

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision dated October 26, 2023, which determined the Appellant was not eligible for October income assistance because their Employment Insurance income received in August 2023 was more than the rate of assistance for their family unit size.

Specifically, the Ministry determined that per Section 10(2) of the Employment Assistance Regulation, the Appellant was not eligible for October 2023 income assistance because their net Employment Insurance income of \$2,552 received in August 2023 exceeds the \$1060 amount of income assistance determined for the Appellant’s family unit size under Schedule A.

Part D – Relevant Legislation

Employment and Assistance Regulation (the Regulation) – Sections 1, 10, 28 and 33
Schedule A- Sections 1, 2 and 4
Schedule B- Sections 1, 6, and 7

The full wording of the Regulation is set out in the Schedule of Legislation at the end of this decision.

Part E – Summary of Facts

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

- The Appellant was the sole recipient of income assistance;
- On August 23, 2023 the Appellant submitted their monthly report for the October 2023 benefit month. They declared having received \$1276 from Employment Insurance in August 2023;
- On September 5, 2023, Service Canada confirmed that the Appellant was in receipt of medical Employment Insurance benefits at a rate of \$638 per week, and that the Appellant had received 6 weeks of Employment Insurance payments in August 2023;
- The September 18, 2023 Service Canada EI/MHSD Common Claimant Report, which indicated August Employment Insurance payments as follows:

August 11, 2023	\$638
August 11, 2023	\$638
August 25, 2023	\$638
August 25, 2023	\$638

- On September 20, 2023, the Ministry advised the Appellant that the Employment Insurance amount received in August 2023 was greater than their total rate of assistance, making the Appellant ineligible for October;
- On September 21, 2023, the Appellant submitted an amended monthly report (dated September 11, 2023) for the October 2023 benefit month, declaring \$1714 received from Employment Insurance in August 2023. On this report, the Appellant indicated that their Employment Insurance sickness benefits had ended;
- Also on September 21, 2023, the Appellant contacted the Ministry to advise that they had declared income in error. The Appellant explained that they had no money for rent or food, and they had spent the last three weeks without any support;
- On September 25, 2023 the Appellant contacted the Ministry and requested a reconsideration of the decision denying them October 2023 income assistance;
- On September 29, 2023 the Appellant submitted their Request for Reconsideration and provided handwritten notes totaling 7.5 pages. The Appellant explained:
 - They feel that the Ministry has been unhelpful and has not properly explained things such as the definition of unearned income or how to submit correct reports;
 - The Appellant's attempts to rectify the situation have been met with a lack of education, awareness, due diligence, and judgement. No one indicated to the Appellant that they owed the Ministry money;
 - On September 20 they were shocked to find that they were not getting any funding and contacted the Ministry to advise the Ministry that they had no money for food;

- They never intended not to claim their Employment Insurance; they just read the policy online wrong;
 - In total they needed to report July, August and September Employment Insurance. The recovery week (the end of their benefits) was August 27 – September 2, for \$638;
 - On September 24, 2023 they applied for Employment Insurance benefits while also applying for jobs. No decision has yet been made by Employment Insurance because Employment Insurance is looking into their application and could take up to 40 days;
 - Undue hardship must be considered because they have not received money for almost a month. They have not been able to pay for food, electricity, cell phone, transportation, clothes, medication, etc.;
 - They also have been told they cannot receive crisis supplements because they are not currently in receipt of assistance;
 - No one conducted a formal investigation after they collected too much income, and they are now requesting such an investigation;
- On October 26, 2023, the Appellant was provided \$1060.00 as Benefits Under Appeal for the month of October 2023.

Additional Information submitted after Reconsideration

In their reasons for Appeal, the Appellant stated that they had more information in response to why they disagree with the Ministry's reconsideration decision. However, as the Appellant did not attend the hearing, nothing was put forward.

Additional Evidence from the Ministry at the Hearing

In response to questions from the Panel, the Ministry representative explained that a recipient of assistance would have an open file and it would be noted as active while the recipient received assistance payments. If a recipient did not receive assistance pay, the file would remain open for a six-month time period and be assessed on a month-to-month basis where assistance could be re-started based on recipients' submissions. The Ministry advised that the Appellant has had an open file and/or received assistance from 2021.

