

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction's (the "Ministry") Reconsideration Decision of June 24, 2024. In the Reconsideration Decision the Ministry determined that the Appellant was not eligible for disability assistance and therefore no longer eligible for the Monthly Nutrition Supplement, Diet Supplement and Transportation Supplement she had been receiving.

The Ministry determined that the income of the Appellant's family unit was greater than the \$2,323.50 rate of disability assistance under Schedule A. She was therefore not eligible for disability assistance in accordance with Section 9(2) of the Employment Assistance for Persons with Disabilities Regulation. Because she was not eligible for disability assistance, she was also no longer eligible for the supplements.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (the "Regulation"): Sections 1, 9, 24, 54.2, 66, and 67; Schedule A, sections 1, 2 and 4; and Schedule B, sections 1, 6, and 7.

Relevant sections of the Regulation can be found in the Schedule of Legislation at the end of this document.

Part E – Summary of Facts

A hearing was held by via teleconference on August 1, 2024. As the Appellant had requested a written hearing, only the panel members were on the teleconference call.

Background

- The Appellant is part of a family unit of two, comprising her and her spouse. The spouse is over 65 years of age.
- The Appellant has a Person with Disabilities (“PWD”) designation; the spouse does not.
- On May 1, 2024, the Appellant submitted her monthly report for April income, which would affect her June assistance.
- On May 15, 2024, a review of the Appellant’s file indicated that she received \$1297.69 Old Age Security (“OAS”)/Guaranteed Income Supplement (“GIS”) and \$21.02 Canada Pension Plan (“CPP”). Her spouse reported receiving \$1354.69 OAS/GIS, \$140.68 CPP, and \$822.37 employment income.

Information before the Ministry at the time of reconsideration

- An Account Activity – Historical Details report from the Appellant’s bank dated May 8, 2023, showing activity against a chequing account said to be the Appellant’s for the month of March 2023, with an explanation for one deposit.
- An Account Activity – Historical Details report from the Appellant’s bank dated May 9, 2023, showing activity against a chequing account for the month of April 2023, with a note indicating that it is the Appellant’s husband’s account and pointing out that the husband was paid \$1723.10 for OAS/GIS.
- A Payroll Deductions Online Calculator printout dated April 30, 2023.
- A Monthly Report stamped as received by the Province of British Columbia on May 1, 2024. The date of the Appellant’s husband’s signature is April 25, 2024, the Appellant’s signature is incorrectly dated November 22, 2024.
- A letter dated December 14, 2021, from BC Cancer confirming that the Appellant has stage 4 (metastatic) lung cancer spread to bones and is a patient of a doctor at one of their clinics.
- Reasons for Request for Reconsideration dated June 24, 2024, which includes the following comments:
 - References to a letter from the Ministry dated May 16, 2024, in which the Ministry stated that there was no change to the Appellant’s PWD designation and that she would still have Medical Services Only (MSO) coverage.
 - The Appellant’s cancer has progressed, and she is now in palliative care and terminally ill.

- The Appellant is not yet 65 years old and is on “allowance” from the Federal Government, not on OAS/GIS which is deducted from her PWD assistance monthly payment.

(The remainder of the reasons are considered argument and are documented below as part of the Appellant’s position.)

