

**Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) Reconsideration Decision dated 10 October 2023, in which the ministry denied October disability assistance because the family unit net income exceeds the rate of disability assistance. The ministry determined the appellant had reached his Annual Earnings Exemption (AEE) limit and his spouse’s employment income is more than the permitted rate of assistance for the family unit size.

**Part D – Relevant Legislation**

Employment and Assistance Act (Act) - Section 5.

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

**The relevant legislation is provided in the Appendix.**

**Part E – Summary of Facts**

The appellant is a recipient of disability assistance. The family unit consists of the appellant, his spouse and five dependent children. The appellant has had PWD designation since January 1, 2023.

The evidence before the minister at reconsideration included the following information from the appellant:

- I am submitting this request as my family, and I need consistent income assistance due to our large family and rising and constant costs.
- My wife recently had to get a newish car on payments as her old car's engine completely died.
- The payments alone are \$900 a month and we are only able to do this with the help from my contribution. Without it, we will be choosing which bills not to pay or which groceries not to buy.
- The fact that my wife is working and providing for us negates me getting disability payments is to me insane. She already has to do a lot of extra work at home with the kids, and I am not able to do as much around the house.
- I know there is a provision or act that says a spouse or myself can only make so much, but that is insanity. It punishes stable committed couples and spouses that have jobs. My disability payments to me are not as much for myself but to provide for my family as I am no longer able to.
- Why is it okay for many people to have both couples working, but mine has to work and I only get part of a year of disability? This makes no sense.
- All I want is stable disability payments that can help me, and my wife provide groceries/clothes/shoes/school/extra-curricular activities for our kids.

There is also income information;

- An appellant monthly self-report dated 6 September 2023, showing spousal income received in August 2023 of \$3733.16, and
- Pay stubs for the appellant's spouse dated August 2023 from two employers. The pay stubs show the spouse was paid;
  - \$1164.31 net pay on August 1, 2023, (not \$1664.31 as reported by the ministry) and \$1235.66 net pay on August 15, 2023, from a first employer (employer #1), and a year-to-date net pay amount of \$10 035.88 as of 1 August 2023, and
  - \$504.41 on August 11, 2023, and \$828.78 on August 25, 2023, from a second employer (employer #2), with a year-to-date net pay amount of \$12 838.84 as of 11 August 2023.

**Evidence received after reconsideration.**

## Documentary

In the Notice of Appeal, the appellant writes;

- I believe my situation requires payments to be year-round, even if they are smaller, I need something consistent, as I am unable to work. This means I need consistent payments to be able to afford groceries, kids clothing, shoes, all the essentials.
- The appellant provided the panel at hearing a Release of Information form. The form named his spouse as a representative and she attended the hearing.

## Hearing

The hearing was held as an in-person hearing. The appellant could not remember receiving the appeal package. After being advised that the Tribunal system had recorded the delivery of the package by email the appellant rejected the need for an adjournment and instructed the panel to proceed with the hearing. The appellant explained he was familiar with the information and had brought the new car purchase documents if needed.

## Appellant

At the hearing the appellant recounted the information previously provided in the request for reconsideration and the notice of appeal. The appellant added that they have three young boys and two teenage daughters who generate large bills for groceries and food.

The newer car was purchased to allow his spouse to travel to work and is large enough to be able to transport the entire family of seven. The car is a 2021 model, that has a \$800 monthly payment, and is only affordable with the income from the appellant's disability allowance. It was purchased August 17, 2023.

The appellant stated he knew that there is a ministry policy on a maximum annual amount however he did not understand why this causes a stoppage of payments part way through the year. It would be better if he was provided a lower but more consistent amount through the year.

The appellant advised of the poor timing of the stoppage and the need for the family to now use food banks for groceries.

At questioning the appellant agreed that he may have been advised at the time of submitting monthly reports that he was approaching the annual earnings limit and that disability payments may be reduced. The appellant did not fully understand what this meant and admits that he should have asked.

The 2021 car was purchased as the spouse's old car suffered extreme engine damage, and the mechanic told them it was not economical to repair.

