

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision (the decision) dated 23 June 2022 where the ministry approved the appellant’s request for disability assistance (support and shelter allowance) for the period of February 18 to March 16, 2022, but denied the request for disability assistance prior to February 18, 2022.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWD Act) section 1, 3, 5, 10, 11, 14
Employment and Assistance for Persons with Disabilities Regulation (EAPWD Regulation) section 1, 4, 4.21, 23, 28, 29, 30, Schedule A section 1, 2, 3, 4 and Schedule B section 1, 2, 3, 4.

Part E – Summary of Facts

The evidence before the minister at reconsideration included;

- The appellant is a sole recipient of disability assistance, whose file has been open since September 3, 2013.
- On March 15, 2019, the appellant contacted the ministry by phone and asked the ministry to stop sending cheques because the appellant had been working for the past year, earning about \$900 per month, and expected to be offered full time employment that day. The appellant said that anxiety and medication prevented her from reporting this to the ministry.
- At this request the ministry turned off cheque production and asked the appellant to bring in employment records so eligibility could be assessed. The appellant called the ministry back later that day and advised she would attend the office on Monday to complete all the required monthly reports and provide copies of the pay cheques. The ministry advised someone at the local office could help complete the monthly reports.
- A ministry review of the file confirmed the appellant did not complete the monthly reports or provide the pay verification as requested.
- November 4, 2019, the appellant told the ministry that she moved, is employed, and would like cheque production to be turned back on. The ministry asked the appellant to provide an updated tenancy agreement and pay verification so eligibility can be determined. A review of the file confirms the appellant did not provide updated shelter information or pay verification as requested.
- On April 28, 2020, the ministry reviewed the file and noted the appellant had not followed through with providing monthly reports, pay verification or an updated tenancy agreement. The ministry contacted the appellant by phone to see if disability assistance was still needed. The appellant stated she needed Medical Services Only as the appellant has been married, her spouse is retired and works part-time, and she was not aware she had to report the employment income as it is not taxable.
- On May 1, 2020, the ministry contacted the appellant by phone, and was told by the appellant that she did not need or want to receive disability assistance at this time. The ministry worker noted the explanation that the appellant's work provides income for her, and she is enjoying the independence. The ministry told the appellant she would maintain her coverage for MSP and if her situation changes to contact the ministry so her eligibility can be established at that time.
- On February 17, 2022, the appellant told the ministry that she has been employed since 2019 but that her income is exempt, and she should have received disability assistance since then. The appellant asked for backdated disability assistance. A file review service request was created for the ministry to review the case and determine if an administrative underpayment occurred.
- On February 18, 2022, the appellant submitted a monthly report declaring \$716.13 room and board income and indicating she needed assistance. The appellant provided bank statements dated January 1, 2022, to February 17, 2022, an *Income Tax News* from the Canada Revenue Agency dated 2006 and a letter from the Director of Finance of a company confirming the arrangements for the appellant's home share contract.

- On March 17, 2022, the ministry denied the appellant's request for backdated disability assistance as she had asked the ministry to stop sending payments and had not provided the requested information that was required to determine eligibility. A Service Request was created for the ministry to determine the current eligibility for disability assistance.
- On March 18, 2022, the ministry reviewed the file and noted that as the appellant had not received disability assistance since 2019, had employment income and had reported martial (sic) changes since then, a re-application would be needed to assess her eligibility.
- On March 23, 2022, the ministry completed the review required to switch the file from Medical Services Only to Disability Assistance. This included completing an HR080R form.
- On April 1, 2022, the ministry determined the appellant was eligible for disability assistance and provided \$902.89 for March disability assistance and set up disability assistance ongoing. The appellant's March cheque included \$475.89 for a pro-rated support allowance for the period of March 17 - 31, \$375 for a shelter allowance and \$52 for transportation supplement.
- On April 25, 2022, the appellant requested reconsideration of the decision to deny back dated disability assistance to 2019, and on May 24, 2022, submitted the request for reconsideration.
- The appellant requested an extension and explained that on 7 March 2019 the ministry threatened her, that she could not be on disability while working as a home share provider and advised her she was not eligible for disability, which is why she said she did not want disability assistance anymore. The appellant indicated her employer has since informed her that the money she receives as a home share provider should not affect her disability assistance.

Evidence submitted to the Tribunal

The Tribunal received a written submission on 14 July 2022 from the appellant. The 4-page document appears to be the same single page document that has been photocopied incorrectly at different sizes such that various amounts of information is missing on each page. The single page document is a copy of a letter dated 17 March 2022, addressed to the appellant's previous name from the ministry, and contains handwritten notes. The notes state the name and address of the appellant is wrong, and that a name change, and correct address have been provided to the local ministry office several times.

Further, the partial handwritten notes appear to state the writer had not received this 15 March letter until 22 April 2022, had rented a suite on 1 May 2022 and is not aware of policies on receiving rental income.

The ministry did not submit any written documentation.

Hearing

The hearing was held as a videoconference. The appellant had requested the presence of an advocate, and both attended the hearing. Oral testimony by the appellant was provided throughout the hearing via either the advocate or the appellant.

Appellant

At hearing the appellant called a witness who testified to having known the appellant for a number of years and to having been told of the appellant's dealings with the ministry in 2019. The witness provided personal testimony and responses to questions from the appellant and ministry representative.

