

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry's) Reconsideration Decision dated May 14, 2013 in which the ministry denied the appellant's request for a crisis supplement for shelter.

The reconsideration decision states that the ministry was satisfied that section 57(1)(b) of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR) was met as failure to maintain adequate housing will result in the removal of a child under the *Child, Family and Community Service Act* (CFCSA).

However, the ministry was not satisfied that the criteria set out in section 57(1)(a) of the EAPWDR was met in that the request for the crisis supplement for shelter was not an unexpected expense or was needed to obtain an item unexpectedly or that there were no resources available to the family unit.

## PART D – Relevant Legislation

*Employment and Assistance for Persons with Disabilities Act* (EAPWDA) section 5  
*Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR), section 57 and Schedule A

## PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision consisted of:

- 1) The appellant's Request for Reconsideration dated May 1, 2013 (RFR) stating that the appellant needs an extension of time to provide the reason for the RFR and that a submission will come soon;
- 2) Letter from the appellant's advocate dated May 3, 2013 (the RFR Letter) stating that the appellant and his wife encountered an unexpected expense when their daughter was removed from their home by the Ministry of Children and Families (MCFD) which resulted in their becoming ineligible for the Child Tax Benefit (CTB). The RFR Letter states that the ministry continued to pay the same amount for the shelter portion but there was a cut in support funds. The RFR Letter states that the discontinued CTB, reduced food/support funds and temporary removal of their daughter were unexpected. The RFR Letter also states that being denied the crisis supplement for shelter puts the family unit in imminent danger to physical health as both the appellant and his wife have various medical conditions and are on disability. It also states that shelter is an "...*utterly most essential part of survival for anyone, especially when it comes to people with severe health complications and vulnerable members of our society*". The RFR Letter states that the appellant has no other resources and it is unreasonable for the Ministry to deny the crisis supplement;
- 3) Letter from MCFD to the appellant's wife dated March 5, 2013 stating that she is not eligible for CTB as of June 1, 2013, that she should cancel her CTB so it is less likely that she will receive an overpayment, and that if she is overpaid the federal government will require her to repay the money and may deduct an overpayment from future benefits;
- 4) Letter from Goods and Services Tax (GST) Credit/BC Low Income Climate Action Tax Credit and BC HST Credit Notice to the appellant dated April 5, 2013 (the Notice) advising that as of March 8, 2013 the appellant's daughter will no longer be included in the GST/HSTC/BCCATC calculation as of April 2013, as she is no longer an eligible dependant. The Notice shows there will be a quarterly GST/HSTC credit for one child of \$34.25 and a BCCATC quarterly credit for one child of \$8.64; and
- 5) 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated February 11, 2012 indicating that the appellant had paid \$804 of his rent for February 1, 2013 but that rent of \$445 was still owing.

In his Notice of Appeal the appellant states that the sudden change to his income was unexpected causing additional unexpected costs, rent was one of them.

### *Admissibility of New Information*

At the hearing the appellant, his wife, and their advocate provided oral testimony regarding their circumstances and their need for the crisis supplement to pay the outstanding shelter costs. The appellant and his wife stated that they have a 10 year old special needs daughter and that in February 2013 the MCFD unexpectedly apprehended her from their home. The appellant testified that they had a meeting with MCFD two weeks before the apprehension at which time the appellant understood that MCFD was satisfied with the care of their daughter and the items in place to address her needs. The appellant states their daughter's apprehension was a shock, and that MCFD returned their daughter to their care in 65 days.

As a result of their daughter's apprehension, the appellant states that they did not receive the CTB of \$513 in April as they normally would and their GST on April 5, 2013 was \$220 instead of \$600. The appellant states that their rent is \$1,250 and the ministry pays approximately \$800-\$805 per month directly to the landlord, but they have to pay the remaining rent of \$445-\$450 per month which they do by using some of the other income they receive each month, whether that is the CTB, GST, or income from small odd jobs that the appellant occasionally finds. The appellant says that they have difficulty meeting their monthly financial needs but they are able to "*make it all work*", even though it "*doesn't look good on paper*". The appellant stated that the family

is very happy in their current home and they do not want to have to move again.

However, the appellant states that as a result of the decrease to their income after their daughter was unexpectedly apprehended they were not able to pay all of their rent and had to request a crisis supplement for the outstanding amount over and above the amount that the ministry pays directly to their landlord. The appellant states that MCFD made a mistake apprehending their daughter and as a result of that mistake, there was a significant change to their monthly income which has resulted in financial distress and unexpected inability to pay their rent. The appellant states that as it was the ministry's mistake they should provide the crisis supplement to fix their mistake. The appellant stated that they do not have any savings or credit card to "*be able to fix what was done*" and they need the crisis supplement for shelter to "*get back on their feet*".

