

**Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the "Ministry") Reconsideration Decision of May 23, 2024. The Ministry determined that the Appellant was not eligible for income assistance due to his spouse having had income in the months of February 2024 and March 2024 that exceeded the amount of income to which the Appellant's family unit would otherwise have been entitled to receive.

**Part D – Relevant Legislation**

Employment and Assistance Regulation (the "Regulation")- sections 1, 10, Schedule A- sections 1, 2, and 4, and Schedule B- sections 1, 2, and 3

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

**Part E – Summary of Facts**

The hearing proceeded by teleconference on June 28, 2024 with the Appellant and his advocate and a representative of the Ministry in attendance by teleconference.

The Appellant is an applicant for income assistance with a family unit consisting of himself, his spouse, and a dependant child.

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

- a bank statement from an account in the name of the Appellant’s spouse, dated March 28, 2024, showing two deposits from the employer of the Appellant’s spouse on each of March 8, 2024 and March 22, 2024, in the amounts of \$2,472.97 and \$2,748.40, respectively;
- a bank statement from an account in the name of the Appellant’s spouse, dated March 21, 2024, showing two deposits from the employer of the Appellant’s spouse on each of February 23, 2024 and March 8, 2024, in the amounts of \$748.80 and \$824.32, respectively;
- the Appellant’s Application for Assistance, dated May 13, 2024 (the “Application”);
- the Appellant’s Application for designation as a Person with Disabilities, dated May 8, 2024;
- the Appellant’s Request for Reconsideration, dated May 8, 2024, in which he wrote that:
  - he was applying for a designation as a Person with Disabilities;
  - his spouse needed his help financially because of her son and the need to work shifts;
  - he did not like to have to ask his spouse for assistance; and
  - having money of his own would lessen the burden on his spouse.

The panel notes that some of the payments to the Appellant’s spouse, referenced in the Reconsideration Decision are not confirmed by copies of statements in the Appeal Record. In particular, the Ministry referred to a bank statement for February which indicated income received by the Appellant’s spouse on February 9, 2024 and February 23, 2024 in the amounts of \$2,374.71 and \$2,246.41, respectively. That statement, for reasons that are not clear, was not in the Appeal Record. Nevertheless, the amounts were not contested by the Appellant and are consistent with the income received by the Appellant’s spouse in March 2024.

In his Notice of Appeal, filed May 24, 2024, the Appellant included a typed letter in which he wrote that he had been assessed as having a disability by the federal government and that his spouse was penalized for his disability. He noted that he received \$758.09 monthly from a

Canada Pension Plan disability pension and noted that his application should not really be assessed as a couple as he was not really contributing financially to the family.

The Appellant also indicated that he felt the Ministry needed to reassess the eligibility requirements for the Person with Disabilities ("PWD") designations, particularly in situations where a person has already been designated as disabled by the federal government. The Appellant also noted that he had a right to a top up of his disability pension, presumably to the amount of income assistance for which he would otherwise be eligible.

#### *Information Received Prior to the Hearing*

The Ministry filed a submission on June 24, 2024 (the "Submission"). The Submission consisted of a letter, dated June 24, 2024, noting that the Appellant and his spouse had exceeded the amount of assistance for which the family was eligible and, as a new applicant, the Appellant's family unit was not eligible for any earnings exemption. The letter also confirmed that the Appellant's PWD application had been approved in late June.

The Appellant did not object to the admissibility of the letter. Likewise, the Ministry did not object to the typed letter attached to the Appellant's Notice of Appeal.

The panel admits both documents as evidence under section 22(4) of the *Employment and Assistance Act*. In the case of the Appellant's letter, the panel finds that it is evidence that is reasonably required for a full and fair hearing on the matter that is the subject of this appeal. In the case of the Submission, it is effectively argument only and does not contain any new evidence, per se.

