

Part C – Decision Under Appeal

The decision under appeal is the Reconsideration Decision of the Ministry of Social Development and Poverty Reduction (the “**Ministry**”), dated March 21, 2025, in which the Ministry determined that the Appellant was ineligible for the disability assistance that he received between September 2009 and March 2024, resulting in an overpayment of \$155,649.03 (the “**Overpayment**”). As a result, the Ministry found the Appellant is liable to repay the Overpayment according to Section 18 of the *Employment and Assistance for Persons with Disabilities Act*.

Part D – Relevant Legislation

- *Employment and Assistance for Persons with Disabilities Act* (the “**Act**”) – sections 11, 18 and 19
- *Employment and Assistance for Persons with Disabilities Regulation* (the “**Regulation**”) – sections 1, 10, and 29
- *Employment and Assistance Regulation*, section 86

Note: The full text of the legislation is available after the Decision.

Part E – Summary of Facts

The Appellant's appeal hearing was held via teleconference on June 6, 2025. The Ministry did not attend the hearing, despite being duly served with the Appeal Record and notified of the hearing date. As the Ministry received notice of the hearing, the Panel proceeded with the hearing in the absence of any Ministry representative as permitted by section 86(b) of the Employment and Assistance Regulation after determining that the Ministry would not be attending.

At the hearing, the Appellant stated that he is legally blind. As a result, his brother (the "**Brother**") attended the hearing both as a witness and a support person.

(a) The Reconsideration Decision

The following summarizes the evidence before the Ministry at the time of the Reconsideration Decision:

The Appellant is visually impaired. He received disability assistance from August 1, 2007, until his file was closed on July 23, 2024. The Ministry closed the Appellant's file after it received no response from him in response to the Ministry's request for information about his assets.

On September 11, 2024, the Appellant reapplied for disability assistance.

On September 25, 2024, the Ministry sent a letter to the Appellant advising of the Overpayment and providing him with an invitation to contact the Ministry to discuss it.

On January 28, 2025, the Ministry sent a letter advising the Appellant that a review of his file determined he received \$155,754.03 of disability assistance for which he was ineligible, based on co-owning a property with his sister (the "**Property**"), where he did not reside from September 2009 through March 2024. Enclosed with the Ministry's letter was an Overpayment Chart showing the Ministry's calculation of the Overpayment.

In addition, the Ministry had a copy of a 2024 BC Assessment Roll Report for the Property dated September 11, 2024, in which the Property was determined to be valued at \$2,545,000.00 (the "**Assessment**"). A title search for the Property, dated September 11, 2024, provided that the ownership of the Property was transferred to the Appellant and his sister on August 11, 2009 without any mortgage or other charges being registered (the "**Title**").

On March 6, 2025, the Appellant submitted a Request for Reconsideration, stating:

- He received disability assistance while living at the Property with his sister.
- He moved out of the Property to transition to independent living; unaware this would affect his eligibility for disability assistance.
- He was concerned and terrified by allegations of fraud and the requirement to repay the Overpayment.

On March 21, 2025, the Ministry issued its Reconsideration Decision, confirming the Overpayment, adjusted after deducting \$105.00 for erroneous entries in December 2012, 2013, and 2014. The Ministry found the Property met the definition of an “asset” under Section 1 of the Regulation and was not exempt as a place of residence under Section 10(1)(c) of the Regulation since the Appellant did not live there, and his equity in the Property, determined to be \$1,272,500.00, exceeded the \$100,000.00 asset limit under Section 10(2)(a) of the Regulation.

(b) Appeal

On April 09, 2025, the Appellant filed a Notice of Appeal. In describing the basis for the appeal, the Appellant provided the same reasons underlying his Request for Reconsideration.

(c) Appeal Hearing – Submissions

The Appellant advised that, before moving into the Property, he resided elsewhere. As noted in the written submission attached to the Notice of Appeal, the Appellant explained that after living in the Property for some time with his sister and brother-in-law, he chose to move out as part of a transition toward greater independence. Following his departure, he relocated to another residence owned by his Brother (the “**Current Property**”).

The Appellant also stated that he had been involved in six (6) motor vehicle accidents between 2009 and 2024. One of these accidents, in 2009, left him in a coma, and a 2014 accident resulted in his need for a wheelchair.

