART E – SUMMARY OF FACTS

Relevant Evidence Before the Minister at Reconsideration

Ministry records show:

- The appellant and her spouse are applicants of income assistance.
- The appellant advised the ministry she wanted to apply for Persons with Disabilities (PWD) designation.
- On September 30, 2020 the ministry denied her request to apply for PWD designation, for the following reasons:
 - The rates for disability assistance for the family unit would be \$1846.06 (support \$1276.06 + shelter \$570).
 - The appellant's spouse's Canada Pension Plan (CPP) and Old Age Security (OAS) income alone was \$2089.48 which was over the \$1846.06 rate.
 - Further the Canada Emergency Response Benefit (CERB) income of \$2000 would make their total income \$4089.06.
- On November 5, 2020, upon reconsideration, the appellant's request to receive an application to apply for PWD was approved. However, the ministry also advised the appellant that she was denied assistance because her net income exceeds the rate of income assistance for her family unit.

Appellant's Bank Account Statements

Deposits

(August 19 – 31, 2020)

- Old Age Security (Canada) - \$672.97
- CPP (Canada) - \$1,416.51

(September 1 – 17, 2020)

- Federal payment (Canada) - \$2,000

Reason for Request for Reconsideration (October 26, 2020)

The appellant is requesting reconsideration for her application for medical PWD as she has no income and is not able to acquire employment due to her ongoing treatment. Because of the pandemic her partner has not secured any work since March 2020 and so they rely on his OAS and CPP as their base income. They have monthly bills exceeding the total amount of income received.

Trying to fight cancer and dealing with no work has increased the appellant's anxiety and makes it difficult to function in a positive healthy manner. Her doctor is willing to fill out the paperwork for PWD and knows she has been doing everything possible to fight this horrible disease.

Letter from appellant's doctor (October 21, 2020) enclosed

The appellant has cancer, which has necessitated surgical resection as well as chemotherapy. The chemotherapy has resulted in cardiomyopathy and congestive heart failure, which resulted in fatigue and difficulty breathing. The chemotherapy has also produced a neuropathy which makes it difficult for the appellant to work with her hands due to chronic numbness. She has regular appointments with several doctors including her oncologists. As well, she is required to see another doctor for a growth, suspicious for malignancy.

Additional Information

Appellant

Notice of Appeal (November 20, 2020)

The appellant states her cancer diagnosis and treatment has been ongoing since December 2019. She has developed neuropathy in her hands and now has heart problems. She is unable to work and has several doctors. Her reason for appeal is that her and her partner are no longer receiving government assistance for the pandemic.

At the hearing, the appellant reiterated that she's had cancer since December 2019, has undergone aggressive chemotherapy treatment and also developed heart problems. She has no income and her partner's income doesn't even come close to meeting their expenses. Therefore, she feels the ministry's decision is unreasonable in her circumstances. As well, the appellant advised she has not applied for CPP disability assistance from Service Canada.

Ministry

At the hearing, the ministry relied on its reconsideration decision and outlined the reason for the ministry decision. The ministry also stated that the appellant applied for income assistance in September 2020.

The panel determined that the additional information is reasonably required for a full and fair disclosure of all matters related to the decision under appeal and therefore is admissible under section 22(4) of the *Employment and Assistance Act*.

PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether the ministry's reconsideration decision (November 5, 2020), which determined that the appellant was not eligible for income assistance under the EAR, section 10(2) because her net income exceeds the rate of income assistance for her family unit, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Although the appellant stated she was requesting reconsideration for her application for medical PWD, the panel's jurisdiction is limited to the reconsideration decision made by the ministry on November 5, 2020.

Relevant sections of the legislation can be found in the Schedule of Legislation.

Appellant Argument

The appellant argues she has no income. She and her partner are no longer receiving government assistance for the pandemic and she is not able to work due to her ongoing cancer treatment. Because of the pandemic her partner has not had any work since March 2020. They rely on his OAS and CPP as their base income but have monthly bills exceeding the total amount of income received.

