

Part C – Decision Under Appeal

The decision under appeal is the reconsideration decision, dated February 6, 2024 (the “Reconsideration Decision”) of the Ministry of Social Development and Poverty Reduction (the “Ministry”). The Ministry determined that the Appellant was not eligible for disability assistance for the month of February, 2024 because employment insurance (“EI”) sick benefits received by the Appellant in December 2023 exceeded the the Appellant’s rate of assistance under Schedule A to the Employment and Assistance for Persons with Disabilities Regulation (the “Regulation”).

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation- sections 1, 9, 24, and 29, Schedule A- sections 1, 2, and 4, and Schedule B- sections 1, 6, 7, and 8

Employment Insurance Act (Canada)- sections 22, 23, 23.2

A full text of the above-noted legislation appears at the end of Part F of this decision.

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

The Appellant is a sole recipient of disability assistance who receives disability assistance in the amount of \$1,483.50 per month, which consists of support in the amount of \$983.50 and a shelter allowance of \$500.00 per month.

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

- the Appellant's Request for Reconsideration, which the Appellant appears to have misdated by entering what appears to have been his birthdate and which did not set out any specific reason for seeking reconsideration of the Ministry's decision to not issue disability assistance in February 2024; and
- an electronic data match from Service Canada, indicating that the Appellant had received \$6,540.00 in EI sick benefits in December 2024, being the lump sum of \$436.00 per week for 15 weeks of EI sick benefits.

Information Submitted After the Reconsideration Decision

The Appellant filed a Notice of Appeal on February 20, 2024. On the Notice of Appeal, the Appellant wrote that he received EI sick benefits for a period of 16 weeks and asked that the decision be reconsidered.

The Hearing

The hearing of the appeal was held via teleconference. The hearing was attended by the Appellant, an interpreter, and the Ministry's representative. The panel also heard evidence from the Appellant's roommate as a witness.

The Appellant

The Appellant's roommate stated that he was a witness to the Appellant's convalescence from two eye surgeries and COVID. The roommate also described the Appellant as having had dental issues and post-COVID symptoms.

The Appellant also described experiencing the above-noted medical and dental issues and stated that he was given some exercises to perform to treat his post-COVID symptoms. He

specified that the dental work that he had done were root canals and that he had cataract surgery on both of his eyes.

The Appellant stated that, at the time he applied for reconsideration, he did not include an explanation about his situation. The Appellant noted that it has been quite a few years that he has been in receipt of disability assistance. He stated that, although he doesn't have the ability to work, he has done some part-time work, as permitted by the Regulation, to supplement his disability assistance and to make ends meet. However, in 2023, he was not able to do that and decided to apply for EI sick benefits to help him pay for some of his expenses, including the cost of the surgeries and dental treatments.

He received the cheque for EI sick benefits in one lump sum in December 2023, as a result of applying for the EI sick benefits late. The payment of a lump sum resulted in him not being eligible for disability assistance in February 2024. The Appellant stated that he applied for EI sick benefits late because he had been hoping to return to work but was unable to do so.

The Ministry

The Ministry noted that the Appellant had not declared the lump sum EI sick benefits, in the amount of \$6,540.00 on his December 2023 statement of income but that it was made aware that the Appellant had received the payment through its data matching with Service Canada.

The Ministry confirmed that the Appellant's ineligibility for February 2024 disability assistance was the result of the legislation requiring the deduction of the EI sick benefits and not the failure of the Appellant to have declared the lump sum EI sick benefits payment. In other words, the Appellant was not being penalized for not declaring the payment.

The Appellant was not eligible for February 2024 assistance because the amount received in EI Sick benefits in December 2023 exceeded his entitlement to disability assistance for February 2024 under Schedule A of the Regulation as the EI sick benefits were not exempt or deductible from his net income through any other provisions in the Regulation.

