

APPEAL NUMBER
2021-0104

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated May 12, 2021, which determined that the appellant was not eligible for Medical Services Only coverage as she was not eligible for income assistance as per the *Employment and Assistance Act* sections 1 and 4 and the Employment and Assistance Regulation, sections 1,10 and 28, schedules A and B and sections 66 and 67.

Specifically, the ministry determined that the appellant does not qualify for income assistance as her income is above the maximum allowable income assistance rate, and eligibility for income assistance must be met first in order to qualify for Medical Services Only coverage.

PART D – RELEVANT LEGISLATION

Employment and Assistance Act (EAA) sections 1 and 4

Employment and Assistance Regulation (EAR) sections 1,10, 28, schedules A and B and sections 66.3 and 67

PART E – SUMMARY OF FACTS

Relevant Evidence Before the Minister at Reconsideration

Ministry records show:

- The appellant is currently [REDACTED] years of age and applied as a single applicant with no dependents.
- The ministry stated that the appellant's income assistance rate is \$1231.42 per month for support and shelter; \$856.42 for support and \$375 for shelter.
- The ministry determined the appellant's monthly net income to be \$1514.58 (\$919.13 Old Age Security (OAS)/Guaranteed Income Supplement (GIS), \$95.45 (Canada Pension Plan Disability (CPPD) and \$500 spousal support.
- The ministry advised the appellant she is ineligible for income assistance and would be ineligible for disability assistance even with the Persons with Disabilities (PWD) designation as her monthly income exceeds the assistance rate for income assistance and disability assistance.
- The ministry notes that the appellant would also be ineligible for Medical Services Only (MSO).
- On April 26, 2021 the ministry opened a new service request to review the appellant's request as a Life-Threatening Health Needs supplement, as she was requesting help with medical equipment. To begin the application process, the appellant was sent the Medical Equipment Request and Justification form for completion. The application form has not yet been received.

Request for Reconsideration (April 29, 2021)

The appellant stated she was applying only for the medical assistance, not for income assistance. She was told that she did not apply on time for PWD. She stated that she did not apply because she thought she was already approved as a PWD from 2005 when she lived in another province, became quadriplegic and started receiving CPPD. The appellant is separated. Her spouse does not live in BC. Besides paying rent, hydro and a communications provider, she has many other vital monthly expenses. All her medical equipment is vital to her.

Additional Information

Appellant Submission (n.d.)

The appellant provided the following submission regarding additional details on her budget.

- The appellant's monthly income is: \$919.13 (OAS & GIS), plus \$95.45 (CPPD), plus \$500 (spousal support). Total: \$1,514.58.
- The disability assistance rate for a single person with the PWD designation is \$1,358.42. Therefore, \$1514.58 - \$1358.42=\$156.16.
- The appellant pays \$453 monthly for rent, instead of \$375, and \$453 - \$375 = \$78. Thus, her income is higher only by \$156.16 - \$78 = \$78.
- She spends around \$150/month on necessary medical supplies and also needs to buy over the counter medication.
- As she has cancer, she feels weaker than before, and needs to pay someone to accompany her to medical and dental appointments. As well, occasionally she needs to use a taxi to go to the medical appointments.

Notice of Appeal (May 17, 2021)

The appellant stated that she is a high-level quadriplegic person with very limited function of her hands and must use a powerchair, ceiling lift, sling, commode, and hand braces. In addition to her severe quadriplegic disability, she has cancer. She had surgery on February 12, 2021 and now needs to go for

treatment and follow up. The appellant also stated that it is crucial to keep her medical equipment in good working condition to attend these appointments.

She pays \$453 monthly for rent, plus \$200 for heat, power, and a communications provider. This leaves her with only \$861.58. She spends around \$150/month on necessary medical supplies. Taking all these expenses into consideration, the appellant states she has much less money left for living and eating than people on income assistance, and on this remaining amount she needs to repair and purchase vital medical equipment. She states medical equipment companies discriminate against her because she must argue with them on prices, and they make her repairs only after all repairs for people on medical assistance are done. In one instance, she waited three months to repair her power chair's footrests because she did not have money for the emergency repairs, which are twice as expensive as the regular ones. She adds that it is very dangerous to use the power chair without footrests, especially when going to medical appointments.