#### *The Hearing*

##### The Appellant

At the hearing, the Appellant described the process for applying for PWD as very confusing. The Appellant noted that he had been deemed disabled by the federal government (i.e. was receiving a CPP disability pension) and felt that his income assistance should be topped up from what his CPP disability pension was.

The Appellant confirmed that he is living in a marriage-like relationship with his partner who has a disabled son. The Appellant's spouse is the only person working in the household and that she often has to work extra shifts to cover all of the expenses. The Appellant felt that his partner was being penalized in a way. The Appellant and the advocate argued that eligibility for assistance should be assessed on an individual basis with the Ministry looking at an applicant's individual

circumstances. The Appellant did not understand why the family's income was being taken into account for his application for income assistance when he wasn't contributing anything to the family. The Appellant confirmed that his spouse's income remained at or near \$4,500.00 to \$5,000.00 per month.

During the hearing, the Appellant clarified that the reference to him being "separated" on the Application was in respect of his first wife from whom he is separated but not yet divorced. The Appellant confirmed that he remains in a spousal relationship with his current partner.

### The Ministry

The Ministry reiterated that the Appellant's rate of income assistance for a family unit such as his was \$1,845.00 per month. As the Appellant's spouse's income exceeded that amount in March 2024 and there was no indication that it had declined, the Appellant's family unit was ineligible for income assistance in the month of May.

The Ministry further advised that the Appellant would be eligible for \$1,483.50 in disability assistance as a single person, if he wished to apply as a single person.

**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's family unit was not eligible for income assistance as a result of the Appellant's spouse's income exceeding the rate of disability assistance for which the family unit was eligible.

*Analysis*

Section 1 of Schedule A to the Regulation sets out the maximum monthly amounts of support and shelter allowance to which recipients of income assistance are entitled. In the case of the Appellant, whose family unit consists of himself, his spouse, and a dependent child, that amount is \$1,845.00 per month, comprised of a support allowance (\$1,055) and shelter allowance (\$790.00).

Section 10 to the Regulation sets out that a family unit is not entitled to income assistance if the family unit's net income is more than the amount of income 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, "earned income", which is a component of net income is defined in Section 1 of the Regulation and the definition includes "any money or value received in exchange for work or the provision of a service." The Appellant's spouse's income from employment clearly meets that definition.

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. Section 1(a) of Schedule B, in particular lists various different items that are exempt. Employment income is not among them and Section 1(c) of the Regulation specifically sets out that all earned income must be included unless it falls within the deductions and exemptions permitted under Sections 2, 3, and 4 of Schedule B to the Regulation. As such, the panel finds that the Ministry reasonably determined that the Appellant's spouse's employment income must be included in the calculation of net income unless otherwise deductible or exempt under Sections 2, 3, or 4 of Schedule B to the Regulation.

Sections 2 of Schedule B to the Regulation specifically describes various items that are deductible from earned income.

Under Section 2(a), the deductions include the usual amounts withheld from an employees pay, including income tax, Canada Pension Plan premiums, employment assistance premiums, medical insurance, union dues, and pension plan deductions. As the amounts received by the Appellant's spouse reflect the Appellant's net pay, these amounts have already been deducted from the Appellant's spouse's income.

Section 3 of Schedule B to the Regulation sets out the rules for the earned income exemption. However, Section 3(2) of Schedule B to the Regulation sets out that a family unit may not claim an exemption under Section 3 "in relation to the first calendar month for which the family unit becomes eligible for income assistance unless a member of the family unit received disability assistance of income assistance in at least one of the 6 calendar months immediately preceding that first calendar month."

The Appellant's family unit was not eligible for income assistance until at least May 2024 and there is no indication that any member of the family unit had received income or disability assistance in the six preceding months. For these reasons, the panel finds that the Ministry reasonably determined that the earned income exemption also did not apply to the Appellant's spouse's income.

Finally, Section 4 of Schedule B to the Regulation sets out that there is a small business exemption available as well. However, the Appellant's spouse's income is not from a small business but from employment therefore Section 4 is not applicable.