The Panel finds that the Ministry's additional evidence is admissible under section 22(4) of the Employment and Assistance Act. The Ministry representative's evidence provides additional information about Ministry processes with recipient's files and also clarifies the Appellant's history as a claimant. Therefore, the Panel finds that the additional evidence is reasonably required for the full and fair disclosure of all matters relating to the decision under appeal.

Part F – Reasons for Panel Decision

The issue on appeal is the reasonableness of the Ministry's reconsideration decision that found the Appellant was not eligible for income assistance because their income exceeded the amount of income assistance determined for the Appellant's family unit size under the Regulation. That is, was the decision reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the Appellant.

Relevant sections of the Regulation are set out after the reasons of the Panel.

The Hearing

The hearing occurred on November 28, 2023 by teleconference and the Appellant did not attend. The Panel confirmed that the Appellant had received notice of the date, time and teleconference hearing instructions at least two business days before the hearing date. After allowing additional time for the Appellant to join the hearing and consistent with Employment and Assistance Regulation section 86 (b), the hearing proceeded in the absence of the Appellant.

Position of the Appellant

As the Appellant did not attend the hearing, the Panel relies on the submissions of the Appellant contained in the Appeal Record.

The Appellant says that they disagree with the Ministry's decision to deny October 2023 Assistance payments because without the funds, it places undue hardship on the Appellant. The Appellant has not been able to pay for food, electricity, cell phone, transportation, clothes, or medication. The Appellant had not received any money for over a month and they were also told they cannot receive crisis supplements because they are not currently in receipt of assistance.

The Appellant says they were shocked to be advised that they were not eligible to receive funding for October 2023. They never intended to incorrectly report Employment Insurance income; the Appellant simply misunderstood that Employment Insurance was unearned income to be reported and they made a mistake in their submitted reports. The Appellant says the Ministry was not helpful in the process and did not properly explain things. The Appellant is unable to pay for basic necessities, the situation is dire, and the Ministry needs to recognize that. Finally, the Appellant does not understand why the Ministry has been so unhelpful; the Appellant needs the assistance, they have acted in good faith, and they should be given another chance.

Position of the Ministry

The Ministry relied on the written reasons provided in its reconsideration decision and acknowledged that it seemed there was some confusion for the Appellant throughout the process about income and the reporting requirements. The Ministry said that because the Appellant was in receipt of Employment Insurance pay those funds must be considered as income when determining eligibility for assistance.

The Ministry said that eligibility for October 2023 assistance is determined by income received in August 2023. As the Appellant received more funds from Employment Insurance in August 2023 than the total amount that they would be eligible to receive from assistance, the Appellant was not entitled to receive an October 2023 payment.

Finally, the Ministry advised that the payment reports generated by Employment Insurance are automatically shared with the Ministry and are generally an accurate representation of pay received. The report indicates that the Appellant received at least four payments of \$638 in August totalling \$2552, which is greater than the Appellant's assistance amount of \$1060. Given that the Employment Insurance income received by the Appellant is greater than the assistance benefits they are entitled to, per the legislation, the Ministry was unable to provide October 2023 assistance .

Analysis*Whether Employment Insurance is Reportable Unearned Income?*

The Panel finds that the Ministry's decision that the August 2023 Employment Insurance payments received by the Appellant were unearned income that were required to be reported, was a reasonable application of the legislation. Section 1(1) (g) of the Regulation confirms that unearned income, "means any income that is not earned income, and includes, without limitation, money or value received from any of the following: ...employment insurance". Further, Section 33 (1) (b) (iii) states that the applicant's monthly report must contain required information including, "all income received by the family unit and the source of that income".

