

Part C - Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated October 31, 2022, which determined the appellant was not eligible for October disability assistance under the Employment and Assistance for Persons with Disabilities Regulation, sections 1, 9, 29 and Schedules A and B, as he had reached his 2022 Annual Earnings Exemption (AEE) limit.

Part D - Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), sections 1, 9, and 29, Schedule A, sections 1, 2 and 4 and Schedule B, sections 1, 3, 6 and 7

Part E – Summary of Facts

Relevant Evidence Before the Minister at Reconsideration

Ministry Records show:

- The appellant is a sole recipient of disability assistance.
- On September 12, 2022 the appellant submitted his monthly report and declared \$2,745, received from the Worker's Compensation Board (WCB) in August.
- On September 13, 2022 the ministry sent a letter to the appellant regarding not reporting May 2022 WCB income.
- On September 28, 2022 the appellant was advised that his \$15,000 AEE for 2022 was exhausted in August due to his wage loss benefit, and that his net income for the remainder of 2022 would impact his disability assistance.

Letter to the Appellant from the Ministry (September 13, 2022)

In the letter, the ministry advised the appellant that a review of his file shows he did not report May 2022 WCB income and asked him to submit a monthly (July) report and attach proof of income.

The ministry also advised the appellant that his payment (due to be issued on September 21, 2022) would be held until the information requested was received.

Request for Reconsideration (October 17, 2022)

The appellant stated he was injured at his job in May 2021 and has not been able to work since. He has been suffering from severe pain in his back and left leg, which impairs his everyday functioning. He cannot cook for himself, cannot go to the grocery store and cannot clean his home. The medication he takes for pain makes him drowsy, which impairs his functioning even more.

Because of his pain, the appellant stated he has to order food all the time and pay someone to clean his home. He has had to borrow money for these expenses.

The appellant also stated he is awaiting spinal surgery. Recovery time will take a minimum of three months, during which time he will need help with meals, cleaning, and other vital activities. He is asking for his Persons with Disabilities benefit to be restored because he really needs this money now that he is in this difficult situation and experiencing hardship.

Monthly Report (February 8, 2022)

Income Reported for applicant
Worker's Compensation \$1,830

Monthly Report (March 3, 2022)

Income Reported for applicant
Worker's Compensation \$1,830

Monthly Report (March 29, 2022)

Income Reported for applicant
Worker's Compensation \$2,745

Monthly Report (May 12, 2022)

Income Reported for applicant
Worker's Compensation \$1,830

Monthly Report (July 7, 2022)

Income Reported for applicant
Worker's Compensation \$1,830

Monthly Report (August 3, 2022)

Income Reported for applicant
Worker's Compensation \$1,830

Monthly Report (September 12, 2022)

Income Reported for applicant
Worker's Compensation \$2,745

Monthly Report (September 14, 2022)

Income Reported for applicant
Worker's Compensation \$1,930
Notes, "May Income" "Reporting May/2022"

Bank Statement (April 27, 2022 - May 26, 2022)

Deposit from WCB (April 27, 2022) - \$915.50
Deposit from WCB (May 11, 2022) - \$915.50
Deposit from WCB (May 25, 2022) - \$915.50

Annualized Earnings Exemption YTD (Query) – screen shot (September 29, 2022)

RE: appellant

Date	Name	Event	AEE Income	AEE Impact	Remaining Balance
September 16, 2022	Month end	Cheque issued	2745.00	-1268.00	0.00
September 15, 2022	Worker	Manual adjustment	0.00	-1831.00	1268.00
August 19, 2022	Month end	Cheque issued	1830.00	-1830.00	3099.00
July 15, 2022	Month end	Cheque issued	1830.00	-1830.00	4929.00
June 17, 2022	Month end	Cheque issued	0.00	0.00	6759.00
May 20, 2022	Month end	Cheque issued	1830.00	-1830.00	6759.00
April 22, 2022	Month end	Cheque issued	2750.00	-2750.00	8589.00
March 18, 2022	Month end	Cheque issued	1830.00	-1830.00	11339.00
March 14, 2022	Worker	Manual adjustment	0.00	-1.00	13169.00
February 11, 2022	Month end	Cheque issued	1830.00	-1830.00	13170.00
February 11, 2022	Roll over	Reset exemption year	000	15000.00	15000.00

Notice of Appeal (November 14, 2022)

The appellant stated his situation has not changed. He is still unwell, suffering from pain, recovering from covid -19 and still cannot afford food, rent, and prescription medication. He is still waiting for his surgery.

