

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the ministry) reconsideration decision of May 22, 2014 in which the ministry denied the appellant's request for a crisis supplement to pay the costs for electrical repairs and upgrades in her home, and to pay the hydro annual adjustment bill. The ministry determined that the appellant was not eligible for a crisis supplement in either case as she did not meet the requirements as per Section 57(1)(a) and 57(1)(b) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR):

- The supplement is needed to meet an unexpected expense or obtain an item unexpectedly needed (the ministry accepted that some of the electrical supplies were unexpected);
- The appellant is unable to meet the expense because there are no resources available; and
- Failure to meet the expense will result in imminent danger to the physical health of any person in the family unit or removal of a child under the Child, Family and Community Service Act.

The ministry also denied the appellant's request for an increase to her monthly shelter allowance as she currently receives the monthly maximum shelter allowance available for the family unit size as per Schedule A Sections 4(1) and 5(2)(f) of the EAPWDR.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDR) Section 5
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Section 57
Schedule A Section 4 and 5

PART E – Summary of Facts

The evidence before the minister at reconsideration included:

- Information from the ministry's records that the appellant is a single person with two dependents in receipt of Persons with Disabilities benefits;
- The appellant's combined monthly income is \$1899.66 and includes:
 - \$672.08 support, plus the maximum shelter rate of \$660.00 minus \$20 per month, totaling \$1312.08; and
 - \$587.58 for Canada Child Tax Benefit and National Child Benefit/BC Family Bonus.
- The appellant's shelter expenses include \$500 mortgage, \$91.42 taxes and \$130.00 utilities for a total of \$721.42 each month;
- The appellant's house was burned to the ground in August 2008.
- An invoice for electrical supplies dated December 17, 2009 totaling 606.62;
- An estimate for building supplies dated February 15, 2010 totaling \$878.35;
- A Hydro statement dated January 16, 2014 that shows a balance owing of \$301.54;
- Record of a conversation with the ministry on February 21, 2014 in which the appellant stated the temporary electrical permit expired at the end of December, 2013;
- A Certificate of Inspection dated December 10, 2013 from the BC Safety Authority which states that the property is in non-compliance and notes that permits had been issued in 2008 and 2011;
- A letter to the ministry dated February 21, 2014 in which the appellant requested a crisis grant and more monthly shelter allowance;
- A copy of a bank statement showing a balance of \$500.00 on February 28, 2014;
- A letter from the ministry to the appellant dated March 5, 2014 denying the request for a crisis supplement and increased shelter allowance;
- A Hydro statement dated March 17, 2014 that shows a balance owing of \$342,08 including an overdue charge of \$222.58 plus late payment charge of \$1.52;
- A disconnection notice from Hydro to the appellant dated March 28, 2014;
- The appellant's Request for Reconsideration dated May 12, 2014;
- A letter from the appellant's advocate dated May 12, 2014;
- A copy of the BC Safety Authority Fee Schedule: Electrical and Gas Homeowner;
- The ministry's Reconsideration Decision dated May 22, 2014.

In the Reasons for Appeal, the appellant states that "[she does] not believe the ministry's decision is correct, as [she] does not think that the evidence and facts were adequately considered."

Unexpected expense or item unexpectedly needed

At the hearing, the appellant addressed the ministry's decision with respect to expenses and items needed to upgrade the electrical in her home being unexpected. She stated that 'when a home burns it is unexpected, and when you have a disability and you can't work, you are stuck.' She stated that the loss of her home was unexpected, the increase in the cost of obtaining a permit and supplies to rebuild her home and bring it to compliance was unexpected, the recent change in laws regarding electrical components was unexpected and for the ministry to say that she is not eligible for a crisis supplement because nothing was unexpected is not reasonable.

The appellant gave an example to demonstrate how her expenses are unexpected by explaining how

she had to replace the breakers in her home including the increase in the cost of a permit from \$250 to \$400, and the change in the law regarding CSI electrical standards. While her expired permit was still active, she had purchased and installed used breakers that were CSI approved. She purchased used materials to save money. Under the new CSI standards, the breakers she installed no longer meet the CSI specification and have to be replaced. She now has to purchase three or four new breakers at a cost of \$199 each. The safety report requires her to complete the electrical work on her home by January 6, 2014 but an extension had been requested.

She also explained that although she had two permits in the past she was never the person who obtained them; it was always a contractor. It was not made clear to her that these permits were temporary or when they would expire; she did not realize her most recent permit was about to expire.

Regarding the annual hydro adjustment, the appellant stated that there is a lot of information on the bill and she is on disability, has no computer and finds hydro bills impossible to read. Regarding the overdue amount that has accumulated since January 2014, the appellant stated that as of January the amount due each month increased to \$118 and the ministry pays only \$100 per month. She acknowledged that she did know in January that she was using more hydro than was being paid each month.

When asked if she had spoken with Hydro about the bill, the appellant replied that she has not communicated with them since October. She stated that she has had to contact an Ombudsperson about her dealings with Hydro since they illegally installed a smart meter on her property. She further stated that she believes the meter is not working and that Hydro may be charging her a commercial rate for her power.

When asked about the status of the disconnect notice from Hydro, the appellant and advocate replied that they have notified Hydro that they are going through this appeal process in an attempt to obtain monies to cover the overdue amount.

The appellant's advocate relied on the information in the appeal package. She reinforced the fact the house fire and all the events as listed by the appellant, and the circumstances of the annual hydro adjustment demonstrate that the appellant meets the eligibility criteria under 57(1)(a) because they were unexpected.