### Ministry

The ministry relied upon the reconsideration decision, as summarized at the hearing. At the hearing, the ministry stated the appellant would have been advised at the time of the August report that the AEE was exhausted. As a result of the September report of spouse's August income the appellant became ineligible for October benefits.

In response to a question from the appellant the ministry advised that a single recipient of disability payments receives a \$15 000 AEE, which is less than the appellant, so the ministry does not attempt to penalise anyone.

The ministry stated that it does not have the ability to influence the number of payments or the AEE legislation. That is the purview of the appellant's local member of the legislative assembly (MLA).

The ministry advised it is not able to anticipate either appellant or spousal income and provided an example whereby a person may have seasonal work in a fish packing plant for three months. The AEE may be exhausted in that time frame however there is then no other earned income for the rest of the year.

The ministry stated that the net earned income was \$24 939.16, which is over the AEE of \$18 000 and the appellant will not be eligible for further disability payments until March 2024. The panel expressed concern about this interpretation. The ministry was asked to clarify that position - if the AEE was reached does it deduct any future earned income dollar from dollar from disability payments. The ministry explained that understanding is not correct and only reflects earned income from income assistance. For recipients of disability assistance the payments will cease until the next annual period and in the circumstances of the appellant there will be no PWD assistance until next March when the AEE will be renewed.

The ministry advised that in such circumstances the appellant is advised to plan for varying amounts of income through the year by putting aside monies.

The ministry advised that the appellant's file has been transferred to medical services only (MSO) status. This will provide optical and dental services for the family and the children will also be covered under the Healthy Kids program. The appellant is also eligible for and receiving the monthly bus pass allowance.

**Admissibility of new information**

In this case both the appellant, and the ministry provided oral testimony.

The panel admits the documentary and oral testimony under section 22(4) of the Employment and Assistance Act ("EAA") as evidence that is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

**Findings of Fact**

The panel finds the appellant's family unit is a two-parent family with five dependent children, comprising seven individuals.

The panel finds no disagreement between the parties as to earned income amounts paid to the spouse.

The panel reviewed the statements of earnings and deductions provided in the name of the appellant's spouse. The panel notes the ministry had incorrectly transcribed one of the totals as \$1664.31 versus \$1164.31 on one of the pay stubs. The panel finds the spouse was paid, after all deductions, \$2399.97 from employer #1, and \$1333.19 from employer #2 for a total of \$3733.16 for the month of August 2023, and notes this figure agrees with the total provided on the appellant's monthly self-report.

The pay stubs show after deduction, annual net pay from employer 1 of \$10 035.88 as of 1 August 2023, and \$12 838.84 as of 11 August 2023, for employer 2. By subtracting the first net pay amount for August from the YTD amounts the panel calculated the YTD pay for July 2023.

- $\$10\,035.88 - \$1164.31 = \$8\,871.57$
- $\$12\,838.84 - \$504.41 = \underline{\$12\,334.43}$

Total YTD as of July 2023            \$21 206.00

The panel finds the total net income received by the spouse to be \$21 206.00 for the period January to July 2023.

**Part F – Reasons for Panel Decision**

The issue in this appeal is the reasonableness of the ministry's decision that denied October disability assistance because the family unit net income exceeds the rate of disability assistance. In particular, was the ministry's decision that the AEE had been reached and the spouse's August employment income was more than the rate of assistance for his family unit size supported by the evidence or a reasonable interpretation of the legislation in the circumstances of the appellant?

The relevant legislation is provided in Appendix A.

Appellant Position

The appellant argues that he needs consistent income assistance due to his large family and rising and constant costs. The purchase of a replacement car, necessary for his spouse's work and the stopping of disability assistance has left them struggling to pay for basic necessities. The family are now having to use food banks for basic groceries.

While the appellant recognizes there is a ministry policy on a maximum annual amount of additional income, he does not understand why this causes a stoppage of payments part way through the year. It would be better if he was provided a lower but more consistent amount through the year. To stop payments when his spouse is bringing in additional income punishes stable couples.

Ministry Position

The ministry argues the appellant's spouse's August employment earnings must be deducted from the October disability assistance because the appellant has reached the Annual Earnings Exemption (AEE) limit for 2023. As a result, the appellant is not eligible for October disability assistance because his monthly net income exceeds the rate of assistance for the family unit size.

