

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction’s (the “Ministry”) reconsideration decision dated January 24, 2024, which determined the Appellant’s Long-Term Disability benefits income from WorkSafeBC is not exempt and must be deducted from her disability assistance.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (the “Regulation”),
sections 1 and 24

Schedules A sections 1, 2 and 4 and Schedule B, sections 1, 3, and 6

(Relevant Legislation follows the decision in Appendix A)

Part E – Summary of Facts**Information Before the Ministry at Reconsideration**

- The Appellant is a sole recipient of disability assistance with Persons with Disabilities designation, which she has received since December 8, 2021. She has WorkSafeBC benefits income that is deducted from her disability assistance. In March 2023 the Appellant asked the Ministry whether her WorkSafeBC income should be exempt, and not deducted from her disability assistance.
- The Appellant receives \$1,283.16 WorkSafeBC income under sections 196(3) of the *Workers Compensation Act*, which is for long-term disability payments. She would like to have the same exemption as is applied to wage loss replacement payments from WorkSafeBC. The Ministry deducts long-term disability from WorkSafeBC in its entirety.
- The Appellant submitted a Request for Reconsideration on January 19, 2024. With the request she submitted a four-paged letter dated December 28, 2022, from WorkSafeBC. The letter explains:
 - the Appellant’s WorkSafeBC income changed from permanent disability benefits previously calculated under the loss of function method (section 195(1)) to permanent disability benefits under the loss of earnings method (section 196(3)).
 - The Appellant received a retroactive payment of \$9,191.11, with future monthly permanent disability benefits of \$1,283.16 each month, effective January 2023. These payments will continue until the Appellant reaches age 65.

Information Received After Reconsideration

- A Notice of Appeal form dated January 30, 2024. With the Notice of Appeal, the Appellant submitted a written statement. She writes, in summary:
 - Her permanent disability benefit with WorkSafeBC was replaced by a loss of earnings benefit with WorkSafeBC because she is not able to work at the capacity she could prior to her injury.
 - The loss of earnings benefit should be considered part of earnable income because it is replacing money that she is unable to earn because of her disability.
 - The Ministry is deducting her loss of earnings benefit 100%, including the housing supplement, which leaves her without the ability to support herself.

- She faces many challenges with accessing a liaison person, or a worker assigned to help her navigate government processes. This causes her a lot of distress because of her brain injury symptoms and inability to use screens, as well as the cognitive disfunction she has from the injury to fully understand things.
- She lives unhoused, and with unstable living situations for 29 months because of lack of income and supports. She currently has a safe place to live, but with the loss of earnings being deducted she is at high risk of losing her housing because she is unable to work to the extent that would provide enough income to support herself.
- With the Notice of Appeal, the Appellant submitted a three-paged letter from her doctor which discusses the limitations she has regarding work function. The letter was intended for a discussion with WorkSafeBC, but it highlights her level of disability and the limitations to earn income that she has. The Appellant also included the December 28, 2022 letter from WorkSafeBC, which was previously submitted at Reconsideration.
- An additional submission was submitted by the Appellant on February 14, 2024. The Appellant wrote that she is attaching two additional documents that may assist in her appeal. One is a letter from a community society regarding her housing support and the other is a decision she just received from the Workers' Compensation Appeal Tribunal regarding a review of her employability status. She highlights page 18 of the document that states that panel's decision. The Appellant adds that the Workers' Compensation Appeal Tribunal specifically demonstrates her point that the earnings income from WorkSafeBC should be considered as part of her earnable income because of her limitations on being able to earn a steady employable income. The attachments are summarized as follows:
 - A letter from a community society confirming that the Appellant is a participant of their Housing Outreach Project and receives a \$450 rent supplement that is payable directly to her landlord. To participate in their program, the Appellant must identify goals to work on, which she is doing.
 - A 20-page document from the Workers' Compensation Appeal Tribunal dated February 12, 2024. The decision re-iterates the Appellant's history with Work Safe and it concludes that they allow the Appellant's appeal. The paragraph that the Appellant highlighted notes (summarized): "given there is no potential viable future employment option apparent" she is "for all intents and purposes unemployable and entitled to a 100% loss of earnings award."