The appellant is requesting consideration of her life-threatening condition. She also stated that her income exceeds the requirement for medical assistance only by a little bit.

At the hearing, the appellant stated her only issue relates to MSO coverage as she has no resources to maintain her equipment. The companies that repair the equipment require payment first and if she finds a company with lower prices she has to wait longer. If her lift breaks, she cannot get out of bed. If her footrest breaks, it's dangerous for her to go out for medical appointments. In short, she would be completely isolated; this is causing the appellant a lot of stress. If her income was a little higher it would make a difference in her life in a very big way. The appellant added that she had her power chair repaired and, at this time, all her equipment is working. Her concern is for future repairs. As well, the appellant added that the process for applying for Life-Threatening Health Needs would take several weeks, during which time she would not be able to function.

Ministry

At the hearing, the ministry relied on its reconsideration decision and added that the appellant does not meet the criteria for MSO coverage. The threshold to qualify for MSO coverage must be met by first qualifying for income assistance, disability assistance or hardship assistance and the appellant's income is in excess of the eligible amounts. The ministry added that the appellant did not apply for PWD. However, given her earnings, she would be in excess of the maximum amount allowable and therefore would not have qualified.

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 dated May 12, 2021, which determined that the appellant was not eligible for MSO coverage as she was not eligible for income assistance as per the EAA sections 1 and 4 and the EAR, sections 1, 10 and 28, schedules A and B and sections 66.3 and 67, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Specifically, did the ministry reasonably determine that the appellant does not qualify for income assistance as her income is above the maximum allowable income assistance rate, and that eligibility for income assistance must be met first in order to qualify for Medical Services Only coverage?

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

Appellant Argument

The appellant argues that she has a severe quadriplegic disability as well as cancer and so good working medical equipment is crucial in keeping her medical appointments, including cancer treatment. She argues that it is very dangerous to use a power chair without footrests especially for medical appointments, and she has no resources to maintain her equipment. If her lift breaks, she cannot get out of bed. If her footrests are broken it is dangerous for her to go out for medical appointments. She would be completely isolated. This is causing a lot of stress.

The appellant states she pays \$453 monthly for rent, plus \$200 for heat, power, and a communications provider which leaves her with only \$861.58 monthly. She spends around \$150/month on necessary medical supplies and has much less money left for living and eating than people on income assistance, and on this remaining amount she needs to repair and purchase vital medical equipment.

The appellant also argues that her income exceeds the requirement for MSO coverage by only a little and it would make a difference in her life, in a very big way, if her income was a little higher.

Ministry Argument

The ministry states that the amount of income assistance under the EAA is determined by deducting the net income as determined in Schedule B, from the assistance rate set out in Schedule A. Therefore, the ministry argues that, as the appellant's net income exceeds the maximum allowable income assistance rate, she is ineligible for income assistance.

The ministry argues further that MSO coverage is only available to certain categories of former recipients who meet specific eligibility criteria. To be eligible for MSO coverage, a family unit must include a qualifying person on the date the family unit ceased to be eligible for income assistance and meet the applicable income test for MSO for the family unit. The threshold to qualify for MSO coverage must be met by first qualifying for income assistance, disability assistance or hardship assistance and the appellant's income is in excess of the eligible amounts.

Analysis

Sections 1 & 4 (EAA) – Income Assistance and Recipients

Section 1 defines income assistance as an amount provided for support and shelter and section 4 defines a recipient as the person for whom the assistance is provided.

Sections 1, 10 & 28, schedules A & B (EAR) – Calculation of Net Income

- Section 1, which defines unearned income, includes CPP benefits, “maintenance under a court order, a separation agreement or other agreement” and OAS and GIS.
- Section 10 states a recipient is not eligible for income assistance if the net income under schedule B exceeds the amount under schedule A.
- Section 28 states the maximum amount of assistance that can be paid is the amount determined under schedule A minus the amount under schedule B.

