

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (“Ministry”) decision of August 13, 2024 that the Appellant is not eligible for income assistance because her family unit’s June 2024 income is more than the monthly rate of assistance for the Appellant’s family unit size.

The Ministry determined that, as per Section 10 (2) of the Employment and Assistance Regulation, the Appellant’s family unit is not eligible for income assistance because their June 2024 unearned income of \$2224.00 exceeds the \$1945 amount of income assistance specified for a family unit of five people under Schedule A of the Employment and Assistance Regulation.

Part D – Relevant Legislation

Employment and Assistance Regulation (“the Regulation”)

– Section 1, 10, 28 and 33

Schedule A - Sections 1, 2 and 4

Schedule B - Sections 1, 6, and 7

Applicable legislation is found in Appendix A.

Part E – Summary of Facts

The Appellant requested a telephone hearing of this appeal. A telephone appeal hearing took place on September 12, 2024 at 1 pm. The Appellant, a Ministry Representative, and all Panel Members were in attendance.

Information Available at the time of Reconsideration

The Appellant and her spouse have three dependent children and on June 1, 2024 the Appellant applied as a family unit of five for income assistance.

The Appellant has been struggling financially for a year and the family unit was homeless for a month. She advised that her spouse has applied for Employment Insurance (EI) sickness benefits and is waiting for his application to be assessed.

On June 28, 2024, the Appellant advised the Ministry via phone that her spouse now is receiving approximately \$500 of EI weekly, or approximately \$2000 monthly. The Ministry worker advised the Appellant the income assistance rate for her family unit is \$1945 per month and that the family is receiving income in excess of this amount.

On July 17, 2024, the Ministry reviewed the Appellant's file regarding eligibility for income assistance. The Ministry received information from Service Canada by electronic data match confirming that her spouse has an active EI sickness claim and is receiving \$556 (gross benefits of \$611 - \$55 in taxes = \$556) weekly for 36 weeks, starting May 12, 2024.

The Appellant was denied income assistance because the family unit's unearned income of \$2224 (\$556 EI per week x 4 weeks = \$2224) was over the income assistance rates for a family unit of five people.

On July 31, 2024, the Appellant submitted a Request for Reconsideration and explained that her family has been struggling financially for over a year. The Appellant is unemployed and waiting for a decision about her eligibility for CPP disability benefits and her husband is receiving EI sickness benefits.

The Appellant and her husband are struggling to make ends meet and have not fully paid their July 2024 rent or any of their August 2024 rent. They do not have enough food to feed their children breakfast and dinner consistently, their children are wearing clothing that no longer fit them, and the Appellant fears the family unit will become homeless and have to live in their car again.

Additional Information Submitted after Reconsideration

Appellant

In her Notice of Appeal, received at the Tribunal office August 22, 2024, the Appellant wrote under "Reasons For Appeal," that her family unit has exhausted their resources to get help. In a handwritten letter enclosed with her Notice of Appeal, the Appellant lost an appeal with her previous landlord and now owes \$18,304.10 for a bailiff cost and garbage removal. The Appellant also received a 10-day eviction notice from her current landlord on August 13, 2024. The Appellant included a scanned copy of the \$18,304.10 judgement against the Appellant and of the legal document that confirms 10 days notice of a pending eviction for non-payment of rent or utilities if the overdue amount is not paid.

In the same letter, the Appellant explained that her family's financial difficulties began when she lost over \$20,000 in a Bitcoin scam. Her mental health suffered significantly, including because some of the money lost in the scam had been borrowed from family and friends, and the lost funds had been earmarked previously to pay for her daughters' college education.

The Appellant started a new job but could not attend work regularly due to her bouts of intense anxiety, including thoughts of suicide. At her employer's suggestion, the Appellant resigned rather than be dismissed for failing her probationary period; this led to a three-month dispute with Service Canada over her application for sickness benefits.

The Appellant's family unit fell behind on their rent and were served with a 10-day eviction notice; the eviction was upheld and the landlord also won a judgement for more than \$18,000 against the Appellant in August 2024. The Appellant's father-in-law also passed away earlier this year. The Appellant said that she has been experiencing difficulty sleeping and feels "hopeless at this endless devastating situation."

Hearing

At the hearing, the Appellant explained that the income her family unit receives from her husband's EI weekly sickness benefit is not enough for a family of five to survive on. The Appellant also recently learned that she does not qualify to receive CPP disability benefits.

