

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (“Ministry”) decision of May 14, 2024 that determined the Appellant received an overpayment of disability assistance and must repay the Ministry.

In the Reconsideration Decision, the Ministry confirmed the original decision and determined that the amount owing is \$2,586.10.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act Section 3, 11, 18, and 19 (“the Act”)

Employment and Assistance for Persons with Disabilities Regulation Section 1, 24, and 29.
Schedule A – Section 1, 2, and 4
Schedule B – Section 1, 2, 3, 4, 6, and 7 (“the Regulation”)

Financial Administration Act Section 87

Employment and Assistance Act, Section 27

Applicable legislation is found in Appendix A.

Part E – Summary of Facts

The Appellant requested a written hearing of this appeal. A written hearing took place on August 6 at 9:30 am. All Panel Members were in attendance.

Evidence Before the Ministry at Reconsideration

- The Appellant is a sole recipient of disability assistance. From that assistance the Ministry deducts an amount equal to Workers Compensation Board for Worker's Compensation Benefits ("WCB") income that the Appellant receives.
- In 2022, the Appellant received \$1103.30 WCB income per month.
- On January 25, 2023, the Appellant began receiving \$1179.20 WCB income per month.
- On February 9, 2023, the Appellant submitted a monthly report for March disability assistance declaring \$1103.30 WCB income.
 - As a result, \$1103.30 was deducted from the Appellant's March 2023 disability assistance.
- On March 7, 2023, the Appellant submitted a monthly report for April disability assistance declaring \$1103.30 WCB income.
- On March 13, 2023, the Ministry sent the Appellant a message through the Ministry's computer portal asking if his WCB income had increased in January 2023 and if so, to provide verification.
- On March 16, 2023, the Appellant:
 - provided a screen shot of a summary from his bank account showing that he received \$1179.20 WCB income on January 25, 2023; and
 - submitted another monthly report for April disability assistance declaring he had received \$1179.20 WCB income.
 - As a result, \$1179.20 was deducted from the Appellant's April 2023 disability assistance.
- The Ministry entered into its system \$1179.20 as the Appellant's ongoing WCB income. In its Reconsideration Decision, the Ministry did not provide the date when this was done.

- On August 8, 2023, the Appellant submitted a monthly report for September 2023 disability assistance declaring \$1103.30 WCB income.
 - As a result, \$1103.30 was deducted from the Appellant's September 2023 disability assistance.
- On September 6, 2023, the Appellant submitted a monthly report for October disability assistance declaring \$1103.30 WCB income.
 - As a result, \$1103.30 was deducted from the Appellant's October 2023 disability assistance.
- On October 8, 2023, the Appellant submitted a monthly report for November disability assistance declaring \$1179.20 WCB income.
 - As a result, \$1179.20 was deducted from the Appellant's November 2023 disability assistance.
- On November 5, 2023, the Appellant submitted a monthly report for December disability assistance declaring \$1179.20 WCB income.
 - As a result, \$1179.20 was deducted from the Appellant's December 2023 disability assistance.
- On November 20, 2023, the Ministry removed the designation of \$1179.20 as the Appellant's ongoing WCB income, without any notes as to why they had removed it.
 - As a result, the Appellant received January and February 2024 disability assistance without any WCB income being deducted.
- On February 25, 2024, the Ministry sent the Appellant an overpayment chart indicating they had calculated that the Appellant had received an overpayment of \$2586.10 because he had declared the wrong amount for his WCB income for January, July and August 2023 and had failed to declare any WCB income received in November and December 2023.
- On March 5, 2024, the Ministry sent the Appellant an overpayment notification letter indicating he was required to repay \$2586.10 at \$10.00 per month and that if he disagreed with the Ministry's decision, he could request a Reconsideration of the Ministry's decision.
- On April 16, 2024, the Appellant submitted his Request for Reconsideration, and was approved for an extension for submissions to May 14, 2024.

- On May 9, 2024, the Appellant's Advocate submitted additional information, stating the following (in part):
 - [The Appellant] *submitted all of his monthly reports from March 2023 through February 2024. The monthly reports ... clearly show he did his due diligence and reported his income each month.*
 - *In March 2023, [the Appellant] claimed \$1179.20 yet the overpayment chart states that he claimed \$1103.30. That is a flagrant error. ...*
 - *In February 2024, [the Appellant] declared his income, yet the overpayment chart states \$0.00 claimed. Yet it states that [the Appellant] cashed a cheque for \$432.20 for the month of February. There is a further overpayment of \$1179.20 for February 2024. [Attached monthly claim reports] show that [the Appellant] submitted his monthly report and claimed his Worker's compensation amount.*
 - *[The Appellant] is being charged a monthly overpayment fee for an error made by the government. Furthermore, the policy states the repayment amount for overpayment is \$10, yet [the Appellant] is being charged \$20. ...*
 - *A governmental error was made and now the government is trying to extract money from [the Appellant] that has already been spent. [The Appellant] spent the money on his living expenses; this money is gone and cannot be recouped by the government, for an error made by the government.*
 - *[The Appellant] relied on the Ministry to process his reports correctly and the overpayments arose from Ministry error; therefore, the Ministry is estopped from trying to collect an overpayment from him. Given the high cost of living, the amount that was given has long been spent.*
 - *As [the Appellant] followed protocol and reported income, as he was supposed to, the error lies not with [him], and an estoppel is in order.*

Additional Information Submitted after Reconsideration

Appellant

The Appellant wrote the following in his June 26, 2024 Notice of Appeal: *"I did not receive the email/denial until I phoned to inquire and was told over the phone I was denied. I was not told until June 20, 2024. I disagree with the decision as estoppel should have been applied."*

On July 18, 2024, the Appellant's Advocate emailed a submission to the Tribunal that included a multi-page letter and supporting attachments. The Appellant's Advocate asserts the following:

The reporting requirements for Persons with Disabilities in Section 29 of the Regulation state that a client on disability assistance has to report EARNED income ..."