The panel finds that the Ministry was reasonable in its determination that, even after applying the deductions available in Section 2 of Schedule B, the Appellant's spouse's income, which is included in net income, was in excess of the rate of income assistance to which the Appellant's family unit was entitled and that the exemptions available under Sections 3 and 4 were not applicable to the Appellant's circumstances.

### *Conclusion*

In view of the above, the panel finds that that the Ministry reasonably determined that the Appellant's family unit was not eligible for income assistance in May 2024 as the Appellant's spouse's income in March exceeded the rate of assistance for which the family unit was eligible. The Reconsideration Decision is confirmed and Appellant is not successful in this appeal.

## *Relevant Legislation*

### *Employment and Assistance Regulation*

#### **Definitions**

**1** (1) In this regulation:

**"earned income"** means

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

#### **Limits on income**

**10** (1) For the purposes of the Act and this regulation, **"income"**, in relation to a family unit, includes an amount garnished, attached, seized, deducted or set off from the income of an applicant, a recipient or a dependant.

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

### *Employment and Assistance Regulation, Schedule A*

#### **Maximum amount of income assistance before deduction of net income**

**1** (1) Subject to this section and sections 3 and 6 to 10 of this Schedule, the amount of income assistance referred to in section 28 (a) [*amount of income assistance*] of this regulation is the sum of

- (a) the monthly support allowance under section 2 of this Schedule for a family unit matching the family unit of the applicant or recipient, plus
- (b) the shelter allowance calculated under sections 4 and 5 of this Schedule.



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

(3) If

- (a) an application is made by a parenting dependent child under section 5 (4) [*application by parent who is dependent youth*] of this regulation,
- (b) the family unit is found eligible for income assistance, and
- (c) support is provided for the parenting dependent child or that individual's dependent child, or for both, under section 8 (2) or 93 (1) (g) (ii) of the *Child, Family and Community Service Act*,

the restriction in subsection (2) does not apply, but the amount of income assistance that may otherwise be provided to the family unit is to be reduced by the amount of that support.

### Monthly support allowance

2 (0.1) For the purposes of this section:

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

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

- (1) A monthly support allowance for the purpose of section 1 (a) is the sum of
- (a) the amount set out in Column 3 of the following table for a family unit described in Column 1 of an applicant or a recipient described in Column 2, plus
  - (b) the amount calculated in accordance with subsections (2) to (4) for each dependent child in the family unit.

Item	Column 1 Family unit composition	Column 2 Age or status of applicant or recipient	Column 3 Amount of Support
12	Two applicants/recipients and one or more dependent children	Both applicants/recipients are under 65 years of age	\$1 055.00

(2) If the family unit includes one or more dependent children or deemed dependent children, the support allowance under subsection (1) for a calendar month is increased by an amount equal to

- (a) the total BC child adjustment amount for all dependent children and all deemed dependent children in the family unit, minus
- (b) the sum of
  - (i) the family bonus, if any, paid to the family unit for the preceding month,
  - (ii) the Canada child benefit, if any, paid to the family unit for the preceding month in respect of dependent children in the family unit, up to a maximum of the BC child adjustment amount in respect of those dependent children, and
  - (iii) the total amount of the supplements, if any, provided to or for the family unit under section 61 [*supplement for delayed, suspended or cancelled family bonus*] or 61.1 [*supplement for delayed, suspended or cancelled Canada child benefit*] of this regulation for the current calendar month.

(2.1) If the amount calculated under subsection (2) is less than zero, it is deemed to be zero for the purposes of this section.

(3) In calculating the adjustment under subsection (2), an amount that, under the *Income Tax Act* (British Columbia) or the *Income Tax Act* (Canada), is deducted or set off from the family bonus or the Canada child benefit must be treated as if it were paid to a person in the family unit.

