

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

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) dated February 28, 2022 where the ministry determined that the appellant is not eligible for February 2022 disability assistance because her December net income exceeds her assistance rate of \$1358.50.

### **Part D – Relevant Legislation**

Employment and Assistance for Persons with Disabilities Act (EAPWDA) sections 3 and 11

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) section 1, 2.01, 9, 24, 29 and 54.7

Schedule A sections 1, 2, and 4.

Schedule B sections 1, 3, 6, 7, 8 and 9.

**Part E – Summary of Facts**

In her Notice of Appeal dated March 14, 2022 the appellant wrote: “I don’t agree with the dates.”

At the hearing the appellant repeated previous information and added the following:

- She was approved for disability assistance in 2017.
- She needs the extra income and has to work. She has no children but has 2 animals to feed and \$1000 rent to pay. In addition, her mother now has cancer. It took her 4 months to get EI - it was very difficult during these 4 months. She did not receive backdated EI but got an additional \$2000.
- She feels overwhelmed by the pandemic and feels she is fighting a losing battle. If she loses this appeal she will owe money. The ministry doesn’t talk to her, has no compassion. Her nerves are shot. She needs to survive.
- When she started receiving EI she was not aware that EI was only temporarily exempt from her net income.
- She thought that as a PWD she did not have to provide monthly reports to the ministry. She reported her EI income for the first time on her January 18, 2022 report.
- Her EI benefits will end in July. She was not informed by the ministry that her EI exemption was going to expire.
- She has poor blood circulation and her legs get stiff. She wants to become a care worker and she can get free training from WorkBC, but she also wants to go through this training stress free and not become homeless.

The ministry explained:

- During the pandemic clients were “given a break” and EI was temporarily exempt until November 21, 2021.
- At the end of November/beginning of December all recipients were informed by various means of communication that EI would no longer be exempt from net income. If a client does not use the electronic portal (MySelfServe) and receives benefits via electronic deposit they may have received a letter in the mail.
- There is no additional support available from the ministry that could help compensate the appellant’s financial shortfall. Crisis supplements are only available for clients who are eligible for disability assistance
- Once the appellant’s EI ends disability assistance will resume.
- Clients are required to disclose any income they receive.
- Repayment of the reconsideration/appeal supplement is usually a monthly deduction of \$20.
- Anyone can call the ministry for information from Monday to Friday 9am to 4pm. The ministry quoted their toll-free phone number.

Admissibility of New Information

The panel finds that the information provided by the appellant and the ministry at the hearing is reasonably required for a full and fair disclosure of all matters related to the decision under appeal. It contributes details and explanations related to the appellant’s EI payments and her eligibility for disability assistance. The panel therefore admits this information as evidence pursuant to section 22(4) of the Employment and Assistance Act.

**Part F – Reasons for Panel Decision**

The issue in this appeal is whether the ministry decision which denied the appellant disability assistance for February 2022 because her December net income exceeds the assistance rate of \$1358.50 is reasonably supported by the evidence or a reasonable application of the legislation.

**Appellant Position:**

The appellant argues that the legislation is not fair. Her EI should not impact her disability assistance and she should not be punished for collecting EI. She lost her job because of the pandemic and she should be able to keep her disability assistance because she was eligible for disability assistance before November 12, 2021. She needs the money so that she can prepare for work in another industry or position that does not hurt her body. She wants to be stress-free during her re-training and not become homeless. All earnings she received from work are gone. She needs the extra income because she has 2 animals to feed and \$1000 rent to pay.

The appellant also argues that she was not aware that she was supposed to report her EI income or that EI was only temporarily exempt from her net income. The ministry did not give her notice early enough that her EI exemption was going to expire.

**Ministry Position:**

EI payments are not exempt from the net income calculation for the purpose of determining disability assistance if paid from November 21, 2021 onward and must be included in the income calculation. The EI payments of \$1840 the appellant received in December are not exempt under section 2.01 of the EAPWD Regulation because they were payments for the period from November 21, 2021 and beyond.

Section 9(2) of the EAPWD Regulation states a family unit is not eligible for assistance if the net income of the family determined under Schedule B equals or exceeds the amount of disability assistance determined under Schedule A. For a sole applicant with Persons with Disabilities designation the rate is \$983.50 support and \$375 shelter - a total of \$1358.50. The EI income the appellant received in December 2021 exceeds this rate. As a result, the appellant is not eligible for February disability.

The ministry explained that for all recipients of disability assistance, income received during the previous month is reported by the 5th of the current month and affects the following month's assistance (for example, December income was to be reported by January 5th and affected February assistance).

**Panel Decision:**

Section 1 of the EAPWD defines EI as unearned income, and section 2.01(3) sets out that employment insurance for a period ending before November 21, 2021 is exempt from the appellant's net income. Based on these sections the panel finds the ministry reasonably determined that EI payments received in December 2022 are not exempt from the appellant's net income. As a result, the \$1840 EI received in December 2021 raised the appellant's net income above her total assistance rate of \$1358.50. This made her ineligible for February disability assistance.

