

Part C - Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated July 21, 2023, which determined the appellant was not eligible for disability assistance for June 2023, as the Employment Insurance income she received exceeded her assistance rate.

Part D - Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (Act), sections 3 and 11

Employment and Assistance for Persons with Disabilities Regulation (Regulation), sections 1, 9, 24, and 29, Schedule A, sections 1, 2, and 4 and Schedule B, sections 1, 3, 6, and 7.

Employment Insurance Act (Canada)

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

Part E – Summary of Facts

The appellant did not attend the hearing. After verifying the appellant was notified, the hearing proceeded as per section 86(b) of the Employment and Assistance Regulation.

Relevant Evidence Before the Minister at Reconsideration**Ministry Records show:**

- The appellant is a sole recipient of disability assistance receiving \$1410.50 per month (\$983.50 support, \$375.00 shelter, and \$52.00 transportation supplement).
- On April 27, 2023, the ministry received information from Service Canada, which shows the appellant received \$3104.00 Employment Insurance (EI - illness/sickness benefits) in April 2023.
- On May 25, 2023, the ministry determined the appellant's EI income exceeded the maximum amount of disability assistance (\$1358.50) and she was not eligible for disability assistance for June 2023.

Monthly Report (May 3, 2023)

The report shows, EI declared - \$3104.00

Employment Insurance/Ministry Common Claimant Report (May15, 2023)

The report shows eight weeks of EI paid (\$388.00/each week), issued April 6 – 21 2023.

Request for Reconsideration (July 7, 2023) - summary

The appellant states she was unaware EI medical was considered unearned income since she actually had to be earning income to receive EI. She states she has begged and borrowed for weeks for rent and food and hasn't eaten for three days.

She states this has also affected her eligibility to receive moving assistance. She read that she was eligible to receive assistance to move her belongings from storage at her former residence to her new residence. She submitted the quote as requested, but now her ineligibility is affecting the move assistance. The appellant states her belongings are on a truck but since she has no assistance to pay, her belongings won't be dropped off and she has now lost everything she owns - total and complete poverty.

The appellant also adds that utilities are a lot more at her current residence than what she's used to. She states she has no money and is an above-knee amputee.

Additional Information

Appellant

Notice of Appeal (August 1, 2023)

The appellant states she is appealing the decision making her ineligible to receive June and July 2023 disability assistance. She states she did not realize that EI was taken off her disability assistance as anything else she claimed (i.e. work hours) was exempt. She states she was surprised to learn that EI is considered unearned income since she cannot receive EI until she has worked enough hours and paid into EI.

So, when she received her medical EI payments she paid some money towards outstanding bills, leaving her stranded. She has learned that disability assistance will not be available until her medical EI is over.

However, the appellant states her medical EI is over and she hasn't received any sort of income since early June. She still owes her roommate \$700.00 for July rent plus \$400.00 utilities. She has been juggling, begging, borrowing and lying to get by while trying to figure this out. If she cannot find these funds, plus August rent of \$1075.00, then she will be asked to leave, which puts her on the street. Being homeless is scary enough but she is an above-knee amputee and homelessness seems next to impossible

The appellant states she is submitting this appeal for reconsideration plus a consideration of emergency funds while awaiting this tribunal decision. She is absolutely desperate, and this has increased her stress level immensely.

Ministry

At the hearing, the ministry relied on its record and added that the appellant did declare prior employment earnings, but the ministry did not know why the appellant was off work. As well, the ministry confirmed that its decision to deny disability assistance only applied to June 2023.

The panel determined the additional information to be argument.

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, did the ministry reasonably determine that the appellant was not eligible for disability assistance for June 2023, because the EI income she received exceeded her assistance rate?

In the Notice of Appeal, the appellant states she is appealing the decision making her ineligible to receive June and July 2023 disability and she is also requesting emergency funds. However, as the ministry decision for disability assistance only applies to June 2023, the panel will only make a determination for June and not July 2023. As well, as the panel's jurisdiction is limited to the reconsideration decision, the panel cannot consider a new request for emergency funds..

Appellant Position

The appellant states she did not realize that EI was taken off her disability assistance.

She argues she hasn't received any income since early June and still owes her roommate \$700.00 for July rent plus \$400.00 utilities. She has been juggling, begging, borrowing and lying to get by while trying to figure this out. She argues that if she cannot find these funds plus August rent of \$1075.00, she will be on the street. Being homeless is scary enough but she is an above-knee amputee and homelessness seems next to impossible

The appellant argues that she is absolutely desperate, and this has increased her stress level immensely.

Ministry Position

The ministry states this decision is regarding the appellant's eligibility for June disability assistance only. It argues that based on the reporting cycle, the appellant's April EI income is reported in May and affects her June assistance. As the ministry calculated the appellant's net income from the EI received in April as \$3104.00, which exceeded her disability rate, it must be deducted from June's assistance. The ministry adds that EI income is unearned income under section 1 of the Regulation.

The ministry also states that section 3 of the Regulation refers to qualifying annual exemptions and a family unit with one adult recipient who has the Person With Disabilities (PWD) designation can have a maximum annual exemption of \$15,000, which includes unearned income paid under the *Workers Compensation Act*. However, the ministry argues this does not apply to the appellant as medical EI is not qualifying income for the annual exemption.