Finally, the Appellant has had open files with the Ministry dating back to 2021 and with that, a history and practice of filing required reports that include necessary income information for the Ministry to determine eligibility for assistance. From that, it is reasonable to conclude that the Appellant was aware of their responsibility to report income received including Employment Insurance payments. Indeed, although stating some disagreement about unearned income and despite some confusion as to amounts, the Appellant did report Employment Insurance income amounts as was required by the

legislation. For these reasons, the Panel finds that the Ministry reasonably determined that the August 2023 Employment Insurance payments were reportable unearned income.

Eligibility for October 2023 Assistance

Whether Employment Insurance Income Exceeds Income Assistance Amount

The Ministry determined that per Schedule B of the Regulation, the Appellant had received net Employment Insurance income in August 2023 of at least \$2552. The net income was higher than the \$1060 monthly income assistance benefit amount calculated per Schedule A. Section 10(2) of the Regulation says, "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".

In the present case, on separate dates the Appellant did report Employment Insurance income for purposes of securing October 2023 assistance. On August 23, 2023 the Appellant submitted their monthly report for October 2023 assistance and noted Employment Insurance income of \$1276. On September 21, 2023 the Appellant submitted a revised, updated report for October 2023 assistance and indicated Employment Insurance income of \$1714 was received in August 2023. Apart from any confusion or errors as to actual amounts received, both \$1276 or \$1714 as reported by the Appellant are more than the calculated assistance amount of \$1060 the Appellant is eligible for.

Further, the September 18, 2023 Service Canada EI/MHSD Common Claimant Report stated that two cheques were provided to the Appellant in August 2023 with a total of four \$638 payments: August 11, 2023—\$638 + \$638, and August 25, 2023—\$638 + \$638. The Panel finds that the Ministry acted reasonably in relying on the Employment Insurance Claimant Report when it determined that the Appellant had received income in excess of their eligible assistance amount. The payment notification confirms August 2023 payments of \$2552 which is more than the \$1060 assistance entitlement.

Finally, Schedule B of the Regulation allows certain deductions and exemptions from the net income calculation. The Employment Insurance claim type for the payments received by the Appellant is noted as, "03-Sick-maj". For the income to be reduced or exempted as permitted by the legislation, the Employment Insurance claim type would need to be noted as for reasons related to events such as maternity, parental, or to care for a critically ill child. Given the Employment Insurance income is related to a sick claim and the payments are not eligible deductions or exemptions from the net income calculation, the Panel finds the Ministry was reasonable in determining that the Employment Insurance income of \$2552 in August 2023 exceeded the assistance amount the Appellant was

entitled to receive. As such, the Panel finds that the Ministry was reasonable in determining that the Appellant was not eligible to receive October 2023 assistance.

Conclusion

The Panel determines that the Ministry acted reasonably when it found that the per Section 10(2) of the Regulation, the Appellant was not eligible for October 2023 income assistance. Their net Employment Insurance income of \$2,552 received in August 2023 exceeds the \$1060 amount of income assistance determined for the Appellant's family unit size under Schedule A. The Panel confirms the Ministry's decision. This means the Appellant is not successful with their Appeal.

Relevant Legislation**EMPLOYMENT AND ASSISTANCE REGULATION****Definitions**

1 (1) In this regulation:

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

- (a) money, annuities, stocks, bonds, shares, and interest bearing accounts or properties;
- (b) cooperative associations as defined in the *Real Estate Development Marketing Act*;
- (c) war disability pensions, military pensions and war veterans' allowances;
- (d) insurance benefits, except insurance paid as compensation for a destroyed asset;
- (e) superannuation benefits;
- (f) any type or class of Canada Pension Plan benefits;
- (g) employment insurance;
- (h) union or lodge benefits;
- (i) financial assistance provided under the *Employment and Assistance for Persons with Disabilities Act* or provided by another province or jurisdiction;
- (j) workers' compensation benefits and disability payments or pensions;
- (k) surviving spouses' or orphans' allowances;
- (l) a trust or inheritance;
- (m) rental of tools, vehicles or equipment;
- (n) rental of land, self-contained suites or other property except the place of residence of an applicant or recipient;
- (o) interest earned on a mortgage or agreement for sale;
- (p) maintenance under a court order, a separation agreement or other agreement;
- (q) education or training allowances, grants, loans, bursaries or scholarships;
- (r) a lottery or a game of chance;
- (s) awards of compensation under the *Criminal Injury Compensation Act* or awards of benefits under the *Crime Victim Assistance Act*, other than an award paid for repair or replacement of damaged or destroyed property;
- (t) any other financial awards or compensation;
- (u) Federal Old Age Security and Guaranteed Income Supplement payments;
- (v) financial contributions made by a sponsor pursuant to an undertaking given for the purposes of the *Immigration and Refugee Protection Act* (Canada) or the *Immigration Act* (Canada);
- (w) tax refunds;
- (x) gifts of money, annuities, stocks, bonds, shares, and interest bearing accounts or