The witness testified that the appellant is a very truthful person who was trying to rejoin her church. As being truthful is a requirement for entry, the appellant contacted the ministry in 2019 to confirm that receiving employment income and disability payments was correct. The witness stated that the appellant becomes a "basket case" due to her disability and can "throw up" when discussing stressful events or thinks she is doing something illegal.

The witness testified that the appellant was due to be married in 2019 and contacted the ministry. The witness was aware of a package of documents, contained in a large envelope, that the appellant was compiling to provide to the ministry. In questioning by the panel, the witness was not aware of where the appellant got the idea she was doing something wrong. The witness was not present at any of the appellant's actual dealings with the ministry and relied upon what the appellant told her had occurred at that time.

The witness mentioned on two occasions to having been told by the appellant in 2019 that the ministry stated the appellant '*could be* doing something illegal' and remembered the appellant asking rhetorical questions such as "are we all wrong" and "why are we not allowed to have income and disability payments". In answer to a specific question by the advocate of what she was told by the appellant about the ministry's comments, the witness said, "the ministry said she wasn't entitled to disability".

The appellant provided oral evidence during the hearing and answered questions from the panel in conjunction with her advocate. The appellant advised she had gone to the ministry on 14 July 2022 to seek a freedom of information request for access to her file and was told this would take 30 days. The appellant was able to get information on several dates from the ministry worker and advised that the hearing could proceed without her file.

The advocate testified that the appellant's nerve pain disability causes her to get stressed and put upsetting things off, hoping they will end well. His understanding of the ministry approach to such cases is that they will decide cases in accordance with the regulations and as she did not respond to requests for information she is not entitled and basically the ministry decision is according to legislation, but they wish to have the specifics heard in the circumstances of the appellant.

The advocate went on to explain there are errors in the record. The appellant's personal religious beliefs and wanting to get married in the church saw her seek to clarify her entitlement to both disability and employment income at the local ministry office. When she talked to a ministry worker, she was advised that she was not entitled to both. The appellant stated that the worker used language that included the term 'fraud' to collect both disability payment and home share income. The appellant felt she had to choose one or the other.

The advocate stated that provision of information by the ministry workers is troublesome as whenever the appellant talks to them she seemed to get different answers as to whether she was eligible. Once the appellant received this information from the ministry worker she was upset and although she did put together an envelope of material for the ministry she did not follow up and submit it.

Both the appellant and advocate stated that the ministry claim that the appellant had contacted the ministry in March 2019 and asked them to stop her cheques is incorrect. The appellant states that this call was to confirm her eligibility only, that the ministry advised she was not eligible for both disability payments and income from the 'home share' program, and she did not ask the ministry to stop her disability payments at this time. That happened several months later.

The advocate stated that the ministry provided bad advice. The appellant stated that she did contact the ministry some time later to seek to have disability payments restarted and that she was again requested to provide more detailed information.

The ministry sought to clarify the terms used by the ministry worker in 2019. In response to a question as to whether the worker used the terms 'fraud', 'illegal' and 'not-entitled' or was it perhaps an impression of the appellant, the appellant stated that the words were indeed used.

The ministry then mentioned the actions taken by workers generally in dealing with a claimant's file, and that includes making notes directly on file as the meeting is conducted, in office or on the telephone. The ministry stated that a worker has been trained to provide information to clients and would normally state that eligibility or entitlement *may* be affected by a change of circumstance.

In answer to questions from the ministry the appellant confirmed being advised of the need to submit monthly reports, income verification documents, and of a timeline to submit the information to the ministry, and the appellant also confirmed to not having attended the ministry offices as originally agreed to submit the requested information.

The ministry asked the appellant if she was aware that a client may have an advocate attend meetings with them and this includes both telephone calls and in-office meetings. The appellant stated to not having been aware of that at the time but is aware now.

In response to a question from the panel the appellant clarified the handwritten comments on the notice of appeal (NOA). The comments are that;

The first notice of denial was sent to the wrong address and the appellant had not been advised of the denial of claim. There are fallacies in the paragraph (relating to the March

2019 telephone call) and throughout the document. Omissions of facts that omit her legal rights and status of person with disabilities (PWD) not to be threatened.

The appellant confirmed the errors relate to the specific paragraph in the decision regarding the March 2019 telephone call and that she did ask the ministry to reinstate the cheques in November 2019.

The appellant reiterated to only having called the ministry to confirm eligibility and not to stop her receipt of cheques, and that the ministry had not asked if they should stop cheques until her status had been verified.

The appellant could not recall how she believed in November 2019 she was eligible, nor from whom she received such information. The appellant did recall telephone calls with the ministry and being advised of the need to submit documents, but it was not by mail. She ultimately believed she was not eligible for disability payments and chose to take the work-related income as it was a bigger cheque.

In answer to a question regarding the testimony of the witness about an envelope of information the appellant confirmed she had put it together but chose not to submit it.

The appellant stated that she was busy with marriage arrangements in November 2019 and could not recall calling the ministry however agreed that it says so in the ministry timeline.

The appellant confirmed to having been married in 2019 and changing her name and providing details of this name change in February and March of 2022 to the ministry as part of her re-application process. The appellant at the hearing confirmed to no longer being in a marriage like relationship.