Section 29 (b) (ii) requires that when it comes to unearned income, people on PWD are only required to report a "change in income received by the family unit and the source of that income. Section 11 of the Act says that what clients on disability assistance are required to report are "changes" in circumstances.

[The Appellant] reported \$1179.20 in WCB income on November 5, and that was his ongoing WCB rate; therefore, he is not required by the legislation to report anything further. There was no CHANGE in his WCB rate; hence the Ministry should have applied \$1179.20 to all future months. When the Ministry removed the income from their system on November 20, that was a clear Ministry error.

[The Appellant] reported his WCB rate, and there was no change in that rate to report, then far from having an onus to fact check the Ministry if no deductions are made when the client has reported as required, a client on disability assistance is entitled to rely on the Ministry to process their declarations correctly.

...

... the Ministry's decision is states [sic] "the ministry removed the \$1179.20 WCB income from their system as ongoing income without any notes as to why they had removed it. As a result, the Appellant received January and February 2024 disability assistance without any WCB income being deducted."

As the overpayments clearly arose from Ministry error, an estoppel is in order. According to the Act, an estoppel should be issued when the government makes an error. The government, without explanation, removed the Appellant's income from their system. That is unmistakably an error made by government staff and clearly meets the criteria in which an estoppel should be ordered.

...

Nowhere in the Act does it state that the onus lies on the recipient to report errors. The Appellant relies on the Ministry to follow the Regulation. The Appellant had no change in income and as such, was not responsible for the errors made by the Ministry. The Ministry has made several flagrant errors, including the alleged overpayment, mistakenly charging the Appellant too much in overpayment recovery, and erasing his

ongoing income. The criteria for an estoppel were clearly met when the Ministry removed his ongoing income from their system without explanation.

Ministry

The Ministry was advised of the Appellant's July 18, 2024 written submission and was given until July 31, 2024 to respond.

On August 1, 2024, the Tribunal received an email from the Ministry advising that its written submission is the Reconsideration Summary in the Record of Ministry decision.

Admissibility of New Evidence

Under section 22(4) of the *Employment and Assistance Act*, the Panel may admit evidence that is reasonably required for a full and fair disclosure of all matters related to the decision under appeal. This allow for admission of evidence even if it was unavailable to the Ministry at the time of the Reconsideration Decision.

The Ministry did not provide any new evidence.

The Panel accepts as evidence the "Reasons for Appeal" stated by the Appellant and the July 18, 2024 submission of the Appellant from an Advocate. While they also contain argument, any evidence that the party admits and which may possibly affect the findings is specifically noted by the Panel in its analysis and decision below.

Part F – Reasons for Panel Decision

The panel is required to determine if the Ministry's Reconsideration Decision was: a) reasonably supported by the evidence, or b) a reasonable application of the applicable enactment.

The Appellant's Position

The Appellant asserts that the Ministry has made an error in the amount deducted from his monthly disability assistance because they have not calculated his WCB income correctly. The Appellant stated that he is permanently disabled and is exempt from tax and deduction.

The Appellant's Advocate stated on May 9, 2024, that the Appellant "did his due diligence and reported his income each month" and on July 18, 2024 stated that the Appellant "reported \$1179.20 in WCB income on November 5" as his "ongoing WCB rate," with no ongoing obligation to report until that rate changed. Following that report the Appellant asserts that the Ministry made errors in calculating his disability assistance and is responsible for these errors with no onus on the Appellant to discover Ministry mistakes.

The Appellant's Advocate asserts that the Appellant should not have to repay the overpayment of \$2586.10 because the estoppel defence permitted under Section 87 of the *Financial Administration Act* should apply in this situation. The Advocate notes that under the BC Employment & Assistance Policy & Procedure Manual "there may be an estoppel defence when all of the criteria below are met:

1. A recipient received assistance that they were not eligible to receive, and,
2. The ministry represented to the recipient that they were eligible for the assistance
3. The recipient had relied on these funds to their detriment (detrimental reliance.)"

The Appellant's Advocate notes, in part, that:

- The Ministry made the errors in calculating the correct disability assistance he should have received.
- The Ministry represented that the payment amounts for these months were correct.
- The Appellant relied on the overpayments to his detriment and cannot afford to repay the Ministry for several reasons, including that he used the money to pay his

expenses in an economy with high living expenses, is in bankruptcy, and has cancer.

The Ministry's Position

In its Reconsideration Decision, the Ministry asserts that:

The Appellant's full monthly WCB income is subject to deduction from his disability assistance because it is considered "unearned income" and is not exempt.