(4) The support allowance under subsection (1) for a calendar month is not increased under subsection (2) if a person in the family unit refuses to

- (a) apply for the family bonus or the Canada child benefit for the preceding calendar month, or
- (b) accept the family bonus or the Canada child benefit for the preceding calendar month

in respect of a dependent child in the family unit who is, or may be, a qualified dependant within the meaning of the *Income Tax Act* (Canada).

(5) If a family unit includes a person who

- (a) immediately before reaching 19 years of age was a dependent child in the family unit, and
- (b) reached that age while attending secondary school,

the person is deemed to be a dependent child, for the purposes of this section, until the earlier of

- (c) the end of the school year in which the person reaches the age of 19 years, and
- (d) the date the person stops attending secondary school.

(6) For the purposes of this section, if the family unit includes a deemed dependent child, the BC child adjustment amount applies in respect of the deemed dependent child as if the deemed dependent child was a dependent child.

### Monthly shelter allowance

4 (1) For the purposes of this section:

**"family unit"** includes a child who is not a dependent child and who relies on the parent for the necessities of life and resides in the parent's place of residence for not less than 40% of each month;

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

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

- (a) the minimum set out in the following table for the family unit, and
- (b) the lesser of
  - (i) the family unit's actual shelter costs, and
  - (ii) the maximum set out in the following table for the family unit.

Item	Column 1 Family Unit Size	Column 2 Minimum	Column 3 Maximum
3	3 persons	\$200	\$790

### Deduction and exemption rules

1 When calculating the net income of a family unit for the purposes of section 28

(b) [*amount of income assistance*] of this regulation,

- (a) the following are exempt from income:
  - (i) any income earned by a dependent child attending school on a full-time basis;
  - (ii) Repealed. [B.C. Reg. 96/2017, App. 1, s. 2 (a).]

- (iii) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 1 (b).]
- (iv) a family bonus, except the portion treated as unearned income under section 10 (1) of this Schedule;
- (iv.1) the Canada child benefit, except the portion treated as unearned income under section 10 (1) of this Schedule;
- (v) the basic child tax benefit;
- (vi) a goods and services tax credit under the *Income Tax Act* (Canada);
- (vii) a tax credit under section 8 [*refundable sales tax credit*], 8.1 [*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;
- (xiii) the BC earned income benefit;
- (xiv) money paid or payable under the 1986-1990 Hepatitis C Settlement Agreement made June 15, 1999, except money paid or payable under section 4.02 or 6.01 of Schedule A or of Schedule B of that agreement;
- (xv) a rent subsidy provided by the provincial government, or by a council, board, society or governmental agency that administers rent subsidies from the provincial government;

- (xvi) Repealed. [B.C. Reg. 197/2012, Sch. 1, s. 22 (a).]
- (xvii) and (xvii.1) Repealed. [B.C. Reg. 99/2023, App. 1, 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) Repealed. [B.C. Reg. 85/2012, Sch. 1, s. 5.]
- (xxi) payments granted by the government of British Columbia under section 8 [*agreement with child's kin and others*]of the *Child, Family and Community Service Act*;
- (xxii) payments granted by the government of British Columbia under the Ministry of Children and Family Development's At Home Program;
- (xxiii) Repealed. [B.C. Reg. 85/2012, Sch. 1, s. 5.]
- (xxiv) payments granted by the government of British Columbia under an agreement referred to in section 93 (1) (g) (ii) of the *Child, Family and Community Service Act*, for contributions to the support of a child;
- (xxv) a loan that is
- (A)not greater than the amount contemplated by the recipient's business plan, accepted by the minister under section 77.2 of this regulation, and
  - (B)received and used for the purposes set out in the business plan;
- (xxvi) payments granted by the government of British Columbia under the Ministry of Children and Family Development's
- (A)Autism Funding: Under Age 6 Program, or
  - (B)Autism Funding: Ages 6 — 18 Program;
- (xxvii) Repealed. [B.C. Reg. 148/2015, App. 1, s. 1 (a).]
- (xxviii) payments made by a health authority or a contractor of a health authority to a recipient, who is a "person with a mental disorder" as defined in section 1 of the *Mental Health Act*, for the purpose of supporting the recipient in participating in a volunteer program or in a mental health or addictions rehabilitation program;
- (xxix) a refund provided under Plan I as established under the Drug Plans Regulation;

