

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

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated April 11, 2023, which determined the \$1373 financial assistance received in February 2023, from another province, is considered unearned income and exceeds the amount of income assistance.

As a result, the appellant is not eligible for April 2023 income assistance in accordance with section 10(2) of the Employment and Assistance Regulation.

### **Part D – Relevant Legislation**

*Employment and Assistance Act (EAA)*, sections 1, 2, 4 and 11

Employment and Assistance Regulation (EAR) sections 1, 10 28 and 33, Schedule A section 1, 2, and 4 and Schedule B sections 1, 6, 7 and 8

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

**Part E – Summary of Facts****Relevant Evidence Before the Minister at Reconsideration**

Ministry records show the appellant is a sole recipient of income assistance with one dependent child. Her file opened in December 2022. She has received income assistance for December, January, February and March 2023.

**Interprovincial Check - Request for Benefit Information (March 22, 2023)**

The ministry included an email from a Provincial government email address of another Province. The email indicated that the appellant had a file in that Province, which was now closed. The email also indicated the file opened on August 28, 2019 and closed on February 28, 2023. The last benefit amount issued was in February 2023 for \$1,373.

**Request for Reconsideration (March 24, 2023)**

The appellant did not provide reasons for her request for reconsideration. At the hearing, she explained that the ministry advised her that she didn't have to fill out the reasons for reconsideration as the ministry had all the notes.

**Additional Information**Appellant**Notice of Appeal (April 12, 2023)**

The appellant did not provide reasons for her appeal in the Notice of Appeal.

At the hearing the appellant stated she was fleeing an abusive relationship in another province. She knew it wasn't right to keep the financial assistance from both provinces but it helped her buy some furniture. The appellant also stated that she spoke with the ministry regarding repayment of her benefits and agreed to a repayment agreement.

The appellant confirmed that the funds received from another province in February 2023 were income assistance (for rent etc.) and also confirmed that she didn't declare these funds on her monthly report. However, when asked about these funds by the ministry she didn't lie. In addition, the appellant stated she has been ill.

Ministry

At the hearing, the ministry relied on its record. The ministry also clarified that although the reconsideration decision states that, according to the legislation monies received in

February affect April income assistance benefits, the legislation doesn't state this. It's ministry practice.

In addition, the ministry advised that it receives a provincial data match, which triggered the ministry to identify the February income assistance from another province. The ministry also confirmed that its decision affects only April benefits and income assistance benefits going forward, from May 2023 onward, will not be affected. In addition, the ministry confirmed that in its reconsideration decision where it referred to sub section 1(1)(j), it should read 1(1)(i), and \$1330 should read \$1373.

#### Admissibility

The panel determined all the additional information is reasonably required for a full and fair disclosure of all matters related to the decision under appeal and therefore is admissible under section 22(4) of the *Employment and Assistance Act*.

**Part F – Reasons for Panel Decision**

The issue on appeal is whether the ministry's reconsideration decision was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Specifically, was the ministry reasonable to decide that the \$1373 financial assistance received in February 2023, is considered unearned income and exceeds the amount of income assistance, and as a result the appellant is not eligible for April 2023 income assistance in accordance with section 10(2) of the EAR?

**Appellant Argument**

The appellant's position is that she was fleeing an abusive relationship in another province, and while she knew it wasn't right to keep the financial assistance from both provinces, it helped her buy some furniture. When asked about these funds by the ministry, she didn't lie and agreed to a repayment agreement.

**Ministry Argument**

The ministry's position is that the \$1373 financial assistance the appellant received from another province for February is considered "unearned income" as set out in section 1(1)(i) of the EAR and is not listed as an income that may be exempt under Schedule B of the EAR.

The ministry states that for all recipients of income assistance, income received in February is to be declared on the monthly reports by the 5<sup>th</sup> of March and affects April income assistance.

Therefore, the ministry argues the \$1373 financial assistance the appellant received in February 2023 affects her April 2023 income assistance and exceeds the ministry's \$1280 rate of assistance for her family unit size, and so the appellant is not eligible for income assistance as set out in section 10(2) of the EAR.

**Panel Analysis**

Sections 1, 2, 4 and 11, EAA – definition, eligibility, and reporting obligations

Under section 1 of the EAA, "income assistance" means an amount for shelter and support, and "recipient" means the person in a family unit for whom income assistance is provided.