The ministry argues in the decision that when the appellant exhausted the AEE limit, any employment earnings must be deducted dollar for dollar from his disability assistance payments. Accordingly, as the family unit monthly net income for August 2023 exceeds the ministry's rate of assistance of \$2468.50, he is not eligible for assistance, but would be eligible for medical services only.

The panel notes that this position was contradicted in testimony at hearing.

Panel Decision

Section 5 of the Act states the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

Section 29 of the Regulation says a person must report income by the fifth of the month after the month in which they receive it. The reports submitted by the appellant provide the information needed to calculate net income and continuing eligibility for disability assistance. The requirements include the amount of earned income received by the family unit in the calendar month and the source of that income.

The calculation of monthly disability assistance is defined in section 24 of the Regulation and states the amount cannot be more than the amount determined under Schedule A, minus the family unit's net income determined under Schedule B. Further, section 9 of the Regulation states that a person 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.

Sections 2 and 4 of Schedule A provide the rates for support and shelter. In the appellant's case for a family unit of two recipients and five dependent children, the panel finds the rate of assistance under Schedule A is \$1478.50 support allowance, and \$990 for shelter allowance for a total of \$2468.50 disability assistance, and notes this agrees with the figure provided by the ministry.

Section 1 of the Regulation defines earned income as any money or value received in exchange for work or the provision of a service. It is not in contention that the spouse is employed and receives employment income. The panel has found the spouse received a total of \$3733.16 net income for the month of August 2023. The panel finds this income to be earned income within the meaning of section 1 of the Regulation.

In the calculation of net income of a family unit for the purposes of section 24 (b) [*amount of disability assistance*] of the regulation, the legislation provides exemptions from income under section 1 of schedule B of the Regulation. Section 1(c) requires that all earned income must be included, except the deductions permitted under section 2 and any earned income exempted under sections 3 and 4.

Section 2 states that the only deductions permitted from earned income include any amount deducted at source for income tax, employment insurance, medical insurance, Canada Pension Plan, superannuation, and company pension plan.

The panel reviewed the deductions shown on the pay information and finds they agree with those allowed under section 2 of the Regulation. In the circumstances of the appellant, the panel finds the deposits to account, after legislated permitted deductions, of \$3733.16 constitute the

employment net income calculated under Schedule B of the Regulation for August 2023.

Section 3 of the Regulation provides for an annual exemption to earned income based on qualifying income, which is defined as earned income, except the deductions permitted under section 2. The panel notes the ministry has applied an AEE of \$18 000.00. The panel notes that section 3 of Schedule B provides a base amount of \$1620 per month for a family unit that includes two recipients, one of whom is designated as a person with disabilities. Therefore, in the circumstances of the appellant the panel finds the AEE to be \$19 440.00.

The earnings statements discussed earlier show the appellant's spouse had received year to date net earnings of \$21 206.00 in July of 2023. The panel finds this figure to be net of any deductions permitted under section 2 of the Regulation.

Notwithstanding the value used by the ministry, the panel finds this figure exceeds the AEE of \$19 440 and therefore the panel finds the AEE had been reached for the family unit by July 2023.

Schedule B Section 4 of the Regulation describes small business exemptions for a person participating in a self-employment program. The panel noted no evidence to support that either the appellant or the spouse is participating in the self-employment program and therefore, the ministry was reasonable in finding this section of the Regulation to be not applicable in the circumstances of the appellant.

The panel finds therefore, the ministry was reasonable in its determination that the annual net exemption had been reached, and that future qualifying income would not be exempt in the calculation of monthly net income. The panel finds therefore the amount of \$3733.16 is not exempt under Schedule B of the Regulation.

The panel notes this monthly net income amount for August 2023 exceeds the ministry's rate of assistance of \$2468.50 for the appellant's family unit. Therefore, under section 9 of the Regulation, as the appellant's net income exceeded the ministry's rate of disability assistance the panel finds the ministry's determination that the appellant is not eligible for disability assistance for October 2023 to be reasonably supported by the evidence.