In terms of timeline, the Appellant explained that he moved into the Property in 2009 and lived there until approximately the summer of 2019. He stated that he was unaware he was required to notify the Ministry of this move or that his relocation could affect his eligibility for disability assistance or result in an Overpayment. He explained that his father and lawyer

have historically managed his finances, and while they applied for his disability assistance in 2007, they did not inform him of his related reporting obligations.

The Brother confirmed the Appellant's residency timeline and testified that the Appellant moved out of the Property around the summer of 2019 and into the Current Property.

In answer to a question from the Panel, the Appellant said that, when he first applied for disability assistance in 2007, he lived at a different address. The Appellant said that he has never told the Ministry about changes of address when he moved from the first address to the Property and then to the Current Property. The Panel found the evidence provided by the Appellant and his Brother to be credible and undisputed. Both individuals appeared unaware of the reporting requirements associated with the Appellant's disability assistance.

Both the Appellant and his Brother were concerned with addressing allegations that the Appellant had attempted to defraud or deceive the Ministry. On review of the Appeal Record, neither the Appellant nor his Brother could identify such an allegation being made by the Ministry.

(d) Admissibility of New Evidence

The Panel determined that the Appellant's and Brother's testimony were admissible as additional evidence pursuant to section 22(4) of the *Employment and Assistance Act* as it was reasonably required for a full and fair disclosure of all matters related to the decision under appeal. More specifically, the additional evidence contributed to the Panel's understanding of the circumstances surrounding the appeal.

Part F – Reasons for Panel Decision

The issue under appeal is the Reconsideration Decision in which the Ministry determined that the Appellant was ineligible for disability assistance that he received between September 2009 and March 2024, resulting in the Overpayment which the Appellant is liable to repay under Section 18 of the *Act*.

Appellant's Position

The Appellant submits he did not deceive or defraud the Ministry with respect to his receipt of disability assistance. Rather, he was unaware of his reporting requirements associated with his disability assistance given that neither his father nor his lawyer ever advised him of same. While the Appellant does not dispute some Overpayment may be warranted, the Appellant essentially argues that the current amount of the Overpayment is likely incorrect based on his residency dates at the Property.

Ministry's Position

Though the Ministry did not attend the hearing, it is understood that the Ministry maintains that the Appellant is ineligible for disability assistance for the reasons stated in the Reconsideration Decision; as a result, its finding regarding the Overpayment should stand.

Panel Decision

(a) Overview of applicable legislation

Section 11 of the *Act* provides that, for an individual to be eligible for disability assistance, they must submit a form and notify the Ministry of any change in circumstances or information that may affect their eligibility for disability assistance.

Section 18 of the *Act* provides that, if disability assistance is provided to an individual that is not eligible for it, the recipient for whom the overpayment is provided is liable to repay to the government the amount or value of the overpayment provided for that period.

Under section 1 of the Regulation, "*assets*" means:

- a) equity in any real or personal property that can be converted to cash,
- b) a beneficial interest in real or personal property held in trust, or
- c) cash assets.

Section 10(2)(a) of the Regulation states that a family unit with one recipient designated as a person with disabilities is not eligible for disability assistance if their assets' total value

exceeds \$100,000.00. In calculating the value of one's assets, section 10(1)(c) of the Regulation exempts the value of an applicant's place of residence.

Section 29 of the Regulation requires a recipient of disability assistance to report any change in circumstances or information that may affect their eligibility for disability benefits on the 5th day of each month.

(b) Asset Classification

On review of the available evidence, the Panel finds that the Ministry reasonably determined that the Property, co-owned by the Appellant and his sister, met the definition of an "asset" under Section 1 of the Regulation, as it is real property that can be converted to cash. For clarity, the Title indicates that the Property has been, and remains, partially owned by the Appellant on a 50/50 basis since August 2009. As a result, the Panel finds that the Ministry reasonably applied the legislation when determining whether the Property constituted an asset.

(c) Exemptions and Period of Eligibility

While it was reasonable for the Ministry to consider the Appellant's partial ownership interest in the Property as an asset when assessing his eligibility for disability assistance, the next issue before the Panel is whether the applicable legislation exempts that interest from consideration.