Section 2 (EAA) states, a family unit is eligible for income assistance if each person satisfies the initial and continuing conditions of eligibility established under this Act, and the family unit has not been declared ineligible for the income assistance.

Section 4 (EAA) states, subject to the regulations, the minister may provide income assistance to a family unit that is eligible for it.

Section 11 (EAA) states, for a family unit to be eligible, a recipient must notify the minister of any change in circumstances or information that may affect the eligibility of the family unit.

Section 33, EAR - reporting requirements

Section 33, EAR, states for the purposes of section 11(1)(a) [*reporting obligations*] of the Act, the report must be submitted by the 5<sup>th</sup> day of each calendar month, and all income received must be reported. Although the ministry reconsideration decision states that recipients of income assistance, income received in February is to be declared on the monthly report by the 5<sup>th</sup> of March and affects April income assistance in accordance with Section 11 of the EAA and Section 33 of the EAR, at the hearing the ministry clarified that this staggered application is not in the legislation but is ministry practice. The panel finds this practice to be a reasonable application of the legislation.

Sections 1, 10, 28 & schedules A & B, EAR – amount of assistance rates, reporting requirements and deduction rules

Section 1 defines unearned income as any income that is not earned and includes financial assistance provided by another province under subsection (1)(i). The panel notes evidence in the form of an Interprovincial Check (March 22, 2023) shows the appellant received \$1373 in benefits for February 2023. At the hearing, the appellant confirmed these benefits were income assistance, for rent etc.

Section 10(2) states a family unit is not eligible for income assistance if the net income of the family unit determined under Schedule B equals or exceeds the amount of income assistance determined under Schedule A.

Section 28 states income assistance may be provided for a family, for a calendar month, in an amount that is not more than

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

Schedule A, sections 1, 2 & 4 – income assistance rates

The panel notes, Schedule A shows the amount of income assistance for a sole recipient and one or more dependent children to be \$710, and the maximum shelter allowance for two persons to be \$570 for a total of \$1280/month. Ministry records show the appellant's

monthly assistance rate is \$1280. The panel finds the ministry reasonably calculated the appellant's monthly income assistance as \$1280/month.

Schedule B, sections 1, 6, 7 & 8– net income calculation

Section 1 of Schedule B lists monies, which are exempt when calculating the net income of a family unit for the purposes of section 28(b). The panel notes the only financial assistance under section 1, Schedule B refers to financial assistance for adoption and therefore does not apply to the appellant.

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 notes financial assistance is not included in this section.

Section 7 of Schedule B provides a listing of exemptions for unearned income. The panel notes financial assistance is not listed as an exemption under section 7 of Schedule B.

The panel also notes section 8, Schedule B, includes financial assistance for students as an exemption. As the appellant confirmed that the purpose of the income assistance received from another province was for rent etc., the panel finds no exemptions under section 8 of Schedule B apply.

Therefore, the panel finds the ministry reasonably determined the financial assistance received in February 2023 cannot be considered exempt under Schedule B of the EAR. The panel notes the appellant's income assistance of \$1280/month is less than the \$1373 financial assistance reported by another province. Therefore, the panel finds the ministry reasonably determined that no income assistance benefits were payable for April 2023 as per section 10(2) of the EAR.

**Conclusion**

The panel finds the ministry's reconsideration decision that determined the \$1373 income assistance the appellant received in February 2023 is unearned income and exceeds the amount of income assistance, and as a result the appellant is not eligible for April 2023 income assistance in accordance with section 10(2) of the EAR, was a reasonable application of the legislation in the circumstances of the appellant.

The appellant is not successful on appeal.

## Schedule of Legislation

### Employment and Assistance Act

#### **Interpretation**

**1** (1)In this Act:

...

"income assistance" means an amount for shelter and support provided under section 4 [*income assistance and supplements*];

"recipient" means the person in a family unit to or for whom income assistance...is provided under this Act for the use or benefit of someone in the family unit...

#### **Eligibility of family unit**

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

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

(b)the family unit has not been declared ineligible for the income assistance... under this Act.