Information submitted after the Reconsideration Decision

- In the Reasons for Appeal section of the Notice of Appeal, the Appellant reiterated the contents of the Reasons for Request for Reconsideration. She also stated:
 - “Please note that my husband’s earning work income has been exempt. He is over 65 and frail.”
- The Appellant’s handwritten submission repeats the content of the Reasons for Appeal and adds the following comment:
 - “We live in a subsidized building. So far, our rent was based on the flat rate for those who are on the assistance of the ministry, but we are no more on the assistance of the ministry. The rent will be increased.”
- The Ministry’s written submission, in which the Ministry reiterates that the Appellant is not eligible for disability assistance because the family’s net income exceeds the disability assistance rate and is not eligible for the Monthly Nutritional Supplement and the Diet Supplement because she is not eligible for disability assistance. The Ministry added that, for information about what health supplements may be available with a Medical Services Only file, the Appellant is welcome to contact the Ministry, or the information is also available in the BC Employment Assistance and Policy Manual at www.gov.bc.ca/sdpr.
- Prior to the hearing, it was noticed that a Ministry letter that was referenced by the Appellant was not in the appeal record. On July 30, 2024, the Tribunal sent the following email to the Ministry:
 - “In this file, the appellant, (Appellant’s name), references a letter from the Ministry dated approximately 16 May 2024 relating to continued MSP and health benefits. The appeal file is missing this letter. Would it be possible to forward that to the tribunal for review? The hearing is scheduled for August 1.”

The response from the Ministry dated July 30, 2024, stated:

“The ministry does not have a copy of the letter you are referencing on file, around the date of May 16, 2024. Therefore, it was not used in the making of the decision.”

Admissibility of New Evidence

Neither party objected to any information provided in the written submissions made by both parties after reconsideration.

The Panel finds that the written submissions of the Appellant and Ministry clarify issues related to this appeal. The Panel admits this information as evidence pursuant to section 22(4) of the *Employment and Assistance Act*.

Part F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry's Reconsideration Decision that the Appellant was no longer eligible for disability assistance and the requested supplements was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant.

The Panel finds it unfortunate that the Appellant didn't include the referenced "May 16, 2024, letter" and that the Ministry was not able to find a copy in their files. The Panel finds that the Appellant's communication of the specific issues she had with the letter, as included in the Appellant's position, below, provide sufficient knowledge of the content for the purposes of the hearing.

The relevant legislation will be referenced in the following order during the Panel's analysis:

- Section 24 of the Regulation defines the amount of disability assistance that can be provided to a family unit.
- Sections 1, 2 and 4 of Schedule A of the Regulation define how the amount of the maximum monthly support allowance and the shelter allowance are to be calculated.
- Section 1 of the Regulation defines what constitutes "earned" and "unearned" income.
- Section 1 of Schedule B of the Regulation defines the items that are exempt from net income.
- Sections 6 and 7 of Schedule B of the Regulation define unearned income which is exempt for the calculation of net income.
- Section 9 of the Regulation specifies that a family unit is not eligible for disability assistance if the net income of the family unit exceeds the amount of disability assistance determined under Schedule A.
- Sections 66 and 67 of the Regulation defines the conditions under which a diet supplement or a nutritional supplement may be provided.
- Section 54.2 of the Regulation defines the conditions under which a transportation supplement may be provided.

Ministry Position

Per applicable legislation, the Appellant is not eligible for disability assistance because the family's net income exceeds the disability assistance rate and is not eligible for the monthly

nutritional supplement and diet supplement because she is not eligible for disability assistance.

The income that the Appellant's spouse received from employment is considered "earned income" as set out in Section 1(a) of the Regulation. There are no allowable deductions or exemptions for this type of income because there was not any amount deducted at the source for income tax, employment insurance, medical insurance, Canada Pension Plan, superannuation, company pension plan and union dues. Upon review of the paystubs and monthly report for April income, the Ministry is satisfied that the Appellant's family unit received \$822.37 in employment income. This will not be deducted from disability assistance and will count towards annualized earnings exemption.

A review of the Appellant's file indicates that as of April 2024 the Appellant is receiving \$21.02 in Canada Pension Plan and \$1,297.69 in GIS. Her spouse receives \$140.68 in Canada Pension Plan and \$1,354.69 in OAS/GIS. This is confirmed by the monthly report for April income that she submitted. Therefore, as the unearned income of \$2,814.08 ($\$21.02 + \$1,297.69 + \$140.68 + \$1,354.69 = \$2,814.08$) is more than the \$2,323.50 rate of disability assistance under Schedule A, the Appellant is not eligible for disability assistance in accordance with Section 9(2) of the Regulation.