- At the hearing, the Appellant emphasized that the WorkSafeBC income she receives is for loss of earnings due to a workplace injury and should be considered earned income because she is no longer able to earn it herself.
- The Appellant clarified that, initially, she received WorkSafeBC benefits that were calculated based on “loss of function”. She stated that determination was inappropriate because they considered her able to do some type of work, and she couldn’t. WorkSafeBC then changed the type of benefits she received to “loss of earnings”, which was more appropriate to her situation. The Appellant appealed that decision with WorkSafeBC. On February 12, 2024, she received the Workers’ Compensation Appeal Tribunal decision, which determined that she is considered permanently unemployable and is therefore eligible to receive 100% loss of earnings from WorkSafeBC. She does not know how much her WorkSafeBC benefits will be, as she only recently received the decision.
- The Appellant also referenced the letter from the society that provides her with a housing allowance. Initially, she stated that the Ministry was deducting this income from her disability assistance, then clarified that she was referring to the shelter portion of her disability assistance that was reduced by the WorkSafeBC income deduction. The Appellant’s advocate, from the society that provides her with housing support, stated that the support they are currently providing to the Appellant runs out in March 2024.
- At the hearing, the Ministry relied on its Reconsideration Decision and emphasized that Work Safe benefits are considered unearned income and legislation clearly defines that they must be deducted from disability assistance. The Ministry reviewed the disability rates that the Appellant receives which is \$983.50 support and \$500 shelter for a total of \$1,483.50 less Work Safe benefits of \$1,283.16. The Ministry stated that the money from the society for shelter support was not deducted. The Appellant confirms she currently receives \$200 from the Ministry.

Admissibility of Additional Information

The panel accepted the submissions provided with the Appellant’s Notice of Appeal and the oral testimony at the hearing as evidence under section 22(4) of the Employment and Assistance Act, which allows for the admission of evidence reasonably required for a full and fair disclosure of all matters related to the decision under appeal. The Ministry had no objection to the admissibility of this evidence.

Part F – Reasons for Panel Decision

The issue under appeal is whether the Ministry’s decision, that the Appellant’s WorkSafeBC income is considered unearned income that must be deducted from her disability assistance, is reasonably supported by the evidence or is a reasonable interpretation of the legislation.

Appellant’s Position

The Appellant’s Position is that she receives WorkSafeBC benefits for loss of earnings because she is no longer able to work. The income she receives from them should be given the annual earnings exemption from the Ministry because she is no longer able to earn any income.

Ministry’s Position

The Ministry’s position is that income from WorkSafeBC is clearly defined in legislation as being considered unearned income and must be deducted from the Appellant’s disability assistance. The legislation allows for wage-loss replacement to have an annual earnings exemption for a specifically listed exemption. All other WorkSafeBC income, such as the Appellant’s permanent long-term disability for loss of earnings, which is not listed as an exemption, must be deducted from her disability assistance.

Panel’s Decision

The legislation that pertains to how income from WorkSafeBC is considered can be found in the Regulation. The Appellant receives compensation from WorkSafeBC, who administers compensation pursuant to the *Worker’s Compensation Act*.

Section 1, defines “unearned income” as

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

....

(j) workers' compensation benefits and disability payments or pensions”

Section 24 sets out that the amount of disability assistance that may be provided is not more than the support and shelter listed in Schedule A minus the family’s net income determined under Schedule B. The Ministry determined that, in the Appellant’s circumstance, the amount of support is \$983.50, and shelter is \$500 for a total of

\$1,486.50. The Appellant receives \$1,283.16 from WorkSafeBC for permanent long-term disability for loss of earnings.

When calculating the net income of a family, section 1 of Schedule B allows for exemptions. Section 1(a)(lii) allows an exemption for compensation payments provided to a dependent of a worker in the event of their death. This is not applicable in the Appellant's circumstance. Permanent long-term disability for loss of earnings is not listed as an exemption in section 1.