properties;

(y) gifts in the form of payment by another person of a debt or obligation;

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 dependent.

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

Amount of income assistance

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

(a) the amount determined under Schedule A, minus

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

Monthly reporting requirement

33 (1) For the purposes of section 11 (1) (a) [*reporting obligations*] of the Act,

(a) the report must be submitted by the 5th day of each calendar month, and

(b) the information required is all of the following, as requested in the monthly report form prescribed under the Forms Regulation, B.C. Reg. 95/2012:

(i) whether the family unit requires further assistance;

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

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

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

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

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

Income Assistance Rates

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.

(2) Despite subsection (1) but subject to subsection (3), income assistance may not be provided in respect of a dependent child if support for that child is provided under section 8 (2) or 93 (1) (g) (ii) of the *Child, Family and Community Service Act*.

(3) If

(a) an application is made by a parenting dependent child under section 5 (4) [*application by parent who is dependent youth*] of this regulation,

(b) the family unit is found eligible for income assistance, and

(c) support is provided for the parenting dependent child or his or her dependent child, or for both, under section 8 (2) or 93 (1) (g) (ii) of the *Child, Family and Community Service Act*, the restriction in subsection (2) does not apply, but the amount of income assistance that may otherwise be provided to the family unit is to be reduced by the amount of that support.

Monthly support allowance

2 (0.1) For the purposes of this section:

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

"**warrant**" has the meaning of a warrant in section 15.2 [*consequences in relation to outstanding arrest warrants*] of the Act.

(1) A monthly support allowance for the purpose of section 1 (a) is the sum of

(a) the amount set out in Column 3 of the following table for a family unit described in Column 1 of an applicant or a recipient described in Column 2, plus

(b) the amount calculated in accordance with subsections (2) to (4) for each dependent child in the family unit.

Item Column 1	Column 2	Column 3
Family unit composition	Age or status of applicant or recipient	Amount of support
1 Sole applicant/recipient and no dependent children	Applicant/recipient is under 65	\$560.00

(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 calendar

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 61 [*supplement for delayed, suspended or cancelled family bonus*] or 61.1 [*supplement for delayed, suspended or cancelled Canada child benefit*] of this regulation for the current calendar month.

(2.1) If the amount calculated under section (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.[B.C. Reg. 34/2017]

(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 reaches 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 a warrant in section 15.2 [*consequences in relation to*

outstanding arrest warrants] of the Act

(2) The monthly shelter allowance for a family unit other than a family unit described in section 15.2 (1) of the Act is the greater of

(a) the minimum set out in the following table for the family unit, and

(b) the lesser of

(i) the family unit's actual shelter costs, and

(ii) the maximum set out in the following table for the family unit.

Item	Column 1	Column 2	Column 2
	Family Unit Size	Minimum	Minimum
1	1 person	75	500

Schedule B- Net Income Calculation

Deduction and exemption rules

1When 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;

(ii) Repealed [B.C. Reg. 96/2017];

(iii) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 1 (b).]

(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 *[low income 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) money paid or payable to a person in settlement of a claim of abuse at an Indian residential school, except money paid or payable as income replacement in the settlement;

(xviii) post adoption assistance payments provided under section 28 (1) or 30.1 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;

(xxxii) a Universal Child Care Benefit provided under the *Universal Child Care 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);

(xxxvi) Repealed. [B.C. Reg. 180/2010, s. 1 (b).]