Further, the ministry argues, the appellant's EI is not for maternity, parental or benefits to care for a critically ill child, and so her EI income is not exempt under section 7 of Schedule B of the Regulation. In accordance with section 24 of the Regulation, the ministry finds the EI received in April 2023 is not exempt and exceeds the appellant's assistance rate. Therefore, she is not eligible for disability assistance.

Panel Analysis

Section 3, Act – eligibility

Section 3 of the Act states a family unit is eligible for disability assistance if each person in the family satisfies the initial and continuing conditions of eligibility established under this Act.

Section 11, Act & Section 29, Regulation - reporting obligations

Section 11 of the Act states, for a family unit to be eligible for disability assistance, a recipient must submit a report to notify the minister of any information that may affect their eligibility.

Section 29 of the Regulation states for the purposes of section 11 of the Act the report must be submitted by the 5th day of the month following the month in which there is a change in income received by the family unit and the source of that income.

The ministry argues that based on the reporting cycle, the appellant's April EI income is reported in May and affects her June assistance. Although the panel finds this reporting cycle is not found in legislation, the panel finds it to be reasonable for the purpose of administering the disability assistance program.

Section 1, Regulation – definitions

The panel notes section 1 of the Regulation states, "unearned income" means any income that is not earned income, and includes, "(g) employment insurance".

Sections 9 & 24, Regulation – limits on income & amount of disability assistance

Section 9(2) of the Regulation states, 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.

Section 24 of the Regulation states disability assistance may be provided 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.

Sections 1, 2 & 4, Schedule A, Regulation – disability assistance rates

The panel notes Schedule A shows the monthly support rate for a sole applicant (PWD) as \$983.50 and the monthly shelter allowance as \$375, for a total of \$1,358.50. Ministry records state the appellant is a sole recipient of disability assistance. The panel finds the ministry reasonably determined the appellant's assistance rate as \$1,358.50.

Sections 1, 3, 6 and 7 Schedule B, Regulation – deductions and exemptions

Section 1 of Schedule B provides a list of monies that are exempt when calculating the net income under section 24. The panel notes EI benefits paid under sections 22, 23 or 23.2 of the *Employment Insurance Act* are exempt. However, the panel also notes that these sections of the EI Act pertain to pregnancy and parental benefits and benefits to care for a critically ill child. The panel finds there are no other EI benefits which are exempt under section 1 of Schedule B.

Section 3 of Schedule B refers to an annual exemption and defines qualifying income as unearned income that is compensation paid under section 191 [*temporary total disability*] or 192 [*temporary partial disability*] of the *Workers Compensation Act*. The panel notes the appellant declared Employment Insurance on her monthly report, not monies received under the *Worker's Compensation Act*; The panel finds section 3 of Schedule B does not apply.

The panel also notes the only deductions permitted from unearned income under section 6 is income tax deducted at source from employment insurance benefits and essential operating costs of renting self-contained suites. The panel finds section 6 does not apply to the appellant.

Section 7 of Schedule B lists exemptions that apply to unearned income. The panel notes EI is not listed as an exemption under section 7.

As there are no exemptions pertaining to EI medical benefits under Schedule B, the panel finds the appellant's net income under Schedule B is calculated as \$3104.00.

The panel finds as the \$3104.00 EI benefits are considered unearned income as per section 1 of the Regulation and are not exempt under Schedule B of the Regulation, no disability assistance can be provided, as per section 24 of the Regulation.

$\$1358.00$ (schedule A) - $\$3404.00$ (schedule B) = $\$0.00$,

Therefore, the panel finds the ministry reasonably determined the appellant was not entitled to disability assistance for June 2023.

Conclusion

In conclusion, the panel finds the ministry decision, which determined the appellant was not eligible for disability assistance for June 2023 because the EI income she received exceeded her assistance rate, was a reasonable application of the legislation in the circumstances of the appellant.

The appellant is not successful on appeal.

Schedule of Legislation

Employment and Assistance for Persons with Disabilities Act

Eligibility of family unit

3 For the purposes of this Act, a family unit is eligible, in relation to disability assistance... if

- (a) each person in the family unit on whose account the disability assistance... is provided satisfies the initial and continuing conditions of eligibility established under this Act, and
- (b) the family unit has not been declared ineligible for the disability assistance... under this Act.

Reporting obligations

11 (1) For a family unit to be eligible for disability assistance, a recipient, in the manner and within the time specified by regulation, must

- (a) submit to the minister a report that
 - (i) is in the form specified by the minister, and
 - (ii) contains the prescribed information, and
- (b) notify the minister of any change in circumstances or information that
 - (i) may affect the eligibility of the family unit, and
 - (ii) was previously provided to the minister.

Employment and Assistance for Persons with Disabilities 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

9...