The Ministry acknowledges the Appellant's concern that she will no longer receive the Monthly Nutrition Supplement, Diet Supplement and Transportation Supplement. However, Section 67 and Section 54.2 of the Regulation say that to receive these supplements, the family unit must be in receipt of disability assistance or hardship assistance in the current month. As the Ministry has determined that she is ineligible to receive disability assistance due to income in excess, she is further ineligible to receive these supplements. The Ministry does not have discretion in this matter.

Appellant's Position

The letter of May 16, 2024 sent by the Ministry says that there is no change in the Appellant's PWD designation. If the Monthly Nutritional, Diet and Transportation Supplements are part of disability assistance, then, based on still having PWD designation, the Appellant should still have those supplements.

The same letter, under Health Support, indicates that the Appellant will still have medical coverage and access to other extended health benefits. The supplements were provided based on the need for them for valid medical reasons; that is why a doctor's note was requested. The cancer has progressed, and the Appellant is now in palliative care and terminally ill. The need is more severe now with the spread of the cancer. If the

supplements were provided based on an income level for PWD, why was a doctor's letter required for someone who is already disabled?

If the Appellant's household income is a bit higher, so are her expenses. She is getting frailer and needs better food and additional other medications, some of which are not covered. Everything she needs during this critical stage of her life costs money.

The Appellant is on "allowance", not OAS/GIS as she is not yet 65. This allowance should not be deducted from her monthly disability assistance payments.

The same letter says that the Appellant will continue to have MSO coverage if the family unit meets the eligibility requirement and meets the income test for Medical Services Plan (MSP) supplements services and anyone in the family is under 65. The Appellant is 64 and meets the income test for MSP supplements.

The same letter says that the Appellant's transportation supplement will be provided until the end of the 2024 calendar year.

The Appellant lives in a subsidized building. So far, their rent was based on the flat rate for those who are on the assistance of the Ministry but because they are no longer on the assistance of the Ministry, the rent will be increased.

Panel's Findings

Calculation of Income and Maximum Disability Assistance

Section 24 of the Regulation states that the maximum disability assistance that can be provided to a family unit, for a calendar month, is the amount determined under Schedule A, minus the family unit's net income determined under Schedule B.

- Section 1 of Schedule A defines the maximum amount of disability assistance as the sum of the monthly support allowance and the monthly shelter allowance.
 - According to the table in Section 2 of Schedule A, the monthly support allowance for two applicants / recipients and no dependent children, where one applicant / recipient is a person with disabilities and the other is not a person with disabilities and is 65 or more years of age, is \$1,628.50.
 - According to the table in Section 4 of Schedule A, the maximum monthly shelter allowance for a family unit of two persons is \$695.00.
 - Therefore, the disability assistance available rate for the Appellant's family unit is \$2,323.50.

- The net income calculated in Schedule B comprises “earned income” and “unearned income”. In the circumstances of the Appellant, no earned income is included in this calculation because the \$822.37 declared as the spouse’s income from employment has been applied to the annual exemption for the family unit.
 - The Appellant declared that her spouse received \$144.68 for CPP and \$1,354.69 for OAS/GIS.
 - The Appellant declared that she received \$21.02 for CPP and \$1297.69 as a federal allowance, not GIS, which, in her opinion, should not be included.

The Appellant is 64 years old and the allowance she receives has been declared as GIS. The Panel finds that she cannot receive OAS or GIS, which require the recipient to be over 65 years old. The Panel finds that, instead, the Appellant is receiving the allowance available, under the Old Age Security Act, to individuals aged 60 – 64 whose spouse is over 65 and receiving OAS/GIS.

- Section 1 of the Regulation defines “unearned income” as “any income that is not earned income”. It also provides a list of examples, specifying that the definition is not limited to this list.

It is not clear to the Panel whether the allowance would be included under item (u) of the section 1 definition of unearned income - Federal Old Age Security and Guaranteed Income Supplement payment. However, the Panel finds that, regardless, it is clearly included in the broad definition of “any income that is not earned income” and should be included in the calculation of net income.