All recipients of disability assistance are required to report income received during the previous month by the 5th of the current month and the reported income affects the following month's assistance (for example, January income is to be reported by February 5 and affects March assistance.)

The Appellant received \$1179.20 WCB income each month beginning in January 2023, and he failed to declare the amount received correctly for his March 2023, September 2023, October 2023, January 2024, and February 2024 disability assistance.

Although the Appellant's Advocate notes it was the Ministry's error to not deduct any amount for his WCB income from his January 2024 and February 2024 assistance, the Ministry is satisfied that the Appellant was informed and aware that the income from WCB he receives is to be deducted from his disability assistance rate as advised in the Reconsideration Decision dated March 9, 2022.

When the Appellant received disability assistance in January 2024 and February 2024 with no deductions, the onus was on the Appellant to contact the Ministry and ask why there were no deductions taken off his disability assistance.

The Ministry determined that the Appellant received an overpayment of $\$75.90 \times 3$ months (March 2023, September 2023, and October 2023) = \$227.70, plus an overpayment of $\$1179.20 \times 2$ months (January 2024 and February 2024) = \$2358.40. The total overpayment is $\$227.70 + \$2358.40 = \$2586.10$. As the Appellant has received \$2586.10 disability assistance that he was not entitled to receive, he must repay \$2586.10 to the Ministry.

The Ministry also asserts that the amount deducted from the Appellant's disability assistance each month is beyond the scope of their May 14, 2024 Reconsideration Decision. The Ministry invites the Appellant to contact the Ministry and request that they reduce the amount deducted to \$10 each month.

Panel's Decision

The Panel is required to determine if the Ministry's Reconsideration Decision that the Appellant received an overpayment of \$2,586.10 of disability assistance and must repay this amount to the Ministry was supported by the evidence or is a reasonable application of the applicable enactment in the circumstances of the Appellant. This means that the Panel is not required to agree with the Ministry's decision but is only to decide whether it was reasonable. The Panel does not have any discretion to make a decision that would change the applicable legislation.

The Panel notes conflicting descriptions of the evidence or views of the evidence by the parties. The issues are discussed under three headings as follows:

- Unearned Income and Deduction or Exemption - Here the Appellant disputes that his monthly WCB income is subject to deduction from his monthly income assistance payment.
- Monthly Reporting Requirement - Here the Appellant claims having followed the correct reporting procedures and having declared the correct monthly WCB income, but the Ministry claims overpayments were made to the Appellant for his March 2023, September 2023, October 2023, January 2024 and February 2024 disability assistance.
- Repayment and Estoppel Defence - Here the issue is that the Ministry seeks repayment for overpayments beyond eligibility, against which the Appellant claims that the overpayment arose from Ministry error and that the estoppel defence should be applied.

Unearned Income and Deduction or Exemption

The Ministry wrote in the May 14, 2024 Request for Reconsideration document that the Appellant's monthly payment from WCB is classified as unearned income and is subject to deduction from his monthly disability assistance. The Ministry also noted that this was established in a previous Reconsideration Decision of March 9, 2022. It cited the applicable legislation; the relevant sections are:

Section 1 of the Regulation, which defines "unearned income" as any income that is not earned income, and includes without limitation, income received from WCB.

Section 1 of the Regulation which defines "earned income" as

- (a) any money or value received in exchange for work or the provision of a service,
- (b) Repealed. [B.C. Reg. 197/2012, Sch. 2, 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;

Schedule B of the Regulation, which outlines how net income is calculated for the purposes of determining eligibility for disability assistance. In particular:

- Section 1(a) of that Schedule provides a list of several types of income that are exempt. WCB payments for a permanent disability are not included in this list.
- Section 1(d) of that Schedule notes all “unearned income” must be included when calculating a person’s net income except for the permitted deductions in Section 6 and the permitted exemptions in Sections 7 and 8.

Section 24 of the Regulation sets out that a person’s income (calculated under Schedule B of the Regulation), must be deducted from their disability assistance (calculated under Schedule A of the Regulation).

The Panel finds that, based on the Regulation, it was reasonable for the Ministry to apply the legislation to classify the Appellant’s monthly WCB income as “unearned income” and determine that it is not exempt from deduction. The WCB income does not fall within the definition of “earned income” and does not fit any of the enumerated exceptions to “unearned income.” Accordingly, pursuant to section 24, this income must be deducted from disability assistance.

Monthly Reporting Requirement

The Appellant’s Advocate faxed the Ministry a letter dated May 9, 2024. In it the Advocate stated that the Appellant “submitted all of his monthly reports from March 2023 through February 2024.”

In a similar letter dated July 18, 2024 the Appellant’s Advocate takes a different position asserting that under Section 11 of the *Act*, the Appellant, as a person who receives disability assistance and has unearned income, only needs to provide income information

to the Ministry when there is a change in his ongoing income. The position was that, otherwise the onus is on the Ministry to use the amount previously provided by the Appellant. Failure to use a prior amount was expressed as an error of the Ministry.

In its Reconsideration Decision, the Ministry argues that the Appellant, as a recipient of disability assistance, is required to submit a report on the 5th day of each calendar month.