Part F – Reasons for Panel Decision***Issue on Appeal***

The issue in this appeal is whether the Ministry was reasonable in its determination that the Appellant was not eligible for disability assistance for the month of February 2024 because EI sick benefits received by the Appellant in December 2023 exceeded the Appellant's rate of assistance under Schedule A to the Regulation for February 2024.

Positions of the Parties***Appellant's Position***

The Appellant's position is that 2023 was not a good year for him financially as a result of a number of health issues which prevented him from working. He only applied for EI sick benefits near the end of the year because he had been unable to supplement his disability assistance with income from part-time employment as he ordinarily would have.

Ministry's Position

The Ministry's position is that the legislation does not exempt EI sick benefits from being included in a recipient's net income calculation, except in the specific circumstances set out in section 7(1)(g) of Schedule B to the Regulation.

Panel Decision

Schedule A to the Regulation sets out the maximum monthly amounts of support and shelter allowance to which recipients of disability assistance are entitled. In the case of the Appellant, a sole recipient of disability assistance, that amount is \$1,483.50 per month, comprised of a support allowance (\$983.50), shelter allowance (\$500.00).

Section 9 of the Regulation sets out that a family unit is not entitled to assistance if the family unit's net income is more than the amount of disability assistance determined by Schedule A. Section 24 further sets out that the amount of disability assistance payable to a family unit is the amount determined by Schedule A, less the family unit's net income determined by Schedule B.

Schedule B to the Regulation sets out how a family's net income is calculated. The term net income is not a defined term in the Regulation. However, "unearned income", which is a component of net income, is defined in section 1 of the Regulation and includes:

(g) employment insurance

The term "employment insurance" in section 1 of Schedule B to the Regulation is broad and all-encompassing. No particular types of employment insurance are specifically excluded, including EI sick benefits. In the result, the EI sick benefits received by the Appellant in December 2023, in the amount of \$6,540.00, must be included in the calculation of the Appellant's net income in the month that they were received (in this case, December 2023), unless they otherwise qualify under the other exemption and deduction rules set out in Schedule B to the Regulation.

Schedule B to the Regulation also sets out a number of items that are deductible or exempt from being included in the calculation of the Appellant's family unit's net income. For example, section 1(a) of Schedule B lists 67 categories of exempt income. However, no types of EI benefits are found in that list.

Section 1(d) of Schedule B to the Regulation lists several deductions from the calculation of unearned income and exemptions from unearned income. These deductions are described as being found in sections 3, 6, 7, and 8 of Schedule B.

Section 3 refers to qualifying income which is income that is earned or, in the case of benefits paid under section 191 or 192 of the *Workers Compensation Act*, unearned income. The Appellant's EI sick benefits do not fall under either of these categories.

Section 6 sets out that the only deductions from unearned income are:

- (a) any income tax deducted at source from employment insurance benefits; and
- (b) essential operating costs of renting self-contained suites.

Section 6(b) of Schedule B to the Regulation does not apply to the Appellant's EI sick benefits. With respect to section 6(a), the Ministry is including only the amount of EI sick benefits received by the Appellant. As such, to the extent that any income tax was deducted at source from the Appellant's EI sick benefits, those amounts are not being included in the Ministry's calculation of the Appellant's unearned income.

Section 8 refers to education related income which, again, is not relevant to the Appellant's EI sick benefits.

Only section 7(g) of Schedule B to the Regulation references EI benefits at all. In that section, the specific types of EI benefits that are exempt are those that are payable under sections 22,23, or 23.2 of the *Employment Insurance Act* (Canada). Those sections refer to benefits payable in respect of pregnancy, parental benefits, and caring for a critically ill child, none of which apply to the EI sick benefits received by the Appellant.

Conclusion

The legislation requires all of the Appellant's EI sick benefits to be included in the calculation of his net income unless the exemptions and deductions described in the Regulation apply to the Appellant. None of the exemptions or deductions specifically set out in the Regulation or its schedules applies to the Appellant's sick benefits. Accordingly, the panel finds that the Ministry was reasonable in its determination that the EI sick benefits received by the Appellant in December 2023 are to be included in the calculation of his net income and that the amount of those EI sick benefits were in excess of his entitlement to disability assistance, making the Appellant ineligible for disability assistance in February 2024.

