

### **Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated October 19, 2021, which determined that the appellant was not eligible for income assistance under the *Employment and Assistance Act*, sections 1 and 2 and the *Employment and Assistance Regulation*, sections 1, 5, 10, 11, 28 and Schedules A and B, because his income exceeded the ministry's rate of assistance for his family unit size and there was insufficient information to determine the amount of the family unit's assets.

### **Part D – Relevant Legislation**

*Employment and Assistance Act* (EAA), sections 1, 1.1 and 2

*Employment and Assistance Regulation* (EAR), sections 1, 5, 10, 11 and 28 and Schedule A, sections 1, 2, and 4 and Schedule B, sections 1, 2 and 3

See attached Schedule of Legislation

**Part E – Summary of Facts**

**Relevant Evidence Before the Minister at Reconsideration**

**Ministry records show:**

*Documents submitted with the appellant's application for assistance*

- Bank account statement (August) showing the appellant's spouse received employment income as follows: \$1388.92 – August 5, 2021, \$1480.49 – August 19, 2021 and \$800.00 – August 30, 2021.

- Bank account statement (August) showing the appellant received employment income as follows: \$80.87 – August 3, 2021, \$250 – August 17, 2021, \$265.50 – August 24, 2021, and \$304.84 – August 31, 2021.

The ministry therefore calculated the family unit's net income as follows: \$2877.41 + \$901.21 = \$3778.62.

**Application for Assistance (September 8, 2021)**

(signed by the appellant and his spouse)

*Family Type*

"Couple (married or marriage-like relationship) with Dependent Child(ren)"

*Applying for PWD?*

"Yes"

*Approved for PWD ISC?*

"No"

*Monthly Income (appellant)*

Employment Wages - \$1,000.00/month

Child Tax Benefit - \$1,142.00/month

*Monthly Income (spouse)*

Employment Wages - \$1,388.00/month

*Dependents*

Two

*Vehicles*

Appellant – car valued at \$5000.00

Spouse – car valued at \$4,000.00

*Bank Account*

\$98,780.00

**Appellant's Bank Statement (September 8, 2021)**

- Total Assets - \$99,022.45

**Canada Revenue Agency Statement (CRA) (July 20, 2021)**

*Payment Summary (as of May 24, 2021)*

Canada child benefit - \$784.40

Child disability benefit - \$242.91

BC child opportunity benefit - \$115.51

Amount direct deposited - \$1,142.82

**Request for Reconsideration (October 6, 2021)**

1. The appellant stated that the application was for himself so is questioning why the ministry is considering his spouse's income. He provided information about his spouse when he applied but that does not mean he included his spouse in his application.
2. The value of his spouse's car is less than \$4,000.00. He did state that it was valued at \$4,000.00 as the market value, but it had more than 350,000 kilometres when his spouse bought from a friend for \$500.00, as it needed many repairs.
3. The bank statement includes \$15,000.00 the appellant borrowed from his brother as he intended to buy an apartment but hasn't yet. So, the \$15,000.00 is not the appellant's money and does not count towards his balance, as he has to return it.

**Additional Information**

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

Appellant

**Notice of Appeal (received October 27, 2021)**

*Reasons for Appeal*

"not satisfied"

The appellant did not make a submission.

Ministry

The ministry stated its submission will be the reconsideration summary provided in the Record of Ministry Decision.

As there was no additional information, a determination under section 22(4) of the *Employment and Assistance Act* was not required.

## **Part F – Reasons for Panel Decision**

The issue on appeal is whether the ministry's reconsideration decision that determined the appellant was not eligible for income assistance under the EAA, sections 1 and 2 and the EAR, sections 1, 5, 10, 11, 28 and Schedules A and B, because his income exceeded the ministry's rate of assistance for his family unit size and there was insufficient information to determine the amount of the family unit's assets. was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

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

### **Appellant Argument**

The appellant argues that the application was only for himself and his spouse's information should not be included in the application.

As well, the value of his spouse's car is less than \$4000.00 as it had more than 350,000 kilometres when his spouse bought it for \$500.00, because it needed many repairs.

The appellant argues further that the bank statement includes \$15,000.00 he borrowed from his brother and as he has to return it, it shouldn't count in the balance.

### **Ministry Argument**

The ministry argues that with the information in the appellant's application for assistance, it determined the "family unit" includes the appellant's spouse as the appellant advised they are married and residing together. Therefore, in accordance with section 5 of the EAR, the appellant must apply on behalf of his entire family, which means that his spouse's income and assets are considered when the ministry determines eligibility for assistance.