As established in the previous section, the Panel finds that the WCB income is unearned income, and the receipt of the income changes a family unit’s assets because under section 1 of the Regulation “asset” includes meaning “cash assets”. This must be read together with the requirement under Section 29(2)(a) of the Regulation that recipients of disability assistance must submit a report on the 5th day of each calendar month and the information required includes changes in the family unit’s assets, all income received and the source of the income.

Having reviewed the relevant provisions in the Regulation, the Panel finds that the Ministry was reasonable in stating that the Appellant had an obligation to file monthly statement changes given changes in the family unit assets.

The Panel has reviewed the forms in evidence, including copies of the Appellant’s monthly reports and the Ministry’s Chart of Overpayments. The evidence shows that, in 2023, the Appellant confirmed his WCB income as \$1,179.20 per month. The summary chart below shows the months when the Appellant claimed \$1,103.30 in WCB income in error, and the four months when the Appellant did not submit a required monthly report.

Monthly Report Date	Assistance Month	Declared Income by Appellant (in monthly reports)
Feb 9, 2023	March 2023	\$1,103.30
Mar 16, 2023	April 2023	\$1,179.20
April 10, 2023	May 2023	\$1,179.20
May 5, 2023	June 2023	\$1,179.20
June 6, 2023	July 2023	\$1,179.20
July 2023	August 2023	\$1,179.20 per Overpayment Chart and July 10, 2023 “Confirmation of Assistance” [No form in evidence]
Aug 8, 2023	September 2023	\$1,103.30

Sept 6, 2023	October 2023	\$1,103.30
Oct 2023	November 2023	\$1,179.20 Per Overpayment Chart [No form in evidence]
Nov 5, 2023	December 2023	\$1179.20
Dec 2023	January 2024	\$0 Per Overpayment Chart and December 17, 2023 "Confirmation of Assistance" shows no WCB Income deduction [No form in evidence]
January 2024	February 2024	\$0 Per Overpayment Chart [No form in evidence]

The Panel finds the evidence reasonably shows that the Appellant failed to file showing the increase in family unit assets in the months identified by the Ministry and inaccurately reported amounts in other months as the Ministry also identified.

While the Panel has jurisdiction to find unreasonable assessment of evidence or application of relevant legislation it does not have jurisdiction to calculate amounts of overpayment, as outlined in Section 27(2) of the *Employment and Assistance Act*. The discrepancies shown in the chart above are informational only and it is for the Ministry to calculate the amount owing.

Repayment and Estoppel Defence

The Ministry seeks repayment of overpayment based upon its calculations. The Panel finds that the applicable enactments authorized this. Specifically, the Panel finds as follows:

- Section 18 of the *Act* sets out that, if disability assistance is received by a person who is not eligible for it, that person must repay the government the amount or value of the overpayment provided for that period.
- Section 19 of the *Act* sets out that the amount a person is liable to repay under this *Act* is a debt due to the government that may be deducted from any subsequent disability assistance.

As stated earlier, the Panel does not have jurisdiction to calculate amounts of any overpayment, however it sees no unreasonable application of the evidence that would or did lead to a Ministry error in calculating an overpayment to the Appellant of \$2,586.10.

The Panel finds no unreasonable application of the evidence or legislation, accordingly the Appellant is required to repay the Ministry, unless the estoppel defence is found to apply in the Appellant's circumstances.

The Appellant's Advocate argues that estoppel applies, noting that under Section 87 of the *Financial Administration Act*, if the government asserts a right to recover an overpayment of money paid to a person contrary to an enactment, the person may rely on estoppel as "a defence in a proceeding brought to recover the payment as if it had been made under a mistake."

The Ministry has published a policy for "Overpayments that may meet an estoppel defence" ("Policy"), to which the Panel has referred. It outlines that in order for the estoppel defence to apply, the following criteria must be met:

1. A *recipient* received assistance that they were not eligible to receive, and,
2. The ministry represented to the recipient that they were eligible for the assistance.
3. The recipient had relied on the funds to their detriment (detrimental reliance).

The panel finds this policy a reasonable summary of what must be established for an estoppel defence to be successful.

Appellant Receipt of Assistance They Were Not Eligible to Receive and Ministry Error

The Panel found two periods of potential concern here.

The first is with respect to the Appellant's monthly reports in February 2023 for March 2023 assistance, in August 2023 for September 2023 assistance, and in September 2023 for October 2023 assistance. The Appellant declared inaccurate WCB income for those months. The Panel finds that there was no Ministry error for the March, September and October assistance months.

The second period of concern was for January and February 2024, where the Appellant failed to file monthly reports.

The Ministry has acknowledged the Appellant's ongoing WCB income of \$1179.20 WCB was removed from their system on November 20, 2023 and that they do not have any accompanying notes on the Appellant's file to explain why this was done.

The Panel finds that the Ministry's November 20, 2023 action that removed the Appellant's ongoing WCB income from his file was a Ministry error. The Panel notes that the Appellant's failure to file reports as required contributed to the Ministry making payment errors for January 2024 and February 2024 assistance. If the Appellant had filed monthly reports in December 2023 for January 2024 assistance and in January 2024 for February 2024 assistance, it is reasonable to assume that the Ministry would have deducted his monthly WCB income from his January 2024 and February 2024 assistance.

