

**Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision, dated March 21, 2023 (the “Reconsideration Decision”). The Ministry determined that the Appellant was not eligible for a crisis supplement for rent in March 2023 because the Appellant was not eligible for income assistance in March 2023, by virtue of having received an amount in employment insurance (“EI”) benefits that exceeded the amount of income assistance for which the Appellant was otherwise eligible. Section 59(1) of the *Employment and Assistance Regulation* (“EAR”) requires that an applicant be eligible for income assistance to be eligible for a crisis supplement.

**Part D – Relevant Legislation**

EAR- sections 1, 10, 59, Schedule A- sections 2 and 4, Schedule B- section 1

**Part E – Summary of Facts**

The Appellant is a sole recipient of income assistance.

The information before the Ministry at the time of the Reconsideration Decision included the following:

- A printout from Service Canada (the "Printout"), detailing payments to the Appellant under an EI claim, including the following:
  - Five cheques to the Appellant in the amount of \$120.00 each on January 6, 2023, four of which were for EI payable to the Appellant for October 2022 and one of which was for EI payable to the Appellant for September 2022;
  - Three cheques to the Appellant in the amount of \$263.00 each on January 12, 2023, all of which were for EI payable to the Appellant for December 2022;
  - One cheque to the Appellant in the amount of \$210.00 on January 12, 2023, which was for EI payable to the Appellant for December 2022;
  - One cheque to the Appellant in the amount of \$105.00 on January 23, 2023, which was for EI payable to the Appellant for January 2023; and
  - Four cheques to the Appellant in the amount \$263.00 on February 28, 2023, which was for EI payable to the Appellant for January 2023;
- The Request for Crisis Supplement – Shelter form, completed by the Appellant and dated March 3, 2023;
- The Appellant's Request for Reconsideration, dated March 8, 2023, in which the Appellant set out that he was dissatisfied with the Ministry's decision on the crisis supplement request and noted that "I am eligible for crisis supplement because I did receive assistance from the ministry in the form crisis utilities supplement. I am all paid up by E.I. and I'm not eligible for regular benefits because I'm self employed. I have received 3 eviction notices and they are expecting me out by March 17."

In the Appellant's Notice of Appeal, the Appellant set out that he did not understand why he would be eligible for February assistance but not for March or why he was advised that he had received \$1,704.00 in Employment Insurance ("EI") benefits but had only received \$999.00.

At the hearing of the appeal, neither the Appellant nor any representative from the Ministry was in attendance. The panel proceeded with the hearing after confirming that both the Appellant and the Ministry had received notice of the date and time of the hearing and that neither the Appellant nor the Ministry had sought an adjournment of the hearing.

**Part F – Reasons for Panel Decision*****Issue on appeal***

The issue in this appeal is whether the Ministry determination that the Appellant was not eligible for a crisis supplement for rent in March 2023, because the Appellant was not eligible for income assistance in March 2023, was reasonable.

***Panel Decision***

As a sole recipient of income assistance, the Appellant is eligible for income assistance in accordance with sections 2 and 4 of Schedule A to the EAR. Those two schedules provide for a monthly assistance amount of \$560.00 and a monthly shelter allowance of \$375.00, respectively, for a total of \$935.00 per month.

The Printout document cheques paid from Service Canada to the Appellant in January 2023, totaling \$1,704.00. The Printout also documents cheques paid to the Appellant in respect of EI benefits for January 2023, totaling \$1,157.00. The Appellant does not appear to have received any EI cheques in December, despite appearing to have been eligible for EI in December. This may explain why, as set out in the Notice of Appeal, the Appellant was eligible for income assistance in February, although the panel can only speculate on this. However, it is noteworthy that the EI amounts paid to the Appellant for January (\$1,157.00) also exceeded the amount of assistance for which the Appellant was otherwise eligible, as determined by Schedule A to the EAR, so even had the EI payments to the Appellant been made concurrently with his eligibility for EI, his EI for January would still have exceeded the amount of assistance determined by Schedule A.