- Sections 6 and 7 of Schedule B define circumstances under which unearned income can be exempted from the calculation. The allowance does not match any of the items that can be exempted.

Considering the above, the Panel finds that the Ministry was reasonable in calculating the unearned income of the Appellant’s family unit to be \$2,814.08, which is included in net income, and the maximum disability assistance at \$2,323.50.

Impact on Eligibility for Disability Assistance

Section 9 of the Regulation states, “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.”

The \$2,814.08 net income of the family unit is greater than the maximum disability assistance of \$2,323.50. Therefore, the Panel finds the Ministry was reasonable in determining that the Appellant was not eligible for disability assistance. The Panel notes that the Ministry has no discretion in this decision.

Impact on Eligibility for Nutritional and Diet Supplements

Section 66 (1) of the Regulation specifies "the minister may pay for a diet supplement in accordance with section 6 [*diet supplements*] of Schedule C that is provided to or **for a family unit in receipt of disability assistance...**" (emphasis added)

Section 67(1) of the Regulation specifies "The minister may provide a nutritional supplement in accordance with section 7 [*monthly nutritional supplement*] of Schedule C to or **for a family unit in receipt of disability assistance...**" (emphasis added).

The Panel notes that the Ministry has no discretion to provide the Nutritional or Diet Supplements if this criterion is not met. Therefore, because the Appellant is no longer eligible for disability assistance because of their income exceeding the maximum disability assistance, the Panel finds that the Ministry was reasonable in determining that she is also no longer eligible for Nutritional Supplements or Diet Supplements.

The Panel notes the Appellant's question, if a doctor's letter was required stating the nutritional supplements were a medical need, how can it be discontinued while the medical need remains. There are two primary criteria for the approval of nutritional supplements: eligibility for disability assistance and a request from a medical practitioner. Both criteria must be met. The Appellant no longer meets the first.

The Panel notes that a PWD designation remains even when a person is no longer in receipt of disability assistance. In the Appellant's case, she appears to be eligible as a continued person for MSO. There are several medical services available under that designation; however, the monthly nutritional supplements are not. The Panel notes the Ministry's written submission states that the Appellant may contact the Ministry to discuss what is available.

Impact on Eligibility for Transportation Supplement

Section 54.2 of the Regulation states, "The minister may provide a transportation supplement to or for a family unit **that is eligible for disability assistance or hardship assistance** for a calendar month, in respect of each recipient who is designated as a

person with disabilities in the family unit, in one of the following forms..." (emphasis added).

Because the Appellant is no longer eligible for disability assistance because of income exceeding the maximum disability assistance, the Panel finds that the Ministry was reasonable in determining that she is also no longer eligible for the Transportation Supplement. The Panel notes that the Ministry has no discretion in this determination.

Summary

The Appellant's income now exceeds the total of the support allowance and the shelter allowance under disability assistance. As a result, the Appellant is no longer eligible for disability assistance. This eligibility is a requirement for the receipt of the Nutritional Supplement, Diet Supplement, and the Transportation Supplement. Therefore, the Appellant is no longer eligible to receive these supplements.

The panel recognizes that the appellant has questions about what benefits she remains eligible for as a person with a PWD designation who is not eligible for disability assistance, including eligibility for MSO coverage and what benefits may be provided under MSO coverage. The panel encourages the appellant to contact the ministry for clarification.

Conclusion

The Ministry does not have the authority to go beyond what it defined in the Regulation. Therefore, the Panel finds that the Ministry decision that the Appellant was not eligible for disability assistance and therefore not eligible for the Nutritional Supplement, Diet Supplement, or the Transportation Supplement was a reasonable interpretation of the existing legislation and is supported by the evidence.

The Panel confirms the Reconsideration Decision and the Appellant's appeal is unsuccessful.