- (xxx) payments provided by Community Living BC to assist with travel expenses for a recipient in the family unit to attend a self-help skills program, or a supported work placement program, approved by Community Living BC;
- (xxxi) a Universal Child Care Benefit provided under the *Universal Child Care Benefit Act* (Canada);
- (xxxi.1) a rental housing benefit provided under the *Rental Housing Benefit Act* (Canada);
- (xxxi.2) a dental benefit provided under the *Dental Benefit Act* (Canada);
- (xxxii) 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;
- (xxxiii) money withdrawn from a registered disability savings plan;
- (xxxiv) a working income tax benefit provided under the *Income Tax Act* (Canada);
- (xxxv) Repealed. [B.C. Reg. 180/2010, s. 1 (b).]
- (xxxvi) the climate action dividend under section 13.02 of the *Income Tax Act*;
- (xxxvii) 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;
- (xxxvii.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*;
- (xxxvii.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*;

(xxxviii) 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;

(xxxix) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Family Support Services program;

(xl) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Supported Child Development program;

(xli) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Aboriginal Supported Child Development program;

(xlii) 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;

(xliii) payments granted by the government of British Columbia under the Temporary Education Support for Parents program;

(xliv) a BC early childhood tax benefit;

(xliv.1) a BC child opportunity benefit;

(xliv.2) a BC family benefit;

(xlv) child support;

(xlvi) orphan's benefits under the *Canada Pension Plan Act* (Canada);

(xlvii) gifts, other than recurring gifts;

(xlviii) compensation paid or payable under 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;

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

- (l) money that is paid or payable by the government of British Columbia to or for a person if the payment is in accordance with an award in a legal proceeding or with a settlement agreement in respect of a claim for injury, loss or damage caused by the minister, the ministry, an employee of the ministry or a person retained under a contract to perform services for the ministry;
- (l.1) money that is paid or payable by the government of British Columbia to or for a person if the payment is in accordance with an award in a legal proceeding or with a settlement agreement in respect of a claim for injury, loss or damage caused by the Minister of Children and Family Development, that ministry, an employee of that ministry or a person retained under a contract to perform services for that ministry;
- (l.2) money that is paid or payable by the government of British Columbia to or for a person because the person was a resident of Woodlands School;
- (li) a disabled contributor's child's benefit paid or payable under the *Canada Pension Plan*;
- (lii) payments granted under an agreement referred to in section 94 of the *Child, Family and Community Service Act*;
- (liii) money that is paid or payable, in respect of a child, from property that comes into the control of, or is held by, the Public Guardian and Trustee;
- (liv) and (lv) Repealed. [B.C. Reg. 99/2023, App. 1, s. 3 (a).]
- (lvi) money that is paid or payable under the Memorial Grant Program for First Responders established under the authority of the *Department of Public Safety and Emergency Preparedness Act* (Canada);
- (lvii) money, or goods or services in kind, received or to be received by a participant in the Ministry of Social Development and Poverty Reduction's Work Experience Opportunities Grant program from a grant under the program;
- (lviii) a rebate of all or part of a premium paid to the Insurance Corporation of British Columbia under the *Insurance (Vehicle) Act* and the plan operated under that Act;



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

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

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

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

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

(lx) to (lxiii) Repealed. [B.C. Reg. 99/2023, App. 1, s. 3 (a).]

