

APPEAL NUMBER
2021-00020

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated January 6, 2021 which found that the appellant is not eligible for income assistance (IA) for the month of December 2020, pursuant to Section 10 (2) of the *Employment and Assistance Regulation* (EAR), as the net income of the family unit in October 2020 exceeded the amount of assistance payable due to the appellant's spouse's earned income.

PART D – RELEVANT LEGISLATION

Employment and Assistance Regulation (EAR) – section 10(2) and Schedule A and B.

PART E – SUMMARY OF FACTS

Evidence at Reconsideration

1. May 5, 2020 reporting stub which reported an income of \$3,037.43, Canada Pension Plan for \$362.11 and Child tax benefit of \$1800.00.
2. Earning Statement, dated October 29, 2020, for \$1, 026.85.
3. Earning Statement, dated October 15, 2020, for \$986.16.
4. Earning Statement, dated October 1, 2020, for \$1, 024.41.

Evidence Prior to the Hearing

Prior to the hearing, the appellant submitted the following:

- Patient tax receipt report from the appellant's pharmacy, dated January 13, 2020 – December 29, 2020.
- Ambulance Service invoice dated July 4, 2019 for \$80.00.
- Ambulance Service past due notice dated September 26, 2019 for \$160.00.
- Notice and invoice from Revenue Services of BC for \$40.00
- Ambulance Service past due notice dated November 25, 2019 for \$160.00.
- Ambulance Service invoice dated January 9, 2021 for \$80.00.
- Ambulance Service past due notice dated December 3, 2020 for \$80.00.
- Persons with Disability Designation Application, which includes a self report, unsigned medical report, and an assessor's report.
- Ministry of Finance demand notice for payment of \$160.00 due August 23, 2019, with a handwritten note "60 paid".

Evidence at the Hearing

At the hearing, the appellant, and his advocate, in part, stated the following:

- The pay slips arrive late. Not every month is the income high. October was unusual because there were 3 pay periods whereas most months there are only 2 pay periods.
- They qualified for IA for November 2020 and December 2020.
- They struggle financially. They do not have benefits. This makes it difficult to pay for ambulance services. They also could not pay rent for 3 months.
- He worked hard for past 20 years but now he needs help because the seizures and stroke do not allow it.
- He cannot even help by taking care of the children due to his medical conditions.
- His spouse cannot physically work more, and they need help.
- The appellant described some of their expenses and why they do not make ends meet.

At the hearing, the ministry relied on its reconsideration and added that the ministry does not make personal decisions as it only has the authority to do what the legislation.

Admissibility of Additional Information

A panel may consider evidence that is not part of the record as the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

In this case, the panel determined that the Patient tax receipt report, invoices, and notices for ambulance

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services, PWD application and the letter from the Ministry of Finance are admissible because the information in both documents allow for full and fair disclose of all matters related to the issue on appeal. However, the panel notes that all of the above-mentioned information submitted prior to the appeal is not directly related to the issues at this appeal. Therefore, the panel places little weight on them.

PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether the ministry's decision, which found that the appellant is not eligible for IA for the month of December 2020, pursuant to Section 10 (2) of the EAR, as the net income of the family unit in October 2020 exceeded the amount of assistance payable due to the appellant's spouse's earned income, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

The applicable legislation is as follows:

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. 1, 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

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.

The Appellant's Position

The appellant argued that he cannot work due to his medical conditions and that these conditions incur unmanageable costs. The appellant argued that only his spouse works and even with her pay they struggle to make ends meet. The support (IA) from the ministry is essential.

The Ministry's Position

The ministry argued that the appellant's spouse's earned income from October 1, 2020 – October 29, 2020 was \$3,036.43 which is greater than the appellant's eligible IA determined for a family unit of the appellant's size. As a result, the appellant is not eligible for IA for the month of December 2020.

The Panel's Decision

The legislation sets out that a family unit becomes ineligible for IA if its net income is equal to or exceeds the amount of IA it is eligible for. In this case, the appellant's spouse earned \$3,037.43 from employment for the month of October 2020 which the panel finds is "earned income" under the EAR.

With an earnings exemption of \$600.00 deducted from the income, it leaves the appellant with \$2437.43 as income for the month of October 2020. There are no other exemptions in Schedule B, EAR, available to the appellant's family unit.

This is more than the \$1,776.64 of IA the family unit is eligible for per month (support allowance of \$601.06, shelter allowance of \$785 and a \$390.58 family bonus top-up under EAR, Schedule B and).

With an earnings exemption of \$600.00 deducted from the income, it leaves the appellant with \$2437.43 as income for the month of October 2020.

This is more than the \$1,776.64 of IA the family unit is eligible for per month. Therefore, pursuant to the legislation, the family unit is not eligible for IA.

As a result, the panel finds that the ministry's decision, which found that the appellant is not eligible for IA for the month of December 2020 because of the net income they received in October 2020 exceeded the eligible amount of IA, was a reasonable application of the applicable legislation and was reasonably support by the evidence.

Conclusion

The panel finds that the ministry's reconsideration decision, which found that the appellant is not eligible for IA for the month of December 2020, pursuant to Section 10 (2) of the EAR, as the net income of the family unit in October 2020 exceeded the amount of assistance payable due to the appellant's spouse's earned income, was reasonably supported by the evidence and was a reasonable application of the applicable enactment, and therefore confirms the decision. The appellant is not successful on appeal.

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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

Neena Keram

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2021/02/11

PRINT NAME

Vivienne Chin

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/02/11

PRINT NAME

Kulwant Bal

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/02/11