The Appellant is not successful in this appeal.

Relevant Legislation*Employment and Assistance for Persons with Disabilities Regulation*

section 1

1 (1) In this *Regulation*:

...

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

...

(g) employment insurance;

...

section 9

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.

section 24

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.

section 29

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.

Employment and Assistance for Persons with Disabilities Regulation, Schedule A

section 1

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.

(2) Despite subsection (1), disability 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*.

section 2

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

section 4

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
1	1 person	\$75	\$500

Employment and Assistance for Persons with Disabilities Regulation, Schedule B

section 1

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) 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;
- (xvii.1) money that is paid or payable to or for a person if the payment is in accordance with
 - (A) the Sixties Scoop Settlement made November 30, 2017, or
 - (B) the Federal Indian Day Schools Settlement made March 12, 2019, as amended May 13, 2019;
- (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 Death of Worker*] of Part 4 [*Compensation to Injured Workers and Their Dependants*] or section 225 [*compensation in relation to worker death before July 1, 1974*] of the *Workers Compensation Act* to a dependant, as defined in section 1 of that Act, who is a child, as defined in section 165 (1) of that Act;
- (liii) money that is paid or payable by or for Community Living BC to or for a person if the payment is in accordance with an award in a legal proceeding or with a settlement agreement in respect of a claim for injury, loss or damage caused by Community Living BC, an employee of Community Living BC or a person retained under a contract to perform services for Community Living BC;
- (liv) money that is paid or payable by the government of British Columbia to or for a person if the payment is in accordance with an award in a legal proceeding or with a settlement agreement in respect of a claim for injury, loss or damage caused by the minister, the Ministry, an employee of the Ministry or a person retained under a contract to perform services for the ministry;
- (liv.1) money that is paid or payable by the government of British Columbia to or for a person if the payment is in accordance with an award in a legal proceeding or with a settlement agreement in respect of a claim for injury, loss or damage caused by the Minister of Children and Family Development, that ministry, an employee of that ministry or a person retained under a contract to perform services for that ministry;
- (liv.2) money that is paid or payable by the government of British Columbia to or for a person because the person was a resident of Woodlands School;

- (lv) a disabled contributor's child's benefit paid or payable under the *Canada Pension Plan*;
- (lvi) payments granted under an agreement referred to in section 94 of the *Child, Family and Community Service Act*;
- (lvii) money that is paid or payable, in respect of a child, from property that comes into the control of, or is held by, the Public Guardian and Trustee;
- (lviii) money that is paid or payable from a settlement in respect of Treaty No. 8 agricultural benefits;
- (lviv) 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;
- (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) 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;

(lxv) 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;

(lxvi) 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;

(lxvii) 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;

(lxviii) a voted support payment.

(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,

(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.

Section 6

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.

Section 7

Exemptions — unearned income

7 (0.1) In this section:

...

(1) The following unearned income is exempt:

...

(g) a benefit paid under section 22, 23 or 23.2 of the *Employment Insurance Act* (Canada) to any person in the family unit.

...

Section 8

Minister's discretion to exempt education related unearned income

8 (1) In this section:

"day care costs" means the difference between a student's actual day care costs and the maximum amount of child care subsidy that is available under the Child Care Subsidy Act to a family unit matching the student's family unit;

"education costs", in relation to a student and a program of studies, means the costs, including the costs of tuition, student fees, books, equipment, supplies and transportation, that, in the opinion of the minister, are reasonably required for the student to participate in the program of studies.

- (1) The minister may authorize an exemption for a student up to the sum of the student's education costs and day care costs, for a period of study, from the total amount of student financial assistance received by the student for the period of study.