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

Amount of disability assistance

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

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

Reporting requirement

29 For the purposes of section 11 (1) (a) [*reporting obligations*] of the Act, (a)the report must be submitted by the 5th day of the calendar month following the calendar month in which one or more of the following occur:

- (i)a change that is listed in paragraph (b) (i) to (v);...
- (iii)a family unit receives unearned income that is compensation paid under section 191 [*temporary total disability*] or 192 [*temporary partial disability*] of the *Workers Compensation Act* as set out in paragraph (b) (vii), and
- (b)the information required is all of the following, as requested in the monthly report form specified by the minister:...
- (ii)change in income received by the family unit and the source of that income;...

Schedule A

Disability Assistance Rates

(section 24 (a))

Maximum amount of disability assistance before deduction of net income

1 (1)Subject to this section and sections 3 and 6 to 8 of this Schedule, the amount of disability assistance referred to in section 24 (a) [*amount of disability assistance*] of this regulation is the sum of

- (a)the monthly support allowance under section 2 of this Schedule for a family unit matching the family unit of the applicant or recipient, plus
- (b)the shelter allowance calculated under sections 4 and 5 of this Schedule....

Monthly support allowance

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

(1)A monthly support allowance for the purpose of section 1 (a) is the sum of (a)the amount set out in Column 3 of the following table for a family unit described in Column 1 of an applicant or a recipient described in Column 2...

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

Monthly shelter allowance

4 (1) For the purposes of this section:...

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

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

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

Schedule B

Net Income Calculation

(section 24 (b))

Deduction and exemption rules

1 When calculating the net income of a family unit for the purposes of section 24

(b) *[amount of disability assistance]* of this regulation,

- (a) the following are exempt from income:
 - (i) any income earned by a dependent child attending school on a full-time basis;...
 - (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;...
- (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;...
- (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);

(xxxii.1) a rental housing benefit provided under the *Rental Housing Benefit Act* (Canada);

(xxxii.2) a dental benefit provided under the *Dental 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);...

(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;

(xlv.2) a BC family 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) and (lviv) Repealed. [B.C. Reg. 99/2023, App. 2, s. 3 (a).]
- (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) to (lxvii)Repealed. [B.C. Reg. 99/2023, App. 2, s. 3 (a).]

(lxviii)a voted support payment;

(lxix)money that is paid under or from an Indigenous financial settlement,

(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,

(b.1)if money is paid under or from an Indigenous financial settlement to an Indigenous governing body, the exemption under paragraph (a) (lxix) includes investment income earned on that money by the Indigenous governing body before it is distributed to a person,

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

(d)all unearned income must be included, except the deductions permitted under section 6 and any income exempted under sections 3, 7 and 8.

Annual exemption — qualifying income

3 (1)In this section:...

"qualifying income" means...

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

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:...

(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 Veterans Affairs Canada benefits paid to any person in the family unit;

(c)a criminal injury compensation award or other award, except the amount that would cause the family unit's assets to exceed, at the time the award is received, the limit applicable under section 10 [*asset limits*] of this regulation;

(d) a payment made from a trust to or on behalf of a person referred to in section 12 (1) [*assets held in trust for person with disabilities*] of this regulation if the payment is applied exclusively to or used exclusively for

- (i) disability-related costs,
- (ii) the acquisition of a family unit's place of residence,
- (iii) a registered education savings plan, or
- (iv) a registered disability savings plan;

(d.1) subject to subsection (2), a structured settlement annuity payment made to a person referred to in section 12 (1) of this regulation if the payment is applied exclusively to or used exclusively for an item referred to in subparagraph (i), (ii), (iii) or (iv) of paragraph (d) of this subsection;

(d.2) money expended by a person referred to in section 12.1 (2) [*temporary exemption of assets for person with disabilities or person receiving special care*] of this regulation from an intended registered disability savings plan or trust if the money is applied exclusively to or used exclusively for disability-related costs;

(d.3) any of the following if applied exclusively to or used exclusively for disability-related costs to promote independence:

- (i) a payment made from a trust to or on behalf of a person referred to in section 12 (1) of this regulation;
 - (ii) a structured settlement annuity payment that, subject to subsection (2), is made to a person referred to in section 12 (1) of this regulation;
 - (iii) money expended by a person referred to in section 12.1 (2) of this regulation from an intended registered disability savings plan or trust;
- (e) the portion of Canada Pension Plan Benefits that is calculated by the formula (A-B) x 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

Employment Insurance Act (Canada)

Pregnancy

22 (1) Despite section 18, but subject to this section, benefits are payable to a major attachment claimant who proves her pregnancy.

Parental benefits

23 (1) Despite section 18, but subject to this section, benefits are payable to a major attachment claimant to care for one or more new-born children of the claimant or one or more children placed with the claimant for the purpose of adoption under the laws governing adoption in the province in which the claimant resides.

Benefits — critically ill child

23.2 (1) Despite section 18, but subject to this section, benefits are payable to a major attachment claimant who is a family member of a critically ill child in order to care for or support that child, if a medical doctor or nurse practitioner has issued a certificate that...

APPEAL NUMBER 2023-0230

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)

2023/08/22

Print Name

Edward Wong

Signature of Member

Date (Year/Month/Day)

2023/08/22

Print Name

Vivienne Chin

Signature of Member

Date (Year/Month/Day)

2023/08/22