

Part C - Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated July 26, 2023, which determined the appellant was not eligible for income assistance because his net income is more than the rate of assistance.

As well, the ministry determined the appellant is not eligible for Medical Services Only benefits as he is not considered a qualifying person because he was not a Person with Persistent Multiple Barriers according to the legislation.

The ministry also determined the appellant is eligible for adjudication of his Persons with Disabilities application.

Part D - Relevant Legislation

Employment and Assistance Act (Act), sections 1, 2, 4
Employment and Assistance Regulation (Regulation), sections 1, 2, 10, 28 and 66.3,
Schedule A, sections 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 single person with an open income assistance file. He is over 65 years old and last received income assistance for March 2023.
- On February 17, 2023, the appellant submitted verification that his Guaranteed Income Supplement (GIS) and Old Age Security (OAS) pension was reassessed and his new monthly combined payment is \$1462.52, effective February 2023.
- The appellant is also receiving Canada Pension Plan (CPP) pension in the amount of \$426.04.
- On May 1, 2023, the ministry determined the appellant was not eligible for income assistance because his income from OAS/GIS and CPP is above ministry rates.
- On May 29, 2023, the appellant advised the ministry he was applying for Persons with Disabilities designation. The ministry confirmed that due to the appellant's income, he was not eligible for income assistance or Medical Services Only benefits.
- On June 7, 2023, the ministry received the Persons with Disabilities application.
- On June 15, 2023, the ministry determined the appellant's income is in excess of the base rate for Persons with Disabilities assistance.
- On July 10, 2023, the appellant submitted a request for reconsideration.

Request for Reconsideration (July 10, 2023) - summary

The appellant states he is appealing the decision regarding the coverage of medical, dental and other health services. He has been denied Persons with Disability assistance due to his income exceeding the set limit by a small margin.

The appellant also states, it is evident that the current income thresholds for pensioners fails to adequately address the rising cost of essential expenses including housing, hygiene, food and various expenditures. Inflationary pressures have significantly impacted the affordability of these necessities leaving individuals in a precarious financial position. The appellant notes that while his income may exceed the limit by a few hundred dollars, it is crucial to consider the broader context of his financial situation and the limitations it imposes in specific medical, dental and other health services not covered by other ministry or outside support programs.

Furthermore, the appellant's medical professionals, a medical doctor and a neurologist recommended medical coverage for specific treatments and medications, not covered by the existing medical plan. The costs associated with these treatments and medications are

prohibitive for the appellant and he cannot afford them without assistance.

In addition to medical coverage, the appellant seeks dental and disability coverage, not available through independent programs. The inability to access these essential services further exacerbates the appellant's financial and health challenges making it increasingly difficult for him to maintain a decent quality of life. By extending coverage for dental treatments and disabilities support, the ministry will significantly alleviate the burden faced by the appellant.

Monthly Report (May 1, 2023)

The appellant reported,

OAS - \$1471.00

CPP - \$340.83

Letter to the Appellant from Service Canada (January 30, 2023)

- changes to the appellant's GIS benefit for July 2022 to June 2023

The writer states that the amount of benefit has been recalculated and as of August 2022, the amount of the appellant's GIS benefit has increased. The new monthly payment, effective February 2023, will be \$1,462.52 (\$550.05 OAS + \$912.47 (revised GIS).

Additional Information

Appellant

Notice of Appeal (August 31, 2023)

The appellant states he is trying to access medical, dental and disability benefits, not income assistance.

Submission (September 6, 2023) – summary (written with assistance from a senior's advocate)

The appellant writes that in the reconsideration decision it states that he is eligible for adjudication of his Persons with Disabilities application. He is seeking this designation to access medical only coverage (dental and other health services). He states he has a progressive neurological disease, which is making mobility increasingly difficult and expects needing mobility devices in the not-too-distant future; he has to travel to a hospital for treatments on a regular basis.

As well, the appellant states he has been told that he will need dentures as all his teeth are loose and at risk of infection and loss. He states he has minimal funds in the bank, which are slowly being drained due to his recent move, increasing medical challenges, rising food and other costs.

The appellant adds that his income level should not determine his status. His doctor's evidence clearly shows that he is disabled, and his condition is becoming worse.

