

**Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) Reconsideration Decision dated June 13, 2024, which determined the appellant was not eligible for income assistance because his income is more than the rate of assistance for his family unit size.

**Part D – Relevant Legislation**

Employment and Assistance Regulation (Regulation), sections 1, 10, and 28

Schedule A, sections 1, 2 and 4

Schedule B, sections 1, 2 and 3

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

**Part E – Summary of Facts**

The hearing was held as a written hearing on August 1, 2024.

Evidence Before the Minister at Reconsideration**Ministry Records show:**

- On March 6, 2024, the appellant applied for income assistance as a sole applicant. He included bank statements and paystubs noting the mobile bank deposits are employment income, with the exception of a deposit on March 18, 2024 for \$3,137.94, which was his income tax refund.
- On April 5, 2024 the appellant was advised he is not eligible for income assistance or Persons with Disabilities assistance as his income is in excess for both.
- On May 31, 2024 the appellant submitted a Request for Reconsideration and included pay stubs for May 2024.

**Application for Assistance (March 6, 2024)**

The appellant indicates he is single, living with his mom, they are renting, and he works part time. He adds that he will be submitting a Persons with Disabilities Application.

**Cheque Stub** - pay period 20 – 26 February 2024

Gross - \$465.50

Withheld – 92.24

Net - \$373.26

**Cheque Stub** - pay period February 28 – March 5, 2024

Gross - \$228.00

Withheld – \$13.34

Net - \$214.66

**Cheque Stub** - pay period February 28 – March 5, 2024

Gross - \$494.00

Withheld – \$98.69

Net - \$395.31

**Cheque Stub** - pay period 13 – 19 March 2024

Gross - \$323.00

Withheld – 20.57

Net - \$302.43

**Request for Reconsideration (May 31, 2024)**

The appellant states due to his developmental disability he is unable to work full-time. This has been indicated by his doctor in the Persons with Disabilities application. He explains that his employment income varies, and a small sample does not reflect the income he normally receives.

**Cheque Stub (May 8, 2024) - pay period 1 - 7 May 2024**

Gross - \$304.00

Withheld - 19.13

Net - \$284.87

**Cheque Stub (May 16, 2024) - pay period 7 - 13 May 2024**

Gross - \$304.00

Withheld - 19.13

Net - \$284.87

**Cheque Stub (May 23, 2024) - pay period 15 - 21 May 2024**

Gross - \$304.00

Withheld - 19.13

Net - \$284.87

**Bank Account Information (March 26, 2024)**

## Mobile Deposits

February 2, 2024 - \$360.84, \$374.01

February 8, 2024 - \$373.46

February 12, 2024 - \$284.96, \$350.47

February 16, 2024 - \$381.79

February 23, 2024 - \$328.09

February 29, 2024 - \$150.00

March 1, 2024 - \$373.26

March 8, 2024 - \$214.66

March 12, 2024 - \$900.00

March 15, 2024 - \$395.31, \$3,137.94

March 21, 2024 - \$302.43

Information Received After Reconsideration

**Notice of Appeal (June 27, 2024)**

The appellant states his work income is not consistent and cannot be based solely on January/February bank statements. He has enclosed his 2023 tax assessment, which is below the income threshold for Persons with Disabilities.

The appellant did not provide a further submission.

The ministry states it relies on the Reconsideration Decision package as its submission in this matter.

No new evidence was submitted by either party.

**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 assistance because his income is more than the rate of assistance for his family unit size?

**Appellant Position**

The appellant states due to his developmental disability he is unable to work full-time. His employment income varies, and a small sample does not reflect the income he normally receives. His work income is not consistent and cannot be based solely on January/February 2024 bank statements.

**Ministry Position**

The ministry submits that the money the appellant receives from his employment is earned income because it is money received in exchange for work or the provision of a service. The ministry adds that the appellant received net pay of \$2,603.62 in February 2024 and \$2,185.66 in March 2024. Under Schedule B of the Regulation, the appellant is not eligible for an earnings exemption.

Although the appellant submitted three additional paystubs (May 8, 16 and 23) totalling \$854.61, the ministry is unable to establish if this amount represents the appellant's total employment income for May, as it is difficult to determine if any further pay was received after May 23, 2024.

As there is not enough information for the ministry to determine the total net employment income received in May 2024, the appellant's eligibility was determined on February and March 2024 bank statements and paystubs.

Although the appellant expects to receive less employment income in the future, the ministry states it must make an eligibility assessment based on the information submitted at intake. Therefore, as per section 10(2) of the Regulation, the appellant is not eligible for income assistance as his net income of \$2,603.62 in February 2024 and \$2,185.66 in March 2024 exceeds the \$1060.00 amount of income assistance determined for his family unit size under schedule A. The ministry added that if the appellant receives less income in the future, he is welcome to apply for assistance again.