The panel finds further that the ministry was reasonable when it determined that the appellant's net income in December affected her February assistance: For recipients of disability assistance, additional income received is reported by the 5th of the following month (see section 29) and thus affects the assistance of the month after it is reported.

While the appellant argues that she was not aware she was supposed to report her EI income, section 29 sets out that any changes in income must be reported to the ministry [whether the appellant believes them to be exemptions or not].

While the appellant argues that she should have been informed earlier of the expiration of her EI exemption, the panel finds that when section 2.01 was introduced in 2020 it clearly stated that this exemption was temporary. The ministry has no discretion in the matter. The panel notes that the appellant has been receiving reconsideration and appeal supplements.

The panel notes further that section 3 of Schedule A does not apply in the appellant's circumstances: An annual exemption of \$1250 only applies to earned income and unearned income that is compensation paid under section 191 of the *Workers Compensation Act*. EI payments do not fall into these 2 categories.

### **Conclusion**

The panel acknowledges that the expiration of the appellant's EI exemption and the resulting reduction of her income created a considerable inconvenience to her. A ministry reminder at the end of November/beginning of December would have left the appellant with very little time to adjust to this change. However, the panel finds that the ministry's decision that the appellant is not eligible for disability benefits for February 2022 is a reasonable application of the legislation in the circumstances of the appellant. Therefore, the Ministry's decision is confirmed. The appellant is not successful in her appeal.

## APPLICABLE LEGISLATION

### EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES ACT

#### Eligibility of family unit

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

- (a) each person in the family unit on whose account the disability 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 disability assistance, hardship assistance or supplement under this Act.

#### Reporting obligations

**11(1)** For a family unit to be eligible for disability assistance, a recipient, in the manner and within the time specified by regulation, must

- (a) submit to the minister a report that
  - (i) is in the form specified by the minister, and
  - (ii) contains the prescribed information, and
- (b) notify the minister of any change in circumstances or information that
  - (i) may affect the eligibility of the family unit, and
  - (ii) was previously provided to the minister.

(2) A report under subsection (1) (a) is deemed not to have been submitted unless the accuracy of the information provided in it is confirmed by a signed statement of each recipient.

### EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES 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: ...

- (g) employment insurance; ...

#### Modifications in relation to COVID-19 emergency — certain payments

**2.01 (1)** This section applies in relation to the provision of assistance for a calendar month after April, 2020 to or for

- (a) a family unit that
  - (i) was eligible on April 2, 2020, or includes a person who was in a family unit that was eligible on April 2, 2020, for disability assistance or hardship assistance, or
  - (ii) includes a person with disabilities who was a person with disabilities on April 2, 2020, or
- (b) a family unit that is described in section 2.1 (1) (a) of the Employment and Assistance Regulation. ...

(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 24 (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*;
- (a.2) a benefit under the *Canada Worker Lockdown Benefit Act*;
- (b) employment insurance for a period ending before November 21, 2021;
- (c) pandemic pay....

Section 2.01 was enacted by BC Reg 102/2020, effective May 11, 2020.

Section 2.01 (1) (part) BEFORE amended by BC Reg 330/2021, effective December 13, 2021.

(1) This section applies in relation to the provision of assistance for a calendar month after April, 2020 and before January, 2022 to or for

#### Limits on income

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

#### Amount of disability assistance

**24** Disability assistance may be provided to or for a family unit, for a calendar month, in an amount that is not more than

- (a) the amount determined under Schedule A, minus
- (b) the family unit's net income determined under Schedule B.

#### Reporting requirement

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

- (a) the report must be submitted by the 5th day of the calendar month following the calendar month in which one or more of the following occur:
  - (i) a change that is listed in paragraph (b) (i) to (v); ... and
  - (b) the information required is all of the following, as requested in the monthly report form specified by the minister: ...
    - (ii) change in income received by the family unit and the source of that income; ...

#### Reconsideration or appeal supplement

**54.7** (1) For the purposes of this section, a reconsideration or appeal is determined when

- (a) a decision of the minister or a decision of the tribunal has been made in the reconsideration or appeal, if the decision can be implemented without a further decision as to amount, or
- (b) if a decision of the tribunal requires a further decision of the minister as to amount, the decision of the minister as to amount has been made.

(2) The minister may provide a supplement to or for a family unit that is eligible for disability assistance or hardship assistance if a recipient in the family unit delivers a request for a reconsideration under section 71 [*how a request to reconsider a decision is made*] or submits an appeal form under section 84 [*commencing an appeal*] of the Employment and Assistance Regulation in respect of a decision that,

- (a) in the case of a family unit that is eligible for disability assistance, resulted in a discontinuation or reduction of disability assistance or a supplement, or
- (b) in the case of a family unit that is eligible for hardship assistance, resulted in a discontinuation or reduction of a supplement,

but only if the recipient agrees in writing to repay the amount of the supplement provided under this section.

(3) A supplement under this section may be provided for the shorter of

- (a) the period between the date that a request for reconsideration or an appeal form is delivered or submitted and the date that the reconsideration or appeal is determined, and
- (b) the period between the date that the disability assistance or supplement was reduced or discontinued and the date that the reconsideration or appeal is determined.