The appellant stated in response to a question from the panel to not being able to recall having submitted any information to the ministry from March 2019 onwards until the written application for disability assistance on 18 February 2022. At that time the information provided included a name change, bank statements and home sharing income.

In a summary comment the appellant explained that she understands the law states she should have submitted the requested documentation, but lives with pain over seventy per cent of the time. This is not an excuse; it is just reality.

Ministry

The ministry at the hearing relied upon the reconsideration decision.

The ministry stated that the appellant was never found not entitled as the ministry never received the requested information.

The ministry advised again that notes of meetings are generally entered into the system within minutes of a telephone call or a visit. A worker who takes a call can speak to a client about a

change in income, a marriage or other change in circumstance and this will result in a need to review the appellant's new information.

In response to questions the ministry confirmed that notes are usually made to the file but when a client makes a telephone call, they are connected to the contact centre and not a local office, but that each office can see the information on file.

The advocate stated that the appellant had made numerous calls to the ministry that do not appear to be in the file and had the appellant relate some interactions with the ministry. As an example of variable levels of service, the appellant testified to having to attend the local ministry office and submit her identify documentation on her name change three (3) times in March of 2022 as they ministry misplaced or failed to upload the information to her file and to having to attend at least twice to have cheque deposits linked to her account. She had on occasion to call for a supervisor due to poor service and at one point in a call a worker yelled at her and hung up the phone. The ministry commented that such personal incidences should indeed be taken up with a supervisor.

In response to a question from the panel the ministry clarified a portion of the decision relating to the provision of medical services and whether this service had changed due to marriage. The ministry had recorded that they had contacted the appellant by phone in May 2020 and was advised the appellant did not need or want to receive disability assistance at that time. The ministry worker noted in the file the explanation that the appellant's work provides for her, and she is enjoying the independence. The ministry worker had advised she would maintain her coverage for medical services only (MSO) status and that if her situation changes to contact the ministry so her eligibility can be established at that time.

The ministry clarified that this was not related to the appellant's marriage, but to the fact when a person with disability status ceases to receive disability assistance then MSO status only is provided, however it can be changed in the future if circumstances change and the client reapplies for assistance.

Admissibility of new information

Section 22(4) of the EAA says that a panel may consider evidence that is not part of the record that the panel considers to be reasonably required for a full and fair disclosure of all matters related to the decision under appeal. Once a panel has determined which additional evidence, if any, is admitted under EAA Section 22(4), instead of asking whether the decision under appeal was reasonable at the time it was made, a panel must determine whether the decision under appeal was reasonable based on all admissible evidence.

In this case the appellant provided additional written documentation and oral testimony that shows a somewhat troubled relationship with ministry interactions and her reasons for not submitting information.

The panel finds that this information is relevant because it relates directly to the appellant's original testimony discussed in the reconsideration decision regarding her belief the decision contained errors and her claims had not been considered.

The panel admits the new information under section 22(4) of the Employment and Assistance Act ("EAA") as evidence that is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

Findings of Fact

The panel notes the testimony in the reconsideration decision shows the appellant had claimed to having been married and that the ministry has calculated disability assistance payments for the appellant as a sole recipient of disability assistance. The appellant testified at hearing to having been married in 2019 and has changed her name, providing details of this name change in February and March of 2022 to the ministry as part of her re-application process. As the appellant at hearing confirmed to no longer being in a marriage like relationship, for clarity the panel finds the family unit to consist of a single person.

Part F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the ministry's decision that it is unable to provide the appellant with disability assistance prior to February 18, 2022. In particular, was the ministry reasonable when it found the appellant had requested that disability assistance payments be terminated and that they could not be reinstated without the submission and review of information relating to changes of circumstance.

The relevant legislation is provided in Appendix A.

Appellant Position

The appellant argues that she did not instruct the ministry to stop sending disability assistance cheques in March of 2019, as her intention in telephoning the ministry was simply to confirm her eligibility for continued disability assistance and receipt of full-time employment income, which she believed was allowed. The appellant states that she was advised by the ministry worker that she was ineligible for assistance payments while receiving employment income and was committing fraud.

The appellant argues that she contacted the ministry in November 2019 to have her disability assistance re-instated, however was advised she needed to submit documentation to support her application.

Lastly the appellant argues that she contacted the ministry again in February 2022 to apply for disability assistance and for back-dating of payments to March 2019, as she now believed she was always eligible for disability assistance for the period from March 2019 onwards.

Ministry Position

The ministry states there is no evidence in the appellant's file to suggest that a ministry worker informed the appellant that her income made her ineligible for disability assistance or that she was doing something illegal as the appellant claimed in her request for reconsideration.

The ministry states it does not have discretion when determining the effective date of eligibility for a family unit. Additionally, while the appellant may have been financially eligible for disability assistance since 2019 the ministry was unable to determine that eligibility until the ministry received the relevant documentation.

The ministry states that the appellant asked the ministry to stop sending cheques to her in March of 2019, advising she had been working for a year and expected to be offered full time employment. As the appellant had not reported this income to the ministry in the past, the ministry states it is reasonable to have asked her to provide income records in accordance with Section 10 of the Act as they would be needed to determine her eligibility for disability assistance.