The Appellant expressed frustration about trying to access other possible assistance options, such as telephoning the 211 service, and being repeatedly redirected to the My Self Serve online portal. The Appellant has tried to file a hardship request more than once, but her request is denied each time because her family unit does not qualify for monthly income assistance. The Appellant feels like she has exhausted all possibilities and is fearful that her family unit is going to become homeless again.

At the hearing, the Ministry Representative expressed empathy for the Appellant's situation but said that the legislation does not give the Ministry any discretion in determining if someone is eligible for monthly income assistance.

The Appellant's family unit receives unearned income of approximately \$2224 from the husband's EI monthly sickness benefit and approximately \$1,000 from a monthly childcare benefit. Under the Regulation, unearned income is deducted dollar for dollar from the amount of income assistance that an individual or family unit could be eligible to receive.

When the Ministry deducts this family unit's monthly unearned income from the amount that a family unit of five people could receive in monthly income assistance, the family unit's unearned income is greater than they could earn in monthly income assistance, and accordingly, they do not qualify for monthly income assistance.

The Ministry Representative offered the Appellant some suggestions to pursue for other possible sources of assistance in the community and also offered to send an information package to the Appellant, including an application for her to seek designation as a Person with Disabilities. The Ministry stated if the Ministry designates the Appellant as a Person with Disabilities, her family unit would be eligible to apply for Hardship Assistance.

Admissibility of New Evidence

The Panel admits the Appellant's "Reasons for Appeal" comments from her Notice of Appeal, her accompanying letter and legal documents that were received by the Tribunal August 22, 2024 and the Appellant's testimony during the hearing as evidence that is reasonably required for a full and fair disclosure of all matters related to the decision under appeal as provided under Section 22 (4) of the *Employment and Assistance Act*.

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 in the circumstances of the Appellant.

The Appellant's Position

The Appellant asserts that her family of five people cannot survive on her husband's EI sickness benefits. She has sought assistance from various sources, including applying for CPP disability benefits for herself. She keeps being referred to the My Self Serve portal to apply for hardship assistance and keeps being turned down. Her family is mired in debt and facing eviction. They were homeless for a month without enough food to feed their children and are facing homelessness again. It does not make sense to the Appellant that there is no way for her family to get more financial support as they are clearly in need of assistance.

The Ministry's Position

The Ministry asserts that the Regulation does not allow for discretion in the approach taken to determine if someone is eligible for income assistance.

The Appellant's husband receives approximately \$2224 monthly in an active EI sickness benefit claim approved until May 2025, and the Ministry must deduct this "unearned income" dollar for dollar from the amount of income assistance a family unit of five people could be entitled to receive. The family unit's June 2024 unearned income of \$2224 exceeds the \$1945 amount of income assistance determined for her family size under Schedule A of the Regulation.

Based on these figures, the Appellant's family does not qualify for income assistance in June 2024 and for as long as the Appellant's husband is receiving an EI sickness benefit of approximately \$2224 each month.

The Ministry states that it is empathetic to the Appellant's situation, including the family unit's debt load, but the legislation does not allow for debt to be considered in determining eligibility for income assistance.

Panel's Decision

The Regulation is specific in outlining how the Ministry must calculate income assistance, as follows:

The Regulation defines “unearned income” as income that is not earned income, and includes without limitation, money or value received from EI. The Appellant’s husband receives \$2224 per month for EI sickness benefits; this is considered to be “unearned income.”

Section 10(2) of the Regulation outlines that an applicant is not eligible for assistance if their net income determined under Schedule B equals or exceeds the amount of income assistance determined under Schedule A for the applicable family unit size.

Section 28 of the Regulation states that a person’s income (calculated under Schedule B of the Regulation), must be deducted from their income assistance (calculated under Schedule A of the Regulation). Schedule B explains that all earned income must be deducted from their income assistance except that which meets the exemption criteria.

Schedule A Sections 2 and 4 of the Regulation specifies the maximum allowable rate of support and shelter for the size of the family unit. For the Appellant’s family unit of five people, the maximum allowable rate for support and shelter is a total of \$1945 per month.

Schedule B of the Regulation describes how to calculate net income:

- Section 1 states a family’s net income includes all earned income, except for the specified deductions and exemptions.
- Sections 6 and 7 list the deductions and exemptions from “unearned income” that are permitted for the purposes of calculating net income. Money received from EI is not listed as an income that may be exempted unless it is for maternity, parental or benefits to care for a critically ill child. The EI payment that the Appellant’s husband receives each month is not for maternity, parental or benefits to care for a critically ill child.