The panel is aware that the spouse's income stream is derived from several employers and that income is not guaranteed and may vary each month depending on hours worked and other factors.

The comment by the ministry at hearing regarding the inability of the appellant to receive any disability payments until March 2024 is believed by the panel to be a simple miscommunication. The panel notes the statement is at odds with its argument in the decision.



The ministry in the decision clearly stated that when the appellant has exhausted the AEE, employment earnings are deducted dollar for dollar from his disability assistance rate of \$2468.50. The ministry went on; accordingly, if the monthly net income exceeds the ministry's rate of assistance of \$2468.50, the appellant is not eligible for assistance, but would be eligible for medical services only.

Section 24 of the Regulation states that the amount of monthly disability assistance cannot be more than the amount determined under Schedule A, minus the family unit's net income determined under Schedule B. The panel notes the Regulation allows for a monthly calculation of net income under Schedule B and therefore payment of disability assistance depends on the result of this calculation.

The panel finds therefore, that the ministry reasonably determined that when the appellant has exhausted the AEE limit, employment earnings are deducted dollar for dollar from his disability assistance rate of \$2468.50.

The panel notes and supports the ministry's recommendation that the appellant continue to submit monthly reports under section 29 of the Regulation on income as any changes may be reflected in disability payments, without a requirement to reapply for benefits.

### Conclusion

Based on all available evidence the panel finds that the ministry's reconsideration decision to be supported by the evidence and was a reasonable interpretation of the legislation in the circumstances of the appellant.

The ministry's reconsideration decision is confirmed. The appellant is not successful on appeal.

### Appendix A

## **EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES ACT**

### *Disability assistance and supplements*

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

*Reporting obligations*

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

(2) A report under subsection (1) (a) is deemed not to have been submitted unless the accuracy of the information provided in it is confirmed by a signed statement of each recipient.

## **EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES REGULATION**

*Definitions*

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

**"earned income"** means

(a) any money or value received in exchange for work or the provision of a service,

*Limits on income*

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

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

*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);
- (ii) a family unit receives earned income as set out in paragraph (b) (vi);
- (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:

- (i) change in the family unit's assets;
- (ii) change in income received by the family unit and the source of that income;
- (iii) change in the employment and educational circumstances of recipients in the family unit;
- (iv) change in family unit membership or the marital status of a recipient;
- (v) any warrants as described in section 14.2 (1) of the Act;
- (vi) the amount of earned income received by the family unit in the calendar month and the source of that income;
- (vii) the amount of unearned income that is compensation paid under section 191 [*temporary total disability*] or 192 [*temporary partial disability*] of the *Workers Compensation Act* received by the family unit in the calendar month.

[en. B.C. Reg. 335/2007; am. B.C. Regs. 85/2012, Sch. 2, s. 4; 332/2012, s. 1; 226/2014, s. 1; 151/2018, App. 2, s. 9; 270/2019, App. 2, s. 5; 268/2020, App. 2, s.

2.]

*Voluntary reporting*

**29.1** For the purpose of the re-establishment of eligibility under section 4.4 [*re-establishment of eligibility for disability assistance*], voluntary reports may be submitted on a monthly basis in respect of a family unit described in that section in the same manner and using the same form as in section 29.

**Schedule A**

**Disability Assistance Rates**

*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:

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

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

- (1) A monthly support allowance for the purpose of section 1 (a) is the sum of
  - (a) the amount set out in Column 3 of the following table for a family unit described in Column 1 of an applicant or a recipient described in Column 2, plus
  - (a.1) Repealed. [B.C. Reg. 193/2017, s. 9 (a).]
  - (b) the amount calculated in accordance with subsections (2) to (4) for each dependent child in the family unit.