**Panel Analysis**

Section 1, Regulation - definitions

Section 1 states earned income means any money received in exchange for work. The appellant stated the money was received for employment. This is not in dispute.

Sections 10 and 28, Regulation – limits on income and amount of income assistance

Section 10 of the Regulation states a family unit is not eligible for income assistance if the net income of the family unit determined under Schedule B exceeds the amount of income assistance determined under Schedule A. Section 28 of the Regulation states income assistance may be provided in an amount that is not more than the amount determined under Schedule A, minus the family unit's net income determined under Schedule B.

Schedule A, Regulation, sections 1, 2 & 4 – assistance rates

Section 1 of Schedule A states the amount of income assistance is the sum of the monthly support allowance under section 2, plus the shelter allowance under section 4 of this Schedule. The panel notes section 2 of Schedule A shows the support allowance rate for a sole applicant under 65 years of age as \$560.00 and section 4 shows the shelter rate for one person as \$500.00 – total \$1060,00. The income assistance rate is not in dispute.

Sections 1, 2 & 3, Schedule B, Regulation – deductions and exemptions

Section 1 of Schedule B provides a list of monies that are exempt when calculating net income. The panel notes employment income is not listed under section 1.

Section 2 of Schedule B provides a list of deductions permitted from earned income and includes amounts deducted at source (e.g. income tax, employment insurance). The panel notes, in its calculation the ministry used the appellant's net income, and therefore considered the deductions at source.

Section 3 of Schedule B states a family may not claim an exemption under this section in relation to the first calendar month for which the family becomes eligible for income assistance unless a member of the family received disability or income assistance in at least one of the six calendar months immediately preceding that first calendar month. The panel finds as there is insufficient evidence to show the appellant has received income or disability assistance in the six months prior to his application for assistance, the panel find the ministry reasonably determined an earnings exemption does not apply under section 3 of Schedule B of the Regulation.

As \$2,603.62 (February income) and \$2,185.66 (March income) exceed the appellant's calculated monthly rate of assistance (\$1060.00), the panel finds the ministry reasonably determined the appellant is not entitled to income assistance.

The panel notes the appellant submitted three paystubs for May 2024 (1–7, 7-13, 15–21). As these paystubs cover only up to May 21, the panel is unable to determine if they include all the appellant's employment income for May 2024. Therefore, the panel finds the ministry reasonably determined it does not have sufficient information to determine income assistance eligibility for May 2024 and so based its decision on bank information from February and March 2024.

The ministry stated that if the appellant receives less income in the future, he is welcome to apply for assistance again. The panel finds that according to the present assistance rates, the appellant would need to earn less than \$1060.00 in a month to be eligible for income assistance.

The panel notes the ministry's original decision states the appellant was not eligible for income assistance or Persons with Disabilities assistance as his income is in excess for both. As the Reconsideration Decision refers only to income assistance, the panel is not able to decide on the appellant's eligibility for disability assistance.

### **Conclusion**

In conclusion, the panel finds the ministry decision, which determined the appellant is not eligible for income assistance, was reasonably supported by the evidence.

The panel confirms the ministry decision.

The appellant is not successful on appeal.

## Schedule of 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...

#### **Limits on income**

**10**

(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.

#### **Amount of income assistance**

**28** Income assistance may be provided to or for a family unit, for a calendar month, in an amount that is not more than

(a)the amount determined under Schedule A, minus

(b)the family unit's net income determined under Schedule B.

### Schedule A

#### **Income Assistance Rates**

*(section 28 (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.

#### **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...

<b>Item</b>	<b>Column 1 Family unit composition</b>	<b>Column 2 Age or status of applicant or recipient</b>	<b>Column 3 Amount of Support</b>
1	Sole applicant/recipient and no dependent children	Applicant/recipient is under 65 years of age	\$560.00

#### **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 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.

<b>Item</b>	<b>Column 1 Family Unit Size</b>	<b>Column 2 Minimum</b>	<b>Column 3 Maximum</b>
1	1 person	\$75	\$500

Schedule B

**Net Income Calculation**

*(section 28 (b) )*

**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;...

(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;...
- (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;...
- (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;
- (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);
- (xxxii) a rental housing benefit provided under the *Rental Housing Benefit Act* (Canada);
- (xxxii.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** ...

(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....

1

**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)  
2024/08/02

Print Name  
Robert McDowell

Signature of Member

Date (Year/Month/Day)  
2024/08/02

Print Name  
Julie Iuvancigh

Signature of Member

Date (Year/Month/Day)  
2024/08/02