Whether one uses the amount paid to the Appellant in EI in January 2023 (as the Ministry did) or the amount of EI for which the Appellant was eligible in respect of January 2023, the Appellant's January 2023 EI exceeded the income assistance for which he was eligible. Because EI is not deductible from income under Schedule B to the EAR, all of the EI benefits paid to the Appellant in January must be included in the calculation of his net income for the purpose of determining the Appellant's eligibility for income assistance in March 2023. Because the amount of EI received by the Appellant in January was \$1,704.00 (and the amount of EI for which he was eligible for January appears to have been \$1,157.00), which exceeded the amount of income assistance for which the Appellant was eligible, as determined by Schedule A, the Appellant is not eligible for income assistance in the month of March 2023, which is the month in which the request for the crisis supplement was made.

Section 59 of the EAR sets out the eligibility criteria for a crisis supplement. The first criterion set out in that section is eligibility for income assistance. As set out above, the Appellant's net income for January 2023 (comprised of EI benefits) exceeded his income assistance entitlement (regardless of whether one calculates the Appellant's net income using the amount of EI paid *to* the Appellant in January or the amount of EI *for* which the Appellant was eligible in respect of January 2023) and, in the result, the Appellant was not eligible for income assistance in March 2023.

The Appellant's request for a crisis supplement was not made until March 3, 2023. As the Appellant was not eligible for income assistance in March 2023, the month in which the crisis supplement request was made, the panel finds that the Ministry reasonably determined that the Appellant had not satisfied the basic criterion for a crisis supplement of being eligible for income assistance. The panel notes that the Ministry's method of calculating the Appellant's net income from EI might have resulted in the Appellant satisfying the requirement of eligibility for income assistance had the request for a crisis supplement been made in February, notwithstanding that the Appellant was paid \$999.00 in EI benefits in respect of the month of December, none of which, however, was actually paid to the Appellant *in* December.

In view of the foregoing, the Appellant is not successful in this appeal.

## ***Relevant Legislation***

### **EMPLOYMENT AND ASSISTANCE REGULATION**

#### **Definitions**

**1** (1) In this regulation:

"**unearned income**" means any income that is not earned income, and includes, without limitation, money or value received from any of the following:

(g) employment insurance;

#### **Limits on income**

**10** (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 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.

#### **Crisis supplement**

**59** (1) The minister may provide a crisis supplement to or for a family unit that is eligible for income assistance or hardship assistance if

- (a) the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed and is unable to meet the expense or obtain the item because there are no resources available to the family unit, and
- (b) the minister considers that failure to meet the expense or obtain the item will result in
  - (i) imminent danger to the physical health of any person in the family unit,
  - or

(ii) removal of a child under the *Child, Family and Community Service Act*.

(2) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.

(3) A crisis supplement may not be provided for the purpose of obtaining

- (a) a supplement described in Schedule C, or
- (b) any other health care goods or services.

(4) A crisis supplement provided for food, shelter or clothing is subject to the following limitations:

- (a) if for food, the maximum amount that may be provided in a calendar month is \$40 for each person in the family unit,
- (b) if for shelter, the maximum amount that may be provided in a calendar month is the smaller of

- (i) the family unit's actual shelter cost, and
- (ii) the sum of

(A) the maximum set out in section 2 of Schedule A and the maximum set out in section 4 of Schedule A, or

(B) the maximum set out in Table 1 of Schedule D and the maximum set out in Table 2 of Schedule D,

as applicable, for a family unit that matches the family unit, and

- (c) if for clothing, the amount that may be provided must not exceed the smaller of
  - (i) \$100 for each person in the family unit in the 12 calendar month period preceding the date of application for the crisis supplement, and
  - (ii) \$400 for the family unit in the 12 calendar month period preceding the date of application for the crisis supplement.

(5) and (6) Repealed. [B.C. Reg. 248/2018, App. 1, s. 2.]

(7) Despite subsection (4) (b), a crisis supplement may be provided to or for a family unit for the following:

- (a) fuel for heating;
- (b) fuel for cooking meals;
- (c) water;
- (d) hydro.