The appellant also writes that the BC Employment and Assistance Policies and Procedures manual for Persons with Disabilities designation states that recipients retain the designation whether or not they continue to be financially eligible for disability assistance. As such, the appellant questions why he is being denied a Persons with Disabilities designation and believes he should be eligible for medical and dental assistance since he is a person with disabilities.

As well, the appellant questions why he is not eligible under the Regulation section 66.3(1)(a) for medical services to carry on after his income disqualified him from income assistance. He adds that if he qualifies as a continuing person under 66.3(1)(a) then he should qualify for general health supplements under Section 67(1)(c). He also feels that section 76(1) may apply.

The appellant also notes that the reconsideration decision stated that he ceased to be eligible as he was not a Person with Persistent Multiple Barriers. However, he states his medical information clearly shows that he is a Person with Persistent Multiple Barriers. He adds that he wants to work, but his medical condition prevents him. He recently lost his class 1 driver's license upon his doctor's recommendation.

At the hearing, the appellant reiterated that he agrees with the ministry's decision that he does not qualify for income assistance. He is applying for Persons with Disability designation and seeking assistance with medical expenses. As well, he stated that his doctors provided supporting medical information, which was included with his Persons with Disabilities application.

The appellant stated he is not asking for "cash". His annual income is only approximately \$17,000.00 and while some medications are covered by the Ministry of Health, many are not. His medications are incredibly expensive (\$6,000 for six months). He also requires physical aids; a walking stick costs \$1250.00.

Ministry

At the hearing the ministry relied on its record concerning the ineligibility of income assistance. The ministry added that the appellant's Persons with Disabilities application was adjudicated. The decision (dated September 19, 2023) was sent to the appellant, however, to an incorrect address. The ministry advised the appellant of the decision (i.e., that he was found not eligible for Persons with Disabilities designation). The ministry also advised the appellant it would forward a copy of the decision to him and his advocate and of his right to request a reconsideration of this decision.

The ministry did not object to the submission provided by the appellant.

Admissibility

The panel determined 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 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, did the ministry reasonably determine that the appellant was not eligible for income assistance because his employment income is more than the rate of assistance?

and

Did the ministry reasonably determine the appellant is not eligible for Medical Services Only benefits as he is not considered a qualifying person because he was not a Person with Persistent Multiple Barriers?

As the decision by the ministry that the appellant is not eligible for Persons with Disabilities designation is separate from this appeal, the panel will not address any evidence or arguments on this decision.

Appellant Position

The appellant argues he is trying to access medical, dental and disability benefits, not income assistance and also that his income level should not determine his status. He states his doctor's evidence clearly shows that he is disabled, and his condition is becoming worse.

As well, the appellant questions why he is not eligible under the Regulation section 66.3(1)(a) for medical services only and then for general health supplements under section 67(1)(c). He also feels that section 76(1) may apply. The appellant argues further that he is a Person with Persistent Multiple Barriers.

Ministry Position**Eligibility for Income Assistance**

The ministry argues that the OAS/GIS and CPP the appellant receives is unearned income according to section 1 of the Regulation. As per Schedule A of the Regulation, the appellant's income assistance rate is \$1235.00 per month (\$860.00 support and \$375.00 shelter). As per schedule B of the Regulation, the ministry determined that the appellant's OAS/GIS and CPP income is \$1925.59 per month and therefore the ministry confirmed that the appellant's income is more than the \$1235.00 rate of assistance. As the appellant's net income is greater than the rate of assistance, he is not eligible for income assistance under Section 10(2) of the Regulation.

Eligibility for Medical Services Only

The ministry argues the appellant is not eligible for Medical Services Only benefits under the Act and Regulation because when the appellant ceased to be eligible for income assistance, he was not a qualifying person because he was not a Person with Persistent Multiple Barriers.

The ministry adds, although outside the scope of this reconsideration decision, the appellant may wish to contact the ministry to discuss eligibility for the Life-Threatening Health Needs Supplement.

Panel Analysis

Income Assistance

The panel notes the appellant argues he is trying to access medical, dental and disability benefits, not income assistance. However, as the ministry states one of the issues under reconsideration is denial of income assistance, the panel will first determine if the ministry reasonably concluded that the appellant was not eligible for income assistance.