Similarly, when the appellant reconnected with the ministry in November of 2019 to ask for assistance it was reasonable that the ministry asked her to provide her income records, monthly

reports, and a new tenancy agreement. As she did not follow through with these requests for information, the ministry states it did not have an opportunity to determine her eligibility and would have been unable to determine how the money the appellant received for providing 'home share' may or may not have affected her eligibility.

When the ministry followed up with the appellant on May 1, 2020, she indicated she did not want or need disability assistance and that she had married. As such the ministry states it was reasonable that they did not ask the appellant to provide documentation to confirm her eligibility and instead informed her that her file would remain open for medical coverage, and she could contact the ministry if her circumstances changed.

The ministry states as the file was open when the appellant requested disability assistance in February of 2022 the ministry must determine the most appropriate process to assess her eligibility. As she had not received assistance in more than two years, had previously unreported income, and reported a change in her marital status, the ministry argues it is reasonable that a financial review or re-application would be required.

The ministry states that as the appellant submitted a monthly report on February 18, 2022, asking for disability assistance, the ministry determined February 18, 2022, as the 'disability assistance application date'. This is also the date the appellant became eligible for support and shelter allowance and therefore the ministry is unable to provide disability assistance for a period prior to February 18, 2022, in accordance with Section 23 (1.2) of the EAPWD Regulation.

Lastly, in the reconsideration decision the ministry recalculated the disability assistance payable from the disability assistance application date of 18 February 2022 and this resulted in a back-payment for support and shelter allowance payments for the period of 18 February until 16 March 2022 but argues the ministry cannot provide back-payment to March 2019.

Panel Decision

Section 3 of the EAPWD Act states that a person is eligible for disability assistance if the person satisfies the initial and continuing conditions of eligibility established under this Act, and section 5 of the Act states that subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

For the purposes of determining or auditing eligibility for disability assistance, section 10 of the EAPWD Act states the minister may direct an applicant or a recipient to supply the minister with information within the time and in the manner specified by the minister; and if an applicant or a recipient fails to comply the minister may, under section 10 (4) reduce the amount of disability assistance provided to the person or declare the person ineligible for disability assistance for a prescribed period.

With regards to reporting obligations, section 11 of the EAPWD Act states that to be eligible for disability assistance, a recipient, in the manner and within the time specified by regulation, must submit a report to the minister in a specified form that contains the prescribed information, and the recipient must notify the minister of any change in circumstances or information that may

affect the eligibility of the person, and had been previously provided to the minister. This report must be confirmed by a signed statement of the recipient.

The panel notes that the appellant was in receipt of disability assistance at the time she called the ministry in March 2019, and that the ministry was made aware of a change in circumstance, the appellant had been receiving employment income that had not been reported on the monthly report. The panel notes the ministry requested documentation to establish continued eligibility which the appellant did not provide.

Within the EAPWD Act, as a consequence for providing inaccurate or incomplete information, section 14.1 states that if the minister determines disability assistance was provided to a recipient that was not eligible for it, or the disability assistance was provided to a recipient either on the basis of inaccurate or incomplete information provided by the applicant or recipient under section 10, or in a report under section 11, or because the recipient failed to report as required under section 11 the minister may reduce the disability assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

For the purposes of section 10 and 14 of the EAPWD Act, section 28 of the EAPWD Regulation states that the amount the minister may reduce the disability assistance or hardship assistance of the recipient's family unit is \$25 for each calendar month. The panel notes that the ministry did not reduce disability assistance or declare the appellant ineligible at this time as the payment cheques had stopped, reportedly at the request of the appellant, and were not restarted until an application in February of 2022, a period of two years.

The panel notes the appellant's argument that her employment income was exempt, and she should have been able to receive both the income and disability assistance. The panel notes the ministry has not provided argument on the status of the employment income and the potential effects on the level of disability assistance being provided in 2019. The panel accepts this is because the appellant never submitted any information relating to the income when requested, from March 2019 until the date of the written application in February 2022.

Based on the appellant's testimony, in initially not reporting her employment income prior to the telephone call of March 2019 and her failure to provide change of circumstance confirmation and documentation requested in both March and November of 2019 the panel finds the appellant failed to fulfil the reporting requirements of section 11 of the EAPWD Act and therefore was in default of the requirements of section 3 of the EAPWD Act, that of satisfying the initial and continuing conditions of eligibility.

Therefore, based on the evidence, the panel finds the ministry was reasonable in requesting income records under section 10 of the EAPWD Act.

The panel notes the lack of clarity surrounding the stoppage of disability assistance cheques in March 2019. The ministry states the appellant requested the stoppage during a telephone call in March of 2019 and the appellant claims she did not do so until May 2020. Notwithstanding the discrepancy both parties agree that the appellant stated she did not wish for disability assistance payments from at least May of 2020 and at that time the appellant advised to having been recently married and employed.

The panel finds the ministry was reasonable in not requesting detailed documentation at that time to confirm eligibility.

The panel notes the appellant contacted the ministry in February of 2022, some 21 months later and applied for assistance.

Section 1 of the EAPWD Regulation defines the "**disability assistance application date**" as the date of an applicant's submission of an application for disability assistance (part 2) form, or an alternate application for disability assistance form. The panel notes both the appellant and ministry agree that the date of submission of a completed monthly report form to be 18 February 2022 and the panel finds that date to be the disability assistance application date.

