

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision dated January 19, 2024, which determined the Appellant was not eligible for disability assistance because his net income from Employment Insurance (“EI”) and Canada Pension Plan-Disability (“CPP-D”) is more than the rate of assistance for his family unit size.

Specifically, the Ministry determined that per Section 9(2) of the Employment Assistance for Persons with Disabilities Regulation (the “Regulation”), the Appellant is not eligible for disability assistance because his net EI and CPP-D income of \$2,384.81 exceeds the \$1483.50 amount of disability assistance determined for the Appellant’s family unit size under Schedule A.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation– Sections 1, 9, 24 and 29
Schedule A- Sections 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 hearing occurred on April 10, 2024 and was conducted with the Panel and the Appellant in person, with the Ministry attending by teleconference.

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

- The Appellant has an open disability assistance file which is designated as Medical Services Only;
- The monthly rate of disability assistance for the Appellant's family unit (sole recipient) is \$1,483.50, including \$983.50 for a support allowance and \$500 for a shelter allowance;
- The Appellant last received disability assistance benefits for the June 2023 benefit month;
- The Appellant is in receipt of EI and CPP-D income which exceeds the applicable rate for his family unit;
- On January 15, 2024, the Service Canada EI/MHSD Common Claimant Report notes that from May 12, 2023, the Appellant has been paid regular EI benefits at a rate of \$359/week;
- On January 16, 2024, the Appellant contacted the Ministry and stated that he should be eligible for disability assistance benefits because he did not receive his full EI payments;
- On January 18, 2024, the Appellant advised the Ministry that he has no propane to heat his home; and
- On January 18, 2024, the Appellant's submitted his Request for Reconsideration.

Additional Information submitted after Reconsideration

In his reasons for Appeal, the Appellant stated that the Ministry decision was unfair and malicious. He further stated, "There is multiple errors with regard to [the] Legislation".

At the hearing, the Appellant advised that the Service Canada report of his weekly \$359 EI payments was accurate to the extent that he received the payments; what was not accurate was the stated cheque date(s). Due to the (December) holidays, he did not necessarily receive the payments on the date noted. The Appellant also said that the method of receiving his cheques varied—some cheques he received directly while others were deposited automatically into his account. The Appellant also said he had terrible experiences with, and very poor treatment from the Ministry when trying to talk to the Ministry and understand the Ministry decision(s) including that he was on hold "for hours" and was hung up on. The Appellant said that he was never told that he was eligible for Medical Services Only.

At the hearing, in response to questions from the Panel, the Ministry representative explained that requests for assistance are based on the information available at the time. Based on the information that the Appellant received EI and CPP-D pay (\$2384.81) which was more than the assistance he would receive (\$1483.50), the Appellant's status for purposes of disability assistance benefits was changed to Medical Services Only in June 2023. The Ministry also noted that Ministry records confirmed that the Appellant had called in June 2023 and August 2023 to ask why he was not receiving PWD assistance payments and was Medical Services Only; he was advised that he was not eligible for disability assistance payments because his net income was more than his disability pay.

Admissibility

Neither party objected to the admissibility of each other's additional oral evidence.

The Appellant's evidence provides further information about the Appellant's experiences and his difficulties in receiving clarity about his PWD status and the benefits he was entitled to due to that status. The Ministry's testimony gives more detail about the review and assessment process that occurs and clarifies the Appellant's history and changing status as a claimant.

The Panel finds that the additional evidence provided by both parties is reasonably required for the full and fair disclosure of all matters in the appeal. Therefore, the Panel finds that the additional evidence is admissible under section 22(4) of the *Employment and Assistance Act*.

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 disability assistance because his net income from EI and CPP-D (\$2384.81) was more than the rate of assistance determined under the Regulation, for his family unit size (\$1483.50). 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.