Section 3 of Schedule B allows for an earnings exemption for certain types of income. The definition for "qualifying income" allows an annual earnings exemption for unearned income that is compensation paid under sections 191 [temporary total disability] or 192 [temporary partial disability] of the *Workers Compensation Act*. The Appellant receives compensation paid under section 196(3) of the *Workers Compensation Act*, not sections 191 or 192. The type of compensation the Appellant receives is for permanent total disability, not temporary, as is permitted in legislation.

The panel finds that Appellant's argument, that she is no longer able to work and receives WorkSafeBC benefits for loss of earnings because of her permanent disability and she should be permitted an earnings exemption, to be compelling. However, the panel must consider what the Regulation allows for exemptions.

Section 1 of the Regulation clearly defines that compensation paid under the *Worker's Compensation Act* is unearned income.

Section 1 of Schedule B does not identify the Appellant's WorkSafeBC income as having an exemption, nor is her permanent long-term loss of earnings benefit paid pursuant to section 191 of the *Worker's Compensation Act*. Pursuant to section 24, those allowances must then be deducted from the amount of disability assistance the Appellant is eligible for. Therefore, the panel finds the Ministry was reasonable to determine that the Appellant's monthly WorkSafeBC income must be deducted from her disability assistance.

In summary, there are no exceptions for unearned income that provide the Appellant with the exemptions she seeks.

Conclusion

The panel finds that the Ministry's determination the Appellant's WorkSafeBC income, for permanent long-term disability loss of earnings, must be considered unearned income

and deducted from her disability assistance, was a reasonable application of the legislation. The panel therefore confirms the Ministry's decision. The Appellant is not successful on this appeal.

**APPENDIX A
RELEVANT LEGISLATION**

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,
- (b) Repealed. [B.C. Reg. 197/2012, Sch. 2, s. 1 (a).]
- (c) pension plan contributions that are refunded because of insufficient contributions to create a pension,
- (d) money or value received from providing room and board at a person's place of residence, or
- (e) money or value received from renting rooms that are common to and part of a person's place of residence;

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

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.

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

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

4

Item	Column 1 Family Unit Size	Column 2 Maximum Monthly Shelter \$
1	1 person	500

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,
- (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, App. 2, s. 2 (a).]
 - (iii) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 2 (c).]
 - (iv) a family bonus, except the portion treated as unearned income under section 10 (1) of this Schedule;
 - (iv.1) the Canada child benefit, except the portion treated as unearned income under section 10 (1) of this Schedule;
 - (v) the basic child tax benefit;
 - (vi) a goods and services tax credit under the *Income Tax Act* (Canada);
 - (vii) a tax credit under section 8 [refundable sales tax credit], 8.1 [climate action tax credit] or 8.2 [BC harmonized sales tax credit] of the *Income Tax Act* (British Columbia);
 - (viii) individual redress payments granted by the government of Canada to a person of Japanese ancestry;
 - (ix) individual payments granted by the government of Canada under the Extraordinary Assistance Plan to a person infected by the human immunodeficiency virus;

- (x) individual payments granted by the government of British Columbia to a person infected by the human immunodeficiency virus or to the surviving spouse or dependent children of that person;
- (xi) individual payments granted by the government of Canada under the Extraordinary Assistance Plan to thalidomide victims;
- (xii) money that is
 - (A) paid or payable to a person if the money is awarded to the person by an adjudicative panel in respect of claims of abuse at Jericho Hill School for the Deaf and drawn from a lump sum settlement paid by the government of British Columbia, or
 - (B) paid or payable to or for a person if the payment is in accordance with the settlement agreement approved by the Supreme Court in Action No. C980463, Vancouver Registry;
- (xii.1) money that is paid or payable to or for a person if the payment is in accordance with the settlement under the Final Settlement Agreement and Supplementary Agreement approved by the Federal Court June 22, 2018 in Court File No. T-370-17, Todd Edward Ross et al. v. Her Majesty the Queen;
- (xii.2) money that is paid or payable to or for a person if the payment is in accordance with the settlement under the Final Settlement Agreement approved by the Federal Court January 30, 2019 in Court File No. T-1068-14, Raymond Michael Toth v. Her Majesty the Queen
- (xiii) the BC earned income benefit;
- (xiv) money paid or payable under the 1986-1990 Hepatitis C Settlement Agreement made June 15, 1999, except money paid or payable under section 4.02 or 6.01 of Schedule A or of Schedule B of that agreement;
- (xv) a rent subsidy provided by the provincial government, or by a council, board, society or governmental agency that administers rent subsidies from the provincial government;
- (xvi) Repealed. [B.C. Reg. 197/2012, Sch. 2, s. 11 (a).]
- (xvii) and (xvii.1) Repealed. [B.C. Reg. 99/2023, app. 2, 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) money paid by the government of British Columbia, under a written agreement, to a person with disabilities or to a trustee for the benefit of a person with disabilities to enable the person with disabilities to live in the community instead of in an institution;