SCHEDULE OF LEGISLATION**Definitions**

1 (1) In this regulation:

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

- (a) money, annuities, stocks, bonds, shares, and interest bearing accounts or properties;
- (b) cooperative associations;
- (c) war disability pensions, military pensions and war veterans' allowances;
- (d) insurance benefits, except insurance paid as compensation for a destroyed asset;
- (e) superannuation benefits;
- (f) any type or class of Canada Pension Plan benefits;
- (g) employment insurance;
- (h) union or lodge benefits;
- (i) financial assistance provided under the [Employment and Assistance Act](#) or provided by another province or jurisdiction;
- (j) workers' compensation benefits and disability payments or pensions;
- (k) surviving spouses' or orphans' allowances;
- (l) a trust or inheritance;
- (m) rental of tools, vehicles or equipment;
- (n) rental of land, self-contained suites or other property except the place of residence of an applicant or recipient;
- (o) interest earned on a mortgage or agreement for sale;
- (p) maintenance under a court order, a separation agreement or other agreement;
- (q) education or training allowances, grants, loans, bursaries or scholarships;
- (r) a lottery or a game of chance;
- (s) awards of compensation under the [Criminal Injury Compensation Act](#) or awards of benefits under the [Crime Victim Assistance Act](#), other than an award paid for repair or replacement of damaged or destroyed property;
- (t) any other financial awards or compensation;
- (u) Federal Old Age Security and Guaranteed Income Supplement payments;
- (v) financial contributions made by a sponsor pursuant to an undertaking given for the purposes of the [Immigration and Refugee Protection Act](#) (Canada) or the [Immigration Act](#) (Canada);
- (w) tax refunds;
- (x) gifts of money, annuities, stocks, bonds, shares, and interest bearing accounts or properties;
- (y) gifts in the form of payment by another person of a debt or obligation;

Limits on income

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

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

Amount of disability assistance

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

- (a) the amount determined under Schedule A, minus
- (b) the family unit's net income determined under Schedule B.

Persons with disabilities transportation supplement

54.2 (1) The minister may provide a transportation supplement to or for a family unit that is eligible for disability assistance or hardship assistance for a calendar month, in respect of each recipient who is designated as a person with disabilities in the family unit, in one of the following forms...

Diet supplement

66 (1) Subject to subsection (2), the minister may pay for a diet supplement in accordance with section 6 [*diet supplements*] of Schedule C that is provided to or for a family unit in receipt of disability assistance or hardship assistance, if the supplement is provided to or for a person in the family unit who

- (a) is described in section 6 (1) of Schedule C, and
- (b) is not described in section 8 (2) (b) [*people in special care*] of Schedule A.

(2) A person is not eligible to receive a supplement under subsection (1) unless

- (a) the person is not receiving another nutrition-related supplement, and
- (b) a medical practitioner, nurse practitioner or dietitian confirms in writing the need for the special diet.

Nutritional supplement

67 (1) The minister may provide a nutritional supplement in accordance with section 7 [*monthly nutritional supplement*] of Schedule C to or for a family unit in receipt of disability assistance, if the supplement is provided to or for a person in the family unit who

- (a) is a person with disabilities, and

- (b) is not described in section 8 (2) (b) [*people in special care*] of Schedule A, unless the person is in an alcohol or drug treatment centre, if the minister is satisfied that
- (c) based on the information contained in the form required under subsection (1.1), the requirements set out in subsection (1.1) (a) to (d) are met in respect of the person with disabilities,
- (d) the person is not receiving another nutrition-related supplement,
- (e) Repealed. [B.C. Reg. 145/2015, Sch. 2, s. 7 (c).]
- (f) the person complies with any requirement of the minister under subsection (2), and
- (g) the person's family unit does not have any resources available to pay the cost of or to obtain the items for which the supplement may be provided.

(1.1) In order for a person with disabilities to receive a nutritional supplement under this section, the minister must receive a request, in the form specified by the minister, completed by a medical practitioner, nurse practitioner or dietitian, in which the practitioner or dietitian has confirmed all of the following

...