The Panel finds that the first criterion for a successful estoppel defence has not been met with respect to payments in 2023 but is met for the 2024 January and February payments.

Appellant Disclosure and Appellant Awareness of Ministry Error

With respect to the monthly reports for March, September, and October 2023 assistance months, as stated above, the Panel found that the Appellant filed the wrong amount of WCB income.

It is apparent from the evidence that the Appellant was aware that he was receiving a greater amount of WCB income for those months than declared. Applying the Policy to those payments the Appellant did "fail to disclose [something]." He failed to disclose the additional \$75.90 received for each of those months and the change in "cash assets." The Panel further notes that the Ministry contacted the Appellant in March 2023 to ask if his WCB income had changed, and he replied with confirmation that the WCB income received was \$1,179.20.

The Panel finds that the payments made in accordance with those declarations were caused by the inaccurate reports. The Panel has no need to determine intent but finds that the inaccuracies are, at best, a failure of his previously declared "due diligence" and that the Appellant cannot claim estoppel when the overpayment results from the Appellant's own failure to accurately report income.

With respect to the payments for January and February 2024 assistance months, the Appellant had an obligation to file monthly reports reflecting the change in "cash assets". Even without that he could not have failed to be aware of the fact that he had not filed reports for those months and received significantly higher disability assistance than at any time in the prior year.

That increase was due to the Ministry making no deductions for WCB income, but there is no evidence that the Appellant contacted the Ministry when such a sudden and large

increase in funds appeared in his bank account. The circumstances would cause a reasonable person to enquire of the Ministry, particularly where monthly reports had not been filed. Rather, the evidence shows that it was the Ministry that contacted the Appellant on February 25, 2024 to advise him of the overpayments and provided him with an overpayment report that listed when the overpayments occurred, and the amount owing.

The Panel finds that the Appellant would have been aware of receiving significantly higher disability assistance in January 2024 and February 2024 than in prior months. He also failed to take steps to enquire of the Ministry to determine the cause and whether he had failed to disclose anything that was causing the sudden, large increase. The Panel finds that the Appellant did not exercise reasonable due diligence in the circumstances. Based upon those findings the Panel finds that the second criterion for a successful estoppel defence has not been met.

Appellant Reliance on the Ministry's Assessment

The Appellant's Advocate asserts that the Appellant relied on the Ministry's assessment and that this was to his detriment. He has spent the overpayment money on living expenses in a "high cost of living" economy, has declared bankruptcy, is in danger of losing his home, has cancer and is expending additional money to travel between communities for medical treatment, and as a result, cannot afford to repay the Ministry.

The Panel accepts the Appellant's claim of financial and medical distress; however, given the Panel has found that the Appellant did not exercise reasonable due diligence in the circumstances, although he did rely on the Ministry's payments for the months in question, it was unreasonable for the Appellant to do so, as he was aware of a probable error in the circumstances.

The Panel finds that the third criterion for a successful estoppel defence has, also, not been met.

The Panel finds that the estoppel defence does not apply to the Appellant in this circumstance.

The Panel finds that the Ministry was reasonable in its application of the evidence and of the applicable enactment in the circumstances of the Appellant.

The Panel is empathetic to the Appellant's plight in facing significant financial and medical distress exacerbated by the repayment demands. The Panel has no power to avoid application of the evidence and enactments to provide relief. It is, however, noted that the Ministry appears open to reduction of the monthly deductions for repayment. We encourage the Appellant and the Ministry to mutually reach out to help address the need and distress.

Conclusion

The Appellant is not successful in his appeal. The Panel confirms the Ministry's Reconsideration Decision.

Appendix A

Applicable Legislation

Employment and Assistance for Persons with Disabilities Act

Eligibility of family unit

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

Reporting obligations

- 11** (1) For a family unit to be eligible for disability assistance, a recipient, in the manner and within the time specified by regulation, must
- (a) submit to the minister a report that
 - (i) is in the form specified by the minister, and
 - (ii) contains the prescribed information, and
 - (b) notify the minister of any change in circumstances or information that (i) may affect the eligibility of the family unit, and (ii) was previously provided to the minister.
- (2) A report under subsection (1) (a) is deemed not to have been submitted unless the accuracy of the information provided in it is affirmed by the signature of each recipient.

Overpayments

- 18** (1) If disability assistance, hardship assistance or a supplement is provided to or for a family unit that is not eligible for it, recipients who are members of the family unit during the period for which the overpayment is provided are liable to repay to the government the amount or value of the overpayment provided for that period.
- (2) The minister's decision about the amount a person is liable to repay under subsection (1) is not appealable under section 16 (3) [*reconsideration and appeal rights*].

Liability for and recovery of debts under Act

- 19** (1) An amount that a person is liable to repay under this Act is a debt due to the government that may be
- (a) recovered in a court that has jurisdiction, or
 - (b) deducted, in accordance with the regulations, from any subsequent disability assistance, hardship assistance or supplement for which the person's family unit is eligible or from an amount payable to the person by the government under a prescribed enactment.
- (2) Subject to the regulations, the minister may enter into an agreement, or accept any right assigned, for the repayment of an amount referred to in subsection (1).
- (3) An agreement under subsection (2) may be entered into before or after the disability assistance, hardship assistance or supplement to which it relates is provided.
- (4) A person is jointly and separately liable for a debt referred to under subsection (1) that accrued in respect of a family unit while the person was a recipient in the family unit.