The ministry argues the appellant and his spouse's employment income averages \$3,748.34 per month, which exceeds the ministry's rate of income assistance of \$1,770.00 for the appellant's family unit size.

The ministry is satisfied the family unit has a genuine intention to apply for PWD designation. However, the ministry argues there is no evidence to verify the value of the appellant's secondary vehicle or that the appellant owes his brother \$15,000 and therefore it cannot determine the total value of the appellant's assets.

The ministry added that although the appellant may apply for PWD designation, this does not mean he is eligible to receive disability assistance. The ministry states that income assistance and disability assistance are an income and asset tested program and if the appellant is approved for PWD designation, his eligibility for disability assistance would need to be assessed based on income and assets at that time.

## Analysis

### Sections 1 and 1.1 (EAA) - spouse

Sections 1 and 1.1 define “spouse” and state two persons are spouses of each other if married to each other. The panel notes on the application for assistance, under Family Type, the appellant marked, “Couple (married or marriage-like relationship) with Dependent Child(ren)”. The appellant does not dispute that he is married.

### Section 2 (EAA) and section 5 (EAR) – eligibility of family unit

Section 2 states a family unit is eligible for income assistance if each person in the family unit on whose account the income assistance is provided satisfies the initial and continuing conditions of eligibility. Section 5 states for a family unit to be eligible for income assistance an adult in the family unit must apply for the income assistance on behalf of the family unit.

The appellant argues that the application was only for himself and his spouse’s information should not be included. The panel finds “on behalf of the family unit” to indicate that the appellant must complete the application for the whole family with information about the whole family. The panel notes the application was signed by both the appellant and his spouse. As well, the panel finds there is no opportunity within the legislation to apply for assistance as a sole applicant if the appellant is part of a family unit. Therefore, the panel finds the ministry reasonably determined that the appellant’s spouse’s information should be included in determining the eligibility for income assistance for the family.

### Sections 10, 28 and Schedules A and B (EAR) – limits on income, amount of income assistance, exemptions

Section 10(2) states a family is not eligible for income assistance if the net income of the family unit under Schedule B equals or exceeds the amount of income assistance under Schedule A, and section 28 states income assistance may be provided 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 states the maximum amount of income assistance before deducting net income is the monthly support allowance plus the shelter allowance. The monthly support allowance for two applicants under 65 with one or more children is shown as \$1,055.00 and the monthly shelter allowance for four persons is shown as \$715.00.

$\$1,055.00 + \$715.00 = \$1,770.00$ .

Schedule B provides information for calculating net income. Section 1 outlines the exemptions that can be applied and includes the Canada child benefit and BC child opportunity benefit. Employment income is not listed as an exemption. Section 2 states the only allowable deductions from earned income are any amount deducted at source (income tax, employment insurance, medical insurance, Canada Pension Plan, superannuation, company pension plan, and union dues). Section 3 provides an earnings exemption for family members who received disability assistance or income assistance in the past six months, and neither of these exemptions applies to the appellant.

The panel notes on the application for assistance (September 8, 2021) the appellant stated his employment wages as \$1,00.000/month and \$1,388.00/month as employment wages for his spouse, making the total family monthly income \$2,388.00. The panel also notes that ministry records show the family employment income as \$3,778.62 (\$2,877.41 + \$901.21).

However, the panel finds the total for the appellant's spouse's income should be \$3,669.41 (\$1388.92 + \$1480.49 + \$800.00) and not \$2,877.41 as stated by the ministry - making the total for the family unit when adding the \$901.21 earned in August by the appellant to be \$4,570.62 instead of \$3,778.62.

As employment earnings (earned by adults) cannot be considered exempt and all the employment earning amounts, from the appellant's application and ministry records, are greater than the \$1,770.00 cutoff, the panel finds the ministry reasonably concluded the appellant was not eligible for income assistance under sections 10 and 28 of the EAR.

The panel notes that the same calculation, done under Schedules A and B of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR) results in a total monthly allowance of \$2,193.50 made up of \$1478.50 in monthly support allowance and \$715 in monthly shelter allowance. The panel finds the ministry reasonably concluded the appellant would not be eligible for disability assistance under section 9 and 24 of the EAPWDR.

#### Section 11 (EAR) – Assets

Section 11(2.1) states, despite subsection (2), a family unit that intends to apply for designation as a person with disabilities under section 2 of the *Employment and Assistance for Persons with Disabilities Act* may receive income assistance, subject to all other eligibility criteria, if the family unit has assets with a total value of no more than \$100,000.00.