Under Section 23 (1.2) of the EAPWD Regulation, an applicant who has been designated as a person with disabilities and applies for disability assistance becomes eligible under sections 2 and 3 of Schedule A for a monthly pro-rated support allowance on the disability assistance application date, and for a shelter allowance on the first day of the calendar month that includes the disability assistance application date, but only for that portion of that month's shelter costs that remains unpaid on the date of that submission. The legislation does not allow for discretion when determining the effective date of eligibility for a family unit.

The panel therefore finds the appellant became eligible for both a support allowance and shelter allowance on 18 February 2022.

The panel notes the monthly report for February 2022 showed room and board income of \$716.13 and 'other income' amount of \$3350.00. Also, that submitted bank statements showed monthly income receipts of \$3350.00 for both January and February 2022. The panel also notes the appellant's argument contained in writing as a note on the monthly report to the ministry that this amount is non-taxable income for supporting an individual through another provincial ministry.

The panel finds this information would tend to confirm the appellant's claim to receiving employment income prior to the application date of 18 February 2022 and supports her contention that she now believed it to be exempt to the extent that she could both claim disability assistance and receive employment income.

The calculation of monthly disability assistance is defined in section 24 of the EAPWDR and states the amount cannot be more than the amount determined under Schedule A, minus the family unit's net income determined under Schedule B.

Section 2 and 4 of Schedule A of the EAPWD Regulation outlines the maximum allowable rate of support and shelter for the size of the family unit before net income deductions. For a sole recipient with PWD designation, the rate of support is \$983.50, and the maximum rate of shelter is \$375 for a total of \$1358.50 per month.

The panel notes the ministry has used these figures in the original decision of eligibility for the appellant and in the reconsideration decision and for the determination of back-payment to the

disability assistance application date for the period of 18 February to 17 March 2022. The panel finds the ministry reasonably determined the amount of support and shelter allowance payable in the circumstances of the appellant.

For calculation of net income, the legislation provides several exemptions and deductions from income under section 1 of schedule B of the EAPWDR. This section provides a list of payments, bonuses and income streams that are exempt from the income calculation for net income of a recipient for the purposes of section 24 (b) [*amount of disability assistance*] of the EAPWD Regulation. The panel notes there are more than sixty (60) such listed exemptions, including;

- payments granted by the government of British Columbia under the Ministry of Children and Family Development's At Home Program;
- money paid by the government of British Columbia, under a written agreement, to a person with disabilities or to a trustee for the benefit of a person with disabilities to enable the person with disabilities to live in the community instead of in an institution; and
- 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.

Further, section 1 (c) states that all earned income must be included in the calculation, except the deductions permitted under section 2 and any earned income exempted under sections 3 and 4.

The list of deductions permitted from earned income under section 2 include:

(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;

Section 1 of the EAWD Regulation defines "**earned income**" as any money or value received in exchange for work or the provision of a service, money or value received from providing room and board at a person's place of residence, or money or value received from renting rooms that are common to and part of a person's place of residence.

Section 3 of schedule B of the EAPWD Regulation relates to an annual exemption for qualifying income and defines a monthly "**base amount**" of \$1 250, for a single recipient, for earned income as an annual exemption.

Section 4 of schedule B of the EAPWD Regulation relates to a small business exemption and discusses permitted operating expenses, such as costs, charges and expenses incurred by a person in the operation of a small business.

The panel notes that even if income received by the appellant was not exempted under section 1 of schedule B there is an opportunity for a recipient of disability assistance to receive a certain amount of earned income through sections, 3 and/or 4 possibly without a reduction in disability assistance.

In other words, the panel notes many examples in the legislation where income can have very different impacts upon the calculation of net income.

The panel finds the ministry was reasonable in its later requests in November for documentation on marital status, employment income and shelter information under section 10 of the EAPWD Act.

The panel notes the appellant's adamant contention that a ministry worker had informed the appellant that her income made her ineligible for disability assistance and that she was doing something illegal or fraudulent in March 2019, and that this was the cause of the incorrect loss of disability assistance; and the ministry counterargument that there is no evidence to support such a reaction from the ministry and wonders if the appellant arrived at this impression upon her own after speaking with the worker.

The panel also notes the comments from both the advocate, the witness, and the appellant herself that the appellant becomes very stressed and unable to cope with upsets, essentially willing them away.

The panel notes the ministry has provided a sound reasoning as to what a trained worker will generally tell a client about needing to see documentation to ultimately determine eligibility for changes in circumstance and notes the requirements of the EAPWD Act and Regulation discussed above regarding eligibility and reporting responsibilities.

Based on the legislative requirements and the circumstances of the appellant, the panel notes that the ministry would have been unable to verify the specific amounts and determine the net income and continued eligibility for disability assistance in a telephone call, without the documentation requested from the appellant in 2019, and that the appellant was obliged to provide the information as discussed above.

The panel therefore finds the ministry was reasonable when it found it lacked discretion in determining an effective date of eligibility and that it was unable to determine the appellant's eligibility until the ministry received the relevant documentation.

