

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated May 3, 2024, which determined the appellant was not eligible for May 2024 disability assistance because a public service pension payment he received in March 2024, is considered unearned income and exceeds his rate of assistance.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (Act), section 3

Employment and Assistance for Persons with Disabilities Regulation (Regulation), sections 1, 9, 24 and 29, Schedule A, sections 1, 2, and 4 and Schedule B, sections 1, 2, 3, 6, 7, and 8

Relevant sections of the legislation can be found in the Schedule of Legislation at the end of this decision.

Part E – Summary of Facts**Relevant Evidence Before the Minister at Reconsideration****Ministry Records show:**

- The appellant is a sole recipient of disability assistance with a monthly rate of \$1483.50 (\$983.50 support allowance and \$500 shelter allowance).
- On April 4, 2024, the appellant submitted a monthly report for May 2024 declaring \$9,403.87 received in March 2024 - lump sum public service pension payout.
- On April 5, 2024 the ministry determined the appellant was ineligible for May 2024 assistance because the pension payout exceeded his rate of disability assistance.
- On April 11, 2024 the appellant advised that his pension payout should not be deducted from his May 2024 assistance. He submitted a revised monthly report for May 2024, a screenshot of the ministry website (My Self Serve) and a Termination Selection Statement from the Public Service Pension Plan.

Request for Reconsideration (April 17, 2024) - summary

The appellant refers to the British Columbia Employment Assistance Policy and Procedures Manual and states the ministry used an old policy (December 1, 2003). He adds that there is a new policy (2024), which allows for pension plan contributions (refunded because of insufficient contributions to create a pension) to be considered qualifying income under the annual earnings exemption. The appellant states that the \$9,403.87 should have been applied to his annual earnings exemption.

The appellant included the following document with his request for reconsideration.

British Columbia Annual Earnings Exemption – Disability Assistance (*effective January 2024* – date added by the appellant)

This document, retrieved electronically and provided by the appellant, states that disability assistance clients are eligible for an annual earnings exemption. The exemption (*effective January 2024*, inserted by the appellant) allows those on disability assistance to use their earnings exemption on an annual basis. The intent of the exemption is to better assist individuals whose ability to earn fluctuates during the year (e.g., due to medical conditions). The document also states that the annual earnings exemption can only be applied to qualifying income, which is either of the following: (underline inserted by the appellant)
 Earned income - pension plan contributions refunded because of insufficient contributions to create a pension, (circled by the appellant), with a statement, "This is what I received".

Statement from the Public Service Pension Plan (signed by the appellant February 27, 2024)

Plan membership start: October 17, 2022.

Termination of Employment: January 15, 2024

Commuted Value

The statement explains that a commuted value is a present-day, lump sum value of a future pension benefit and that the payment options offered are available to the appellant until he reaches age 55.

Guarantee Date

The statement also explains that while the commuted value option is guaranteed until June 29, 2024, its availability as a refund payment option is dependent on its value not exceeding the prescribed amount established by the *Pension Benefits Standards Act and Regulation*. (This statement was circled by the appellant and an asterisk included).

OPTION 1 - Deferred Lifetime Pension

The first option states the appellant is eligible for a reduced pension at age 55 and an unreduced pension at age 65. (The appellant included comments beside this option – “This is not an effective option and I am terminally ill”).

Option 2 – Refund Payment of Commuted Value of Pension (underline inserted by the appellant)

Option 2 states the appellant is entitled to a refund payment of the portion of the commuted value of his monthly pension for all pensionable service that is within the *Income Tax Act* limit in the amount of \$11,716.

Monthly Report (signed April 4, 2024)

The appellant declared the following:

Private pensions (e.g. retirement, disability) \$9,403.87

Revised Monthly Report (signed April 11, 2024)

The appellant declared the following:

Net employment income - \$9,403.87

The appellant added that he was offered a lump sum payout of his public service pension and that this income was earned, and not an unearned excess income private disability pension as the ministry entered.

The appellant also added that he is living with end stage liver disease and his life expectancy is less than 10 years, so he decided to accept the lump sum payment. His net payment was \$9,403.87, as tax was withheld. He entered the net payment into the employment line as he states this was employment income he earned as a worker.