According to the Appellant's testimony, corroborated by his Brother, the Appellant resided at the Property from the summer of 2009 until the summer of 2019. Although neither party was able to provide specific dates for the Appellant's move-in or departure, the Panel finds their evidence to be uncontradicted, credible, and provided in good faith. On that basis, the Panel accepts that the Appellant did, in fact, reside at the Property during the stated period. This finding stands in contrast to the Ministry's determination, which did not recognize or acknowledge the Appellant's residence at the Property. The Panel notes that the Appellant never reported his change of address to the Ministry when he moved into the Property. Given this finding, the Panel concludes that, pursuant to section 10(1)(c) of the Regulation, the Appellant's interest in the Property constituted his principal residence during the period of occupancy and was therefore exempt from asset consideration during that time. However, once the Appellant vacated the Property in or around the summer of 2019, it was reasonable for the Ministry consider the Appellant's ownership interest in the Property when evaluating ongoing eligibility for disability assistance.

Furthermore, the evidence includes the Assessment valuing the Property at \$2,545,000.00, with the Title confirming the Appellant's partial ownership and showing no registered charges. On this basis, the Panel finds that the Appellant's one-half equity interest in the Property is valued at approximately \$1,272,500.00 which aligns with the Ministry's assessment of the Appellant's interest in the Property. This figure significantly exceeds the \$100,000.00 asset exemption limit prescribed by section 10(2)(a) of the Regulation for a person with disabilities. Accordingly, the Panel finds that the Ministry was entitled to apply section 10(2)(a) of the Regulation and to determine that the Appellant's assets exceeded the applicable exemption limit, thereby affecting his eligibility for disability assistance.

(d) Calculation of Overpayment

The Appellant failed to report both the acquisition of the Property, his move into it in 2009, as well as his subsequent relocation to the Current Property in the summer of 2019. The Panel finds this failure contravened the Appellant's reporting obligations set out in section 11 of the *Act* and section 29 of the Regulation. The Appellant explained that he was unaware of these reporting requirements because his disability assistance application and finances were managed by his father and his lawyer. While the Panel acknowledges that the Appellant's circumstances may help explain his lack of knowledge, the legislation imposes a personal duty on the recipient to report any changes in their circumstances, and that obligation cannot be delegated.

In its Reconsideration Decision, the Ministry determined that the Appellant did not reside at the Property at any time between September 2009 and March 2024. However, during the hearing, the Appellant and his Brother provided consistent and credible testimony confirming that the Appellant moved out of the Property in the summer of 2019. Their evidence was not challenged and was delivered in a candid and sincere manner. The Panel accepts this testimony and finds that the Appellant resided at the Property from sometime in 2009 until sometime in 2019, contrary to the Ministry's original determination.

While the Panel is satisfied that the Appellant ceased residing at the Property in or around mid-2019, it is unable to determine an exact departure date due to the Appellant's inability to recall a specific month or day.

Given the foregoing, the Panel concludes that the Ministry was reasonable in determining that an Overpayment occurred, given the Appellant's non-compliance with the reporting requirements and residency in the Current Property. However, the Panel finds that the Ministry's calculation of the Overpayment is unreasonable based on the new evidence now before the Panel which confirms that the Appellant lived at the Property between 2009 and

2019. Accordingly, pursuant to section 10(1)(c) of the Regulation, the Appellant's ownership interest in the Property should have been exempted from asset consideration during that period.

As such, the Panel finds the Ministry's calculation of the Overpayment to be unreasonable application of the legislation given the available evidence.

(e) Repayment

Section 18 of the *Act* provides that any individual who receives disability assistance to which they were not entitled is required to repay the overpaid amount, regardless of whether the receipt of those funds was intentional or inadvertent. Additionally, section 19 of the *Act* authorizes the Ministry to recover such overpayments in court, or by deducting them from future assistance payments.

As outlined above, the Appellant is liable for repayment of the Overpayment once it is recalculated in accordance with section 10(1)(c) of the Regulation. Specifically, the Appellant's failure to report his move away from the Property constitutes a breach of his obligations under section 11 of the *Act*. The Panel finds that, upon vacating the Property, the Appellant no longer qualified for the exemption under section 10(1)(c) of the Regulation, and his continued ownership interest in the Property, valued at approximately \$1,272,500.00, exceeded the \$100,000.00 asset threshold set out in section 10(2)(a) of the Regulation. As a result, the Appellant became ineligible for disability assistance for the period following his relocation away from the Property.