The panel accepts that the evidence provided by the appellant speaks to her intention to rejoin her church and get married and the intention to simply clarify her existing financial situation with the ministry – that of being able to continue receiving disability assistance and employment income. However, she had been receiving employment income for a period without advising the ministry, and once the ministry advised they would need to see documentation in 2019, the appellant's testimony is essentially silent on the failure to provide the requested information or to meet with the ministry.

The panel appreciates the concern that was raised in the mind of the appellant with whatever information was provided by the ministry worker. The panel notes substantial agreement by the ministry and the appellant. Both parties agree that;

- the ministry requested information on the employment income and agreed upon a visit within a few days in 2019 to complete the required forms and provide employment records,
- the appellant failed to attend the ministry office or to submit the requested information and did not contact the ministry again until November 2019, fully seven months after the disability payments had been stopped and documentation was again requested, and
- that the appellant refused disability assistance payments in May of 2020 as she was receiving higher levels of employment income, stating that someone else could thereby benefit.

The panel therefore finds the probative value of the statements surrounding the telephone call with the ministry worker in March of 2019 to be low and finds the weighting of the appellant's evidence to be low. That is, the inability of the appellant's statement to establish the fact of which it is offered in proof that the ministry worker advised the appellant in March 2019 that she was ineligible for disability assistance.

In this case the appellant argues the ministry worker told the appellant she was not eligible for both disability assistance and employment income, and the ministry argues it did not. The total evidence relating to a disputed fact is considered "sufficient" if its cumulative weight warrants a finding that the fact exists.

Based on a consideration of the total evidence available and the factors discussed above the panel finds insufficient evidence to substantiate that on a balance of probabilities the appellant was at any time in 2019 advised that what she was doing was illegal, fraudulent or that she was ineligible for disability assistance.

The panel notes that had the appellant reported the employment information in the 2019 monthly reports as required by section 11 of the EAPWD Act and/or submitted the documentary information when requested under section 10 of the EAPWD Act the ministry review would have been able to resolve her question and concerns at that time.

Summary

The panel finds the appellant did not report several changes in circumstance required by the EAPWD Act and did not provide information and documentation when requested by the ministry in 2019. At some point, the appellant had directed the ministry to stop disability payments. When, in 2022, the appellant requested disability assistance payments to recommence the ministry required a new application to establish eligibility in accordance with the legislation and established a disability assistance application date with subsequent eligibility of 18 February 2022. The legislation does not allow for backdating of assistance payments before the eligibility date.

Conclusion

Based on all available evidence the panel finds that the ministry's reconsideration decision, where the ministry approved the appellant's request for disability assistance for the period of February 18 to March 16, 2022, but denied disability assistance prior to February 18, 2022, to be supported by the evidence and a reasonable interpretation of the legislation in the circumstances of the appellant.

The ministry's reconsideration decision is confirmed. The appellant is not successful on appeal.

Appendix A

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 if
- (a) each person in the family unit on whose account the disability assistance is provided satisfies the initial and continuing conditions of eligibility established under this Act,

Disability assistance and supplements

- 5** Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

Information and verification

- 10** (1) For the purposes of
- (b) determining or auditing eligibility for disability assistance,
- the minister may do one or more of the following:
- (e) direct an applicant or a recipient to supply the minister with information within the time and in the manner specified by the minister;
 - (f) seek verification of any information supplied to the minister by a person referred to in paragraph (a), an applicant or a recipient;

(4) If an applicant or a recipient fails to comply with a direction under this section, the minister may

- (a) reduce the amount of disability assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period, or
- (b) declare the family unit ineligible for disability assistance, hardship assistance or a supplement for the prescribed period.

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.

Consequences for providing inaccurate or incomplete information

14.1 (1) The minister may take action under subsection (2) if the minister determines that

- (a) disability assistance, hardship assistance or a supplement was provided to or for a family unit that was not eligible for it,
- (b) the disability assistance, hardship assistance or supplement was provided to or for the family unit either
 - (i) on the basis of inaccurate or incomplete information provided by the applicant or recipient
 - (A) under section 10 (1) (e) [*information and verification*], or
 - (B) in a report under section 11 (1) [*reporting obligations*], or
 - (ii) because the recipient failed to report as required under section 11 (1), and
- (c) in the minister's opinion, the applicant or recipient failed to take the necessary steps to ensure the accuracy or completeness of the information before providing it to the minister.

(2) In the circumstances described in subsection (1), the minister may reduce the disability assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES REGULATION

Definitions

1 (1) In this regulation:

"application for disability assistance (part 2) form" means an application for disability assistance (part 2) form specified by the minister;

"disability assistance application date" means the date of an applicant's submission of

- (a) an application for disability assistance (part 2) form, or
- (b) an alternate application for disability assistance form;

Process for assessment of eligibility for disability assistance

4 (1) The eligibility of a family unit for disability assistance must be assessed on the basis of the 2-stage process set out in sections 4.1 and 4.2.

(2) Despite subsection (1), the eligibility of a family unit for disability assistance may, at the minister's discretion, be assessed on the basis of the process set out in section 4.21, if disability assistance or income assistance has been provided to or for a person in the family unit in at least one of the 6 calendar months immediately preceding the calendar month for which the eligibility of that family unit is being assessed.

Streamlined application for disability assistance

4.21 (1) The process for assessing the eligibility of a family unit referred to in section 4 (2) for disability assistance is fulfilling the requirements of subsection (2) of this section.