Item	Column 1 Family unit	Column 2 Age or status of applicant or recipient	Column 3 Amount
------	-------------------------	---	--------------------

	<b>composition</b>		<b>(\$)</b>
6	Two applicants / recipients and one or more dependent children	One applicant / recipient is a person with disabilities, the other is not a person with disabilities and is under 65 years of age	\$1 478.50

(2) If the family unit includes one or more dependent children or deemed dependent children, the support allowance under subsection (1) for a calendar month is increased by an amount equal to

(a) the total BC child adjustment amount for all dependent children and all deemed dependent children in the family unit, minus

(b) the sum of

(i) the family bonus, if any, paid to the family unit for the preceding month,

(ii) the Canada child benefit, if any, paid to the family unit for the preceding month in respect of dependent children in the family unit, up to a maximum of the BC child adjustment amount in respect of those dependent children, and

(iii) the total amount of the supplements, if any, provided to or for the family unit under section 59 [supplement for delayed, suspended or cancelled family bonus] or 59.1 [supplement for delayed, suspended or cancelled Canada child benefit] of this regulation for the current calendar month.

(2.1) If the amount calculated under subsection (2) is less than zero, it is deemed to be zero for the purposes of this section.

(3) In calculating the adjustment under subsection (2), an amount that, under the *Income Tax Act* (British Columbia) or the *Income Tax Act* (Canada), is deducted or set off from the family bonus or the Canada child benefit must be treated as if it were paid to a person in the family unit.

(4) The support allowance under subsection (1) for a calendar month is not increased under subsection (2) if a person in the family unit refuses to

(a) apply for the family bonus or the Canada child benefit for the preceding calendar month, or

(b) accept the family bonus or the Canada child benefit for the preceding calendar month

in respect of a dependent child in the family unit who is, or may be, a qualified dependant within the meaning of the *Income Tax Act* (Canada).

(5) If a family unit includes a person who

- (a) immediately before reaching 19 years of age was a dependent child in the family unit, and
- (b) reached that age while attending secondary school,

the person is deemed to be a dependent child, for the purposes of this section, until the earlier of

- (c) the end of the school year in which the person reached the age of 19 years, and
- (d) the date the person stops attending secondary school.

(6) For the purposes of this section, if the family unit includes a deemed dependent child, the BC child adjustment amount applies in respect of the deemed dependent child as if the deemed dependent child was a dependent child.

*Monthly shelter allowance*

4 (1) For the purposes of this section:

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

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

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

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

Item	Column 1 Family Unit Size	Column 2 Minimum	Column 3 Maximum

7

7 persons

\$300

\$990

**Schedule B**  
**Net Income Calculation**

*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,
- (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

*Deductions from earned income*

- 2** The only deductions permitted from earned income are the following:
- (a) any amount deducted at source for
- (i) income tax,
  - (ii) employment insurance,
  - (iii) medical insurance,
  - (iv) Canada Pension Plan,
  - (v) superannuation,
  - (vi) company pension plan, and
  - (vii) union dues;

*Annual exemption — qualifying income*

- 3** (1) In this section:

**"base amount"** means

- (b) \$1 620, in the case of a family unit that includes two recipients, only one of whom is designated as a person with disabilities, and

**"initial qualifying month"**, in respect of a family unit and a calendar year, means the calendar month specified for the family unit under subsection (5);

**"qualifying income"** means

- (a) earned income, except the deductions permitted under section 2, and
- (b) unearned income that is compensation paid under section 191 [*temporary*]

*total disability]* or 192 *[temporary partial disability]* of the *Workers Compensation Act*;

**"qualifying month"**, in respect of a family unit and a calendar year, means

- (a) the initial qualifying month for the family unit in the calendar year, and
- (b) any subsequent calendar month in the calendar year that is a calendar month for which the family unit is eligible to receive disability assistance under the Act;

(2) For the purposes of section 1 (c) and (d), the lesser of the following amounts is exempt income of a family unit for a qualifying month:

- (a) the qualifying income of the family unit for the qualifying month;
- (b) the exemption limit of the family unit for the qualifying month calculated in accordance with subsection (3).

(3) The exemption limit of a family unit for a qualifying month for the family unit in a calendar year is the following:

- (a) in the case of the initial qualifying month for the family unit in the calendar year, the amount calculated in accordance with subsection (4);
- (b) in the case of any other qualifying month for the family unit in the calendar year, the amount calculated in accordance with subsection (7).