The appellant states that his shelter portion of disability assistance was not reduced but his support portion was reduced by \$40.

The appellant's wife provided a letter from Canada Revenue Agency to her dated April 19, 2013 (CRA Letter) stating that there was an overpayment of \$512.96 that needed to be repaid because they had received CTB for which they were not eligible after their daughter was removed from their home. As the appellant's wife did not have an extra copy of this letter, it was not kept but the panel reviewed the CRA Letter and noted the information provided.

The advocate stated that when a family is already on a tight budget and living below the poverty line, any reduction to their income is difficult, but in this case with the decrease to the family's income and the inability to pay their outstanding rent and outstanding electricity bill, there is unnecessary hardship.

The ministry did not object to the new oral testimony or the information contained in the CRA Letter. The panel admits the appellant, the appellant's wife, and the advocate's oral testimony into evidence as well as the information in the CRA Letter as it is in support of the information and documentation before the ministry at the time of reconsideration, in accordance with section 22(4) of the EAA.

The appellant's advocate also provided a written submission dated June 17, 2013 (the Submission). The Submission states that the request for the crisis supplement was made on April 8, 2013 at which time the appellant's daughter had not yet been returned to the family home or put back on his disability file. The Submission asks why the EAPWDR section 57(4) provides for a shelter crisis supplement if the ministry argues that shelter is not an unexpected expense. As the Submission was argument and did not contain any new evidence the panel accepted this as a Submission.

The ministry relied on the reconsideration decision. The ministry representative confirmed that the criterion of EAPWDR section 57(1)(b) was met but that the ministry was not satisfied that EAPWDR section 57(1)(a) was met as rent is an ongoing monthly expense so it is not unexpected. The ministry representative also stated that the appellant was provided with his monthly shelter and support amounts, which were not reduced, the ministry is not satisfied that there are no alternate resources available. The ministry also stated that the temporary removal of their daughter did not result in any reduction to their CTB for February, March or April 2013.

In response to the Submission and the advocate's question about when the ministry would provide a crisis supplement for shelter, the ministry representative gave an example that if rent had been paid for one home and the family had to move unexpectedly for some reason such as a fire or flood, then the ministry would likely pay for rent at a second residence as that may be considered an unexpected expense. The ministry representative stated that this is just an example only.

## PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's decision to deny the appellant's crisis supplement for shelter costs on the basis that he did not meet the legislated criteria of EAPWDR section 57(1)(a) was reasonably supported by the evidence or was a reasonable application of the applicable legislation in the circumstances of the appellant.

The relevant sections of the legislation are as follows:

### **Crisis supplement**

#### **57 (1) The minister may provide a crisis supplement to or for a family unit that is eligible for disability assistance or hardship assistance if**

(a) the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed and is unable to meet the expense or obtain the item because there are no resources available to the family unit, and

(b) the minister considers that failure to meet the expense or obtain the item will result in

(i) imminent danger to the physical health of any person in the family unit, or

(ii) removal of a child under the *Child, Family and Community Service Act*.

(2) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.

(3) A crisis supplement may not be provided for the purpose of obtaining

(a) a supplement described in Schedule C, or

(b) any other health care goods or services.

(4) A crisis supplement provided for food, shelter or clothing is subject to the following limitations:

(a) if for food, the maximum amount that may be provided in a calendar month is \$20 for each person in the family unit,

(b) if for shelter, the maximum amount that may be provided in a calendar month is the smaller of

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

(ii) the maximum set out in section 4 of Schedule A or Table 2 of Schedule D, as applicable, for a family unit that matches the family unit, and

(c) if for clothing, the amount that may be provided must not exceed the smaller of

(i) \$100 for each person in the family unit in the 12 calendar month period preceding the date of application for the crisis supplement, and

(ii) \$400 for the family unit in the 12 calendar month period preceding the date of application for the crisis supplement.

(5) The cumulative amount of crisis supplements that may be provided to  
for a family unit in a year must not exceed the amount calculated under

or

subsection (6).

(6) In the calendar month in which the application or request for the supplement is made, the amount under subsection (5) is calculated by multiplying by 2 the maximum amount of disability assistance or hardship assistance that may be provided for the month under Schedule A or Schedule D to a family unit that matches the family unit.