Once the Ministry deducts the husband’s monthly EI sickness benefit from the family unit’s monthly unearned income, the calculation shows that the Appellant’s family unit does not qualify for income assistance in June 2024. The legislation also does not allow for debt to be considered a factor in determining eligibility for income assistance.

The Panel finds that there is no discretion in how the Ministry is directed to determine eligibility for income assistance, the Ministry was correct in how it calculated the excess of income over the rate of income assistance for the Appellant, and the Appellant is ineligible for income assistance based on the family unit’s June 2024 “unearned income.”

The Appellant is not successful in her appeal.

The Panel is empathetic to the Appellant’s situation and is hopeful that the Appellant will follow up with the other potential funding sources that the Ministry Representative suggested pursuing.

Conclusion

The Panel confirms the Ministry's Reconsideration Decision. The Appellant's request for income assistance is denied because her family unit's income is more than the rate of assistance for the Appellant's family unit size.

The Ministry's decision is confirmed and Appellant is not successful in her appeal.

Appendix A Applicable Legislation

Employment and Assistance 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 as defined in the *Real Estate Development Marketing Act*;
- (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 for Persons with Disabilities 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

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

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

Amount of income assistance

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

(a) the amount determined under Schedule A, minus

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

Monthly reporting requirement

33 (1) This section sets out reporting requirements for the purposes of section 11 [*reporting requirements*] of the Act.

(2) Subject to subsection (3), a monthly report must be submitted to the minister in accordance with the following requirements:

(a) the report must be submitted by the fifth day of each calendar month;

(b) the report must be in a form specified by the minister;

(c) the report must contain all of the following information:

(i) whether the family unit requires further assistance;

(ii) changes in the family unit's assets;

(iii) all income received by the family unit and the source of that income;

(iv) the employment and educational circumstances of recipients in the family unit;

(v) changes in family unit membership or the marital status of a recipient;

(vi) any warrants described in section 15.2 (1) of the Act.

(3) If the family unit includes a qualifying person within the meaning of section 66.1 of this regulation, subsection (2) of this section does not apply and the following reporting requirements apply instead:

(a) a report must be submitted by the fifth day of the calendar month following the calendar month in which one or more of the following occur:

(i) a change described in paragraph (c) (i) to (v);

(ii) a family unit receives earned income referred to in paragraph (c) (vi).

(b) the report must be in a form specified by the minister;

(c) the report must contain all of the following information:

- (i) changes in the family unit's assets;
- (ii) changes in income received by the family unit and the source of that income;
- (iii) changes in the employment and educational circumstances of a recipient in the family unit;
- (iv) changes in family unit membership or the marital status of a recipient;
- (v) changes in respect of warrants described in section 15.2 (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.

(4) If there is a change in a family unit's circumstances that is not disclosed in a report submitted under subsection (2) or (3), and if the change could affect the eligibility of the family unit to receive income assistance or hardship assistance, a report must be submitted by the fifth day of the calendar month following the calendar month in which the change occurs.

(5) The accuracy of information provided in each report under this section must be confirmed by a signed statement of each recipient in the family unit.

Schedule A Income Assistance Rates

Maximum amount of income assistance before deduction of net income

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

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

(2) Despite subsection (1) but subject to subsection (3), income assistance may not be provided in

respect of a dependent child if support for that child is provided under section 8 (2) or 93 (1) (g) (ii) of the *Child, Family and Community Service Act*.

(3) If

(a) an application is made by a parenting dependent child under section 5

(4) [*application by parent who is dependent youth*] of this regulation,

(b) the family unit is found eligible for income assistance, and

(c) support is provided for the parenting dependent child or his or her dependent child, or for both, under section 8 (2) or 93 (1) (g) (ii) of the *Child, Family and Community Service Act*,

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

Monthly support allowance

2 (0.1) For the purposes of this section:

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

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

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

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

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

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

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

(a) the total BC child adjustment amount for all dependent children and all deemed dependent children in the family unit, minus

(b) the sum of

(i) the family bonus, if any, paid to the family unit for the preceding calendar month,

(ii) the Canada child benefit, if any, paid to the family unit for the preceding month in respect of dependent children in the family unit, up to a maximum of the BC child adjustment amount in respect of those dependent children, and

(iii) the total amount of the supplements, if any, provided to or for the family unit under section 61 [*supplement for delayed, suspended or cancelled family bonus*] or 61.1 [*supplement for delayed, suspended or cancelled Canada child benefit*] of this regulation for the current calendar month.