(4) For the purposes of subsection (3) (a), the exemption limit of a family unit for the initial qualifying month for the family unit in a calendar year is calculated as follows:

- (a) in the case of a family unit other than a recognized family unit, the exemption limit is the product of
  - (i) the base amount for the family unit, and
  - (ii) 12 minus the number of calendar months in the calendar year that are before that initial qualifying month;

(5) For the purposes of subsection (4), the initial qualifying month for a family unit is the following:

- (a) in the case of a family unit described in subsection (4) (a), the initial qualifying month is
  - (i) the first calendar month for which the family unit is eligible to receive disability assistance under the Act, if
    - (A) a member of the family unit who is designated as a person with disabilities previously received disability assistance under the Act or a former Act, as a person with disabilities, or
    - (B) a member of the family unit received income assistance under the *Employment and Assistance Act* for the calendar month



immediately preceding that first calendar month, or  
(ii) if subparagraph (i) does not apply, the first calendar month, after the first calendar month referred to in that subparagraph, for which the family unit is eligible to receive disability assistance under the Act;

(7) For the purposes of subsection (3) (b), the exemption limit of a family unit for any other qualifying month (an "index qualifying month") for the family unit in the calendar year is the greater of

- (a) nil, and
- (b) the exemption limit of the family unit for the last qualifying month for the family unit before the index qualifying month, adjusted as follows:
  - (i) by deducting the qualifying income of the family unit in that last qualifying month;
  - (iv) by deducting the product of
    - (A) the base amount for the family unit, as the family is composed in that last calendar month before any rescission described in subparagraph (ii) or designation described in subparagraph (iii) is made, and
    - (B) the number of calendar months after that last qualifying month and before the index qualifying month.

### **Small business exemption**

4 (1) In this section and section 5,

**"permitted operating expenses"** means costs, charges and expenses incurred by a person in the operation of a small business, under a self-employment program in which the person is participating, for the following:

- (a) purchase of supplies and products;
- (b) accounting and legal services;
- (c) advertising;
- (d) taxes, fees, licences and dues incurred in the small business;
- (e) business insurance;
- (f) charges imposed by a savings institution on an account and interest;
- (f.1) payments, including principal and interest, on a loan that is
  - (i) not greater than the amount contemplated by the recipient's business

- plan, accepted by the minister under section 70.1 of this regulation, and
- (ii) received and used for the purposes set out in the business plan;
- (g) maintenance and repairs to equipment;
- (h) gross wages paid to employees of the small business, but not including wages paid to
  - (i) the person participating, or
  - (ii) a person in the family unit of the person participating;
- (i) motor vehicle expenses;
- (j) premiums for employment insurance or workers' compensation benefits;
- (k) employer contributions for employment insurance, workers' compensation or the *Canada Pension Plan*;
- (l) rent and utilities, excluding rent and utilities for the place of residence of the persons described in subparagraphs (i) or (ii) of paragraph (h) unless
  - (i) there is an increase for rent or utilities and the increase is attributable to the small business, and
  - (ii) the increase is not provided for in the calculation of the family unit's shelter allowance under Schedule A of this regulation;
- (m) office expenses;
- (n) equipment purchases or rentals;
- (o) contributions made under the *Canada Pension Plan* in respect of the person's self-employment earnings.

(2) Earned income of a recipient of disability assistance is exempted from the total income of the recipient's family unit if

- (a) the recipient is participating in a self-employment program, and
- (b) the earned income is derived from operating a small business under the self-employment program in which the recipient is participating and
  - (i) is used for permitted operating expenses of the small business, or
  - (ii) is deposited in a separate account, established by the recipient in a savings institution, which account
    - (A) consists exclusively of funds reserved by the recipient for the purpose of paying permitted operating expenses of that small business, and
    - (B) the amount deposited does not increase the current balance of the separate account to a sum that exceeds \$5 000, or
  - (iii) is used for costs of renovations to the recipient's place of residence up to but not exceeding \$5 000 in total or a greater amount approved by

the minister, if the renovations are part of a business plan accepted by the minister under section 70.1 of this regulation.

APPEAL NUMBER 2023-0319

**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

Don Stedeford

Signature of Chair

Date (Year/Month/Day)

Print Name

Bob Fenske

Signature of Member

Date (Year/Month/Day)

Print Name

Glenn Prior

Signature of Member

Date (2023/11/3