The appellant indicated on his application for assistance (September 8, 2021) that he intends to apply for PWD designation. As well, he stated that he and his spouse have cars with a total worth of \$9,000.00 and \$98,780.00 in a bank. The appellant's bank statement (September 8, 2021) shows total assets of \$99,022.45. However, the appellant later argues that the value of his spouse's car is less than \$4,000.00 and that the bank statement includes \$15,000.00 he borrowed from his brother, which needs to be returned, and therefore shouldn't count as his assets.

The ministry argues there is no evidence to verify the value of the appellant's secondary vehicle or that the appellant owes his brother \$15,000. Therefore, it cannot determine the total value of the appellant's assets.

The panel notes permitted asset exemptions under section 11(1) include one motor vehicle generally used for day to day transportation, a Canada child benefit and a BC child opportunity benefit. However, the panel finds there is insufficient evidence to determine the appellant's net assets. No documentary proof or corroborating proof was provided other than the appellant's statement that the car was worth substantially less than he had disclosed on the initial application form and that \$15,000.00 of the funds in his bank account were not his but a loan from his brother. Because of this, the panel finds that the ministry reasonably determined there is insufficient evidence to determine the appellant's total assets, and therefore insufficient evidence to determine eligibility under section 11(2.1) or 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 the EAA, sections 1 and 2 and the EAR, sections 1, 5, 10, 11 and 28 and Schedules A and B, because his income exceeds the ministry's rate of assistance for his family unit size and there was insufficient information to determine the amount of the family unit's assets, 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 Act

#### Part 1 — Introductory Provisions

##### Interpretation

1 (1) In this Act:...

*"spouse" has the meaning in section 1.1*

##### Meaning of "spouse"

1.1 (1) Two persons are spouses of each other for the purposes of this Act if

- (a) they are married to each other,
  - (b) they declare to the minister that they are in a marriage-like relationship, or
  - (c) they have resided together for at least the previous 12 consecutive months and the minister is satisfied that the relationship demonstrates
    - (i) financial dependence or interdependence, and
    - (ii) social and familial interdependence
- consistent with a marriage-like relationship.

...

##### Eligibility of family unit

2 For the purposes of this Act, a family unit is eligible, in relation to income assistance, hardship assistance or a supplement, if

- (a) each person in the family unit on whose account the income assistance, hardship assistance or supplement is provided satisfies the initial and continuing conditions of eligibility established under this Act, and
- (b) the family unit has not been declared ineligible for the income assistance, hardship assistance or supplement under this Act.

Employment and Assistance Regulation

**Part 1 — Interpretation**

**Definitions**

1(1) In this regulation:

...

"asset" means

- (a) equity in any real or personal property that can be converted to cash,
- (b) a beneficial interest in real or personal property held in trust, or
- (c) cash assets;

"Canada child benefit" means an amount deemed to be an overpayment on account of a person's liability for the taxation year determined under section 122.61 of the *Income Tax Act* (Canada) as it read on or after July 1, 2016;

"cash assets" in relation to a person, means

- (a) money in the possession of the person or the person's dependant,
- (b) money standing to the credit of the person or the dependant with
  - (i) a savings institution...

"child benefits cheque" means a cheque for one, or the sum of two or more, of the following:

- (f) the Canada child benefit;
- (g) the BC child opportunity benefit;

"earned income" means

- (a) any money or value received in exchange for work or the provision of a service

...

**5** (1) For a family unit to be eligible for income assistance or a supplement, an adult in the family unit must apply for the income assistance or supplement on behalf of the family unit unless

- (a) the family unit does not include an adult, or
- (b) the spouse of an adult applicant has not reached 19 years of age, in which case that spouse must apply with the adult applicant.

...



**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.

**Asset limits**

**11** (1)The following assets are exempt for the purposes of subsections (2) and (2.1):

...

(b)one motor vehicle generally used for day to day transportation needs;

...

(e.1)a Canada child benefit;

...

(ww.1)a BC child opportunity benefit;

...

**11** (2)A family unit is not eligible for income assistance if any of the following apply:

...

(b)subject to paragraph (c), an applicant or a recipient has one or more dependants and the family unit has assets with a total value of more than \$10 000;

...

(2.1)Despite subsection (2), a family unit that includes an applicant or a recipient who has applied for and has not been denied, or who the minister is satisfied has a genuine intention to apply for, designation as a person with disabilities under section 2 of the *Employment and Assistance for Persons with Disabilities Act* may receive income assistance, subject to all other eligibility criteria, if the family unit has assets with a total value of no more than

(a)in the case of a family unit that includes one applicant or recipient who has applied for and has not been denied, or who the minister is satisfied has a genuine intention to apply for, designation as a person with disabilities, \$100 000, or

...