#### Schedule A

[am. B.C. Regs. 286/2003, s. 1 (b); 521/2004, s. 1; 161/2005; 304/2005, s. 7; 57/2007, s. 4; 88/2008, s. 2; 316/2008, s. (a); 48/2010, Sch. 1, s. 1 (b) and (o); 62/2010, s. (a); 73/2010, ss. 5 and 6; 197/2012, Sch. 1, ss. 20 and

21; 34/2017, App. 1, s. 4; 153/2017, App. 1, s. 1; 151/2018, App. 1, s. 8; 32/2019, App. 1, s. 1; 122/2019, App. 1, ss. 11 and 12; 270/2019, App. 1, s. 22; 35/2020, App. 1, s. 6; 108/2021, App. 1, s. 4; 233/2021, App. 2, ss. 1 to 3; 85/2022, App. 1, s. 4; 21/2023, App. 1, s. 12.]

### Income Assistance Rates

(section 28 (a) )

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#### 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 a warrant in section 15.2 [*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

(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
1	Sole applicant/recipient and no dependent children	Applicant/recipient is under 65 years of age	\$560.00

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#### 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 a warrant in section 15.2 [*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 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
1	1 person	\$75	\$375

#### Schedule B

[am. B.C. Regs. 57/2003, s. 1; 115/2003, Sch. 1, s. 2; 209/2003, Sch. 1, s. 2; 235/2003, s. 2; 276/2004, s. 1 (b); 462/2003, Sch. A, s. 3; 429/2004; 22/2005, Sch. s. 1 (b); 87/2005, s. (b); 90/2005, s. 1; 91/2005, s. 1; 292/2005, s. 1 (a); 43/2006, s. 1; 192/2006, s. 4; 250/2006, s. 1 (b); 57/2007, s. 5; 195/2007, s. 2; 362/2007, s. (b); 48/2008, s. 1 (b); 87/2008, s. 1 (b); 94/2008, s. 1 (b); 4/2010, s. 3; 48/2010, Sch. 1, s. 1 (b), (p) and (q); 180/2010, s. 1; 242/2010, Sch. s. 2; 32/2012, Sch. 3, s. 1; 83/2012, s. 1; 85/2012, Sch. 1, s. 5; 197/2012, Sch. 1, ss. 22 to 25; 31/2014, Sch. 1, s. 2; 172/2014, Sch. 1, s. 2; 41/2015, Sch. 1, s. 3; 73/2015, App. 3, s. 1; 145/2015, Sch. 1, ss. 15 to 17; 148/2015, App. 1, s. 1; 204/2015, App. 1, ss. 3 and 4; 81/2016, App. A, s. 1; 233/2016, App. 1; 283/2016, Sch. 1, s. 3; 96/2017, App. 1, s. 2; 34/2017, App. 1, ss. 5 to 9; 179/2017, App. 1, s. 2; 169/2017, App. 1, s. 1; 150/2018, s. 1 (b); 151/2018, App. 1, s. 9; 189/2018, App. 1, s. 1 (b); 19/2019, App. 1, s. 1 (b); 122/2019, App. 1, s. 13; 226/2019, App. 1, s. 2; 270/2019, App. 1, s. 23; 259/2020, App. 1, s. 3; 268/2020, App. 1, s. 2 and App. 3; 278/2020, App. 1, s. 2; 21/2021, App. 1, s. 1 (b); 108/2021, App. 1, s. 5; 194/2021, s. 3; 232/2021, Sch. 1, s. 2; 189/2021, App. 3; 303/2021, Sch. 1, s. 2; 246/2022, App. 1, ss. 4 and 5; 272/2022, App. 1, s. 3; 52/2023, App. 1, s. 1.]

#### Net Income Calculation

(section 28 (b) )

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#### 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,



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(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.

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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/May/11

Print Name

Cherri Fitzsimmons

Signature of Member

Date (Year/Month/Day)

2023/May/11

Print Name

Bill Haire

Signature of Member

Date (Year/Month/Day)

2023/May/11