(lxiv) a voted support payment;

(lxv) 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 of this Schedule,

(b.1) if money is paid under or from an Indigenous financial settlement to an Indigenous governing body, the exemption under paragraph (a) (lxv) 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 of this Schedule, and

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

### **Deductions from 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.

### **Exemption — earned income**

- 3** (1) Subject to subsection (2), the amount of earned income calculated under subsection (6) is exempt for a family unit.
- (2) A family unit may not claim an exemption under this section in relation to the first calendar month for which the family unit becomes eligible for income assistance unless a member of the family unit received disability assistance or income assistance in at least one of the 6 calendar months immediately preceding that first calendar month.
- (3)–(5) Repealed. [B.C. Reg. 145/2015, Sch. 1, s. 16.]
- (6) The exempt amount for a family unit is the lesser of the family unit's total earned income in the calendar month of calculation and the following:
- (a) \$600, if the family unit is not described in paragraph (b), (c) or (d);
  - (b) \$900, if the family unit
    - (i) includes a recipient who
      - (A) has a dependent child, or

- (B) provides care to a supported child, and
- (ii) is not described in paragraph (c) or (d);
- (c) \$1 080, if
  - (i) the family unit includes a recipient who
    - (A) has a dependent child, or
    - (B) provides care to a supported child,
  - (ii) the child has a physical or mental condition that, in the minister's opinion, precludes the recipient from leaving home for the purposes of employment or working, on average, more than 30 hours each week, and
  - (iii) the family unit is not described in paragraph (d);
- (d) \$1 080, if the family unit includes a person who has persistent multiple barriers to employment.

(7) Repealed. [B.C. Reg. 122/2019, App. 1, s. 13.]

### **Small business exemption**

4 (1) In this section and section 5,

**"permitted operating expenses"** means costs, charges and expenses incurred by a person in the operation of a small business, under a self-employment program in which the person is participating, for the following:

- (a) purchase of supplies and products;
- (b) accounting and legal services;
- (c) advertising;
- (d) taxes, fees, licences and dues incurred in the small business;
- (e) business insurance;
- (f) charges imposed by a savings institution on an account and interest;
- (f.1) payments, including principal and interest, on a loan that is
  - (i) not greater than the amount contemplated by the recipient's business plan, accepted by the minister under section 77.2 of this regulation, and
  - (ii) received and used for the purposes set out in the business plan;
- (g) maintenance and repairs to equipment;
- (h) gross wages paid to employees of the small business, but not including wages paid to

- (i) the person participating, or
  - (ii) a person in the family unit of the person participating;
  - (i) motor vehicle expenses;
  - (j) premiums for employment insurance or workers' compensation benefits;
  - (k) employer contributions for employment insurance, workers' compensation or the Canada Pension Plan;
  - (l) rent and utilities, excluding rent and utilities for the place of residence of the persons described in subparagraphs (i) and (ii) of paragraph (h) unless
    - (i) there is an increase for rent or utilities and the increase is attributable to the small business, and
    - (ii) the increase is not provided for in the calculation of the family unit's shelter allowance under Schedule A of this regulation;
  - (m) office expenses;
  - (n) equipment purchases or rentals;
  - (o) contributions made under the *Canada Pension Plan* in respect of the person's self-employment earnings.
- (2) Earned income of a recipient of income assistance is exempted from the total income of the recipient's family unit if
- (a) the recipient is participating in a self-employment program, and
  - (b) the earned income is derived from operating a small business under the self-employment program in which the recipient is participating and
    - (i) is used for permitted operating expenses of the small business, or
    - (ii) is deposited in a separate account, established by the recipient in a savings institution, which account
      - (A) consists exclusively of funds reserved by the recipient for the purpose of paying permitted operating expenses of that small business, and
      - (B) the amount deposited does not increase the current balance of the separate account to a sum that exceeds \$5 000, or

(iii) is used for costs of renovations to the recipient's place of residence up to but not exceeding \$5 000 in total or a greater amount accepted by the minister, if the renovations are part of a business plan accepted by the minister under section 77.2 of this regulation.

2024-0202

**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)

2024/07/18

Print Name

Corrie Campbell

Signature of Member

Date (Year/Month/Day)

2024/07/18

Print Name

Edward Wong

Signature of Member

Date (Year/Month/Day)

2024/07/18