Schedule A - Disability Assistance Rates

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:
 - "**deemed dependent children**", in relation to a family unit, means the persons in the family unit who are deemed to be dependent children under subsection (5);
 - "**warrant**" has the meaning of warrant in section 14.2 [*consequences in relation to outstanding arrest warrants*] of the Act.

- (1) A monthly support allowance for the purpose of section 1 (a) is the sum of
 - (a) the amount set out in Column 3 of the following table for a family unit described in Column 1 of an applicant or a recipient described in Column 2, plus
 - (a.1) Repealed. [B.C. Reg. 193/2017, s. 9 (a).]

(b)the amount calculated in accordance with subsections (2) to (4) for each dependent child in the family unit.

Item	Column 1 Family unit composition	Column 2 Age or status of applicant or recipient	Column 3 Amount (\$)
1	Sole applicant / recipient and no dependent children	Applicant / recipient is a person with disabilities	\$983.50
2	Sole applicant / recipient and one or more dependent children	Applicant / recipient is a person with disabilities	\$1 133.50
3	Two applicants / recipients and no dependent children	One applicant / recipient is a person with disabilities, the other is not a person with disabilities and is under 65 years of age	\$1 378.50
4	Two applicants / recipients and no dependent children	Both applicants / recipients are persons with disabilities	\$1 853.50
5	Two applicants / recipients and no dependent children	One applicant / recipient is a person with disabilities, the other is not a person with disabilities and is 65 or more years of age	\$1 628.50
6	Two applicants / recipients and one or more dependent children	One applicant / recipient is a person with disabilities, the other is not a person with disabilities and is under 65 years of age	\$1 478.50
7	Two applicants / recipients and one or more dependent children	Both applicants / recipients are persons with disabilities	\$1 953.50
8	Two applicants / recipients and one or more dependent children	One applicant / recipient is a person with disabilities, the other is not a person with disabilities and is 65 or more years of age	\$1 728.50
9	Sole applicant / recipient and one or more dependent children	Applicant / recipient is a person with disabilities and a warrant has been issued for the applicant / recipient	\$1 033.50
10	Two applicants / recipients and no dependent children	One applicant / recipient is a person with disabilities, and the other is under 65 years of age, and a warrant has been issued for one	\$1 033.50
11	Two applicants / recipients and no dependent children	One applicant / recipient is a person with disabilities, and the other is 65 or more years of	\$1 033.50

		age and a warrant has been issued for that applicant / recipient	
12	Two applicants / recipients and no dependent children	One applicant / recipient is a person with disabilities and a warrant has been issued for that applicant / recipient, and the other is 65 or more years of age	\$1 033.50
13	Two applicants / recipients and no dependent children	Both applicants / recipients are persons with disabilities and a warrant has been issued for one	\$1 260.50
14	Two applicants / recipients and one or more dependent children	One applicant / recipient is a person with disabilities, and the other is under 65 years of age and a warrant has been issued for that applicant / recipient	\$1 378.50
15	Two applicants / recipients and one or more dependent children	One applicant / recipient is a person with disabilities and a warrant has been issued for that applicant / recipient, and the other is under 65 years of age	\$1 378.50
16	Two applicants / recipients and one or more dependent children	One applicant / recipient is a person with disabilities and the other is under 65 years of age, and a warrant has been issued for both	\$1 328.50
17	Two applicants / recipients and one or more dependent children	One applicant / recipient is a person with disabilities, and the other is 65 or more years of age and a warrant has been issued for that applicant / recipient	\$1 628.50
18	Two applicants / recipients and one or more dependent children	One applicant / recipient is a person with disabilities and a warrant has been issued for that applicant / recipient, and the other is 65 or more years of age	\$1 628.50
19	Two applicants / recipients and one or more dependent children	One applicant / recipient is a person with disabilities and the other is 65 or more years of age, and a warrant has been issued for both	\$1 578.50
20	Two applicants / recipients and one or more dependent children	Both applicants / recipients are persons with disabilities and a warrant has been issued for one	\$1 853.50
21	Two applicants / recipients and one or more dependent children	Both applicants / recipients are persons with disabilities and a warrant has been issued for both	\$1 803.50

Monthly shelter allowance

4 (1) For the purposes of this section:

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

"**warrant**" has the meaning of warrant in section 14.2 [*consequences in relation to outstanding arrest warrants*] of the Act.