Ministry Submission (December 7, 2022)

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

The panel determined there was no new information.

With the consent of both parties, the appeal proceeded as a written hearing pursuant to section 22(3)(b) of the *Employment and Assistance Act*.

Part F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision that determined the appellant was not eligible for October disability assistance under the EAPWDR, sections 1, 9, 29 and Schedules A and B, as he had reached his 2022 AEE, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

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

Appellant Argument

The appellant argues as he was injured at his job in May 2021 he has not been able to work since and is suffering from pain, recovering from covid -19 and cannot afford food, rent, and prescription medication. He cannot cook for himself, cannot go to the grocery store and cannot clean his home.

The appellant argues further that after his surgery, recovery time will take a minimum of three months, during which time he will need help with meals, cleaning, and other vital activities.

The appellant states he really needs this money now that he is in this difficult situation and experiencing hardship.

Ministry Argument

The ministry stated that as the appellant has not provided documentation from WorkSafe BC to verify the monthly amount he received from his wage loss benefit in 2022 and has not disputed the amount of income received, the ministry relied on his monthly reports and bank statements provided to calculate his net income.

The ministry argues that the temporary wage loss benefit paid by WorkSafe BC is unearned income under section 1 of the EAPWDR because it is a workers' compensation benefit. As this unearned income is temporary wage loss, it is compensation paid under Section 191 [temporary total disability] or 192 [temporary partial disability] of the *Workers Compensation Act* - this means it is "qualifying income" and included in the appellant's AEE calculation for 2022 in accordance with section 3 of Schedule B of the EAPWDR.

The ministry also argues the appellant's AEE for 2022 includes his qualifying income (wage loss benefit) received between January 2022 and December 2022 and affects his disability

assistance from March 2022 to February 2023. The first \$15,000 of the appellant's qualifying income in 2022 is exempt under section 3 of Schedule B. As there are no other exemptions for this type of income, once the appellant reaches his \$15,000 AEE limit, any wage loss benefit received in excess of this amount must be included in his net income calculation.

The ministry argues the chart below outlines the appellant's wage loss benefits received in 2022 based on his monthly reports. The ministry notes that although the appellant declared \$1930 received in May, the bank statement he provided shows he actually received \$1831.

Calendar Month Income Received	Amount of Income	Assistance Month	Amount of AEE remaining \$15,000
January 2022	\$1830.00	March 2022	\$13,170.00
February 2022	\$1830.00	April 2022	\$11,340.00
March 2022	\$2745.00	May 2022	\$8,595.00
April 2022	\$1830.00	June 2022	\$6,765.00
May 2022	\$1831.00	July 2022	\$4,934.00
June 2022	\$1830.00	August 2022	\$3,104.00
July 2022	\$1830.00	September 2022	\$1,274.00
August 2022	\$2745.00	October 2022	\$0.00

The ministry argues that a review of the appellant's file confirmed that as of July 2022 his year-to-date net income from wage loss benefits was \$13,726 meaning after calculating his net income for July he had \$1274 remaining in his 2022 AEE limit ($\$15,000 - \$13,726 = \$1274$). A review of the appellant's October monthly report confirmed his wage loss benefit in August was \$2745. As \$1274 of this amount is exempt by his remaining AEE, the remaining \$1471 of his August income was not exempt under section 3 of Schedule B and as there are no other exemptions permitted for wage loss benefits, \$1471 must be included in his net income calculation.

In conclusion, the ministry argues in accordance with section 9.2 of the EAPWDR, the appellant is not eligible for October disability assistance because his August net non-exempted income of \$1471 is greater than his rate of assistance under Schedule A (\$1358.50).

Panel Analysis

Sections 1, 9 and 29 EAPWDR – definition, limits on income and reporting requirements

Section 1 of the EAPWDR defines unearned income as any income that is not earned income and includes workers' compensation benefits. On the appellant's monthly reports (February – September 2022), the appellant reported income received from worker's compensation.