Employment Insurance Act (Canada)

Pregnancy

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

Weeks for which benefits may be paid

(2) Subject to section 12, benefits are payable to a major attachment claimant under this section for each week of unemployment in the period

(a) that begins the earlier of

(i) 12 weeks before the week in which her confinement is expected, and

(ii) the week in which her confinement occurs; and

(b) that ends 17 weeks after the later of

(i) the week in which her confinement is expected, and

(ii) the week in which her confinement occurs.

Limitation

(3) When benefits are payable to a claimant for unemployment caused by pregnancy and any allowances, money or other benefits are payable to the claimant for that pregnancy under a provincial law, the benefits payable to the claimant under this Act shall be reduced or eliminated as prescribed.

Application of section 18

(4) For the purposes of section 13, the provisions of section 18 do not apply to the week that immediately precedes the period described in subsection (2).

Deduction

(5) Subject to subsection 19(3), if benefits are payable under this section to a major attachment claimant for a week of unemployment, there shall be deducted from those benefits any allowances, money or other benefits payable to the claimant for that week under a plan that covers insured persons employed by an employer and

in respect of which the employer's premium has been reduced in accordance with regulations made under subsection 69(1).

Extension of period

(6) If a child who is born of the claimant's pregnancy is hospitalized, the period during which benefits are payable under subsection (2) shall be extended by the number of weeks during which the child is hospitalized.

Limitation

(7) The extended period shall end no later than 52 weeks after the week of confinement.

Parental benefits

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

Election by claimant

(1.1) In a claim for benefits made under this section, a claimant shall elect the maximum number of weeks referred to in either subparagraph 12(3)(b)(i) or (ii) for which benefits may be paid.

Irrevocability of election

(1.2) The election is irrevocable once benefits are paid under this section or under section 152.05 in respect of the same child or children.

First to elect

(1.3) If two major attachment claimants each make a claim for benefits under this section — or one major attachment claimant makes a claim for benefits under this section and an individual makes a claim for benefits under section 152.05 — in respect of the same child or children, the election made under subsection (1.1) or 152.05(1.1) by the first claimant or individual, as the case may be, to make a claim for benefits under this section or under section 152.05 is binding on both claimants or on the claimant and the individual.

Weeks for which benefits may be paid

(2) Subject to section 12, benefits under this section are payable for each week of unemployment in the period

(a) that begins with the week in which the child or children of the claimant are born or the child or children are actually placed with the claimant for the purpose of adoption; and

(b) that ends 52 weeks after the week in which the child or children of the claimant are born or the child or children are actually placed with the claimant for the purpose of adoption.

Extension of period — children in hospital

(3) If the child or children referred to in subsection (1) are hospitalized during the period referred to in subsection (2), the period is extended by the number of weeks during which the child or children are hospitalized.

Extension of period — Canadian Forces

(3.01) If, during the period referred to in subsection (2), the start date of a claimant's period of parental leave is deferred or a claimant is directed to return to duty from parental leave, in accordance with regulations made under the *National Defence Act*, the period is extended by the number of weeks during which the claimant's parental leave is deferred or the claimant is directed to return to duty, as the case may be.

Limitation

(3.1) No extension under subsection (3) or (3.01) may result in the period being longer than 104 weeks.

Extension of period — special benefits

(3.2) The period referred to in subsection (2) is extended so that benefits may be paid up to the applicable maximum number of weeks referred to in subparagraph 12(3)(b)(i) or (ii) if, during a claimant's benefit period,

(a) regular benefits were not paid to the claimant;

(b) benefits were paid to the claimant for more than one of the reasons mentioned in paragraphs 12(3)(a) to (f);

(c) the maximum total number of weeks established for those reasons is greater than 50; and

(d) benefits were paid for the reason mentioned in paragraph 12(3)(b) but for fewer than the applicable maximum number of weeks established for that reason.

Extension of period — reason mentioned in paragraph 12(3)(b)

(3.21) The period referred to in subsection (2) is extended by 26 weeks so that benefits may be paid for the reason mentioned in paragraph 12(3)(b) up to the maximum number of weeks if, during a claimant's benefit period,

- (a)** benefits were paid to the claimant for that reason and the applicable maximum number of weeks is established in subparagraph 12(3)(b)(ii);
- (b)** regular benefits were not paid to the claimant; and
- (c)** benefits were not paid for any reason mentioned in paragraph 12(3)(a), (c), (d), (e) or (f).

