

Part C – Decision Under Appeal

The decision under appeal is the reconsideration decision (the “Reconsideration”) of the Ministry of Social Development and Poverty Reduction (the “Ministry”), dated December 6, 2022. The Ministry found that the Appellant was ineligible for disability assistance in the month of December 2022, because the Appellant and her spouse had reached the annual earnings exemption amount of \$18,000.00 (The “AEE”) for earned income in October 2022. The net income of the Appellant and her spouse in October exceeded the amount of income assistance to which the Appellant was entitled, pursuant to section 9 of the EAPWDR.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”)- sections 1, 9, and 24, Schedule A- sections 1, 2, and 4, Schedule B- sections 1, 2, and 3.

Part E – Summary of Facts

The Appellant and her spouse receive disability assistance as a two-person family unit. The Appellant has Persons with Disabilities Designation.

At the time of Reconsideration, the Ministry had the following information:

- the Appellant’s Request for Reconsideration, dated November 22, 2022, which included:
 - the Ministry’s AEE calculator for the Appellant and the Appellant’s spouse (the “AEE Table”), which showed that by the end of April, the Appellant’s family unit had exceeded the 2022 AEE by \$2,330.17, leaving only \$3,185.80 as exempt earned income in April 2022;
 - The Appellant’s spouse’s pay stub, dated October 27, 2022, showing gross pay of \$1,940.51 and net pay of \$1,549.17 for work as a supervisor;
 - the Appellant’s spouse’s pay stub, dated October 13, 2022, showing gross pay of \$1,820.33 and net pay of \$1,463.76 for work as a supervisor;
 - the monthly report for October (the “October Report”), submitted by the Appellant and her spouse, showing the Appellant to have had net income of \$1,0197.74 and the Appellant’s spouse to have had net income of \$3,012.93 for the month of October, 2022; and
 - a handwritten note from the Appellant stating that:
 - the Appellant and her spouse had a tough year in 2022, including a number of personal issues with their child and having been in a car accident, which resulted in the Appellant overspending;
 - the Appellant was making efforts to change her spending habits, including cutting back on expenses.

The Appellant filed a Notice of Appeal on December 10, 2022 and included a brief typewritten note indicating that the Appellant had felt that reference to her spending addiction had not been taken into account and that the Reconsideration was unfair. The Appellant also set out that she didn’t know how she was going to pay rent and other bills, including for food.

At the hearing, the Appellant indicated that she had a spending problem, which she also described as an addiction. She indicated that she had recently declared bankruptcy and was receiving counseling on management of money from the trustee. The Appellant stated that she did not dispute that she and her spouse had exceeded the AEE for 2022 but stated that it was hard to live on the amount received from disability assistance.

The Ministry relied on the Reconsideration and noted that the Appellant’s 2023 AEE was reset on January 1, 2023 and the Appellant should receive disability assistance for March if income reporting requirements for January were met within the time required.

The panel admits the evidence in the note included with the Notice of Appeal and the oral evidence provided at the hearing, pursuant to section 22(4) of the EAA as evidence that is not part of the record but which the panel considers is reasonably required for a full and fair disclosure of all matters related to the appeal.

Part F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry was reasonable in its determination that the Appellant was ineligible for disability assistance in the month of December 2022. The Ministry found that the Appellant and her spouse had reached the AEE limit and the net income of the Appellant and her spouse in October exceeded the amount of income assistance to which the Appellant was entitled.

Panel Decision

Schedule A to the EAPWDR sets out the how maximum amounts of support and shelter allowance to which recipients of disability assistance are entitled on a monthly basis. In the case of the Appellant and her spouse, a two person family unit with no dependents, those amounts are \$1,378.50 and \$570.00, respectively.

Section 9 of the EAPWDR set out that a family unit is not entitled to assistance if the family unit's net income is more than the amount of disability assistance determined by Schedule A. Section 24 further sets out that the amount of disability assistance payable to a family unit is the amount determined by Schedule A less the family unit's net income determined by Schedule B.