Position of the Appellant

The Appellant says that he disagrees with the Ministry's decision to deny him disability assistance payments. The Appellant says that he does not understand how he can have all his medical covered and received various supplements (i.e. food) in the past but is told he is not eligible for other payments. The Appellant says that at the time in question, he didn't necessarily receive his EI and CPP-D payments as scheduled, payments did not line up due to the holidays, and that meant he did not have funds for necessities like propane.

The Appellant says that he doesn't dispute that his EI and CPP-D payment amounts are accurate and that he received all payments. He further agrees that his EI and CPP-D income is more than the Ministry assistance amount, and he concedes that he is not entitled to Ministry payments, "I accept the decision". However, the Appellant strongly disagrees with how he was treated and with how things were handled. The Appellant says that because of the way workdays and holidays fell, he did not actually receive his EI and CPP-D payments as usual, there was a gap and he was short funds as a result. The Appellant says the Ministry was obligated to consider the circumstances of his request and to provide payments to ensure he had what he needed to live such as propane for heat during a severe cold snap in the weather.

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 and possible Ministry errors regarding supplements paid to the Appellant when the Appellant might not have been entitled to them. The Ministry said that because the Appellant was in receipt of EI pay (\$1436) and CPP-D benefits (\$948.81), those funds must be considered as income when determining eligibility for assistance.

The Ministry says that that the EI and CPP-D income that the Appellant receives is not exempt and must be considered when determining eligibility for assistance. As the Appellant receives more funds from EI and CPP-D together (\$2384.81) than the total amount that he would be eligible to receive from assistance (\$1483.50), the Appellant is not entitled to disability assistance.

Finally, the Ministry advised that the payment reports generated by Service Canada are automatically shared with the Ministry and are generally an accurate representation of pay received. The report indicates that the Appellant received weekly payments of \$359. Although the Appellant said he did not receive the full pay or there was a gap with pay, he did not provide supporting information to confirm the payments were delayed or not received. As such, the Ministry maintained that the Appellant was not entitled to assistance or supplements because his total EI and CPP-D payments are higher than the Ministry assistance amount.

Analysis

Whether EI pay and CPP-D benefits are Reportable Unearned Income?

The Panel finds that the Ministry's decision that the EI and CPP-D payments received by the Appellant were unearned income that must be reported, was a reasonable application of the legislation. Section 1(1) 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: ... (f) any type or class of Canada Pension Plan benefits; [and] (g) employment insurance". The Appellant does not meet conditions for exemptions in Schedule B, and deductions are not recorded on the EI/MSDPR Common Claimant Report submitted in evidence. The Report shows EI cheque issue amounts of \$359 per week for 36 weeks, MSDPR benefit payments of \$52 in December 2023 and \$52 in January 2024, and Unearned income (CPP-D) payments of \$948.81 for the months of December 2023, January 2024, and February 2024. Indeed, the Appellant does not dispute that he received and duly reported the amounts received as was required by the legislation.

Whether Employment Insurance and Canada Pension Plan Disability Income Exceeds Income Assistance Amount?

The Ministry determined that per Schedule B of the Regulation, the Appellant had regularly received net EI monthly income of \$1436 plus net CPP-D monthly income of \$948.81. The \$2384.81 net income was higher than the \$1483.50 monthly disability assistance benefit amount calculated per Schedule A. Section 9(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, the Appellant says that there was a gap with his payments that left him short and unable to cover necessary expenses such as propane for heating. Due to the time of year—the Christmas and New Year’s holiday period—it is possible that the Appellant might not have received his regular EI payments as reported by Service Canada and within the month, which created a hardship for him. As well, there is the potential that the delay could result in the monthly net income being less than the monthly disability assistance rate. However, the Appellant has not provided evidence to show that he did not receive the monthly EI amount as, and when, indicated in the Service Canada report. Further, the total amount received each month from EI and CPP-D was \$901.31 more than his disability assistance payments, which could go toward necessities and overcome any gaps. The Appellant doesn’t dispute that his EI and CPP-D payment amounts are accurate and that he received all payments. He further agrees that his EI and CPP-D income is more than the Ministry assistance amount, and he concedes that he is not entitled to Ministry payments, “I accept the decision”. Finally, the Appellant agrees the \$2384.81 EI and CPP-D net income was higher than the \$1483.50 monthly income assistance benefit amount the Appellant is eligible for. As such, the Panel finds that the Ministry was reasonable in determining that the Appellant was not eligible to receive disability assistance because his net EI and CPP-D income exceeds the Ministry assistance amount.