Screen Shot – British Columbia My Self Serve (Ministry Platform for clients/applicants)

(April 17, 2024)

The information on the screen shot states the appellant is estimated to receive \$0.00 because of the following.

Deduction

Excess unearned income deduction \$9,403.87 (appellant writes that this is incorrect as the income was earned).

Pension Payment

Private disability pension \$9,403.97 (circled by the appellant)

2024 T4A from the Canada Revenue Agency

Pension or superannuation

- lump sum payments -\$11,754.84
- income tax deducted \$2,350.97

Additional Information

Appellant

Notice of Appeal (May 13, 2024)

The appellant states the updated policy for disability assistance shows that lump sum pension refunds, due to not being able to establish an effective pension, are considered qualifying income under earned income and can be applied to his annual earnings exemption. This policy has been repeatedly ignored despite the appellant pointing it out, and the ministry still quoting policy from the *Employment and Assistance Act*.

At the hearing, the appellant added that a pension of \$56/month is completely insufficient. He also stated that the ministry decision has created hardship.

Ministry

At the hearing, the ministry relied on its record and also explained that with earned income more assistance can be paid. However, unearned income is not treated the same.

Admissibility

The panel determined the additional information from the appellant regarding a \$56/month pension and the hardship created, as well as clarification from the ministry concerning income, is reasonably required for a full and fair disclosure of all matters related to the decision under appeal and therefore is admissible under section 22(4) of the *Employment and Assistance Act*. The panel also determined that the ministry did not submit any new information.

Part F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Specifically, did the ministry reasonably determine the appellant was not eligible for May 2024 disability assistance because a public service pension payment received in March 2024, is considered unearned income and exceeds his rate of assistance?

Appellant's Position

The appellant states the ministry used an old policy (December 1, 2003) when calculating his pension payout.

The new policy (2024) shows that lump sum pension refunds (due to not being able to establish an effective pension), are considered qualifying income under earned income and can be applied to his annual earnings exemption.

The appellant also states the pension payout was employment income he earned as a worker and therefore should have been applied to his annual earnings exemption.

He adds that he has end stage liver disease and so opted for the lump sum payment now.

Ministry's Position

The ministry determined that the \$9,403.87 public service pension payment is considered unearned income in accordance with section 1 of the Regulation, because it is a superannuation benefit. While the ministry acknowledges that the employer's portion of the pension payment was revoked because it was paid in a lump sum, this income is nevertheless money received from a pension fund offered by an employer and therefore must be considered a superannuation benefit. The ministry adds that there is no exemption for this type of income listed under Schedule B, and as such it must be deducted dollar-for-dollar from the appellant's rate of disability assistance.

The ministry also notes the appellant was given options for the payment of his pension contributions, including the option to access his pension beginning at either age 55 or 65. While the ministry acknowledges that this option may not be viable, given the appellant's

illness, the ministry nevertheless finds that the Public Service Pension Plan would not have offered the appellant this option if he had not made sufficient contributions to create a pension. As such, the ministry is not satisfied that the lump sum payment was refunded because of insufficient contributions to create a pension.

Panel Analysis

Section 3, Act – eligibility

Section 3 states a family unit is eligible for disability assistance if each person in the family satisfies the initial and continuing conditions of eligibility established under this Act, and the family has not been declared ineligible for the disability assistance.

Section 1, Regulation – definitions

Section 1 states earned income means any money or value received in exchange for work. In his revised monthly report, the appellant writes that the payout of his public service pension was earned income. Although the panel agrees the appellant had to work to contribute to his pension, the panel finds the pension payout itself cannot be considered earned income as it was not paid out for doing work.

