

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the ministry) reconsideration decision of April 25, 2014 in which the ministry denied the appellant's request for a crisis allowance to pay the costs to replace his pressure tank and hot water heater because the ministry determined that the supplement was not needed to meet an unexpected expense or obtain an item unexpectedly needed as required under Section 57(1)(a) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

PART D – Relevant Legislation

Section 57, EAPWDR.

PART E – Summary of Facts

The information before the ministry at the time of reconsideration included

- The ministry's Reconsideration Decision of April 25, 2014 in which the ministry states:
 - the appellant has received disability assistance as a sole recipient since June, 2013. His file opened in 2011.
 - he receives \$946.42 disability assistance per month, which includes the maximum shelter rate and a diet supplement.
 - on March 17, 2014 the appellant requested a crisis supplement to replace his 19-year-old pressure tank and 24-year-old hot water heater that were no longer working.
 - the ministry acknowledged that the evidence shows the appellant does not have available resources to meet the expense of replacing the two tanks and that failure to meet this expense will result in imminent danger to the appellant's physical health.
- The appellant's Reason for Request for Reconsideration dated April 10, 2014, in which the appellant states he has been collecting disability for only 10 months. He states he has been disabled for 11 years, receives \$906 monthly, has no money in the bank, his well water is hard on tanks, and he did not know when they were going to break down. He states that he needs running water (both hot and cold) and it is not healthy to have no running water.
- The Decision To Be Reconsidered section of the Request for Reconsideration. In this section, completed by the ministry and dated April 14, 2014, the ministry notes that the appellant stated that he had a friend look at his pressure and hot water tanks and was advised they needed replacing. The ministry states that the appellant has no running water at his residence.

After the Reconsideration Decision that appellant provided a Notice of Appeal on May 4, 2014. In his Reasons For Appeal he states again that he needs both hot and cold running water, receives only \$906 monthly and has no money to replace the tanks. Further, he states that it is not reasonable to expect him to pay \$1,500 for the tanks when he receives only 906 per month, and he wishes he could work. Except for the reference to the cost of the tanks, the panel accepts the information in the Reasons For Appeal as argument from the appellant. The panel finds that the cost of the tanks is relevant to the appellant's ability to pay for items which the ministry determined were not unexpected. The panel finds the reference to the cost of the tanks is in support of the information and records that were before the minister when the decision being appealed was made; and therefore the panel finds that the information provided about the cost of the tanks in the appellant's Notice of Appeal is admissible as evidence in accordance with the Employment and Assistance Act (EAA), Section 22 (4).

At the hearing the appellant provided the following:

1. Two quotes for the appellant from plumbing firms to supply and install a 40-gallon hot water tank and an 86-gallon pressure tank. One quote dated May 28 is for \$1,400 not including gst. It states "[H]ot water tank and pressure tank are beyond repair and not working properly, both need replacing

immediately." The other quote is for \$1,445 plus \$72.25 gst (5 percent).

2. A computer record showing that the appellant makes regular use of a swimming facility where, as the appellant explained at the hearing, he takes showers he cannot take at home because he has no running water.
3. A 1-page budget for food, hydro, land taxes, telephone, transportation, physiotherapy and swimming which the appellant provided to show his monthly expenditures.
4. An undated "To Whom It May Concern" letter from a charitable organization stating that the appellant inquired on May 28, 2014 about assistance for a water issue in his home (system failure). The letter states that the organization "[C]an't make more applications to the Rent/Hydro assistance till first of month."

The panel finds that: 1. and 3. are relevant to the appellant's ability to pay for the items which the ministry determined were not unexpected; 2. provides background in regard to how the appellant is meeting his hygienic needs arising from not having the water tanks he requested; 4. is evidence of the appellant's attempts to obtain the water tanks. The panel finds submissions 1-4 to be in support of the information and records that were before the minister when the decision being appealed was made; and therefore the panel finds them admissible as evidence in accordance with Section 22 (4) of the EAA..

Also at the hearing the appellant provided further information about how he is coping without hot or cold running water. The appellant stated that he uses rainwater collected in a barrel to flush his toilet. A relative carries the water in for him from the deck. The appellant is unable to do so because of his disability. The same relative brings over water for drinking and other uses.

At the hearing the appellant stated that he has lived in his current house for 19 years and his problems with his water tanks began in January, 2014 and by March, 2014 his running water system shut down completely. The panel accepts these statements given at the hearing as oral testimony in support of the information and records that were before the ministry at the time of reconsideration in accordance with section 22(4) of the EAA.

At the hearing the ministry relied on its reconsideration decision and provided no new information.

At the hearing the appellant also stated that it was "not unexpected" that his 19-year-old pressure tank and 24-year-old water heater broke down after so many years of use but felt it was common sense to know that he would not be able to afford to pay for the replacements on his disability allowance. The panel accepts this information as argument from the appellant related to his appeal.

The panel also accepts as information a statement by the ministry at the hearing explaining that in addition to his disability amount, which includes a shelter allowance of \$375, the appellant receives \$40 a month as a diet supplement, for a total of \$946.42 monthly.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's decision to deny the appellant's request for a crisis allowance to pay the costs to replace his pressure tank and hot water heater was a reasonable application of the legislation in the circumstances of the appellant or was reasonably supported by the evidence. The ministry determined that the supplement was not needed to meet an unexpected expense or obtain an item unexpectedly needed as required under Section 57(1)(a), EAPWDR.

Employment and Assistance for Persons with Disabilities Regulation**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;

(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 or for a family unit in a year must not exceed the amount calculated under 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.

[am. B.C. Reg. 13/2003.]

With respect to Section 57(1)(a), (EAPWDR), the ministry's position is that pressure tanks and hot water tanks wear out over time, and home owners expect to need to replace them. The ministry notes that the appellant stated he was aware that well water was hard on the tanks. Hence, the ministry's position is that the replacement of the two tanks is not an unexpected expense, nor are the replacement tanks items unexpectedly needed. The appellant acknowledged at the hearing that the need to replace the tanks was not unexpected, but referred to his inability to afford new tanks, as well as his need for running hot and cold water. The appellant in his Reasons For Request for Reconsideration also stated that he did not know when his tanks were going to break down.

The evidence shows that the pressure tank was 19 years old and the hot water tank 24 years old when they broke down in March, 2014. The panel therefore finds to be reasonable the ministry's position that the replacement of the two tanks is not an unexpected expense, since such tanks can be expected to break down eventually through normal use. Regarding the appellant's statements that he cannot afford to replace the tanks and that he needs hot and cold running water in his house, the panel notes that the ministry in its reconsideration decision acknowledged that the appellant did not have available resources to meet his expenses to obtain the two replacement tanks and the ministry also acknowledged that failure to meet this expense will result in imminent danger to the appellant's physical health. The panel notes, however, that all three criteria of Section 57(1) of the EAPWDR

must be met, and as noted above the panel finds the ministry's determination to be reasonable that the crisis supplement was not required to meet an unexpected expense or obtain an item unexpectedly. The panel therefore finds to be reasonable the ministry's determination that under Section 57(1) of the EAPWDR the appellant is not eligible for a crisis allowance to pay for the costs to replace his pressure tank and hot water heater. The panel therefore confirms the ministry's decision.