Ministry Argument

The ministry argues that although there is no legislative authority to deny the appellant an application to apply for PWD designation, this does not mean she is eligible to receive income assistance or disability assistance. Income assistance and disability assistance are an income and asset tested program. If the appellant was approved for PWD designation, her eligibility for disability assistance would be assessed based on her income and assets at that time.

The CPP and OAS income totaling \$2089.48/monthly is considered unearned income and is not exempt from income assistance. Also, the CERB payment of \$2,000 (for the appellant's spouse) received in September 2020, is considered "unearned income" and is also not exempt because the appellant was not a recipient of income assistance on April 2, 2020.

Therefore, as their net income of \$4089.48 exceeds the ministry's rate of income assistance of \$1470.56, the appellant is not eligible for assistance in accordance with Section 10(2) of the EAR. The ministry adds that if the PWD application were to be approved, the rate of disability assistance for two applicants (where one has PWD designation and the other does not and is over 65) is \$1276.06 support and \$570 shelter for a total of \$1846.06. Therefore, the ministry argues that whether their monthly net income was \$4089.48 (with CERB), or only OAS and CPP (\$2089.48), they would still not be eligible for disability assistance because their net income exceeds the rate of disability assistance of \$1846.06.

Panel Decision

Section 1, EAR – definitions (unearned income)

Section 1 defines unearned income as any income that is not earned income, and includes any type or class of CPP benefits and Federal Old Age Security (paragraphs (f) and (u)). The ministry argues that

the CPP and OAS income totaling \$2089.48/monthly is considered unearned income and is not exempt from income assistance.

The appellant's bank statement (August 19 – 31, 2020) shows deposits of \$1416.51 (CPP) and \$672.97 (OAS). As per the definitions under section 1, the panel finds the ministry reasonably determined that the \$1416.51 (CPP) and \$672.97 OAS payments are considered unearned income.

Section 2.1, EAR - modifications in relation to COVID - 19 emergency - CERB

Section 2.1 allows for an exemption for CERB for a person who was in a family unit that was eligible on April 2, 2020, for income assistance. At the hearing, the ministry confirmed that the appellant applied for income assistance in September 2020. Therefore, as the appellant was not eligible for income assistance on April 2, 2020, the panel finds the ministry reasonably determined that the \$2000 in CERB received was not exempt from the appellant's net income calculation.

Sections 10(2), EAR - limits on income

Section 10(2) states that a family unit is not eligible for income assistance if the net income determined under schedule B equals or exceeds the amount of income assistance determined under schedule A. Ministry records show the appellant and her spouse are applicants for income assistance.

Section 28, EAR - amount of income assistance

Section 28 states that income assistance may be provided to or for a family unit in an amount not more than the amount determined under schedule A, minus the family unit's net income determined under schedule B.

Schedule A, EAR (sections 1, 2 and 4) – monthly income assistance rates

Section 1 states the amount of income assistance is the sum of the monthly support allowance plus the shelter allowance.

Section 2 shows the income assistance rates for two applicants/recipients (with no dependent children, where one applicant/recipient is under 65 and the other is 65 or more) as \$900.56, and section 4 shows the shelter allowance for two people as \$570.

$$\$900.56 + \$570 = \$1470.56.$$

Therefore, the panel finds the ministry reasonably determined the monthly assistance rate to be \$1470.56.

Schedule B, EAR (sections 1, 6 and 7) – net income calculation

Section 1 lists all the deductions and exemptions used in calculating net income. The panel notes the only exemptions in this section that apply to CPP are orphan's benefits and a disabled contributor's child's benefit, and also notes there are no deductions or exemptions that apply to OAS.

Section 6 states the only deductions permitted from unearned income are any income tax deducted at source from employment insurance benefits and essential operating costs of renting self-contained suites. The panel notes there are no deductions permitted for CPP or OAS under this section.

Section 7 lists unearned income that is exempt and the only exemption that applies to CPP is a formula for calculating income tax exemption. The panel notes that no exemption for OAS is listed.

The ministry argues that the CPP, OAS and CERB payments are not exempt from income assistance.