### **Part 2 — Assistance**

#### **Income assistance and supplements**

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

#### **Reporting obligations**

**11** (1)For a family unit to be eligible for income 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.

...

Employment and Assistance Regulation

**Part 1 — Interpretation**

**Definitions**

(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:...

(i) financial assistance provided... by another province or jurisdiction;

**Limits on income**

**10...**

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

**Amount of income assistance**

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

(a) the amount determined under Schedule A, minus

(b) the family unit's net income determined under Schedule B.

**Monthly reporting requirement**

**33** (1) For the purposes of section 11 (1) (a) [*reporting obligations*] of the Act, (a) the report must be submitted by the 5th day of each calendar month, and (b) the information required is all of the following, as requested in the monthly report form specified by the minister:

(i) whether the family unit requires further assistance;

(ii) changes in the family unit's assets;

(iii) all income received by the family unit and the source of that income;

(iv) the employment and educational circumstances of recipients in the family unit;

(v) changes in family unit membership or the marital status of a recipient;

(vi) any warrants as described in section 15.2 (1) of the Act.



**Schedule A**

**Income Assistance Rates**

(section 28 (a) )

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

- 1** (1)Subject to this section and sections 3 and 6 to 10 of this Schedule, the amount of income assistance referred to in section 28 (a) [*amount of income assistance*] of this regulation is the sum of
- (a)the monthly support allowance under section 2 of this Schedule for a family unit matching the family unit of the applicant or recipient, plus
  - (b)the shelter allowance calculated under sections 4 and 5 of this Schedule.

...

**Monthly support allowance**

**2** (0.1)For the purposes of this section: ...

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

Item	Column 1 Family unit composition	Column 2 Age or status of applicant or recipient	Column 3 Amount of Support
4	Sole applicant/recipient and one or more dependent children	Applicant/recipient is under 65 years of age	\$710.00

**Monthly shelter allowance**

**4**

- (2)The monthly shelter allowance for a family unit other than a family unit described in section 15.2 (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

**Schedule B**

**Net Income Calculation**

*(section 28 (b) )*

**Deduction and exemption rules**

- 1** When calculating the net income of a family unit for the purposes of section 28 (b) [*amount of income assistance*] of this regulation,
- (a) the following are exempt from income:
- (i) any income earned by a dependent child attending school on a full-time basis;...
  - (iv) a family bonus, except the portion treated as unearned income under section 10 (1) of this Schedule;
  - (iv.1) the Canada child benefit, except the portion treated as unearned income under section 10 (1) of this Schedule;
  - (v) the basic child tax benefit;
  - (vi) a goods and services tax credit under the *Income Tax Act* (Canada);
  - (vii) a tax credit under section 8 [*refundable sales tax credit*], 8.1 [*climate action tax credit*] or 8.2 [*BC harmonized sales tax credit*] of the *Income Tax Act* (British Columbia);
  - (viii) individual redress payments granted by the government of Canada to a person of Japanese ancestry;
  - (ix) individual payments granted by the government of Canada under the Extraordinary Assistance Plan to a person infected by the human immunodeficiency virus;
  - (x) individual payments granted by the government of British Columbia to a person infected by the human immunodeficiency virus or to the surviving spouse or dependent children of that person;
  - (xi) individual payments granted by the government of Canada under the Extraordinary Assistance Plan to thalidomide victims;
  - (xii) money that is
    - (A) paid or payable to a person if the money is awarded to the person by an adjudicative panel in respect of claims of abuse at Jericho Hill School for the Deaf and drawn from a lump sum settlement paid by the government of British Columbia, or
    - (B) paid or payable to or for a person if the payment is in accordance with the settlement agreement approved by the Supreme Court in Action No. C980463, Vancouver Registry;
  - (xiii) the BC earned income benefit;
  - (xiv) money paid or payable under the 1986-1990 Hepatitis C Settlement Agreement made June 15, 1999, except money paid or payable under section 4.02 or 6.01 of Schedule A or of Schedule B of that agreement;
  - (xv) a rent subsidy provided by the provincial government, or by a council, board, society or governmental agency that administers rent subsidies from the provincial government;...
  - (xvii) money paid or payable to a person in settlement of a claim of abuse at an Indian residential school, except money paid or payable as income replacement in the settlement;