(2) The applicants for disability assistance in a family unit must complete and submit to the minister a report using the same form as in section 29 *[reporting requirement]*.

Effective date of eligibility

23 (1.2) A family unit of an applicant for disability assistance who has been designated as a person with disabilities becomes eligible for

(a) a support allowance under sections 2 and 3 of Schedule A on the disability assistance application date,

(b) for a shelter allowance under sections 4 and 5 of Schedule A on the first day of the calendar month that includes the disability assistance application date, but only for that portion of that month's shelter costs that remains unpaid on the date of that submission,

(4) If a family unit that includes an applicant who has been designated as a person with disabilities does not receive disability assistance from the date the family unit became eligible for it, the minister may backdate payment but only to whichever of the following results in the shorter payment period:

(a) the date the family unit became eligible for disability assistance;

(b) 12 calendar months before the date of payment.

Consequences for providing inaccurate or incomplete information

28.1 If the minister determines under section 14.1 (1) of the Act that the minister may take action under section 14.1 (2) of the Act in relation to a family unit, the disability assistance or hardship assistance provided to or for the family unit may be reduced by \$25 for

(a) a first determination, for the next 3 calendar months for which disability assistance or hardship assistance is provided to or for the family unit, starting with the first calendar month

(i) following the calendar month in which the minister made the determination, and

(ii) for which disability assistance or hardship assistance is provided to or for the family unit,

(b) a second determination, for the next 6 calendar months for which disability assistance or hardship assistance is provided to or for the family unit, starting with the first calendar month

(i) following the calendar month in which the minister made the determination, and

(ii) for which disability assistance or hardship assistance is provided to or for the family unit, and

(c) a third or subsequent determination, for the next 12 calendar months for which disability assistance or hardship assistance is provided to or for the family unit, starting with the first calendar month

- (i) following the calendar month in which the minister made the determination, and
- (ii) for which disability assistance or hardship assistance is provided to or for the family unit.

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);
 - (ii) a family unit receives earned income as set out in paragraph (b) (vi);
- and

(b) the information required is all of the following, as requested in the monthly report form specified by the minister:

- (i) change in the family unit's assets;
- (ii) change in income received by the family unit and the source of that income;
- (iii) change in the employment and educational circumstances of recipients in the family unit;
- (iv) change in family unit membership or the marital status of a recipient;
- (vi) the amount of earned income received by the family unit in the calendar month and the source of that income;

Requirement for eligibility audit

30 (1) For the purposes of auditing eligibility for assistance or ensuring a recipient's continuing compliance with the Act and the regulations, the minister may do either or both of the following:

- (a) require the recipient to attend in person on the date, and at the ministry office, specified by the minister;
- (b) require the recipient to complete a form specified by the minister for use under this section and deliver the form to a ministry office specified by the minister.

(2) A recipient who is required under subsection (1) (b) to complete a form but who is not required to attend in person at a ministry office must deliver that form to the specified ministry office within 20 business days after being notified of the requirement to complete the form.

(3) Delivery of the form under subsection (2) may be made by

- (a) leaving it with an employee in the ministry office, or
- (b) mailing it to that office.

(4) The minister may declare a family unit to be ineligible for assistance if

- (a) a recipient in the family unit fails to attend in person at the ministry office when required to do so by the minister under subsection (1) (a), or
- (b) a recipient in the family unit fails to complete and deliver the form when required to do so by the minister under subsection (1) (b).

Schedule A

Maximum amount of disability assistance before deduction of net income

1 (1) Subject to this section and sections 3 and 6 to 9 of this Schedule, 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 (0.1) For the purposes of this section:

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

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

Item	Column 1 Family unit composition	Column 2 Age or status of applicant or recipient	Column 3 Amount (\$)
1	Sole applicant / recipient and no dependent children	Applicant / recipient is a person with disabilities	\$983.50

Prorating of support allowance

3 In the calendar month that contains the disability assistance application date, the monthly support allowance is prorated based on the number of days remaining in that calendar month, beginning with the date of that submission.

Monthly shelter allowance

4 (1) For the purposes of this section:

(2) The monthly shelter allowance for a family unit to which section 14.2 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

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
 - (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;
- (xii.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*;
- (xii.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*;
- (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. 2, s. 11 (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) money paid by the government of British Columbia, under a written agreement, to a person with disabilities or to a trustee for the benefit of a person with disabilities to enable the person with disabilities to live in the community instead of in an institution;

(xxi) Repealed. [B.C. Reg. 85/2012, Sch. 2, s. 7.]

(xxii) 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*;

(xxiii) payments granted by the government of British Columbia under the Ministry of Children and Family Development's At Home Program;

(xxiv) Repealed. [B.C. Reg. 85/2012, Sch. 2, s. 7.]

(xxv) 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;

(xxvi) a loan that is

(A) not greater than the amount contemplated by the recipient's business plan, accepted by the minister under section 70.1 of this regulation, and

(B) received and used for the purposes set out in the business plan;

(xxvii) 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;

(xxviii) Repealed. [B.C. Reg. 148/2015, App. 2, s. 1 (a).]