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

(3) In calculating the adjustment under subsection (2), an amount that, under the *Income Tax Act* (British Columbia) or the *Income Tax Act* (Canada), is deducted or set off from the family bonus or the Canada child benefit must be treated as if it were paid to a person in the family unit.[B.C. Reg. 34/2017]

- (4) The support allowance under subsection (1) for a calendar month is not increased under subsection (2) if a person in the family unit refuses to
- (a) apply for the family bonus or the Canada child benefit for the preceding calendar month, or
 - (b) accept the family bonus or the Canada child benefit for the preceding calendar Month in respect of a dependent child in the family unit who is, or may be, a qualified dependant within the meaning of the *Income Tax Act* (Canada).
- (5) If a family unit includes a person who
- (a) immediately before reaching 19 years of age was a dependent child in the family unit, and
 - (b) reached that age while attending secondary school,
- the person is deemed to be a dependent child, for the purposes of this section, until the earlier of
- (c) the end of the school year in which the person reaches the age of 19 years, and
 - (d) the date the person stops attending secondary school.
- (6) For the purposes of this section, if the family unit includes a deemed dependent child, the BC child adjustment amount applies in respect of the deemed dependent child as if the deemed dependent child was a dependent child.

Monthly shelter allowance

4 (1) For the purposes of this section:

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

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

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

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

Item	Column 1 Family Unit Size	Column 2 Minimum	Column 3 Maximum
5	5 persons	\$250	\$890

Schedule B- Net Income Calculation

Deduction and exemption rules

1 When calculating the net income of a family unit for the purposes of section 28 (b) [*amount of income assistance*] of this regulation,

(a) the following are exempt from income:

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

(ii) Repealed [B.C. Reg. 96/2017];

(iii) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 1 (b).]

(iv) a family bonus, except the portion treated as unearned income under section 10 (1) of this Schedule;

(iv.1) the Canada child benefit, except the portion treated as unearned income under section 10 (1) of this Schedule;

(v) the basic child tax benefit;

(vi) a goods and services tax credit under the *Income Tax Act* (Canada);

(vii) a tax credit under section 8 [*refundable sales tax credit*], 8.1 [*climate action tax credit*] 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;

(xiii) the BC earned income benefit;

(xiv) money paid or payable under the 1986-1990 Hepatitis C Settlement Agreement made June 15, 1999, except money paid or payable under section 4.02 or 6.01 of Schedule A or of Schedule B of that agreement;

(xv) a rent subsidy provided by the provincial government, or by a council, board, society or governmental agency that administers rent subsidies from the provincial government;

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

supported work placement program, approved by Community Living BC;

(xxx) a Universal Child Care Benefit provided under the *Universal Child Care Benefit Act* (Canada);

(xxx.1) a rental housing benefit provided under the *Rental Housing Benefit Act* (Canada);

(xxx.2) a dental benefit provided under the *Dental Benefit Act* (Canada);

(xxxii) money paid by the government of Canada, under a settlement agreement, to persons who contracted Hepatitis C by receiving blood or blood products in Canada prior to 1986 or after July 1, 1990, except money paid under that agreement as income replacement;

(xxxiii) money withdrawn from a registered disability savings plan;

(xxxiv) a working income tax benefit provided under the *Income Tax Act* (Canada);

(xxxv) Repealed. [B.C. Reg. 180/2010, s. 1 (b).]

(xxxvi) the climate action dividend under section 13.02 of the *Income Tax Act*;

(xxxvii) money paid or payable to a person under the *Criminal Injury Compensation Act* as compensation for non-pecuniary loss or damage for pain, suffering mental or emotional trauma, humiliation or inconvenience that occurred when the person was under 19 years of age;

(xxxviii) money that is paid or payable to or for a person if the payment is in accordance with the settlement agreement approved by the Supreme Court in Action No. S024338, Vancouver Registry;

(xxxvii.1) money that is paid or payable to or for a person if the payment is in accordance with the settlement under the Final Settlement Agreement and Supplementary Agreement approved by the Federal Court June 22, 2018 in Court File No. T-370-17, *Todd Edward Ross et al. v. Her Majesty the Queen*;

(xxxvii.2) money that is paid or payable to or for a person if the payment is in accordance with the settlement under the Final Settlement Agreement approved by the Federal Court January 30, 2019 in Court File No. T-1068-14, *Raymond Michael Toth v. Her Majesty the Queen*;