- (xvii.1) money that is paid or payable to or for a person if the payment is in accordance with
  - (A) the Sixties Scoop Settlement made November 30, 2017, or
  - (B) the Federal Indian Day Schools Settlement made March 12, 2019, as amended May 13, 2019;
- (xviii) financial assistance payments provided under Part 6 of the Adoption Regulation, B.C. Reg. 291/96;
- (xix) a rebate of energy or fuel tax provided by the government of Canada, the government of British Columbia, or an agency of either government;
- (xx) Repealed. [B.C. Reg. 85/2012, Sch. 1, s. 5.]
- (xxi) payments granted by the government of British Columbia under section 8 [*agreement with child's kin and others*] of the *Child, Family and Community Service Act*;
- (xxii) payments granted by the government of British Columbia under the Ministry of Children and Family Development's At Home Program;
- (xxiii) Repealed. [B.C. Reg. 85/2012, Sch. 1, s. 5.]
- (xxiv) payments granted by the government of British Columbia under an agreement referred to in section 93 (1) (g) (ii) of the *Child, Family and Community Service Act*, for contributions to the support of a child;
- (xxv) a loan that is
  - (A) not greater than the amount contemplated by the recipient's business plan, accepted by the minister under section 77.2 of this regulation, and
  - (B) received and used for the purposes set out in the business plan;
- (xxvi) payments granted by the government of British Columbia under the Ministry of Children and Family Development's
  - (A) Autism Funding: Under Age 6 Program, or
  - (B) Autism Funding: Ages 6 — 18 Program;...
- (xxviii) payments made by a health authority or a contractor of a health authority to a recipient, who is a "person with a mental disorder" as defined in section 1 of the *Mental Health Act*, for the purpose of supporting the recipient in participating in a volunteer program or in a mental health or addictions rehabilitation program;
- (xxix) a refund provided under Plan I as established under the Drug Plans Regulation;
- (xxx) payments provided by Community Living BC to assist with travel expenses for a recipient in the family unit to attend a self-help skills program, or a supported work placement program, approved by Community Living BC;
- (xxxi) a Universal Child Care Benefit provided under the *Universal Child Care Benefit Act* (Canada);
- (xxxi.1) a rental housing benefit provided under the *Rental Housing Benefit Act* (Canada);
- (xxxi.2) a dental benefit provided under the *Dental Benefit Act* (Canada);
- (xxxii) money paid by the government of Canada, under a settlement agreement, to persons who contracted Hepatitis C by receiving blood or blood products in Canada prior to 1986 or after July 1, 1990, except money paid under that agreement as income replacement;
- (xxxiii) money withdrawn from a registered disability savings plan;
- (xxxiv) a working income tax benefit provided under the *Income Tax Act* (Canada);...
- (xxxvi) the climate action dividend under section 13.02 of the *Income Tax Act*;

(xxxvii) money paid or payable to a person under the *Criminal Injury Compensation Act* as compensation for non-pecuniary loss or damage for pain, suffering mental or emotional trauma, humiliation or inconvenience that occurred when the person was under 19 years of age;

(xxxvii.1) money that is paid or payable to or for a person if the payment is in accordance with the settlement under the Final Settlement Agreement and Supplementary Agreement approved by the Federal Court June 22, 2018 in Court File No. T-370-17, *Todd Edward Ross et al. v. Her Majesty the Queen*;

(xxxvii.2) money that is paid or payable to or for a person if the payment is in accordance with the settlement under the Final Settlement Agreement approved by the Federal Court January 30, 2019 in Court File No. T-1068-14, *Raymond Michael Toth v. Her Majesty the Queen*;

(xxxviii) money that is paid or payable to or for a person if the payment is in accordance with the settlement agreement approved by the Supreme Court in Action No. S024338, Vancouver Registry;

(xxxix) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Family Support Services program;

(xl) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Supported Child Development program;

(xli) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Aboriginal Supported Child Development program;

(xlii) money paid or payable from a fund that is established by the government of British Columbia, the government of Canada and the City of Vancouver in relation to recommendation 3.2 of the final report of the Missing Women Commission of Inquiry;

(xliii) payments granted by the government of British Columbia under the Temporary Education Support for Parents program;

(xliv) a BC early childhood tax benefit;