Extension of period — regular and special benefits

(3.22) If, during a claimant's benefit period, regular benefits were paid, benefits were paid for the reason mentioned in paragraph 12(3)(b) in the case where the applicable maximum number of weeks is established under subparagraph 12(3)(b)(ii), and benefits were paid for fewer than the total number of weeks established under subsection 12(6) as determined under subsection 12(7), the period referred to in subsection (2) is extended for the same number of weeks as the extension established under subsection 10(13.02).

(3.23) [Repealed, 2012, c. 27, s. 17]

Limitation

(3.3) An extension under subsection (3.2) must not result in the period referred to in subsection (2) being longer than the maximum benefit period calculated under subsection 10(15).

Limitation

(3.4) An extension under one or more of subsections 10(10) to (13.02) must not result in the period referred to in subsection (2) being longer than 104 weeks.

Limitation

(3.5) If benefits are payable to a claimant for the reasons set out in this section and any allowances, money or other benefits are payable to the claimant for the same reasons under a provincial law, the benefits payable to the claimant under this Act are to be reduced or eliminated as prescribed.

Division of weeks of benefits

(4) If two major attachment claimants each make a claim for benefits under this section — or if one major attachment claimant makes a claim for benefits under this section and an individual makes a claim for benefits under section 152.05 — in

respect of the same child or children, the weeks of benefits payable under this section, under section 152.05 or under both those sections may be divided between them up to a maximum of 40, if the maximum number of weeks that has been elected under subsection (1.1) or 152.05(1.1) is established under subparagraph 12(3)(b)(i) or 152.14(1)(b)(i), or up to a maximum of 69, if that number of weeks is established under subparagraph 12(3)(b)(ii) or 152.14(1)(b)(ii). If they cannot agree, the weeks of benefits are to be divided in accordance with the prescribed rules.

Maximum number of weeks that can be divided

(4.1) For greater certainty, if, in respect of the same child or children, a major attachment claimant makes a claim for benefits under this section and an individual makes a claim for benefits under section 152.05, the total number of weeks of benefits payable under this section and section 152.05 that may be divided between them may not exceed

(a) 40, if the maximum number of weeks that has been elected under subsection (1.1) or 152.05(1.1) is established under subparagraph 12(3)(b)(i) or 152.14(1)(b)(i); or

(b) 69, if that number of weeks is established under subparagraph 12(3)(b)(ii) or 152.14(1)(b)(ii).

Maximum number of weeks per claimant

(4.11) Even if the weeks of benefits payable are divided in accordance with subsections (4) and (4.1), the maximum number of weeks for which benefits may be paid to a claimant is 35 or 61 weeks, in accordance with the election made under subsection (1.1) or 152.05(1.1).

Deferral of waiting period

(5) A major attachment claimant who makes a claim for benefits under this section may have their waiting period deferred until they make another claim for benefits in the same benefit period, otherwise than under section 22 or this section, if

(a) the claimant has already made a claim for benefits under section 22 or this section in respect of the same child and has served the waiting period;

(b) another major attachment claimant has made a claim for benefits under section 22 or this section in respect of the same child and that other claimant has served or is serving their waiting period;

(c) another major attachment claimant is making a claim for benefits under section 22 or this section in respect of the same child at the same

time as the claimant and that other claimant elects to serve the waiting period; or

(d) the claimant or another major attachment claimant meets the prescribed requirements.

Exception

(6) If a major attachment claimant makes a claim under section 22 or this section and an individual makes a claim under section 152.04 or 152.05 in respect of the same child or children and one of them has served or elected to serve their waiting period, then

(a) if the major attachment claimant is not the one who served or elected to serve the waiting period, that claimant is not required to serve a waiting period; or

(b) if the individual is not the one who served or elected to serve the waiting period, that claimant may have his or her waiting period deferred in accordance with section 152.05.