- Schedule A shows the monthly allowable allowances for support and shelter. Ministry records show that the appellant’s income assistance rate would be \$1231.42 per month for support and shelter; \$856.42 for support and \$375 for shelter. The panel notes the amount shown under schedule A for a sole recipient and no dependent children, where the recipient is 65 or more years of age to be \$856.42 and the amount under schedule B for shelter, for one person, as \$375. Therefore, the panel finds the amount under schedule A = \$1231.42 (\$856.42 + \$375).

- Schedule B provides a list of deductions and exemptions for unearned income used to calculate net income.
 - Section 1 lists all the deductions and exemptions. The panel notes the only exemption in this section that apply to CPP payments 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 or GIS.
 - Section 6 states the only deductions permitted from unearned income are income tax deducted at source from employment insurance benefits and essential operating costs for renting self-contained suites. The panel notes there are no deductions permitted for CPP, OAS or GIS 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 or GIS is listed.

- In her appeal submission, the appellant stated that her monthly income is: \$919.13 (OAS & GIS), plus \$95.45 (CPPD), plus \$500 (spousal support). Total: \$1,514.58.

The ministry argues that, as the appellant’s net income of \$1514.58 exceeds the income assistance rate, she is ineligible for income assistance. The appellant argues that her income exceeds the requirement for MSO coverage by only a little bit and it would make a difference in her life, in a very big way, if her income was a little higher.

The panel finds, as per schedule A of the EAR, the monthly total support and shelter allowance is \$1231.42. As there are no allowable deductions, the amount under schedule B is \$1,514.58 (OAS, GIS, CPPD and spousal support).

\$1231.42 (schedule A)

\$1,514.58 (schedule B)

As the amount for schedule B is greater than the amount for schedule A, the panel finds the ministry reasonably determined that there are no income assistance benefits payable to the appellant under section 10(2) of the EAR.

Sections 66.3 and 67 (EAR) – Medical Services Only

Sections 66.3 and 67 provide the requirements for access to MSO coverage for recipients considered “continued persons” – and states that MSO coverage is available for recipients who “ceased to be eligible for income assistance”.

The appellant argues that she has a severe quadriplegic disability as well as cancer and so it is crucial that her equipment is in good working condition for keeping her medical appointments, including treatment. It is very dangerous for her to use her power chair without footrests, especially for medical appointments. She has no resources to maintain her equipment and this is causing her a lot of stress. She pays \$453 monthly for rent, plus \$200 for heat, power, and a communications provider which leaves her with only \$861.58 monthly. She spends around \$150/month on necessary medical supplies and has much less money left for living and on this remaining amount she needs to repair and purchase vital medical equipment.

The ministry argues that to be eligible for MSO coverage, a family unit must include a qualifying person on the date the family unit ceased to be eligible for income assistance and meet the applicable income test for MSO for the family unit. The threshold to qualify for MSO must be met by first qualifying for income assistance and the appellant's income is in excess of the eligible amounts.

The panel finds that, as the appellant does not qualify for income assistance, she cannot then have "ceased to be eligible for income assistance", as is required under section 66.3 of the EAR.

The panel finds the ministry reasonably determined that, as the appellant's income exceeds the maximum income assistance amount payable, she is not eligible to receive income assistance. And, as the appellant is not eligible to receive income assistance, the panel finds the ministry reasonably determined she cannot be considered eligible for MSO benefits under sections 66.3 and 67 of the EAR.

Although the panel acknowledges the appellant's difficulties, the panel is bound by the legislation.

Conclusion

In conclusion, the panel finds the ministry's reconsideration decision, which determined that the appellant was not eligible for MSO benefits, as she was not eligible for income assistance as per the EAA sections 1 and 4 and the EAR, sections 1, 10 and 28, schedules A and B and sections 66.3 and 67, was a reasonable application of the legislation in the circumstances of the appellant.

Specifically, the panel finds the ministry reasonably determined that the appellant does not qualify for income assistance as her income is above the maximum allowable income assistance rate, and that eligibility for income assistance must be met first in order to qualify for MSO coverage.

The appellant is not successful on appeal

Schedule of Legislation

Income Assistance

Employment and Assistance Act

Interpretation

(1) In this Act: "income assistance" means an amount for shelter and support provided under section 4 [*income assistance and supplements*];

"recipient" means the person in a family unit to or for whom income assistance, hardship assistance or a supplement is provided under this Act for the use or benefit of someone in the family unit...