(2) The monthly shelter allowance for a family unit other than a family unit described in section 14.2 (1) of the Act is the greater of

(a) the minimum set out in the following table for the family unit, and

(b) the lesser of

(i) the family unit's actual shelter costs, and

(ii) the maximum set out in the following table for the family unit.

Item	Column 1 Family Unit Size	Column 2 Minimum	Column 3 Maximum
1	1 person	\$75	\$500
2	2 persons	\$150	\$695
3	3 persons	\$200	\$790
4	4 persons	\$225	\$840
5	5 persons	\$250	\$890
6	6 persons	\$275	\$940
7	7 persons	\$300	\$990
8	8 persons	\$325	\$1 040
9	9 persons	\$350	\$1 090
10	10 persons	\$375	\$1 140

Schedule B - Net Income Calculation**Deduction and exemption rules**

1 When calculating the net income of a family unit for the purposes of section 24

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

(a) the following are exempt from income:

(i) any income earned by a dependent child attending school on a full-time basis;

(ii) Repealed. [B.C. Reg. 96/2017, App. 2, s. 2 (a).]

- (iii) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 2 (c).]
- (iv) a family bonus, except the portion treated as unearned income under section 10 (1) of this Schedule;
- (iv.1) the Canada child benefit, except the portion treated as unearned income under section 10 (1) of this Schedule;
- (v) the basic child tax benefit;
- (vi) a goods and services tax credit under the *Income Tax Act* (Canada);
- (vii) a tax credit under section 8 [*refundable sales tax credit*], 8.1 [*climate action tax credit*], 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;
- (xxi) Repealed. [B.C. Reg. 85/2012, Sch. 2, s. 7.]
- (xxii) payments granted by the government of British Columbia under section 8 [*agreement with child's kin and others*] of the *Child, Family and Community Service Act*;
- (xxiii) payments granted by the government of British Columbia under the Ministry of Children and Family Development's At Home Program;
- (xxiv) Repealed. [B.C. Reg. 85/2012, Sch. 2, s. 7.]
- (xxv) payments granted by the government of British Columbia under an agreement referred to in section 93 (1) (g) (ii) of the *Child, Family and Community Service Act*, for contributions to the support of a child;
- (xxvi) a loan that is
 - (A) not greater than the amount contemplated by the recipient's business plan, accepted by the minister under section 70.1 of this regulation, and
 - (B) received and used for the purposes set out in the business plan;
- (xxvii) payments granted by the government of British Columbia under the Ministry of Children and Family Development's
 - (A) Autism Funding: Under Age 6 Program, or
 - (B) Autism Funding: Ages 6 — 18 Program;
- (xxviii) Repealed. [B.C. Reg. 148/2015, App. 2, s. 1 (a).]
- (xxix) payments made by a health authority or a contractor of a health authority to a recipient, who is a "person with a mental disorder" as defined in section 1 of the *Mental Health Act*, for the purpose of supporting the recipient in participating in a volunteer program or in a mental health or addictions rehabilitation program;
- (xxx) a refund provided under Plan I as established under the Drug Plans Regulation;