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

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

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

(xlii) money paid or payable from a fund that is established by the government of British Columbia, the government of Canada and the City of Vancouver in

relation to recommendation 3.2 of the final report of the Missing Women Commission of Inquiry;

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

(xliv) a BC early childhood tax benefit;

(xliv.1) a BC child opportunity benefit;

(xliv.2) a BC family benefit;

(xlv) child support;

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

(xlvii) gifts, other than recurring gifts;

(xlviii) compensation paid or payable under Division 5 [*Compensation in Relation to Death of Worker*] of Part 4 [*Compensation to Injured Workers and Their Dependants*] or section 225 [*compensation in relation to worker death before July 1, 1974*] of the *Workers Compensation Act* to a dependant, as defined in section 1 of that Act, who is a child, as defined in section 165 (1) of that Act;

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

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

(l.1) money that is paid or payable by the government of British Columbia to or for a person if the payment is in accordance with an award in a legal proceeding or with a settlement agreement in respect of a claim for injury, loss or damage caused by the Minister of Children and Family Development, that ministry, an employee of that ministry or a person retained under a contract to perform services for that ministry;

(l.2) money that is paid or payable by the government of British Columbia to or for a person because the person was a resident of Woodlands School;

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

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

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

- (liv) money that is paid or payable from a settlement in respect of Treaty No. 8 agricultural benefits;
- (lv) 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;
- (lvi) money that is paid or payable under the Memorial Grant Program for First Responders established under the authority of the *Department of Public Safety and Emergency Preparedness Act* (Canada);
- (lvii) money, or goods or services in kind, received or to be received by a participant in the Ministry of Social Development and Poverty Reduction's Work Experience Opportunities Grant program from a grant under the program;
- (lviii) a rebate of all or part of a premium paid to the Insurance Corporation of British Columbia under the *Insurance (Vehicle) Act* and the plan operated under that Act;
- (lix) an amount that is paid or payable, as a single payment or series of payments, as follows:
 - (A) the amount is paid or payable by a person who is or was a landlord, owner or manager, or a person who holds or held a similar position, in relation to leased, rented or licensed residential premises, whether or not the *Residential Tenancy Act* or the *Manufactured Home Park Tenancy Act* applies to that premises;
 - (B) the amount is paid or payable to a person who is or was a tenant, lessee, licensee or occupant, or a person who has or had a similar right or permission to use the premises for residential purposes;
 - (C) the amount is paid or payable as full or partial compensation for loss of the residential use of the premises, including for eviction, relocation, demolition, temporary displacement during repair, renovation or redevelopment, or as an inducement to cease or suspend residential use;
 - (D) the amount is paid or payable under an enactment, a policy or a contract, or voluntarily or at the discretion of the person referred to in clause (A);
- (lx) 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;
- (lxi) 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;
- (lxii) 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;

(lxiii) 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;

(lxiv) a voted support payment.

(lxv) money that is paid under or from an Indigenous financial settlement.

(b) any amount garnished, attached, seized, deducted or set off from income is considered to be income, except the deductions permitted under sections 2 and 6 of this Schedule,

(b.1) if money is paid under or from an Indigenous financial settlement to an Indigenous governing body, the exemption under paragraph (a) (lxv) includes investment income earned on that money by the Indigenous governing body⁷ before it is distributed to a person.

(c) all earned income must be included, except the deductions permitted under section 2 and any earned income exempted under sections 3 and 4 of this Schedule, and

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

Deductions from 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) or (c) of the definition of disability-related cost in section 13 (1) [*assets held in trust for person receiving special care*] 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 13 (1) of this regulation;

"intended registered disability savings plan or trust", in relation to a person referred to in section 13.1 (2) [*temporary exemption of assets for person applying for disability designation or 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 11 [*asset limits*] of this regulation;
- (d) a payment made from a trust to or on behalf of a person referred to in section 13 (2) [*assets held in trust for person receiving special care*] 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 13 (2) (a) 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 13.1 (2) [*temporary exemption of assets for person applying for disability designation or 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 13 (2) of this regulation;
 - (ii) a structured settlement annuity payment that, subject to subsection (2), is made to a person referred to in section 13 (2) (a) of this regulation;
 - (iii) money expended by a person referred to in section 13.1 (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) x 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.

APPEAL NUMBER 2024-0322

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)

2024/09/16

Print Name

Joe Rodgers

Signature of Member

Date (Year/Month/Day)

2024/09/16

Print Name

Mimi Chang

Signature of Member

Date (Year/Month/Day)

2024/09/16