Income assistance and supplements

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

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

...

(p) maintenance under a court order, a separation agreement or other agreement;

...

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

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 ...

(1) A monthly support allowance for the purpose of section 1 (a) is the sum of

- (a) the amount set out in Column 3 of the following table for a family unit described in Column 1 of an applicant or a recipient described in Column 2...

Item	Column 1 Family unit composition	Column 2 Age or status of applicant or recipient	Column 3 Amount of support
3	Sole applicant/recipient and no dependent children	Applicant/recipient is 65 or more years of age	\$856.42

Monthly shelter allowance

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

"warrant" has the meaning of a warrant in section 15.2 [*consequences in relation to outstanding arrest warrants*] of the Act.

(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
1	1 person	\$375

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;

(ii)Repealed. [B.C. Reg. 96/2017, App. 1, s. 2 (a).]

(iii)Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 1 (b).]

(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. 1, s. 22 (a).]

(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) Repealed. [B.C. Reg. 85/2012, Sch. 1, s. 5.]

(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;

- (xxiii) Repealed. [B.C. Reg. 85/2012, Sch. 1, s. 5.]
- (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;

(xxxvii.1) money that is paid or payable to or for a person if the payment is in accordance with the settlement under the Final Settlement Agreement and Supplementary Agreement approved by the Federal Court June 22, 2018 in Court File No. T-370-17, *Todd Edward Ross et al. v. Her Majesty the Queen*;

(xxxvii.2) money that is paid or payable to or for a person if the payment is in accordance with the settlement under the Final Settlement Agreement approved by the Federal Court January 30, 2019 in Court File No. T-1068-14, *Raymond Michael Toth v. Her Majesty the Queen*;

(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)*;

(lvii) money, or goods or services in kind, received or to be received by a participant in the Ministry of Social Development and Poverty Reduction's Work Experience Opportunities Grant program from a grant under the program,

(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.

(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.

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:

"disability-related cost" means a disability-related cost referred to in paragraph (a), (b) or (c) of the definition of disability-related cost in section 13 (1) [*assets held in trust for person receiving special care*] 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 13 (1) of this regulation;

"intended registered disability savings plan or trust", in relation to 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, 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.

(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.

Medical Services Only

Employment and Assistance Regulation

Definitions

66.1 In this Division:

"continuation date",

(a) in relation to a person who is a main continued person under section 66.3 (1) [*access to medical services only*] or 66.4 (1) [*access to transitional health services*] as a result of having been part of a family unit on the date the family unit ceased to be eligible for income assistance, means that date, and

(b) in relation to a dependent continued person under section 66.3 (2) or 66.4 (2) of a main continued person, means the continuation date of the main continued person;

"continued person" means

- (a) a main continued person under section 66.3 (1) or 66.4 (1), or
- (b) a dependent continued person under section 66.3 (2) or 66.4 (2);

"nutrition-related supplement" means any of the following supplements:

- (a) a supplement under section 73 [*diet supplement*];
- (b) a supplement under section 74 [*nutritional supplement — short-term*];
- (c) a supplement under section 74.01 [*tube feed nutritional supplement*];
- (d) a supplement under section 2 (3) of Schedule C that is related to nutrition;

"qualifying federal benefit" means a supplement under Part II or an allowance under Part III of the *Old Age Security Act* (Canada);

"qualifying person" means a person who

- (a) has persistent multiple barriers to employment, or
- (b) is a recipient of income assistance who is described in section 8 (1) [*people receiving special care*] of Schedule A.

[en. B.C. Reg. 145/2015, Sch. 1, s. 7.]

Repealed

66.2 Repealed. [B.C. Reg. 122/2019, App. 1, s. 10.]

Access to medical services only

66.3 (1) Subject to subsection (4), a person is a main continued person if

- (a) the person was
 - (i) part of a family unit identified in subsection (3) on the date the family unit ceased to be eligible for income assistance, and
 - (ii) a qualifying person on that date, ...

APPEAL NUMBER
2021-0104

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

Adam Shee

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2021/06/08

PRINT NAME

Anil Aggarwal

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/06/08

PRINT NAME

Connie Simonsen

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/06/08