- (xxix) 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;
- (xxx) a refund provided under Plan I as established under the Drug Plans Regulation;
- (xxxi) 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;
- (xxxii) a Universal Child Care Benefit provided under the *Universal Child Care Benefit Act* (Canada);
- (xxxiii) 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;
- (xxxiv) money withdrawn from a registered disability savings plan;
- (xxxv) a working income tax benefit provided under the *Income Tax Act* (Canada);
- (xxxvi) Repealed. [B.C. Reg. 180/2010, s. 2 (b).]
- (xxxvii) the climate action dividend under section 13.02 of the *Income Tax Act*;
- (xxxviii) 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;
- (xxxix) 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;
- (xl) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Family Support Services program;
- (xli) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Supported Child Development program;

- (xlii) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Aboriginal Supported Child Development program;
- (xliii) 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;
- (xliv) payments granted by the government of British Columbia under the Temporary Education Support for Parents program;
- (xlv) a BC early childhood tax benefit;
- (xlv.1) a BC child opportunity benefit;
- (xlvi) child support;
- (xlvii) orphan's benefits under the *Canada Pension Plan Act* (Canada);
- (xlviii) money or other value received, by will or as the result of intestacy, from the estate of a deceased person;
- (xlix) gifts;
- (l) education and training allowances, grants, bursaries or scholarships, other than student financial assistance;
- (li) money withdrawn from a registered education savings plan;
- (lii) 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;
- (liii) 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;
- (liv) 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;

(liv.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;

(liv.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;

(lv) a disabled contributor's child's benefit paid or payable under the *Canada Pension Plan*;

(lvi) payments granted under an agreement referred to in section 94 of the *Child, Family and Community Service Act*;

(lvii) 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;

(lviii) money that is paid or payable from a settlement in respect of Treaty No. 8 agricultural benefits;

(lviv) 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;

(lx) 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);

(lxi) 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;

(lxii) 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;

(lxiii) 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);

(lxiv)money that is paid or is payable to or for a person from a settlement under the Williams Treaties Settlement Agreement signed August 22, 2018;

(lxv)money that is paid or is payable to or for a person from a settlement under the Missanabie Cree First Nation Treaty Land Entitlement Settlement Agreement signed April 24, 2020;

(lxvi)money that is paid or is payable to or for a person from a settlement under the Peepeekisis Cree Nation File Hills Colony Specific Claim Settlement Agreement signed March 23, 2021;

(lxvii)money that is paid or is payable to or for a person from a settlement under an agreement to settle claims relating to the transfer of the Seabird Island Indian Reserve in 1959 by the Government of Canada to the Seabird Island Band and the distribution of shared trust funds on a per capita basis,

(c)all earned income must be included, except the deductions permitted under section 2 and any earned income exempted under sections 3 and 4,

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.

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*;

Small business exemption

4 (1) In this section and section 5,

"permitted operating expenses" means costs, charges and expenses incurred by a person in the operation of a small business, under a self-employment program in which the person is participating, for the following:

- (a) purchase of supplies and products;
- (b) accounting and legal services;
- (c) advertising;
- (d) taxes, fees, licences and dues incurred in the small business;
- (e) business insurance;
- (f) charges imposed by a savings institution on an account and interest;

- (f.1) payments, including principal and interest, on a loan that is
 - (i) not greater than the amount contemplated by the recipient's business plan, accepted by the minister under section 70.1 of this regulation, and
 - (ii) received and used for the purposes set out in the business plan;
- (g) maintenance and repairs to equipment;
- (h) gross wages paid to employees of the small business, but not including wages paid to
 - (i) the person participating, or
 - (ii) a person in the family unit of the person participating;
- (i) motor vehicle expenses;
- (j) premiums for employment insurance or workers' compensation benefits;
- (k) employer contributions for employment insurance, workers' compensation or the *Canada Pension Plan*;
- (l) rent and utilities, excluding rent and utilities for the place of residence of the persons described in subparagraphs (i) or (ii) of paragraph (h) unless
 - (i) there is an increase for rent or utilities and the increase is attributable to the small business, and
 - (ii) the increase is not provided for in the calculation of the family unit's shelter allowance under Schedule A of this regulation;
- (m) office expenses;
- (n) equipment purchases or rentals.

(2) Earned income of a recipient of disability assistance is exempted from the total income of the recipient's family unit if

- (a) the recipient is participating in a self-employment program, and
- (b) the earned income is derived from operating a small business under the self-employment program in which the recipient is participating and
 - (i) is used for permitted operating expenses of the small business, or
 - (ii) is deposited in a separate account, established by the recipient in a savings institution, which account
 - (A) consists exclusively of funds reserved by the recipient for the purpose of paying permitted operating expenses of that small business, and
 - (B) the amount deposited does not increase the current balance of the separate account to a sum that exceeds \$5 000, or
 - (iii) is used for costs of renovations to the recipient's place of residence up to but not exceeding \$5 000 in total or a greater amount approved by the

minister, if the renovations are part of a business plan accepted by the minister under section 70.1 of this regulation.

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
Donald Stedeford

Signature of Chair

Date (Year/Month/Day)
2022/07/22

Print Name
Diane O'Connor

Signature of Member

Date (Year/Month/Day)
2022/07/22

Print Name
Robert Fenske

Signature of Member

Date (Year/Month/Day)
2022/07/22