Further, the definitions also state earned income includes pension plan contributions that are refunded because of insufficient contributions to create a pension. Although the appellant argues he received a refund because of insufficient contributions to create a pension, the panel finds there is not enough evidence to demonstrate that the lump sum pension refund was made due to insufficient contributions to create a pension. The Statement from the Public Service Pension Plan explains that a commuted value is a present-day, lump sum value of a future pension benefit and that the payment options offered are available to the appellant until he reaches age 55. The statement shows there is an option for a reduced pension at age 55 and for an unreduced pension at age 65. The panel acknowledges that the appellant has a terminal illness and states he won't be able to benefit from a future pension. However, as the statement from the Public Service Pension Plan shows options for a future pension, the panel finds there were sufficient contributions to create a pension even if, as the appellant has submitted, the monthly payment would be quite small.

Therefore, the panel finds the ministry decision, that the pension refund cannot be considered earned income, reasonable.

The panel also finds that as section 1 states unearned income means any income that is not earned income, the lump sum pension refund must be considered unearned income.

Section 9 and 24, Regulation – limits on income and amount of disability assistance

Section 9 states a family is not eligible for disability assistance if the net income determined under Schedule B equals or exceeds the amount of disability assistance determined under Schedule A.

Section 24 states disability assistance may be provided for a 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.

Sections 1, 2 and 4, Schedule A, Regulation - maximum amount of assistance/ monthly allowance

Section 1 states the maximum amount of disability assistance before deductions is the monthly support allowance under section 2 plus the shelter allowance. Section 2 shows the monthly support allowance for a sole applicant, with disabilities as \$983.50 and the shelter allowance as \$500.00 (total - \$1,483.50).

Section 1, Schedule B, Regulation – net income calculation

Section 1 provides a list of monies that are exempt when calculating net income. The panel notes lump sum pension refunds are not listed.

Sections 2 and 3, Schedule B, Regulation – deductions and annual exemption - qualifying income

Section 3 provides an annual exemption of \$1,350.00 in qualifying income for one recipient - earned income, and unearned income that is compensation paid under section 191 or 192 of the *Workers Compensation Act*.

As the panel found the lump sum pension payout to be unearned income, and not compensation paid under the *Workers Compensation Act*, the panel finds the annual earnings exemption does not apply. As well, although the appellant states, the ministry did not use a current policy, as the panel found the pension refund to be considered unearned income, the 2024 policy is immaterial. As well, the panel's role is to consider the legislation and whether the decision was reasonable in light of the legislation, not internal ministry policy.

Sections 6, 7 and 8, Schedule B, Regulation – deductions and exemptions

The panel notes there are no exemptions for a lump sum pension refund in sections 6, 7 and 8, of Schedule B of the Regulation.

As there are no exemptions pertaining to the lump sum pension refund under Schedule B, the panel finds the appellant's rate of assistance is calculated as \$1483.50.

Section 29, Regulation – reporting requirement

Section 29 of the Regulation states a report must be submitted by the 5th day of the calendar month following the calendar month in which there is a change in income received. The panel notes the ministry states the appellant is not eligible to receive May 2024 disability assistance because the \$9,403.87 received in March 2024 exceeds the \$1483.50 rate of disability assistance.

Although the legislation does not stipulate that monies reported in March affect May assistance, the panel finds this is a reasonable way to deal with these monies. As \$1,483.50 (Schedule A) - \$9,403.87 (Schedule B) = \$0.00 to be paid out after deducting the receipt of the lump sum pension, the panel finds the ministry reasonably determined the appellant is not entitled to disability assistance for May 2024.

Conclusion

In conclusion, the panel finds the ministry decision, which determined that the appellant is not eligible for May 2024 disability assistance because a Public Service Pension payment in March 2024 is considered unearned income and exceeds his rate of assistance, was a reasonable application of the legislation in the circumstances of the appellant.

The appellant is not successful on appeal.

Schedule of Legislation

Employment and Assistance for Persons with Disabilities Act

Eligibility of family unit

3 For the purposes of this Act, a family unit is eligible, in relation to disability assistance, hardship assistance or a supplement, if

- (a) each person in the family unit on whose account the disability assistance, hardship assistance or supplement is provided satisfies the initial and continuing conditions of eligibility established under this Act, and
- (b) the family unit has not been declared ineligible for the disability assistance, hardship assistance or supplement under this Act.