Employment and Assistance for Persons with Disabilities Regulation

Definitions 1 (1) In this regulation:

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

- (a) money, annuities, stocks, bonds, shares, and interest bearing accounts or properties;
- (b) cooperative associations;
- (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.

"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. 2, 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;

Amount of disability assistance

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

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

Reporting requirement

29 For the purposes of section 11 (1) (a) [*reporting obligations*] of the Act,

- (a) the report must be submitted by the 5th day of the calendar month following the calendar month in which one or more of the following occur:
 - (i) a change that is listed in paragraph (b) (i) to (v);
 - (ii) a family unit receives earned income as set out in paragraph (b) (vi);
 - (iii) a family unit receives unearned income that is compensation paid under section 191 [*temporary total disability*] or 192 [*temporary partial disability*] of the *Workers Compensation Act* as set out in paragraph (b) (vii), and
- (b) the information required is all of the following, as requested in the monthly report form specified by the minister:
 - (i) change in the family unit's assets;
 - (ii) change in income received by the family unit and the source of that income; (iii) change in the employment and educational circumstances of recipients in the family unit;
 - (iv) change in family unit membership or the marital status of a recipient;
 - (v) any warrants as described in section 14.2 (1) of the Act;
 - (vi) the amount of earned income received by the family unit in the calendar month and the source of that income;
 - (vii) the amount of unearned income that is compensation paid under section 191 [*temporary total disability*] or 192 [*temporary partial disability*] of the *Workers Compensation Act* received by the family unit in the calendar month.

SCHEDULE A
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.

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

Monthly support allowance

2 (0.1) For the purposes of this section:

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

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

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

(1) A monthly support allowance for the purpose of section 1 (a) is the sum of

- (a) the amount set out in Column 3 of the following table for a family unit described in Column 1 of an applicant or a recipient described in Column 2, plus

(a.1) Repealed [B.C. Reg. 193/2017]

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

Item	Column 1 Family unit composition	Column 2 Age or status of applicant or recipient	Column 3 Amount (\$)
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1	Sole applicant/recipient and no dependent children	Applicant/recipient is a person with disabilities	\$983.50
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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.

AS IT READ FROM MAY 1, 2022 TO JULY 31, 2023:

Item	Column 1 Family Unit Size	Column 2 Minimum	Column 3 Maximum
1	1 person	\$75	\$375

AS OF AUGUST 1, 2023:

Item	Column 1 Family Unit Size	Column 2 Minimum	Column 3 Maximum
1	1 person	\$75	\$500

Schedule B

Net Income Calculation

*(section 24 (b))****Deduction and exemption rules***

1 When calculating the net income of a family unit for the purposes of section 24 (b) [*amount of disability assistance*] of this regulation,

(a) the following are exempt from income:

- (i) any income earned by a dependent child attending school on a full-time basis;
- (ii) Repealed [B.C. Reg. 96/2017];
- (iii) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 2 (c).]
- (iv) a family bonus, except the portion treated as unearned income under section 10 (1) of this Schedule;
- (iv.1) the Canada child benefit, except the portion treated as unearned income under section 10 (1) of this Schedule;
- (v) the basic child tax benefit;
- (vi) a goods and services tax credit under the *Income Tax Act* (Canada);

- (vii) a tax credit under section 8 [*refundable sales tax credit*], 8.1 [*climate action tax credit*] or 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) money paid or payable to a person in settlement of a claim of abuse at an Indian residential school, except money paid or payable as income replacement in the settlement;
- (xvii.1) money that is paid or payable to or for a person if the payment is in accordance with
 - (A) the Sixties Scoop Settlement made November 30, 2017, or
 - (B) the Federal Indian Day Schools Settlement made March 12, 2019, as amended May 13, 2019;
- (xviii) post adoption assistance payments provided under section 28 (1) or 30.1 of the Adoption Regulation, B.C. Reg. 291/96;
- (xix) a rebate of energy or fuel tax provided by the government of Canada, the government of British Columbia, or an agency of either government;
- (xx) money paid by the government of British Columbia, under a written agreement, to a person with disabilities or to a trustee for the benefit of a person with disabilities to enable the person with disabilities to live in the community instead of in an institution;

(xxi) Repealed. [B.C. Reg. 85/2012, Sch. 2, s. 7.]

(xxii) payments granted by the government of British Columbia under section 8 [agreement with child's kin and others] of the *Child, Family and Community Service Act*;

(xxiii) payments granted by the government of British Columbia under the Ministry of Children and Family Development's At Home Program;

(xxiv) Repealed. [B.C. Reg. 85/2012, Sch. 2, s. 7.]

(xxv) payments granted by the government of British Columbia under an agreement referred to in section 93 (1) (g) (ii) of the *Child, Family and Community Service Act*, for contributions to the support of a child;

(xxvi) a loan that is

(A) not greater than the amount contemplated by the recipient's business plan, accepted by the minister under section 70.1 of this regulation, and

(B) received and used for the purposes set out in the business plan;

(xxvii) payments granted by the government of British Columbia under the Ministry of Children and Family Development's

(A) Autism Funding: Under Age 6 Program, or

(B) Autism Funding: Ages 6 — 18 Program;

(xxviii) Repealed. [B.C. Reg. 148/2015, App. 2, s. 1 (a).]