Conclusion

The Panel determines that the Ministry’s decision was reasonable where it found that per Section 9(2) of the Regulation, the Appellant was not eligible for disability assistance. The Appellant’s net EI and CPP-D income of \$2,384.81 exceeds the \$1483.50 amount of disability 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 his appeal.

Relevant Legislation**EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES 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 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.
- (2) For the purposes of the Act and this regulation, if a child resides with each parent for 50% of each month under
- (a) an order of a court in British Columbia,
 - (b) an order that is recognized by and deemed to be an order of a court in British Columbia, or
 - (c) an agreement filed in a court in British Columbia,
- the child is a dependent child of the parent who is designated in writing by both parents.
- (3) For the purposes of the definition of "special care facility", the minister may approve as a specialized adult residential care setting a place that provides accommodation and care for adults and for which a licence under the *Community Care and Assisted Living Act* is not required.

Limits on income

- 9** (1) For the purposes of the Act and this regulation, "**income**", in relation to a family unit, includes an amount garnished, attached, seized, deducted or set off from the income of an applicant, a recipient or a dependant.
- (2) A family unit is not eligible for disability assistance if the net income of the family unit determined under Schedule B equals or exceeds the amount of disability assistance determined under Schedule A for a family unit matching that family unit.

Amount of disability assistance

- 24** Disability assistance may be provided to or for a family unit, for a calendar month, in an amount that is not more than
- (a) the amount determined under Schedule A, minus
 - (b) the family unit's net income determined under Schedule B.

Reporting requirement

- 29** For the purposes of section 11 (1) (a) [*reporting obligations*] of the Act,
- (a) the report must be submitted by the 5th day of the calendar month following the calendar month in which one or more of the following occur:
 - (i) a change that is listed in paragraph (b) (i) to (v);
 - (ii) a family unit receives earned income as set out in paragraph (b) (vi);
 - (iii) a family unit receives unearned income that is compensation paid under section 29 or 30 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 prescribed under the Forms Regulation, B.C. Reg. 87/2018:

- (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 29 or 30 of the *Workers Compensation Act* received by the family unit in the calendar month.

Disability Assistance Rates

(section 24 (a))

Maximum amount of disability assistance before deduction of net income

1 (1) Subject to this section and sections 3 and 6 to 9 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*.

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);

"maximum adjustment" repealed; [B.C. Reg. 34/2017]

"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]

(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

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

Net Income Calculation

(section 24 (b))

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];
 - (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 [*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. 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;
- (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) 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);
- (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;
- (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 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;
- (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.

(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.

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), (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;

(e) the portion of Canada Pension Plan Benefits that is calculated by the formula $(AB) \times C$, 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. 2, s. 4 (b).]

(3) Repealed. [B.C. Reg. 197/2012, Sch. 2, s. 13 (f).]

provided if a pension benefit had been paid for that calendar month, and

(b) subsequently a pension benefit becomes payable or payment of a pension benefit may be made under the *Canada Pension Plan* (Canada) to a

recipient in the family unit for that calendar month or any portion of that calendar month the amount of the pension benefit that becomes payable for that month or portion of that month must be treated as unearned income and is considered to have been received by the recipient in that month.

2024-0027

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)

2024/04/16

Print Name

Robert Kelly

Signature of Member

Date (Year/Month/Day)

2024/04/11

Print Name

Linda Pierre

Signature of Member

Date (Year/Month/Day)

2024/04/11