Employment and Assistance for Persons with Disabilities Regulation

Definitions

1(1) In this regulation:

"earned income" means

- (a) any money or value received in exchange for work or the provision of a service...
- (c) pension plan contributions that are refunded because of insufficient contributions to create a pension...

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

- (e) superannuation benefits...

Limits on income

9

(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)...

- (b)the information required is all of the following, as requested in the monthly report form specified by the minister...
- (ii)change in income received by the family unit and the source of that income...
- (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.

Schedule A

Maximum amount of disability assistance before deduction of net income

- 1** (1)Subject to this section and sections 3 and 6 to 8 of this Schedule, the amount of disability assistance referred to in section 24 (a) [amount of disability assistance] of this regulation is the sum of
- (a)the monthly support allowance under section 2 of this Schedule for a family unit matching the family unit of the applicant or recipient, plus
 - (b)the shelter allowance calculated under sections 4 and 5 of this Schedule.

Monthly support allowance

- 2** (0.1)For the purposes of this section...
- (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...

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...
- (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

Schedule B

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;...

(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*], 8.2 [*BC harmonized sales tax credit*] or 8.3 [*renter's 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...
- (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...
- (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);...
- (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) and (lviv) Repealed. [B.C. Reg. 99/2023, App. 2, s. 3 (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.

Deductions from earned income

2 The only deductions permitted from earned income are the following:

- (a) any amount deducted at source for
 - (i) income tax,

- (ii)employment insurance,
- (iii)medical insurance,
- (iv)Canada Pension Plan,
- (v)superannuation,
- (vi)company pension plan, and
- (vii)union dues;
- (b)if the applicant or recipient provides both room and board to a person at the applicant's or recipient's place of residence, the essential operating costs of providing the room and board;
- (c)if the applicant or recipient rents rooms that are common to and part of the applicant's or recipient's place of residence, 25% of the gross rent received from the rental of the rooms.

Annual exemption — qualifying income

3 (1)In this section:

"base amount" means

- (a)\$1 350, in the case of a family unit that includes only one recipient...

"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.

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 Veterans Affairs Canada 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 $(A-B) \times C$, where

- A = the gross monthly amount of Canada Pension Plan Benefits received by an applicant or recipient;
 - B = (i) in respect of a family unit comprised of a sole applicant or a sole recipient with no dependent children, 1/12 of the amount determined under section 118 (1) (c) of the *Income Tax Act* (Canada) as adjusted under section 117.1 of that Act, or
 - (ii) in respect of any other family unit, the amount under subparagraph (i), plus 1/12 of the amount resulting from the calculation under section 118 (1) (a) (ii) of the *Income Tax Act* (Canada) as adjusted under section 117.1 of that Act;
 - C = the sum of the percentages of taxable amounts set out under section 117 (2) (a) of the *Income Tax Act* (Canada) and section 4.1 (1) (a) of the *Income Tax Act*,
 - (f) a tax refund;
 - (g) a benefit paid under section 22, 23 or 23.2 of the *Employment Insurance Act* (Canada) to any person in the family unit.
- (2) Subsection (1) (d.1) and (d.3) (ii) applies in respect of a person only if

- (a) the person has entered into a settlement agreement with the defendant in relation to a claim for damages in respect of personal injury or death, and
- (b) the settlement agreement requires the defendant to
 - (i) make periodic payments to the person for a fixed term or the life of the person,
 - (ii) purchase a single premium annuity contract that
 - (A) is not assignable, commutable or transferable, and
 - (B) is designed to produce payments equal to the amounts, and at the times, specified in the settlement agreement,
 - (iii) make an irrevocable direction to the issuer of the annuity contract to make all payments under that annuity contract directly to the person, and
 - (iv) remain liable to make the payments required by the settlement agreement.

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.

APPEAL NUMBER 2024-0182

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

Connie Simonsen

Signature of Chair

Date (Year/Month/Day)

2024/05/29

Print Name

John Pickford

Signature of Member

Date (Year/Month/Day)

2024/05/29

Print Name

Julie Iuvancigh

Signature of Member

Date (Year/Month/Day)

2024/05/29