Section 9 of the EAPWDR states a family is not eligible for disability assistance if the net income of the family determined under Schedule B equals or exceeds the amount of disability assistance determined under Schedule A.

Section 29 of the EAPWDR states a report must be submitted by the 5th day of the calendar month following the calendar month showing the amount of compensation paid under the *Workers Compensation Act*. Ministry records show that it relied on the appellant's monthly reports and bank statements provided to calculate his net income.

Schedule A, EAPWDR, sections 1, 2 and 4 – maximum disability assistance, support and shelter allowance

Section 1 of Schedule A states the amount of disability assistance is the sum of the monthly support allowance plus the shelter allowance. Ministry records show the appellant is a sole recipient of disability assistance.

In section 2, the monthly support allowance for a sole recipient with no dependent children where the recipient is a person with disabilities is shown as \$983.50 and in section 4, the monthly maximum shelter allowance for one person is shown as \$375. The sum of \$983.50 + \$375 is \$1,358.50. Therefore, the panel finds the ministry reasonably determined the appellant's disability allowance to be \$1,358.50.

Schedule B, EAPWDR, section 1 - deduction and exemption rules

Section 1 of Schedule B provides a listing of monies that are exempt from income when calculating the family net income. The panel finds there are no exemptions listed under section 1, Schedule B that would apply in determining the appellant's net income

Schedule B, EAPWDR, section 3 – annual exemption

Section 3 of Schedule B states, base amount means \$1,250, in the case of a family unit that includes only one recipient. As ministry records show the appellant is a sole recipient of disability assistance, the panel finds the ministry reasonably determined the AEE to be \$15,000/year (\$1,250 x 12 months = \$15,000).

Section 3 of Schedule B also states qualifying income is “unearned income that is compensation paid under section 191 [temporary total disability] or 192 [temporary partial disability] of the *Workers Compensation Act*”. Therefore, the panel finds the ministry reasonably determined the appellant’s worker’s compensation benefits qualify for the AEE.

Schedule B, EAPWDR, sections 6 and 7 – deductions and exemptions from unearned income

Section 6 of Schedule B states the only deductions permitted from unearned income are any income tax deducted at source from employment insurance benefits and essential operating costs of renting self-contained suites. The panel finds neither of these exceptions apply in the appellant’s case.

Section 7 of Schedule B provides a listing of exemptions from unearned income. The panel finds none of the items listed apply to the appellant’s case.

The panel notes the amount of worker’s compensation benefits declared on the monthly statements from February to September 2022 are as follows:

February 8, 2022 - \$1,830

March 3, 2022 - \$1,830

March 29, 2022 - \$2,745

May 12, 2022 - \$1,830

July 7, 2022 - \$1,830

August 3, 2022 - \$1,830

September 14, 2022 - \$1930 (for May 2022, accepted as \$1831 – as per bank statement)

Total \$13,726

September 12, 2022 - \$2,745

The panel notes only \$1,274 would be remaining in the appellant’s AEE, after the \$1831 for the May monthly report was included. $\$15,000 - \$13,726 = \$1274$.

As per Schedule B, section 3, the panel notes the \$1274 exemption would be applied against the \$2,745 worker’s compensation benefits (September 12, 2022). However, the panel also notes the remaining \$1,471 would not be exempt income and must be deducted from the appellant’s disability assistance (\$1,358.50). As \$1,471 is greater than \$1,358.50, the panel finds, as per section 9 of the EAPWDR, the ministry reasonably determined the appellant was not entitled to disability assistance for October.

The panel notes the appellant's bank statement indicates his worker's compensation was slightly higher (i.e., $\$915.50 \times 2 = \1851.00) and not $\$1850.00$ as shown on the monthly reports. The panel also notes there is a $\$6.00$ difference between the ministry screen shot and the ministry's chart outlining the appellant's wage loss benefits, in the amount of AEE remaining in September 2022 ($\$1268$ vs $\$1,274$). However, the amount by which the appellant's income exceeded the rate of disability assistance is large enough that these discrepancies would not make a difference to the appellant's eligibility for October and are therefore moot.