Sections 1, 2 and 4, Act – definitions and eligibility for income assistance

Section 1 states income assistance means an amount for shelter and support. Sections 2 and 4 state a person can receive income assistance if the ministry is satisfied they are eligible for it.

Section 1, Regulation – definitions of unearned income

Section 1 includes CPP benefits, OAS and GIS supplement payments as unearned income.

Sections 1, 10 and 28, Regulation – limits on income and amount of income assistance

Section 10 states a family unit is not eligible for income assistance if the net income of the family unit determined under Schedule B exceeds the amount of income assistance determined under Schedule A. Section 28 states income assistance may be provided in an amount that is not more than the amount determined under Schedule A, minus the family unit's net income determined under Schedule B.

Schedule A, Regulation – assistance rates

Ministry records show the appellant is a single person with an open income assistance file. He is over 65 years old. Schedule A shows the assistance rate for one applicant over 65 as \$860 and the shelter rate for one person as \$375 – total \$1,235.00/month.

Sections 1, 6, 7 and 8, Schedule B, Regulation – deductions and exemptions

Section 1 provides a list of monies that are exempt when calculating net income. The panel notes OAS and GIS are not listed and the only CPP that is exempt applies to orphan's benefits or a disabled contributor's child's benefit payable under the Canada Pension Plan. In addition, there are no provisions under sections 6, 7 and 8 of schedule B to provide exemptions for the GIS supplement or OAS and CPP pensions. Although section 7 refers to a Canada Pension Plan benefits calculation pertaining to the *Income Tax Act*, it does not apply to the appellant.

The panel notes the letter from Service Canada states, the new monthly payment, effective February 2023, will be \$1,462.52 (\$550.05 OAS + \$912.47 (GIS). Ministry records show the CPP amount to be \$426.04, which together with the OAS and GIS totals \$1,888.56.

As there are no exemptions pertaining to the GIS supplement, OAS or CPP pensions under Schedule B, the panel finds the appellant's rate of assistance is calculated as \$1,235.00.

As \$1,235.00 (Schedule A) - \$1,888.56 (Schedule B) = \$0.00, the panel finds the ministry reasonably determined the appellant is no longer entitled to income assistance. The panel notes there are some discrepancies in the amounts shown by Service Canada and the ministry, compared to those reported by the appellant in the monthly report. However, all amounts are more than the assistance rate.

Although the appellant states, in the request for reconsideration that it is evident the current income thresholds for pensioners fail to adequately address the rising costs of essential expenses, the panel is bound by the legislation.

Medical Services Only

The ministry argues that it determined the appellant is not eligible for Medical Services Only benefits as when he ceased to be eligible for income assistance, he was not considered a qualifying person because he was not classified as a Person with Persistent Multiple Barriers or in a special care facility.

Section 66.3, Regulation – medical services only

Section 66.3(a) states, subject to subsection (4), a person is a main continued person if the person was part of a family unit identified in subsection (3) on the date the family unit ceased to be eligible for income assistance, and a qualifying person on that date.

The appellant argues that if he qualifies as a continuing person under 66.3(1)(a) (after his income disqualified him from income assistance) then he should qualify for general health supplements under Section 67(1)(c). However, while the appellant meets one of the requirements to be a continuing person, being 65 years or older, the other requirement is to be a “qualifying person.”

The panel notes the Regulation defines "qualifying person" as a Person who has Persistent Multiple Barriers to employment. In the appellant's submission, he states his medical information shows that he clearly is a Person with Persistent Multiple Barriers.

Although the panel acknowledges the appellant's argument concerning his serious health situation, the panel finds the terms, “qualifying person” and “Person with Persistent Multiple Barriers” are not general statements, but are specifically defined in the legislation, with specific criteria attached. That is, the appellant would have had to have applied for and been approved by the ministry as a Person with Persistent Multiple Barriers before his income assistance ended.

The panel finds the ministry reasonably determined the appellant is not eligible for Medical Services Only benefits under the Regulation, because when he ceased to be eligible for income assistance, he was not a qualifying person because he was not a Person with Persistent Multiple Barriers, as per section 66(3)(a) of the Regulation.