(xxix) payments made by a health authority or a contractor of a health authority to a recipient, who is a "person with a mental disorder" as defined in section 1 of the *Mental Health Act*, for the purpose of supporting the recipient in participating in a volunteer program or in a mental health or addictions rehabilitation program;

- (xxx) a refund provided under Plan I as established under the Drug Plans Regulation;
- (xxxii) 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;

- (iv) a disabled contributor's child's benefit paid or payable under the *Canada Pension Plan*;
- (lvi) payments granted under an agreement referred to in section 94 of the *Child , Family and Community Service Act*;
- (lvii) money that is paid or payable, in respect of a child, from property that comes into the control of, or is held by, the Public Guardian and Trustee;
- (lviii) money that is paid or payable from a settlement in respect of Treaty No. 8 agricultural benefits;
- (lviv) money that is paid or payable from a settlement under
 - (A) the Cadboro Bay Litigation Settlement Agreement, dated for reference November 1, 2017, between the Esquimalt Nation and Canada, or
 - (B) the settlement agreement, dated for reference October 30, 2017, between the Songhees Nation and Canada;
- (lx) money that is paid or payable under the Memorial Grant Program for First Responders established under the authority of the *Department of Public Safety and Emergency Preparedness Act (Canada)*;
- (lxi) money, or goods or services in kind, received or to be received by a participant in the Ministry of Social Development and Poverty Reduction's Work Experience Opportunities Grant program from a grant under the program;
- (lxii) a rebate of all or part of a premium paid to the Insurance Corporation of British Columbia under the *Insurance (Vehicle) Act* and the plan operated under that Act;
- (lxiii) an amount that is paid or payable, as a single payment or series of payments, as follows:

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

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

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

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

(lxiv) money that is paid or is payable to or for a person from a settlement under the Williams Treaties Settlement Agreement signed August 22, 2018;

(lxv) money that is paid or is payable to or for a person from a settlement under the Missanabie Cree First Nation Treaty Land Entitlement Settlement Agreement signed April 24, 2020;

(lxvi) money that is paid or is payable to or for a person from a settlement under the Peepeekisis Cree Nation File Hills Colony Specific Claim Settlement Agreement signed March 23, 2021;

(lxvii) money that is paid or is payable to or for a person from a settlement under an agreement to settle claims relating to the transfer of the Seabird Island Indian Reserve in 1959 by the Government of Canada to the Seabird Island Band and the

distribution of shared trust funds on a per capita basis; (lxviii) a voted support payment.

- (b) any amount garnished, attached, seized, deducted or set off from income is considered to be income, except the deductions permitted under sections 2 and 6,
- (c) all earned income must be included, except the deductions permitted under section 2 and any earned income exempted under sections 3 and 4, and
- (d) all unearned income must be included, except the deductions permitted under section 6 and any income exempted under sections 3, 7 and 8.

(lxvii) money that is paid under or from an Indigenous financial settlement to an Indigenous governing body, the exemption under paragraph (a) (lxvii) includes investment income earned on that money by the Indigenous governing body before it is distributed to a person.

Deductions from unearned income

6 The only deductions permitted from unearned income are the following:

- (a) any income tax deducted at source from employment insurance benefits;
- (b) essential operating costs of renting self-contained suites.

Exemptions — unearned income

7 (0.1) In this section:

"disability-related cost" means a disability-related cost referred to in paragraph (a), (b), (c) or (e) of the definition of disability-related cost in section 12 (1) [*assets held in trust for person with disabilities*] of this regulation;

"disability-related cost to promote independence" means a disability-related cost referred to in paragraph (d) of the definition of disability-related cost in section 12 (1) of this regulation;

"intended registered disability savings plan or trust" , in relation to a person referred to in section 12.1 (2) [*temporary exemption of assets for person with disabilities*]

or person receiving special care] of this regulation, means an asset, received by the person, to which the exemption under that section applies;

"structured settlement annuity payment" means a payment referred to in subsection (2) (b) (iii) made under the annuity contract referred to in that subsection.

(1) The following unearned income is exempt:

- (a) the portion of interest from a mortgage on, or agreement for sale of, the family unit's previous place of residence if the interest is required for the amount owing on the purchase or rental of the family unit's current place of residence;
 - (b) \$50 of each monthly Federal Department of Veterans Affairs benefits paid to any person in the family unit;
 - (c) a criminal injury compensation award or other award, except the amount that would cause the family unit's assets to exceed, at the time the award is received, the limit applicable under section 10 *[asset limits]* of this regulation;
 - (d) a payment made from a trust to or on behalf of a person referred to in section 12 (1) *[assets held in trust for person with disabilities]* of this regulation if the payment is applied exclusively to or used exclusively for
 - (i) disability-related costs,
 - (ii) the acquisition of a family unit's place of residence,
 - (iii) a registered education savings plan, or
 - (iv) a registered disability savings plan;
- (d.1) subject to subsection (2), a structured settlement annuity payment made to a person referred to in section 12 (1) of this regulation if the payment is applied exclusively to or used exclusively for an item referred to in subparagraph (i), (ii), (iii) or (iv) of paragraph (d) of this subsection;
- (d.2) money expended by a person referred to in section 12.1 (2) *[temporary exemption of assets for person with disabilities or person receiving special care]* of

this regulation from an intended registered disability savings plan or trust if the money is applied exclusively to or used exclusively for disability-related costs;