As the panel finds the CPP, OAS and CERB benefits cannot be considered as deductions or exemptions under the legislation, it finds the ministry reasonably determined that the CPP, OAS and CERB benefits are not exempt from the net calculation for income assistance.

The ministry's position is that as the appellant's net income is \$4089.48 (OAS, CPP, CERB) exceeds the ministry's rate of income assistance (\$1470.56), the appellant is not eligible for assistance in accordance with Section 10(2) of the EAR.

The appellant's position is that she has no income. She and her partner are no longer receiving government assistance for the pandemic and she is not able to work due to her ongoing cancer treatment. Because of the pandemic her partner has not had any work since March 2020. They rely on his OAS and CPP as their base income but have monthly bills exceeding the total amount of income received.

The panel acknowledges the difficulties the appellant is facing but is bound by the legislation. The panel finds, as per schedule A of the EAR, the monthly total support and shelter allowance is \$1470.56. As per section 2.1 and schedule B of the EAR there are no allowable deductions or exemptions, and therefore the amount in schedule B is \$4,089.48 (OAS, CPP, CERB).

\$1,470.56 (schedule A)
\$4,089.48 (schedule B)

As the amount in schedule B is greater than the amount in schedule A (even without CERB), the panel finds the ministry reasonably determined that there are no assistance benefits payable under section 10(2) of the EAR.

Conclusion

In conclusion, the panel finds the ministry's reconsideration decision, which determined that the appellant was not eligible for income assistance under section 10(2) of the EAR because her net income exceeds the rate of income assistance for her family unit, was a reasonable application of the legislation in the circumstances of the appellant.

The appellant is not successful on appeal.

Schedule of Legislation

Employment and Assistance Regulation

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:

...
(f) any type or class of Canada Pension Plan benefits;

...
(u) Federal Old Age Security and Guaranteed Income Supplement payments;

Modifications in relation to COVID-19 emergency — CERB, Canada recovery benefits and EI

2.1 (1) This section applies in relation to the provision of assistance for a calendar month after April, 2020 and before March, 2021 to or for

(a) a family unit that was eligible on April 2, 2020, or includes a person who was in a family unit that was eligible on April 2, 2020, for

(i) income assistance, or

(ii) hardship assistance, other than hardship assistance provided under section 43 because an applicant applied for

(A) an income support payment under the *Canada Emergency Response Benefit Act*, or

(B) employment insurance, or

(b) a family unit that is described in section 2.01 (1) (a) of the Employment and Assistance for Persons with Disabilities Regulation.

(2) Section 11 (1) is to be read as though it also provided that the following assets are exempt for the purposes of section 11 (2) and (2.1):

(a) an income support payment under the *Canada Emergency Response Benefit Act*,

(a.1) a benefit under the *Canada Recovery Benefits Act*,

(b) employment insurance.

(3) Section 1 (a) of Schedule B is to be read as though it also provided that the following are exempt from income when calculating the net income of a family unit for the purposes of section 28 (b) of this regulation:

(a) an income support payment under the *Canada Emergency Response Benefit Act*,

(a.1) a benefit under the *Canada Recovery Benefits Act*,

(b) employment insurance.

(4) Section 6 of Schedule D is to be read as though it also provided that no deduction is to be made for the following when calculating the maximum amount of hardship assistance for which an applicant's family unit is eligible under section 2 of that Schedule:

(a) an income support payment under the *Canada Emergency Response Benefit Act*,

(a.1) a benefit under the *Canada Recovery Benefits Act*,

(b) employment insurance.

(5) This section is repealed on March 1, 2021.

Limits on income

10 ...

(2) A family unit is not eligible for income assistance if the net income of the family unit determined under Schedule B equals or exceeds the amount of income assistance determined under Schedule A for a family unit matching that family unit.

Amount of income assistance

28 Income 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

Income Assistance Rates

(section 28 (a))

Maximum amount of income assistance before deduction of net income

1 (1) Subject to this section and sections 3 and 6 to 10 of this Schedule, the amount of income assistance referred to in section 28 (a) [*amount of income 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 (0.1) For the purposes of this section:...