(xliv.1) a BC child opportunity benefit;

(xliv.2) a BC family benefit;

(xlv) child support;

(xlvi) orphan's benefits under the *Canada Pension Plan Act* (Canada);

(xlvii) gifts, other than recurring gifts;

(xlviii) compensation paid or payable under Division 5 [*Compensation in Relation to Death of Worker*] of Part 4 [*Compensation to Injured Workers and Their Dependants*] or section 225 [*compensation in relation to worker death before July 1, 1974*] of the *Workers Compensation Act* to a dependant, as defined in section 1 of that Act, who is a child, as defined in section 165 (1) of that Act;

(xlix) money that is paid or payable by or for Community Living BC to or for a person if the payment is in accordance with an award in a legal proceeding or with a settlement agreement in respect of a claim for injury, loss or damage caused by Community Living BC, an employee of Community Living BC or a person retained under a contract to perform services for Community Living BC;

(l) money that is paid or payable by the government of British Columbia to or for a person if the payment is in accordance with an award in a legal proceeding or with a settlement agreement in respect of a claim for injury, loss or damage caused by the

minister, the ministry, an employee of the ministry or a person retained under a contract to perform services for the ministry;

(l.1) money that is paid or payable by the government of British Columbia to or for a person if the payment is in accordance with an award in a legal proceeding or with a settlement agreement in respect of a claim for injury, loss or damage caused by the Minister of Children and Family Development, that ministry, an employee of that ministry or a person retained under a contract to perform services for that ministry;

(l.2) money that is paid or payable by the government of British Columbia to or for a person because the person was a resident of Woodlands School;

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

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

(liii) money that is paid or payable, in respect of a child, from property that comes into the control of, or is held by, the Public Guardian and Trustee;

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

(lv) money that is paid or payable from a settlement under

(A) the Cadboro Bay Litigation Settlement Agreement, dated for reference November 1, 2017, between the Esquimalt Nation and Canada, or

(B) the settlement agreement, dated for reference October 30, 2017, between the Songhees Nation and Canada;

(lvi) money that is paid or payable under the Memorial Grant Program for First Responders established under the authority of the *Department of Public Safety and Emergency Preparedness Act* (Canada);

(lvii) money, or goods or services in kind, received or to be received by a participant in the Ministry of Social Development and Poverty Reduction's Work Experience Opportunities Grant program from a grant under the program;

(lviii) a rebate of all or part of a premium paid to the Insurance Corporation of British Columbia under the *Insurance (Vehicle) Act* and the plan operated under that Act;

(lix) an amount that is paid or payable, as a single payment or series of payments, as follows:

(A) the amount is paid or payable by a person who is or was a landlord, owner or manager, or a person who holds or held a similar position, in relation to leased, rented or licensed residential premises, whether or not the *Residential Tenancy Act* or the *Manufactured Home Park Tenancy Act* applies to that premises;

(B) the amount is paid or payable to a person who is or was a tenant, lessee, licensee or occupant, or a person who has or had a similar right or permission to use the premises for residential purposes;

(C) the amount is paid or payable as full or partial compensation for loss of the residential use of the premises, including for eviction, relocation, demolition, temporary displacement during repair, renovation or redevelopment, or as an inducement to cease or suspend residential use;

(D) the amount is paid or payable under an enactment, a policy or a contract, or voluntarily or at the discretion of the person referred to in clause (A);

(lx) 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;

(lxi) 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;

(lxii) 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;

(lxiii) 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;...

(lxiv) a voted support payment.

(b) any amount garnished, attached, seized, deducted or set off from income is considered to be income, except the deductions permitted under sections 2 and 6 of this Schedule,

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

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

#### **Deductions from 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) or (c) of the definition of disability-related cost in section 13 (1) [*assets held in trust for person receiving special care*] 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 13 (1) of this regulation;