Benefits — critically ill child

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

(a) states that the child is a critically ill child and requires the care or support of one or more of their family members; and

(b) sets out the period during which the child requires that care or support.

Marginal note: Medical practitioner

(2) In the circumstances set out in the regulations, the certificate referred to in subsection (1) may be issued by a member of a prescribed class of medical practitioners.

Weeks for which benefits may be paid

(3) Subject to section 12, benefits under this section are payable for each week of unemployment in the period

(a) that begins on the first day of the week in which either of the following falls:

(i) the day on which the first certificate is issued in respect of the child that meets the requirements of subsection (1) and is filed with the Commission, or

(ii) in the case of a claim that is made before the day on which the certificate is issued, the day from which the medical doctor or nurse practitioner certifies that the child is critically ill; and

(b) that ends on the last day of the week in which any of the following occurs:

(i) all benefits payable under this section in respect of the child are exhausted,

(ii) the child dies, or

(iii) the expiry of 52 weeks following the first day of the week referred to in paragraph (a).

(4) [Repealed, 2017, c. 20, s. 237]

Exception

(5) Subparagraph (3)(a)(ii) does not apply to a claim if

(a) at the time the certificate is filed with the Commission, all benefits that may otherwise have been payable in relation to that claim have already been exhausted;

(b) the beginning of the period referred to in subsection (3) has already been determined and the filing of the certificate with the Commission would have the effect of moving the beginning of that period to an earlier date; or

(c) the claim is made in any other circumstances set out in the regulations.

Deferral of waiting period

(6) A claimant who makes a claim for benefits under this section may have their waiting period deferred until they make another claim for benefits in the same benefit period if

(a) another claimant has made a claim for benefits under this section or section 152.061 in respect of the same child during the period described in

subsection (3) and that other claimant has served or is serving their waiting period in respect of that claim;

(b) another claimant is making a claim for benefits under this section or section 152.061 in respect of the same child at the same time as the claimant and that other claimant elects to serve their waiting period; or

(c) the claimant, or another claimant who has made a claim for benefits under this section or section 152.061 in respect of the same child, meets the prescribed requirements.

(7) [Repealed, 2017, c. 20, s. 237]

Division of weeks of benefits

(8) If a claimant makes a claim for benefits under this section and another claimant makes a claim for benefits under this section or section 152.061 in respect of the same child, any remaining weeks of benefits payable under this section, under section 152.061 or under both those sections, up to a maximum of 35 weeks, may be divided in the manner agreed to by those claimants. If they cannot agree, the weeks of benefits are to be divided in accordance with the prescribed rules.

Maximum divisible number of weeks

(9) For greater certainty, if, in respect of the same child, a claimant makes a claim for benefits under this section and another claimant makes a claim for benefits under section 152.061, the total number of weeks of benefits payable under this section and section 152.061 that may be divided between them must not exceed 35 weeks.

Limitation — compassionate care benefits

(10) Benefits under section 23.1 or 152.06 are not payable in respect of a child during the period referred to in subsection (3) or 152.061(3) that is established in respect of that child.

Limitation — benefits for critically ill adult

(10.1) Benefits under section 23.3 or 152.062 are not payable during the period of 52 weeks that begins on the first day of the week referred to in paragraph (3)(a) in respect of a person who was a critically ill child if benefits were paid in respect of that person under this section.

Limitation

(11) When benefits are payable to a claimant for the reasons set out in this section and any allowances, money or other benefits are payable to the claimant under a

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provincial law for the same or substantially the same reasons, the benefits payable to the claimant under this section shall be reduced or eliminated as prescribed.

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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

Adam Shee

Signature of Chair

Date (Year/Month/Day)

2024/March/21

Print Name

Bill Haire

Signature of Member

Date (Year/Month/Day)

2024/March/22

Print Name

John Pickford

Signature of Member

Date (Year/Month/Day)

2024/March/21