Life-Threatening Health Need

The appellant argues that section 76(1) (health supplement for persons facing direct and imminent life-threatening health need) may apply. Although outside the scope of this appeal, the ministry did indicate that the appellant may wish to contact the ministry to discuss eligibility for the Life-Threatening Health Needs supplement. The panel encourages the appellant to contact the ministry regarding this possible option.

Conclusion

In conclusion, the panel finds the ministry decision was reasonably supported by the evidence.

The appellant is not successful on appeal.

Schedule of Legislation

Employment and Assistance Act

Interpretation

1 (1) In this Act:

"applicant" means the person in a family unit who applies under this Act for income assistance, hardship assistance or a supplement on behalf of the family unit...

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

"supplement" means any form of assistance specified by regulation, other than income assistance, hardship assistance or financial assistance provided under section 6 [*financial assistance to service or program providers*] and, without limitation, includes access to programs established or funded under this Act;

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, hardship assistance or supplement 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, hardship assistance or supplement under this Act.

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.

Employment and Assistance Regulation

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:...

(f) any type or class of Canada Pension Plan benefits;...

(u) Federal Old Age Security and Guaranteed Income Supplement payments;...

Employment and Assistance Regulation

Persons who have persistent multiple barriers to employment

... (2) A person qualifies as a person who has persistent multiple barriers to employment if the person

(a) is a recipient of income assistance or hardship assistance,

(b) has a health condition that is confirmed by a health professional and that,

(i) in the opinion of the health professional,

(A) has continued for at least one year and is likely to continue for at least 2 more years, or

(B)has occurred frequently in the past year and is likely to continue for at least 2 more years, and

(ii)in the opinion of the minister, is a barrier that seriously impedes the person's ability to search for, accept or continue in employment, and

(c)faces one or more additional barriers described in subsection (3).

(3)For the purposes of subsection (2) (c), an additional barrier is any of the following:

(a)any of the following circumstances if, in the opinion of the minister, the circumstance seriously impedes the person's ability to search for, accept or continue in employment:

(i)currently experiencing homelessness or having experienced homelessness in the past 12 months;

(ii)currently experiencing domestic violence or having experienced domestic violence in the past 6 months;

(iii)needing English language skills training;

(iv)not having basic skills for employment;

(v)having a criminal record;

(vi)having an education below grade 12;

(vii)having accessed emergency health, mental health or addiction services multiple times in the past 12 months...

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.

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.

3	Sole applicant/recipient and no dependent children	Applicant/recipient is 65 or more years of age	\$860.00
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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 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

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;
- (xvi) Repealed. [B.C. Reg. 197/2012, Sch. 1, s. 22 (a).]
- (xvii) and (xvii.1) Repealed. [B.C. Reg. 99/2023, App. 1, s. 3 (a).]
- (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;
- (xxvii) Repealed. [B.C. Reg. 148/2015, App. 1, s. 1 (a).]
- (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;

(xlili)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) and (lv) Repealed. [B.C. Reg. 99/2023, App. 1, s. 3 (a).]
- (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) to (lxiii)Repealed. [B.C. Reg. 99/2023, App. 1, s. 3 (a).]
- (lxiv)a voted support payment;
- (lxv)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 of this Schedule,
- (b.1)if money is paid under or from an Indigenous financial settlement to an Indigenous governing body, the exemption under paragraph (a) (lxv) 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 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 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 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.

Definitions

66.1 In this Division:

"qualifying person" means a person who

- (a)has persistent multiple barriers to employment...

Access to medical services only

66.3 (1)Subject to subsection (4), a person is a main continued person if

- (a)the person was
 - (i)part of a family unit identified in subsection (3) on the date the family unit ceased to be eligible for income assistance, and
 - (ii)a qualifying person on that date, and
- (b)the person has not, since that date, been part of a family unit in receipt of income assistance, hardship assistance or disability assistance...

APPEAL NUMBER 2023-0268

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)

2023/10/26

Print Name

Gordon Thompson

Signature of Member

Date (Year/Month/Day)

2023/10/26

Print Name

Joe Rodgers

Signature of Member

Date (Year/Month/Day)

2023/10/26