(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

Item	Column 1 Family unit composition	Column 2 Age or status of applicant or recipient	Column 3 Amount of support
10	Two applicants/recipients and no dependent children	One applicant/recipient is under 65 years of age and the other is 65 or more years of age	\$900.56

Monthly shelter allowance

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

(2) The monthly shelter allowance for a family unit to which section 15.2 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

Schedule B

Net Income Calculation

(section 28 (b))

Deduction and exemption rules

1 When calculating the net income of a family unit for the purposes of section 28

(b) [amount of income 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 [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;
- (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;...
- (xxi) 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*;
- (xxii) payments granted by the government of British Columbia under the Ministry of Children and Family Development's At Home Program;...
- (xxiv) 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;
- (xxv) a loan that is
 - (A) not greater than the amount contemplated by the recipient's business plan, accepted by the minister under section 77.2 of this regulation, and
 - (B) received and used for the purposes set out in the business plan;
- (xxvi) 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;
- (xxvii) Repealed. [B.C. Reg. 148/2015, App. 1, s. 1 (a).]
- (xxviii) 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;
- (xxix) a refund provided under Plan I as established under the Drug Plans Regulation;
- (xxx) 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;
- (xxxi) a Universal Child Care Benefit provided under the *Universal Child Care Benefit Act* (Canada);
- (xxxii) 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;

- (xxxiii) money withdrawn from a registered disability savings plan;
- (xxxiv) a working income tax benefit provided under the *Income Tax Act* (Canada);
- (xxxv) Repealed. [B.C. Reg. 180/2010, s. 1 (b).]
- (xxxvi) the climate action dividend under section 13.02 of the *Income Tax Act*;
- (xxxvii) 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;
- (xxxviii) 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;
- (xxxix) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Family Support Services program;
- (xl) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Supported Child Development program;
- (xli) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Aboriginal Supported Child Development program;
- (xlii) 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;
- (xliii) payments granted by the government of British Columbia under the Temporary Education Support for Parents program;
- (xliv)a BC early childhood tax benefit;
- (xliv.1) a BC child opportunity benefit;
- (xlv) child support;
- (xlvi) orphan's benefits under the *Canada Pension Plan Act* (Canada);
- (xlvii) gifts, other than recurring gifts;
- (xlviii) compensation paid or payable under Division 5 [*Compensation in Relation to Death of Worker*] of Part 4 [*Compensation to Injured Workers and Their Dependants*] or section 225 [*compensation in relation to worker death before July 1, 1974*] of the *Workers Compensation Act* to a dependant, as defined in section 1 of that Act, who is a child, as defined in section 165 (1) of that Act;
- (xlix) 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;
- (l) 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;
- (l.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;

- (l.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;
- (li) a disabled contributor's child's benefit paid or payable under the *Canada Pension Plan*;
- (lii) payments granted under an agreement referred to in section 94 of the *Child, Family and Community Service Act*;
- (liii) 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;
- (liv) money that is paid or payable from a settlement in respect of Treaty No. 8 agricultural benefits;
- (lv) 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;
- (lvi) 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 of this Schedule,
- (c) all earned income must be included, except the deductions permitted under section 2 and any earned income exempted under sections 3 and 4 of this Schedule, and
- (d) all unearned income must be included, except the deductions permitted under section 6 and any income exempted under sections 7 and 8 of this Schedule.

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

7 (0.1) In this section:...

(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 11 [*asset limits*] of this regulation;
- (d) a payment made from a trust to or on behalf of a person referred to in section 13 (2) [*assets held in trust for person receiving special care*] 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 13 (2) (a) 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 13.1 (2) [*temporary exemption of assets for person applying for disability designation or 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 13 (2) of this regulation;
 - (ii) a structured settlement annuity payment that, subject to subsection (2), is made to a person referred to in section 13 (2) (a) of this regulation;
 - (iii) money expended by a person referred to in section 13.1 (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
2020-00264

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

Connie Simonsen

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2020/12/14

PRINT NAME

Susanne Dahlin

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/12/14

PRINT NAME

Robert McDowell

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/12/14