(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;

(xliv) a BC early childhood tax 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 section 17 [*compensation in fatal cases*] or 18 [*addition to payments*] of the *Workers Compensation Act* to a dependant, as defined in section 1 of that Act, who is a child, as defined in section 17 of that Act;

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

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

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

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

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

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

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

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

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

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

(B) the settlement agreement, dated for reference October 30, 2017,

between the Songhees Nation and Canada;

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

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

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

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

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

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

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

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

(lx) money that is paid or is payable to or for a person from a settlement under the Williams Treaties Settlement Agreement signed August 22, 2018;

(lxi) money that is paid or is payable to or for a person from a settlement under the Missanabie Cree First Nation Treaty Land Entitlement Settlement Agreement signed April 24, 2020;

(lxii) money that is paid or is payable to or for a person from a settlement under the Peepeekisis Cree Nation File Hills Colony Specific Claim Settlement Agreement signed March 23, 2021;

(lxiii) money that is paid or is payable to or for a person from a settlement under an agreement to settle claims relating to the transfer of the Seabird Island Indian Reserve in 1959 by the Government of Canada to the Seabird Island Band and the distribution of shared trust funds on a per capita basis.

(b) any amount garnished, attached, seized, deducted or set off from income is

considered to be income, except the deductions permitted under sections 2 and 6 of this Schedule,

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

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

Deductions from unearned income

6 The only deductions permitted from unearned income are the following:

(a) any income tax deducted at source from employment insurance benefits;

(b) essential operating costs of renting self-contained suites.

Exemptions — unearned income

7 (0.1) In this section:

"disability-related cost" means a disability-related cost referred to in paragraph (a), (b) or (c) of the definition of disability-related cost in section 13 (1) [*assets held in trust for person receiving special care*] of this regulation;

"disability-related cost to promote independence" means a disability-related cost referred to in paragraph (d) of the definition of disability-related cost in section 13 (1) of this regulation;

"intended registered disability savings plan or trust", in relation to a person referred to in section 13.1 (2) [*temporary exemption of assets for person applying for disability designation*

or receiving special care] of this regulation, means an asset, received by the person, to which the exemption under that section applies;

"structured settlement annuity payment" means a payment referred to in subsection (2) (b) (iii) made under the annuity contract referred to in that subsection.

(1) The following unearned income is exempt:

(a) the portion of interest from a mortgage on, or agreement for sale of, the family unit's previous place of residence if the interest is required for the amount owing on the purchase or rental of the family unit's current place of residence;

(b) \$50 of each monthly Federal Department of Veterans Affairs benefits paid to any person in the family unit;

(c) a criminal injury compensation award or other award, except the amount that would cause the family unit's assets to exceed, at the time the award is received, the limit applicable under section 11 [*asset limits*] of this regulation;

(d) a payment made from a trust to or on behalf of a person referred to in section 13 (2) [*assets held in trust for person receiving special care*] of this regulation if the

payment is applied exclusively to or used exclusively for

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

- (i) make periodic payments to the person for a fixed term or the life of the person,
 - (ii) purchase a single premium annuity contract that
 - (A) is not assignable, commutable or transferable, and
 - (B) is designed to produce payments equal to the amounts, and at the times, specified in the settlement agreement,
 - (iii) make an irrevocable direction to the issuer of the annuity contract to make all payments under that annuity contract directly to the person, and
 - (iv) remain liable to make the payments required by the settlement agreement.
- (2.1) Repealed. [B.C. Reg. 204/2015, App. 1, s. 4 (b).]
- (3) Repealed. [B.C. Reg. 197/2012, Sch. 1, s. 24 (f).]

APPEAL NUMBER 2023-0340

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
Carmen Pickering

Signature of Chair

Date (Year/Month/Day)
2023/12/05

Print Name
Corrie Campbell

Signature of Member

Date (Year/Month/Day)
2023/12/01

Print Name
Glenn Prior

Signature of Member

Date (Year/Month/Day)
2023/11/30