**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**

**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:

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

...

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

- (a)the amount set out in Column 3 of the following table for a family unit described in Column 1 of an applicant or a recipient described in Column 2, plus
- (b)the amount calculated in accordance with subsections (2) to (4) for each dependent child in the family unit.

<b>Item</b>	<b>Column 1 Family Unit Composition</b>	<b>Column 2 Age or status of applicant or recipient</b>	<b>Column 3 Amount of Support</b>
12	Two applicants/recipients and one or more dependent children	Both applicants/recipients are under 65 years of age	\$1055.00

(2)If the family unit includes one or more dependent children or deemed dependent children, the support allowance under subsection (1) for a calendar month is increased by an amount equal to

(a)the total BC child adjustment amount for all dependent children and all deemed dependent children in the family unit, minus

(b)the sum of

(i)the family bonus, if any, paid to the family unit for the preceding month,

(ii)the Canada child benefit, if any, paid to the family unit for the preceding month in respect of dependent children in the family unit, up to a maximum of the BC child adjustment amount in respect of those dependent children, and

(iii)the total amount of the supplements, if any, provided to or for the family unit under section 61 [*supplement for delayed, suspended or cancelled family bonus*] or 61.1 [*supplement for delayed, suspended or cancelled Canada child benefit*] of this regulation for the current calendar month.

(2.1)If the amount calculated under subsection (2) is less than zero, it is deemed to be zero for the purposes of this section.

(3)In calculating the adjustment under subsection (2), an amount that, under the *Income Tax Act* (British Columbia) or the *Income Tax Act* (Canada), is deducted or set off from the family bonus or the Canada child benefit must be treated as if it were paid to a person in the family unit.

...

**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	Family Unit Size	Maximum Monthly Shelter
4	4 persons	\$715

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)financial assistance payments provided under Part 6 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;
- (lviii)a rebate of all or part of a premium paid to the Insurance Corporation of British Columbia under the *Insurance (Vehicle) Act* and the plan operated under that Act;
- (lix)an amount that is paid or payable, as a single payment or series of payments, as follows:
  - (A)the amount is paid or payable by a person who is or was a landlord, owner or manager, or a person who holds or held a similar position, in relation to leased, rented or licensed residential premises, whether or not the *Residential Tenancy Act* or the *Manufactured Home Park Tenancy Act* applies to that premises;
  - (B)the amount is paid or payable to a person who is or was a tenant, lessee, licensee or occupant, or a person who has or had a similar right or permission to use the premises for residential purposes;
  - (C)the amount is paid or payable as full or partial compensation for loss of the residential use of the premises, including for eviction, relocation, demolition, temporary displacement during repair, renovation or redevelopment, or as an inducement to cease or suspend residential use;
  - (D)the amount is paid or payable under an enactment, a policy or a contract, or voluntarily or at the discretion of the person referred to in clause (A),



- (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 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.

**Exemption — earned income**

- 3** (1) Subject to subsection (2), the amount of earned income calculated under subsection (6) is exempt for a family unit.
- (2) A family unit may not claim an exemption under this section in relation to the first calendar month for which the family unit becomes eligible for income assistance unless a member of the family unit received disability assistance or income assistance in at least one of the 6 calendar months immediately preceding that first calendar month.
- (3)-(5) Repealed. [B.C. Reg. 145/2015, Sch. 1, s. 16.]
- (6) The exempt amount for a family unit is the lesser of the family unit's total earned income in the calendar month of calculation and the following:
- (a) \$500, if the family unit is not described in paragraph (b), (c) or (d);
  - (b) \$750, if the family unit
    - (i) includes a recipient who

(A)has a dependent child, or

(B)provides care to a supported child, and

(ii)is not described in paragraph (c) or (d);

(c)\$900, if

(i)the family unit includes a recipient who

(A)has a dependent child, or

(B)provides care to a supported child,

(ii)the child has a physical or mental condition that, in the minister's opinion, precludes the recipient from leaving home for the purposes of employment or working, on average, more than 30 hours each week, and

(iii)the family unit is not described in paragraph (d);

(d)\$900, if the family unit includes a person who has persistent multiple barriers to employment.

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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)

Section 24(2)(a)     or Section 24(2)(b)

**Part H – Signatures**

Print Name  
Connie Simonsen

Signature of Chair

Date (Year/Month/Day)  
2021/11/26

Print Name  
Janet Lingford

Signature of Member

Date (Year/Month/Day)  
2021/11/26

Print Name  
Emily Drown

Signature of Member

Date (Year/Month/Day)  
2021/11/26