Schedule B sets out how a family's net income is calculated. The term net income is not a defined term in the EAPWDR. However, "earned income", which is a component of net income is defined in section 1 of the EAPWDR and includes:

- any money or value received in exchange for work or the provision of a service;
- pension plan contributions that are refunded because of insufficient contributions to create a pension;
- 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;

In the case of the Appellant, the earned income, documented in the pay stubs provided by the Appellant, meets the criteria of "money or value received in exchange for work."

Schedule B also sets out what items are deductible or exempt from being included in the calculation of the Appellant's family unit's net income. Although the list of income items that is exempt in section 1(a) of Schedule B to the EAPWDR is lengthy, none of the items apply to the employment income received by the Appellant and her spouse. Likewise, while section 2 of Schedule B to the EAPWDR lists several deductions from the calculation of earned income, the Ministry, when calculating the Appellant's net income from October, did not include any of those items, such as income tax deducted or CPP and EI premiums.

The only other exemption to which the Appellant's family unit is entitled for income that qualifies as "earned income" is for earned income paid prior to the Appellant and her spouse reaching the AEE provided for under section 3 of Schedule B to the EAPWDR.

The purpose of the AEE is to permit recipients of disability assistance to earn income in addition to their disability assistance, up to a specified amount over the course of a year.

Section 3(1) of Schedule B to the EAPWDR sets out that the “base amount”, for a family unit with two recipients of disability assistance and no dependants, is \$1,500.00. Pursuant to section 3(7) of Schedule B to the EAPWDR the AEE is the base amount multiplied by the number of calendar months after the initial qualifying month for the family in a calendar year. In the case of the Appellant’s family unit, the initial qualifying month for 2022 is January, and the AEE is \$18,000.00 or \$1,500.00 multiplied by twelve months.

The AEE balance declines as a family unit earns income that is exempted from inclusion in the calculation of the family unit’s net income for a particular month and not deducted from the maximum disability assistance that the family unit is eligible for under Schedule A to the EAPWDR. Once the AEE is reached, however, all earned income in a particular month *is* deductible from the family unit’s maximum disability assistance.

In the case of the Appellant’s family unit, the AEE for 2022 was reached in April. In other words, by the end of April, the income of the Appellant and her spouse had exceeded the \$18,000.00 AEE (by \$2,330.17, as per the AEE). The result for June and any subsequent month in 2022 where the Appellant’s family unit was entitled to disability assistance in an amount that was less than their net income in the reporting month (two months previous), no disability would be provided. This included the month of October, when the Appellant and her spouse reported net income of \$3,012.93.

The AEE, which is, in effect, the amount of income that recipients of disability assistance can earn without it reducing their disability assistance, is not a matter over which the Ministry has any discretion. Likewise, the Ministry does not have discretion on what items are exempt or deductible from earned income. In this case, the first \$18,000.00 of the 2022 earnings of the Appellant and her spouse did not result in a reduction of their disability assistance. However, once their earnings reached \$18,000.00, all of their earned income in a given month, as determined by Schedule B to the EAPWDR, was deductible from the maximum amount of disability assistance available to them under Schedule A to the EAPWDR when calculating their disability assistance, pursuant to sections 9 and 24 of the EAPWDR and the panel finds that the Ministry was reasonable in its finding that the Appellant was not eligible for any disability assistance in the month of December as a result of the Appellant’s October income being in excess of the maximum amount of disability assistance available to the Appellant’s family unit, as determined by Schedule A to the EAPWDR.

The Appellant is not successful in this appeal.

Relevant Legislation

Section 1 of the EAPWDR sets out the definition of “earned income”:

"earned income" means

- (a) any money or value received in exchange for work or the provision of a service,
- (b) Repealed. [B.C. Reg. 197/2012, Sch. 2, s. 1 (a).]
- (c) pension plan contributions that are refunded because of insufficient contributions to create a pension,
- (d) money or value received from providing room and board at a person's place of residence, or
- (e) money or value received from renting rooms that are common to and part of a person's place of residence;

Section 9 of the EAPWDR provides that no assistance is payable to a family unit whose net income is in excess of the family unit's eligibility for assistance:

Limits on income

- 9 (1) For the purposes of the Act and this regulation, "**income**", in relation to a family unit, includes an amount garnished, attached, seized, deducted or set off from the income of an applicant, a recipient or a dependant.
- (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.