- (xxi) Repealed. [B.C. Reg. 85/2012, Sch. 2, s. 7.]
- (xxii) payments granted by the government of British Columbia under section 8 *[agreement with child's kin and others]* of the *Child, Family and Community Service Act*;
- (xxiii) payments granted by the government of British Columbia under the Ministry of Children and Family Development's At Home Program;
- (xxiv) Repealed. [B.C. Reg. 85/2012, Sch. 2, s. 7.]
- (xxv) payments granted by the government of British Columbia under an agreement referred to in section 93 (1) (g) (ii) of the *Child, Family and Community Service Act*, for contributions to the support of a child;
- (xxvi) a loan that is
 - (A) not greater than the amount contemplated by the recipient's business plan, accepted by the minister under section 70.1 of this regulation, and
 - (B) received and used for the purposes set out in the business plan;
- (xxvii) payments granted by the government of British Columbia under the Ministry of Children and Family Development's
 - (A) Autism Funding: Under Age 6 Program, or
 - (B) Autism Funding: Ages 6 — 18 Program;
- (xxviii) Repealed. [B.C. Reg. 148/2015, App. 2, s. 1 (a).]
- (xxix) payments made by a health authority or a contractor of a health authority to a recipient, who is a "person with a mental disorder" as defined in section 1 of the *Mental Health Act*, for the purpose of supporting the recipient in participating in a volunteer program or in a mental health or addictions rehabilitation program;
- (xxx) a refund provided under Plan I as established under the Drug Plans Regulation;
- (xxxi) payments provided by Community Living BC to assist with travel expenses for a recipient in the family unit to attend a self-help skills program, or a supported work placement program, approved by Community Living BC;
- (xxxii) a Universal Child Care Benefit provided under the *Universal Child Care Benefit Act* (Canada);
- (xxxii.1) a rental housing benefit provided under the *Rental Housing Benefit Act* (Canada);
- (xxxii.2) a dental benefit provided under the *Dental Benefit Act* (Canada);
- (xxxiii) money paid by the government of Canada, under a settlement agreement, to persons who contracted Hepatitis C by receiving blood or blood products in Canada prior to 1986 or after July 1, 1990, except money paid under that agreement as income replacement;
- (xxxiv) money withdrawn from a registered disability savings plan;
- (xxxv) a working income tax benefit provided under the *Income Tax Act* (Canada);

- (xxxvi) Repealed. [B.C. Reg. 180/2010, s. 2 (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;
- (xlv) a BC early childhood tax benefit;
- (xlv.1) a BC child opportunity benefit;
- (xlv.2) a BC family benefit
- (xlvi) child support;
- (xlvii) orphan's benefits under the *Canada Pension Plan Act* (Canada);
- (xlviii) money or other value received, by will or as the result of intestacy, from the estate of a deceased person;
- (xlix) gifts;
- (l) education and training allowances, grants, bursaries or scholarships, other than student financial assistance;
- (li) money withdrawn from a registered education savings plan;
- (lii) compensation paid or payable under Division 5 [*Compensation in Relation to the Death of a Worker*] of Part 4 [*compensation to Injured Workers and Their Dependant*] or section 225 [*compensation in relation to worker death before July 1, 1974*] of the *Workers Compensation Act* to a dependant, as defined in section 1 of that Act, who is a child, as defined in section 165(1) of that Act;