"intended registered disability savings plan or trust", in relation to a person referred to in section 13.1 (2) [*temporary exemption of assets for person applying for disability designation or 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 11 [*asset limits*] of this regulation;
- (d)a payment made from a trust to or on behalf of a person referred to in section 13 (2) [*assets held in trust for person receiving special care*] 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 13 (2) (a) 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 13.1 (2) [*temporary exemption of assets for person applying for disability designation or 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 13 (2) of this regulation;
  - (ii)a structured settlement annuity payment that, subject to subsection (2), is made to a person referred to in section 13 (2) (a) of this regulation;
  - (iii)money expended by a person referred to in section 13.1 (2) of this regulation from an intended registered disability savings plan or trust;
- (e)the portion of Canada Pension Plan Benefits that is calculated by the formula  $(A - B) \times C$ , where
- A = the gross monthly amount of Canada Pension Plan Benefits received by an applicant or recipient;
- B = (i) in respect of a family unit comprised of a sole applicant or a sole recipient with no dependent children, 1/12 of the amount determined under section 118 (1) (c) of the *Income Tax Act* (Canada) as adjusted under section 117.1 of that Act, or
- (ii) in respect of any other family unit, the amount under subparagraph (i), plus 1/12 of the amount resulting from the calculation under section 118 (1) (a) (ii) of the *Income Tax Act* (Canada) as adjusted under section 117.1 of that Act;
- C = the sum of the percentages of taxable amounts set out under section 117 (2) (a) of the *Income Tax Act* (Canada) and section 4.1 (1) (a) of the *Income Tax Act*;
- (f)a tax refund;
  - (g)a benefit paid under section 22, 23 or 23.2 of the *Employment Insurance Act* (Canada) to any person in the family unit.
- (2)Subsection (1) (d.1) and (d.3) (ii) applies in respect of a person only if
- (a)the person has entered into a settlement agreement with the defendant in relation to a claim for damages in respect of personal injury or death, and
  - (b)the settlement agreement requires the defendant to

- (i) make periodic payments to the person for a fixed term or the life of the person,
- (ii) purchase a single premium annuity contract that
  - (A) is not assignable, commutable or transferable, and
  - (B) is designed to produce payments equal to the amounts, and at the times, specified in the settlement agreement,
- (iii) make an irrevocable direction to the issuer of the annuity contract to make all payments under that annuity contract directly to the person, and
- (iv) remain liable to make the payments required by the settlement agreement....

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

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

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

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

"education related living costs", in relation to a student and a program of studies, means the costs, other than education costs, including the costs of food, shelter, clothing, utilities and other living expenses, that, in the opinion of the minister, are reasonably required for the student to participate in the program of studies.

(2) The minister may authorize an exemption for a student described in subsection (3) up to the sum of the student's education costs and day care costs, for a period of study, from the total amount of the following received by the student for the period of study:

- (a) a training allowance;
- (b) student financial assistance;
- (c) student grants, bursaries and scholarships;
- (d) disbursements from a registered education savings plan.

(3) An exemption under subsection (2) may be authorized in respect of a student who is

- (a) a dependent child enrolled as a student in either a funded or an unfunded program of studies,
- (b) an applicant or a recipient enrolled
  - (i) as a part-time student in an unfunded program of studies, or
  - (ii) with the prior approval of the minister, as a full-time student in an unfunded program of studies, or
- (c) a person in a category listed in section 29 (4) [*consequences of failing to meet employment-related obligations*] of this regulation enrolled as a part-time student in a funded program of studies.

(4) The minister may authorize an exemption for a student who is a recipient enrolled as a part-time student in a funded program of studies up to the sum of the student's education costs and day care costs, for a period of study, from the total amount of the following received by the student for the period of study:

- (a) a training allowance;
- (b) student grants, bursaries and scholarships, except student grants, bursaries and scholarships provided under the *Canada Student Financial Assistance Act*;



(c) disbursements from a registered education savings plan.

(5) The minister may authorize an exemption for a student who is described in section 16 (1.1) [*effect of family unit including full-time student*] of this regulation up to the sum of the student's education costs, education related living costs and day care costs, for a period of study, from the total amount of the following received by the student for the period of study:

(a) a training allowance;

(b) student grants, bursaries and scholarships, except student grants, bursaries and scholarships provided under the *Canada Student Financial Assistance Act*;

(c) disbursements from a registered education savings plan.

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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)

2023/04/27

Print Name

Wendy Marten

Signature of Member

Date (Year/Month/Day)

2023/04/27

Print Name

Peter Mennie

Signature of Member

Date (Year/Month/Day)

2023/04/27