(d.3) any of the following if applied exclusively to or used exclusively for disability-related costs to promote independence:

(i) a payment made from a trust to or on behalf of a person referred to in section 12

(1) of this regulation;

(ii) a structured settlement annuity payment that, subject to subsection (2), is made to a person referred to in section 12 (1) of this regulation;

(iii) money expended by a person referred to in section 12.1 (2) of this regulation from an intended registered disability savings plan or trust;

(e) the portion of Canada Pension Plan Benefits that is calculated by the formula $(A-B) \times C$, where

A = the gross monthly amount of Canada Pension Plan Benefits received by an applicant or recipient;

B = (i) in respect of a family unit comprised of a sole applicant or a sole recipient with no dependent children, 1/12 of the amount determined under section 118 (1) (c) of the *Income Tax Act* (Canada) as adjusted under section 117.1 of that Act, or

(ii) in respect of any other family unit, the amount under subparagraph (i), plus 1/12 of the amount resulting from the calculation under section 118 (1) (a) (ii) of the *Income Tax Act* (Canada) as adjusted under section 117.1 of that Act;

C = the sum of the percentages of taxable amounts set out under section 117 (2) (a) of the *Income Tax Act* (Canada) and section 4.1 (1) (a) of the *Income Tax Act*;

□

(f) a tax refund;

(g) a benefit paid under section 22, 23, or 23.2 of the *Employment Insurance Act* (Canada) to any person in the family unit.

(2) Subsection (1) (d.1) and (d.3) (ii) applies in respect of a person only if

(a) the person has entered into a settlement agreement with the defendant in relation to a claim for damages in respect of personal injury or death, and (b) the settlement agreement requires the defendant to

(i) make periodic payments to the person for a fixed term or the life of the person, (ii) purchase a single premium annuity contract that

(A) is not assignable, commutable or transferable, and

(B) is designed to produce payments equal to the amounts, and at the times, specified in the settlement agreement,

(iii) make an irrevocable direction to the issuer of the annuity contract to make all payments under that annuity contract directly to the person, and

(iv) remain liable to make the payments required by the settlement agreement.

(2.1) Repealed. [B.C. Reg. 204/2015, App. 2, s. 4 (b).]

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

Repealed

7.1-7.2 Repealed. [B.C. Reg. 226/2014, s. 4.]

Minister's discretion to exempt education related unearned income

8 (1) In this section:

"day care costs" means the difference between a student's actual day care costs and the maximum amount of child care subsidy that is available under the *Child Care Subsidy Act* to a family unit matching the student's family unit;

"education costs", in relation to a student and a program of studies, means the costs, including the costs of tuition, student fees, books, equipment, supplies and

transportation, that, in the opinion of the minister, are reasonably required for the student to participate in the program of studies.

(2) The minister may authorize an exemption for a student up to the sum of the student's education costs and day care costs, for a period of study, from the total amount of student financial assistance received by the student for the period of study.

Application of deductions and exemptions

9 (1) The deductions and exemptions in this Schedule apply only in the calendar month in which the income is actually received, despite any of the following:

- (a) the date the income is payable;
- (b) the period for which the income is payable; (c) the date the income is reported to the minister;
- (d) the date the minister receives notice of the income.

(2) Despite subsection (1), income that is received before the date that subsection (1) comes into force is subject to the application of section 9 of this regulation as it read immediately before subsection (1) came into force.

Employment and Assistance Act

Overpayments

27 (1) If income assistance, hardship assistance or a supplement is provided to or for a family unit that is not eligible for it, recipients who are members of the family unit during the period for which the overpayment is provided are liable to repay to the government the amount or value of the overpayment provided for that period.

(2) The minister's decision about the amount a person is liable to repay under subsection (1) is not appealable under section 17 (3) [*reconsideration and appeal rights*].

Financial Administration Act

Defences to action for recovery of public money

87 (1) If public money is paid to a person by the government

- (a) in excess of the authority conferred by an enactment,
- (b) without the authority of an enactment, or
- (c) contrary to an enactment,

and a right is asserted by the government to recover the payment or part of it, or to retain other money in full or partial satisfaction of a claim arising out of the payment, the person against whom the right is asserted may, subject to subsection (2), rely on any matter of fact or law, including estoppel, that would constitute a defence in a proceeding brought to recover the payment as if it had been made under a mistake.

(2) Subsection (1) does not enable a person to rely on a defence that a payment made by the government was made under a mistake of law, and the right of the government to recover the money paid by it is not impaired merely because the payment was made under a mistake of law.

APPEAL NUMBER 2024-0251

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

Melissa McLean

Signature of Chair

Date (Year/Month/Day)

2024/08/26

Print Name

Kent Ashby

Signature of Member

Date (Year/Month/Day)

2024/08/17

Print Name

Gordon Thompson

Signature of Member

Date (Year/Month/Day)

2024/08/17