- (liii) money that is paid or payable by or for Community Living BC to or for a person if the payment is in accordance with an award in a legal proceeding or with a settlement agreement in respect of a claim for injury, loss or damage caused by Community Living BC, an employee of Community Living BC or a person retained under a contract to perform services for Community Living BC;
- (liv) money that is paid or payable by the government of British Columbia to or for a person if the payment is in accordance with an award in a legal proceeding or with a settlement agreement in respect of a claim for injury, loss or damage caused by the minister, the ministry, an employee of the ministry or a person retained under a contract to perform services for the ministry;
- (liv.1) money that is paid or payable by the government of British Columbia to or for a person if the payment is in accordance with an award in a legal proceeding or with a settlement agreement in respect of a claim for injury, loss or damage caused by the Minister of Children and Family Development, that ministry, an employee of that ministry or a person retained under a contract to perform services for that ministry;
- (liv.2) money that is paid or payable by the government of British Columbia to or for a person because the person was a resident of Woodlands School;
- (lv) a disabled contributor's child's benefit paid or payable under the *Canada Pension Plan*;
- (lvi) payments granted under an agreement referred to in section 94 of the *Child, Family and Community Service Act*;
- (lvii) money that is paid or payable, in respect of a child, from property that comes into the control of, or is held by, the Public Guardian and Trustee;
- (lviii) and (lviv) Repealed. [B.C. Reg. 99/2023, App 2, 32(a)]
- (lx) money that is paid or payable under the Memorial Grant Program for First Responders established under the authority of the Department of Public Safety and Emergency Preparedness Act (Canada),
- (lxi) money, or goods or services in kind, received or to be received by a participant in the Ministry of Social Development and Poverty Reduction's Work Experience Opportunities Grant program from a grant under the program;
- (lxii) a rebate of all or part of a premium paid to the Insurance Corporation of British Columbia under the Insurance (Vehicle) Act and the plan operated under that Act;
- (lxiii) an amount that is paid or payable, as a single payment or series of payments, as follows:
 - (A) the amount is paid or payable by a person who is or was a landlord, owner or manager, or a person who holds or held a similar position, in relation to leased, rented or licensed residential premises, whether

or not the Residential Tenancy Act or the Manufactured Home Park Tenancy Act applies to that premises;

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

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

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

(lxiv) to (lxvii) Repealed. [B.C. Reg. 99/2023, App. 2, s.3(a)]

(lxviii) a voted support payment;

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

(b) any amount garnished, attached, seized, deducted or set off from income is considered to be income, except the deductions permitted under sections 2 and 6,

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

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

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

Annual exemption — qualifying income

3 (1) In this section:

"**qualifying income**" means

(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;

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.

7. (0.1) In this section:

"**disability-related cost**" means a disability-related cost referred to in paragraph (a), (b), (c) or (e) of the definition of disability-related cost in section 12 (1) [assets held in trust for person with disabilities] 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 12 (1) of this regulation;

"**intended registered disability savings plan or trust**", in relation to a person referred to in section 12.1 (2) [temporary exemption of assets for person with disabilities or person receiving special care] of this regulation, 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 10 [asset limits] of this regulation;

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

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

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

(d.2) money expended by a person referred to in section 12.1 (2) [temporary exemption

of assets for person with disabilities or person receiving special care] of this regulation from an intended registered disability savings plan or trust if the money is applied exclusively to or used exclusively for disability-related costs;

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

- (i) a payment made from a trust to or on behalf of a person referred to in section 12 (1) of this regulation;
- (ii) a structured settlement annuity payment that, subject to subsection (2), is made to a person referred to in section 12 (1) of this regulation;
- (iii) money expended by a person referred to in section 12.1 (2) of this regulation from an intended registered disability savings plan or trust;

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APPEAL NUMBER 2024-0039

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

Janet Ward

Signature of Chair

Date (Year/Month/Day)

2024/02/20

Print Name

Kevin Ash

Signature of Member

Date (Year/Month/Day)

2024/02/20

Print Name

Margarita Papenbrock

Signature of Member

Date (Year/Month/Day)

2024/02/20