- (xxxi) payments provided by Community Living BC to assist with travel expenses for a recipient in the family unit to attend a self-help skills program, or a supported work placement program, approved by Community Living BC;
- (xxxii) a Universal Child Care Benefit provided under the *Universal Child Care Benefit Act* (Canada);
- (xxxii.1) a rental housing benefit provided under the [Rental Housing Benefit Act](#) (Canada);
- (xxxii.2) a dental benefit provided under the [Dental Benefit Act](#) (Canada);
- (xxxiii) money paid by the government of Canada, under a settlement agreement, to persons who contracted Hepatitis C by receiving blood or blood products in Canada prior to 1986 or after July 1, 1990, except money paid under that agreement as income replacement;
- (xxxiv) money withdrawn from a registered disability savings plan;
- (xxxv) a working income tax benefit provided under the *Income Tax Act* (Canada);
- (xxxvi) Repealed. [B.C. Reg. 180/2010, s. 2 (b).]
- (xxxvii) the climate action dividend under section 13.02 of the *Income Tax Act*;
- (xxxviii) money paid or payable to a person under the *Criminal Injury Compensation Act* as compensation for non-pecuniary loss or damage for pain, suffering mental or emotional trauma, humiliation or inconvenience that occurred when the person was under 19 years of age;
- (xxxix) money that is paid or payable to or for a person if the payment is in accordance with the settlement agreement approved by the Supreme Court in Action No. S024338, Vancouver Registry;
- (xl) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Family Support Services program;
- (xli) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Supported Child Development program;
- (xlii) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Aboriginal Supported Child Development program;
- (xliii) money paid or payable from a fund that is established by the government of British Columbia, the government of Canada and the City of Vancouver in relation to recommendation 3.2 of the final report of the Missing Women Commission of Inquiry;

- (xliv) payments granted by the government of British Columbia under the Temporary Education Support for Parents program;
- (xlv) a BC early childhood tax benefit;
- (xlv.1) a BC child opportunity benefit;
- (xlv.2) a BC family benefit;
- (xlvi) child support;
- (xlvii) orphan's benefits under the *Canada Pension Plan Act* (Canada);
- (xlviii) money or other value received, by will or as the result of intestacy, from the estate of a deceased person;
- (xlix) gifts;
- (l) education and training allowances, grants, bursaries or scholarships, other than student financial assistance;
- (li) money withdrawn from a registered education savings plan;
- (lii) compensation paid or payable under Division 5 [*Compensation in Relation to Death of Worker*] of Part 4 [*Compensation to Injured Workers and Their Dependants*] or section 225 [*compensation in relation to worker death before July 1, 1974*] of the *Workers Compensation Act* to a dependant, as defined in section 1 of that Act, who is a child, as defined in section 165 (1) of that Act;
- (liii) money that is paid or payable by or for Community Living BC to or for a person if the payment is in accordance with an award in a legal proceeding or with a settlement agreement in respect of a claim for injury, loss or damage caused by Community Living BC, an employee of Community Living BC or a person retained under a contract to perform services for Community Living BC;
- (liv) money that is paid or payable by the government of British Columbia to or for a person if the payment is in accordance with an award in a legal proceeding or with a settlement agreement in respect of a claim for injury, loss or damage caused by the minister, the ministry, an employee of the ministry or a person retained under a contract to perform services for the ministry;
- (liv.1) money that is paid or payable by the government of British Columbia to or for a person if the payment is in accordance with an award in a legal proceeding or with a settlement agreement in respect of a claim for injury, loss or damage caused by the Minister of Children and Family Development, that ministry, an employee of that ministry or a person retained under a contract to perform services for that ministry;
- (liv.2) money that is paid or payable by the government of British Columbia to or for a person because the person was a resident of Woodlands School;

(lv)a disabled contributor's child's benefit paid or payable under the *Canada Pension Plan*;

(lvi)payments granted under an agreement referred to in section 94 of the *Child, Family and Community Service Act*;

(lvii)money that is paid or payable, in respect of a child, from property that comes into the control of, or is held by, the Public Guardian and Trustee;

(lviii) 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 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.

APPEAL NUMBER 2024-0259

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
Wes Nelson

Signature of Chair

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

Print Name
Margarita Papenbrock

Signature of Member

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

Print Name
Corrie Campbell

Signature of Member

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