(4) A supplement under this section is limited to the following amounts, as applicable:

(a)if the request for a reconsideration or the appeal form is in respect of a decision that resulted in a discontinuation of disability assistance or a supplement, the amount of the discontinued disability assistance or supplement;

(b)if the request for a reconsideration or the appeal form is in respect of a decision that resulted in a reduction of disability assistance or a supplement, the amount by which the disability assistance or supplement was reduced.

(5)If the determination of a reconsideration or appeal that rescinded the decision being reconsidered or appealed did not require a further decision of the minister as to amount, the amount of a supplement provided under this section is not repayable and must be considered to have been paid in place of

(a)the discontinued disability assistance or supplement, or

(b)the amount by which the disability assistance or supplement was reduced.

(6)If the determination of a reconsideration or appeal that rescinded the decision being reconsidered or appealed required a further decision of the minister as to amount, the recipient must repay the difference between

(a)the total amount paid to the recipient under this section for the period under subsection (3), and

(b)the total amount of any adjustment in favour of the recipient under the determination for the same period.

**Schedule A**  
**Disability Assistance Rates**  
*(section 24 (a) )*

**Maximum amount of disability assistance before deduction of net income**

1 (1) ... the amount of disability assistance referred to in section 24 (a) [*amount of disability assistance*] of this regulation is the sum of

- (a) the monthly support allowance under section 2 of this Schedule for a family unit matching the family unit of the applicant or recipient, plus
- (b) the shelter allowance calculated under sections 4 and 5 of this Schedule.

**Monthly support allowance**

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
1	Sole ... recipient and no dependent children	... recipient is a person with disabilities	\$983.50

**Monthly shelter allowance**

4(2) The monthly shelter allowance for a family unit ... 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 24 (b) [*amount of disability assistance*] of this regulation,

(a) the following are exempt from income:

- (i) any income earned by a dependent child attending school on a full-time basis; ...
- (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
  - 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
  - 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 the Sixties Scoop Settlement made November 30, 2017, or 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 not greater than the amount contemplated by the recipient's business plan, accepted by the minister under section 77.2 of this regulation, and 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 Autism Funding: Under Age 6 Program, or Autism Funding: Ages 6 — 18 Program; ...
- (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); ...
- (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 the Cadboro Bay Litigation Settlement Agreement, dated for reference November 1, 2017, between the Esquimalt Nation and Canada, or 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, ...

(d) all unearned income must be included, except the deductions permitted under section 6 and any income exempted under sections 3, 7 and 8.

### Annual exemption — qualifying income

3 (1) In this section:

"base amount" means

(a) \$1 250, in the case of a family unit that includes only one recipient,

...

"qualifying income" means

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

(b) unearned income that is compensation paid under section 191 [*temporary total disability*] or 192 [*temporary partial disability*] of the *Workers Compensation Act*; ...

### 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(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 10 [*asset limits*] of this regulation;
- (d) a payment made from a trust to or on behalf of a person referred to in section 12 (1) [*assets held in trust for person with disabilities*] 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 12 (1) 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 12.1 (2) [*temporary exemption of assets for person with disabilities or person 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 12 (1) of this regulation;
  - (ii) a structured settlement annuity payment that, subject to subsection (2), is made to a person referred to in section 12 (1) of this regulation;
  - (iii) money expended by a person referred to in section 12.1 (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.

#### **Minister's discretion to exempt education related unearned income**

**8** (1) In this section:

"day care costs" means the difference between a student's actual day care costs and the maximum amount of child care subsidy that is available under the *Child Care Subsidy Act* to a family unit matching the student's family unit;

"education costs", in relation to a student and a program of studies, means the costs, including the costs of tuition, student fees, books, equipment, supplies and transportation, that, in the opinion of the minister, are reasonably required for the student to participate in the program of studies.

(2) The minister may authorize an exemption for a student up to the sum of the student's education costs and day care costs, for a period of study, from the total amount of student financial assistance received by the student for the period of study.

#### **Application of deductions and exemptions**

**9** (1) The deductions and exemptions in this Schedule apply only in the calendar month in which the income is actually received, despite any of the following:

(a) the date the income is payable;

(b) the period for which the income is payable;

(c) the date the income is reported to the minister;

(d) the date the minister receives notice of the income.

(2) Despite subsection (1), income that is received before the date that subsection (1) comes into force is subject to the application of section 9 of this regulation as it read immediately before subsection (1) came into force.

APPEAL NUMBER

2022-0049

**Part G – Order**The panel decision is: (Check one)       Unanimous       By MajorityThe Panel       Confirms the Ministry Decision       Rescinds the Ministry DecisionIf 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

Inge Morrissey

Signature of Chair

Date (Year/Month/Day)

2022/04/24

Print Name

Don Storch

Signature of Member

Date (Year/Month/Day)

2022/04/27

Print Name

Margarita Papenbrock

Signature of Member

Date (Year/Month/Date)

2022/04/26