Section 24 of the EAPWDR sets out that the maximum amount of disability assistance is the family law's eligibility for assistance less the family unit's net income:

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.

Section 1 of Schedule A to the EAPWDR sets out that a family unit's disability assistance is the total of the monthly support allowance and the monthly shelter allowance set out in the tables in sections 2 and 4 and 5, respectively, of Schedule 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.

(2) Despite subsection (1), disability assistance may not be provided in respect of a dependent child if support for that child is provided under section 8 (2) or 93 (1) (g) (ii) of the *Child, Family and Community Service Act*.

Section 2 of Schedule A to the EAPWDR sets out the monthly support amounts for family units of varying compositions:

Monthly support allowance

2 (0.1) For the purposes of this section:

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

"**warrant**" has the meaning of warrant in section 14.2 [*consequences in relation to outstanding arrest warrants*] of the Act.

(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

(a.1) Repealed. [B.C. Reg. 193/2017, s. 9 (a).]

(b) the amount calculated in accordance with subsections (2) to (4) for each dependent child in the family unit.

Item	Column 1 Family unit composition	Column 2 Age or status of applicant or recipient	Column 3 Amount (\$)
3	Two applicants / recipients and no dependent children	One applicant / recipient is a person with disabilities, the other is not a person with disabilities and is under 65 years of age	\$1 378.50

Section 4 of Schedule A to the EAPWDR sets out the monthly shelter amounts for family units of varying compositions:

Monthly shelter allowance

4 (1) For the purposes of this section:

"**family unit**" includes a child who is not a dependent child and who relies on the parent for the necessities of life and resides in the parent's place of residence for not less than 40% of each month;

"**warrant**" has the meaning of warrant in section 14.2 [*consequences in relation to outstanding arrest warrants*] of the Act.

(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
2	2 persons	\$150	\$570

Section 1 of Schedule B to the EAPWDR lists the various types of income that is not included in the calculation of a family unit's net income:

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 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,

(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.

Section 2 of Schedule B to the EAPWDR sets out the eligible deductions from a family unit's earned income:

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.

Section 3 of Schedule B to the EAPWDR describes the rules for how a family unit's AEE is calculated:

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,
- (b) \$1 500, in the case of a family unit that includes two recipients, only one of whom is designated as a person with disabilities, and
- (c) \$2 500, in the case of a family unit that includes two recipients who are designated as persons with disabilities;

"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

- (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*;

"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;

"recognized family unit", in respect of a calendar year, means a family unit that

- (a) forms during the calendar year, and
- (b) includes at least one person who
 - (i) is designated as a person with disabilities, and
 - (ii) was previously a recipient in another family unit that was eligible to receive disability assistance under the Act for a calendar month in the calendar year.

(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.

(6) For the purposes of subsection (4) (c), the carryover amount for a recipient who is part of a recognized family unit that includes two recipients is calculated as follows:

(a) in the case of a recipient who is not designated as a person with disabilities, the product of

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

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

(b) in the case of a recipient who is designated as a person with disabilities, if the last family unit, before the recognized family unit, of which the person was a part that was eligible to receive disability assistance under the Act included no other recipients, the greater of

(i) nil, and

(ii) the exemption limit of that last family unit for the last qualifying month for that last family unit, adjusted as follows:

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

(B) by deducting the product of

(I) the amount specified in paragraph (a) of the definition of "base amount", and

(II) the number of calendar months after that last qualifying month and before the initial qualifying month for the recognized family unit;

(c) in the case of a recipient who is designated as a person with disabilities, if paragraph (b) does not apply, the product of

(i) the amount specified in paragraph (a) of the definition of "base amount", and

(ii) 12 minus the number of calendar months in the calendar year that are before the initial qualifying month for the recognized family unit.

(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.

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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
Adam Shee

Signature of Chair

Date (Year/Month/Day)
2023/02/09

Print Name
Kevin Ash

Signature of Member

Date (Year/Month/Day)
2023/02/09

Print Name
Peter Mennie

Signature of Member

Date (Year/Month/Day)
2023/02/09