(7) Despite subsection (4) (b) or (5) or both, a crisis supplement may be provided to or for a family unit for the following:

- (a) fuel for heating;
- (b) fuel for cooking meals;
- (c) water;
- (d) hydro.

(BC Reg. 13/2003)

Criterion #1: Whether the expense is unexpected or whether the request is required to obtain an item unexpectedly needed

The appellant's position, as set out in the RFR Letter and the Submission, states that the appellant's reduced support allowance and ineligibility/reduced CTB and BC family bonus resulting from their daughter's unexpected apprehension has caused the unexpected expense as without that monthly income they are unexpectedly unable to pay their rent.

The appellant's position is that EAPWDR section 57(4)(b)(i) and (ii) specifically provides that a crisis supplement may be provided to a family unit for shelter and that the ministry is being unreasonable in denying the appellant's request for a crisis supplement for shelter.

The ministry's position, as set out in the reconsideration decision, is that the information does not establish that there was an unexpected expense, as rent is an ongoing monthly expense and is not an unexpected expense or an item unexpectedly needed.

Although the ministry states that the appellant's income was not reduced and that the appellant continued to receive CTB after his daughter was removed from the family home, the panel accepts the appellant's evidence that he did not receive CTB as that evidence is supported by the CRA Letter dated April 19, 2013 stating that he has to repay the CTB received of \$512.96. The panel accepts the appellant's evidence that it was a shock when his daughter was apprehended and that the reduction to the family unit's monthly income created significant difficulties as the appellant and his wife typically juggled their monthly income from all sources to meet their monthly demands.

At the same time however, it is clear that the appellant's monthly rent is considerably higher than the shelter allowance provided by the ministry and while the appellant and his wife may use income from various sources to meet their monthly rental costs, the panel finds that as their rent is an ongoing monthly expense it is not an unexpected expense or an item unexpectedly needed.

The panel finds that the ministry's decision that the appellant's request for a crisis supplement for shelter was not required to meet an unexpected expense or obtain an item unexpectedly needed as required by EAPWDR section 57(1)(a) was reasonable.

Criterion #2: Whether resources available

The appellant's position is that although his shelter allowance was not reduced, his support allowance was reduced by \$40 and his CTB and GST were reduced. The appellant's position is that he has no other resources available to him to help pay for his outstanding shelter costs. The appellant states that as part of the rent has been paid directly from the ministry and the outstanding amount is \$447, the ministry should help him to pay the outstanding amount as it remains outstanding due to the unexpected removal of his daughter from the family home and the consequent unexpected reduction to the family income.

The ministry's position, as set out in the reconsideration decision, is that the appellant receives shelter and support funds every month and that neither was reduced. The reconsideration decision states that the minister acknowledges that the CTB was reduced while the appellant's daughter was out of his care, but since she has been placed back in his care, he has had his full support and shelter funds continuously available to him. The ministry's position is that as these resources were available, the minister is not satisfied that this criteria of EAPWDR section 57(1)(a) has been met.

The panel notes that in the reconsideration decision the ministry states that they acknowledge that the appellant's CTB was reduced while the appellant's daughter was out of the appellant's care but that at the hearing, the ministry representative stated that the appellant's file indicates that the appellant received the full CTB for February, March and April 2013. Based on the information in the CRA Letter, the panel finds that the appellant's CTB was reduced.

The panel also notes that while the appellant states that his monthly support was reduced by \$40 the ministry states that he was paid his full support even during the time that his daughter was removed from the family home. It is not entirely clear to the panel whether the appellant's support was reduced by \$40 or not and the panel is unable to resolve the difference in this evidence.

Although the appellant received his shelter allowance it is clear that his rent is considerably higher than the shelter allowance provided by disability assistance. Whether the appellant received all of his support allowance or his regular support less \$40, the panel finds that the appellant did not have any other alternate resources available to him to meet his shelter costs that were outstanding over and above the \$804 that the ministry had paid directly, so the panel finds that the ministry's decision that this criterion of EAPWDR section 57(1)(a) was not met was not reasonable.

Conclusion

The appellant must satisfy both of the criteria of EAPWDR section 57(1)(a) in order to qualify to the crisis supplement for shelter. However, as the panel finds that the ministry reasonably determined that the appellant did not require the crisis supplement to meet an unexpected expense or obtain an item unexpectedly needed, the panel finds that the ministry's decision to deny the appellant a crisis supplement for his shelter costs because he did not meet the criteria under section 57(1)(a) was reasonably supported by the evidence and a reasonable application of the legislation in the circumstances of the appellant. The panel thus confirms the ministry's decision.