Conclusion

In conclusion, the panel finds the ministry's reconsideration decision that determined the appellant was not eligible for October disability assistance under the EAPWDR, sections 1, 9, 24 and Schedules A and B, as he had reached his 2022 AEE, was a reasonable application of the legislation in the circumstances of the appellant.

The appellant is not successful on appeal.

Schedule of Legislation

Employment and Assistance for Persons with Disabilities Regulation

Part 1 — Interpretation

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:

...

(j) workers' compensation benefits and disability payments or pensions;

...

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);

...

(iii) a family unit receives unearned income that is compensation paid under section 191 [temporary total disability] or 192 [temporary partial disability] of the *Workers Compensation Act* as set out in paragraph (b) (vii), 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;

...

(vii) the amount of unearned income that is compensation paid under section 191 [temporary total disability] or 192 [temporary partial disability] of the *Workers Compensation Act* received by the family unit in the calendar month.

Schedule A

Disability Assistance Rates

(section 24 (a))

Maximum amount of disability assistance before deduction of net income

1 (1) Subject to this section and sections 3 and 6 to 8 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, plus

...

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

Monthly shelter allowance

4 (1)For the purposes of this section:

(2)The monthly shelter allowance for a family unit other than a family unit described in section 14.2 (1) of the Act is the greater of

- (a)the minimum set out in the following table for the family unit, and
- (b)the lesser of
 - (i)the family unit's actual shelter costs, and
 - (ii)the maximum set out in the following table for the family unit.

Item	Column 1 Family Unit Size	Column 2 Minimum	Column 3 Maximum
1	1 person	\$75	\$375

Schedule B

Net Income Calculation

(section 24 (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;
- (ii)Repealed. [B.C. Reg. 96/2017, App. 2, s. 2 (a).]
- (iii)Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 2 (c).]
- (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 Dependents*] 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,
- (b)any amount garnished, attached, seized, deducted or set off from income is considered to be income, except the deductions permitted under sections 2 and 6,
- (c)all earned income must be included, except the deductions permitted under section 2 and any earned income exempted under sections 3 and 4, and
- (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,

...

"initial qualifying month", in respect of a family unit and a calendar year, means the calendar month specified for the family unit under subsection (5);

"qualifying income" means

...

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

"qualifying month", in respect of a family unit and a calendar year, means

(a)the initial qualifying month for the family unit in the calendar year, and
(b)any subsequent calendar month in the calendar year that is a calendar month for which the family unit is eligible to receive disability assistance under the Act;

...

(2)For the purposes of section 1 (c) and (d), the lesser of the following amounts is exempt income of a family unit for a qualifying month:

(a)the qualifying income of the family unit for the qualifying month;
(b)the exemption limit of the family unit for the qualifying month calculated in accordance with subsection (3).

(3)The exemption limit of a family unit for a qualifying month for the family unit in a calendar year is the following:

(a)in the case of the initial qualifying month for the family unit in the calendar year, the amount calculated in accordance with subsection (4);
(b)in the case of any other qualifying month for the family unit in the calendar year, the amount calculated in accordance with subsection (7).

(4)For the purposes of subsection (3) (a), the exemption limit of a family unit for the initial qualifying month for the family unit in a calendar year is calculated as follows:

(a)in the case of a family unit other than a recognized family unit, the exemption limit is the product of

(i)the base amount for the family unit, and
(ii)12 minus the number of calendar months in the calendar year that are before that initial qualifying month;

(b)in the case of a recognized family unit that includes only one recipient, the exemption limit is the product of

(i)the base amount for the recognized family unit, and
(ii)12 minus the number of calendar months in the calendar year that are before that initial qualifying month;

(c)in the case of a recognized family unit that includes two recipients, the exemption limit is the sum of the carryover amounts for the recipients calculated in accordance with subsection (6).