While the Panel finds that the Appellant failed to fulfill his reporting obligations and thereby fell into non-compliance with the applicable legislation, the Panel also notes that there is no evidence to suggest that the Appellant acted with intent to deceive or defraud the Ministry. Rather, the evidence indicates that the Appellant, who is visually impaired, relied heavily on his father and his lawyer to manage his finances and assist with his disability assistance application. It is this reliance, in combination with the limitations imposed by his disability, that contributed to his failure to meet the reporting requirements.

Although the Panel is sympathetic to the Appellant's circumstances, inadvertent non-compliance does not exempt him from liability. In accordance with the legislation, the Appellant remains responsible for repaying the portion of disability assistance received during any period in which he was not eligible. That amount must be accurately recalculated

to reflect the exempt period of residence between 2009 and 2019, as determined earlier in this decision.

The Panel also notes that the Ministry has requested information about other assets owned by the Appellant during the time he was receiving disability assistance, and the Appellant has not responded to that request. The Panel wants to clarify that this decision relates only to whether there was an overpayment based on ownership of the Property. The Panel is not making any finding about the Ministry's ability to consider whether the Appellant owned other assets with values in excess of the allowable limits, that might have made him ineligible to receive disability assistance between 2009 and 2019 when he lived at the Property.

Conclusion

In conclusion, the Panel finds that the Ministry's determination that the Appellant is liable for an Overpayment constitutes a reasonable application of the governing legislation, given the Appellant's failure to report his change in circumstances as required. However, the Panel also finds that the Ministry's calculation of the Overpayment is unreasonable, as it fails to account for the exemption period during which the Appellant resided at the Property, as provided under section 10(1)(c) of the Regulation. Accordingly, the Panel determines that the Overpayment period, as currently calculated, extends beyond the timeframe in which the Appellant was ineligible for assistance.

As such, the Panel rescinds the Reconsideration Decision to the extent that it relates to the calculation of the Overpayment and directs the Ministry to recalculate the amount owing in accordance with the findings in this decision.

Legislation

Employment and Assistance for Persons with Disabilities Act, SBC 2002, c 41

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 confirmed by a signed statement 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, BC Reg 265/2002

Definitions

1 (1)In this regulation:

"asset" means

- (a) equity in any real or personal property that can be converted to cash,
- (b) a beneficial interest in real or personal property held in trust, or
- (c) cash assets;;

Asset limits

10 (1)The following assets are exempt for the purposes of subsection (2):

...

- (c)a family unit's place of residence;

...

(2)A family unit is not eligible for disability assistance if the family unit has assets with a total value of more than the following:

- (a)in the case of a family unit that includes one applicant or recipient who is designated as a person with disabilities, other than a family unit to which paragraph (b) applies, \$100 000;

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.

[en. B.C. Reg. 335/2007; am. B.C. Regs. 85/2012, Sch. 2, [s. 4](#); 332/2012, s. 1; 226/2014, s. 1; 151/2018, App. 2, [s. 9](#); 270/2019, App. 2, [s. 5](#); 268/2020, App. 2, [s. 2](#).]

Employment and Assistance Regulation, BC Reg 263/2002

Procedures

86 The practices and procedures of a panel include the following:

- (a) a party to an appeal may be represented by an agent;
- (b) the panel may hear an appeal in the absence of a party if the party was notified of the hearing;
- (c) the parties may call witnesses to give evidence before the panel;
- (d) a witness may not be present at the hearing before giving evidence unless the witness is
 - (i) an expert witness in the proceedings,
 - (ii) a party to the appeal, or
 - (iii) an agent representing a party to the appeal;
- (e) the chair of the tribunal may
 - (i) consolidate 2 or more appeals involving the same parties, and

(ii) direct that 2 or more appeals involving different parties will be heard together if the appeals involve substantially similar facts

only if

(iii) the appeals involve substantially similar facts, and

(iv) each of the parties to each of the appeals agrees to the appeals being consolidated or heard together.

(f) Repealed. [B.C. Reg. 98/2024, Sch. 1, s. 10.]

APPEAL NUMBER 2025-0124

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

Anil Agarwal

Signature of Chair

Date (Year/Month/Day)

2025/06/06

Print Name

Susan Ferguson

Signature of Member

Date (Year/Month/Day)

2025/06/06

Print Name

Emily Drown

Signature of Member

Date (Year/Month/Day)

2025/06/06