(5)For the purposes of subsection (4), the initial qualifying month for a family unit is the following:

(a)in the case of a family unit described in subsection (4) (a), the initial qualifying month is

(i)the first calendar month for which the family unit is eligible to receive disability assistance under the Act, if

(A)a member of the family unit who is designated as a person with disabilities previously received disability assistance under the Act or a former Act, as a person with disabilities, or

(B) a member of the family unit received income assistance under the *Employment and Assistance Act* for the calendar month immediately preceding that first calendar month, or

(ii) if subparagraph (i) does not apply, the first calendar month, after the first calendar month referred to in that subparagraph, for which the family unit is eligible to receive disability assistance under the Act;

(b) in the case of a family unit described in subsection (4) (b), the initial qualifying month is the first calendar month, after the calendar month in which the family unit forms, for which the family unit is eligible to receive disability assistance under the Act;

(c) in the case of a family unit described in subsection (4) (c), the initial qualifying month is

(i) the calendar month in which the family unit forms, if the family unit is eligible to receive disability assistance under the Act for that calendar month, or

(ii) if subparagraph (i) does not apply, the first calendar month, after the calendar month in which the family unit forms, for which the family unit is eligible to receive disability assistance under the Act.

...

(7) For the purposes of subsection (3) (b), the exemption limit of a family unit for any other qualifying month (an "index qualifying month") for the family unit in the calendar year is the greater of

(a) nil, and

(b) the exemption limit of the family unit for the last qualifying month for the family unit before the index qualifying month, adjusted as follows:

(i) by deducting the qualifying income of the family unit in that last qualifying month;

(ii) in the case of a family unit that includes a recipient whose designation as a person with disabilities was rescinded

(A) in that last qualifying month, or

(B) in a calendar month after that last qualifying month and before the index qualifying month,

by deducting the product of

(C) the amount specified in paragraph (c) of the definition of "base amount" minus the amount specified in paragraph (b) of that definition, and

(D) 12 minus the number of calendar months in the calendar year that are before the index qualifying month;

(iii) in the case of a family unit that includes a recipient whose designation as a person with disabilities was made

(A) in that last qualifying month, or

(B) in a calendar month after that last qualifying month and before the index qualifying month,

by adding the product of

- (C)the amount specified in paragraph (c) of the definition of "base amount" minus the amount specified in paragraph (b) of that definition, and
- (D)12 minus the number of calendar months in the calendar year that are before the index qualifying month;
- (iv)by deducting the product of
 - (A)the base amount for the family unit, as the family is composed in that last calendar month before any rescission described in subparagraph (ii) or designation described in subparagraph (iii) is made, and
 - (B)the number of calendar months after that last qualifying month and before the index qualifying month.

Deductions from unearned income

- 6** The only deductions permitted from unearned income are the following:
- (a)any income tax deducted at source from employment insurance benefits;
 - (b)essential operating costs of renting self-contained suites.

Exemptions — unearned income

7 (0.1)In this section:

"disability-related cost" means a disability-related cost referred to in paragraph (a), (b), (c) or (e) of the definition of disability-related cost in section 12 (1) [*assets held in trust for person with disabilities*] of this regulation;

"disability-related cost to promote independence" means a disability-related cost referred to in paragraph (d) of the definition of disability-related cost in section 12 (1) of this regulation;

"intended registered disability savings plan or trust", in relation to 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, means an asset, received by the person, to which the exemption under that section applies;

"structured settlement annuity payment" means a payment referred to in subsection (2) (b) (iii) made under the annuity contract referred to in that subsection.

(1)The following unearned income is exempt:

- (a)the portion of interest from a mortgage on, or agreement for sale of, the family unit's previous place of residence if the interest is required for the amount owing on the purchase or rental of the family unit's current place of residence;
- (b)\$50 of each monthly Federal Department of Veterans Affairs benefits paid to any person in the family unit;

(c) a criminal injury compensation award or other award, except the amount that would cause the family unit's assets to exceed, at the time the award is received, the limit applicable under section 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.

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Part G – Order

The panel decision is: (Check one) Unanimous By Majority

The Panel Confirms the Ministry Decision Rescinds the Ministry Decision

If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount? Yes No

Legislative Authority for the Decision:

Employment and Assistance Act

Section 24(1)(a) or Section 24(1)(b)

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

Part H – Signatures

Print Name

Connie Simonsen

Signature of Chair

Date (Year/Month/Day)

2022/12/19

Print Name

John Pickford

Signature of Member

Date (Year/Month/Day)

2022/12/19

Print Name

Jennifer Armstrong

Signature of Member

Date (Year/Month/Day)

2022/12/19