No resources available

At the hearing the appellant explained that she was able to remortgage her home in December which resulted in a better interest rate, and that her friends and the community have been supportive since the loss of their home by helping out with a temporary residence and donations of needed personal items and supplies. One significant donation she received was a metal roof from a barn, which saved her between \$3000 and \$5000. However, she "can't rely on the community for everything". She needs money to complete the work on her home and bring it to standard; she does not have that money.

She listed her monthly expenses to include: mortgage - \$500; propane - \$30; water - \$10; firewood - \$50- \$100; insurance - \$100; a debt to pay for shingles - \$50 plus gas for her car and food for her and her family. The appellant explained that she has been able to complete much of the work required to

bring her house to being compliant. When asked what she needs right now, the appellant replied that she needs \$400 for a new permit and help with the breakers, two outside lights and a waterproof plug-in for outside.

The appellant stated that the ministry has copies of bank statements to show that there is no money in her bank account; however, such statements are not part of the appeal records and the appellant did not provide any supporting documentation at the hearing. She also stated that she has attempted to provide the ministry with her financial information but in some cases, the ministry has lost the documentation and she has also had difficulty trying to fax copies to the ministry because she was given the wrong fax number and her documents arrived at a medical office instead.

Imminent danger to physical health or removal of a child

At the hearing, the appellant stated that living in a home that is not in compliance with safety regulations and does not qualify for a residency permit presents a situation of imminent danger to her and her dependants. Some of the rooms are only roughed in and electrical wires are exposed; "you can't hang anything on them like an umbrella or cut them". Exposed wiring in walls could be cut. Breakers need to be arc resistant; if she purchases a second hand lamp, plugs it in and it shorts, the current breaker will not blow which may result in a fire.

The appellant was asked about the Safety Authority inspection report which states that "the status of your service remains as temporary construction status" and does not mention a health or safety hazard, the appellant stated that she has not been told that it is dangerous to live in the house and although nothing has happened since 2011 when they moved in, but she stated that she thinks it is dangerous.

The advocate supported the appellant's testimony with respect to the risk of electrical wiring being exposed and not in compliance.

Regarding the risk of having hydro disconnected for nonpayment, the appellant testified that there is further risk to the well-being of her family because her dependent children will not have light they need to complete their school homework.

She also stated that their only source of heat now is a wood stove; they need to install baseboard heaters. But, she cannot do anything more until she obtains a permit.

The ministry did not object to the evidence provided by the appellant. The ministry relied on its reconsideration decision summary as its submission and did not introduce any new evidence.

The ministry acknowledged that many of the appellant's expenses seem to be unexpected, as was stated in the reconsideration decision. The ministry also noted that the records do not contain information to demonstrate there are no resources available, explained that the appellant has not given documented evidence to show that the house is unsafe, and restated that the monthly shelter allowance that the appellant receives is the maximum allowed for a family unit of her size.

The panel admitted the appellant's additional oral testimony into evidence as it was evidence in

support of the documentation before the ministry at the time of reconsideration and in accordance with Section 22(4) of the EAA.

The panel asked the ministry to clarify its intention regarding the legislation referred to in the reconsideration decision with respect to the monthly shelter allowance. The decision states that "In addition as you already receive the monthly maximum shelter allowance available for your family unit size, the costs for repairs cannot be added onto your monthly shelter allowance as per Schedule A Section 5(1)(f)." The ministry clarified that the legislation referred to should have been Section 5(2)(f).

The panel makes the following findings of fact:

- The appellant receives Persons with Disabilities benefits that include \$672.08 support plus the maximum shelter rate of \$660.00 minus \$20 per month totaling \$1312.08; and \$587.58 for Canada Child Tax Benefit and National Child Benefit/BC Family Bonus, for a total monthly income of \$1899.66.
- The appellant's monthly expenses for shelter and utilities total \$721.42 ;
- The appellant's home has been under construction since it burned in 2008;
- Building permits were issued in 2008 and 2011, and have both expired;
- In order to bring the residence to BC Safety Authority compliance, the appellant requires a building permit and supplies totaling approximately \$1000.00;
- The appellant received a Hydro statement that included an annual adjustment of \$167.97;
- Hydro has threatened to disconnect her power unless she pays an outstanding amount of \$228.56

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 supplement :

- to pay the costs upgrading and improving the electrical service in her home,
- to pay the annual adjustment on her hydro bill,

and to deny additional shelter allowance 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 appellant was not eligible as she did not meet the requirements as per Section 57(1)(a) and 57(1)(b) and Schedule A Section 4 and 5 of the EAPWDR.

The relevant legislation provides:

Employment and Assistance for Persons with Disabilities Act

Disability and assistance supplements

5 Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

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, 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 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.
- (BC Reg. 13/2003)

SCHEDULE A Disability Assistance Rates(Section 24 (a))

Monthly shelter allowance

4 (1) For the purposes of this Section:

"family unit" includes a child who is not a dependent child and who resides in the parent's place of residence for not less than 40% of each month, under the terms of an order or an agreement referred to in Section 1 (2) of this regulation;

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

(B.C. Reg. 73/2010)

(2) The monthly shelter allowance for a family unit to which Section 14.2 of the Act does not apply is the smaller of

(B.C. Reg. 73/2010)

(a) the family unit's actual shelter costs, and

(b) the maximum set out in the following table for the applicable family size:

Table

Item	Column 1 Family Unit Size	Column 2 Maximum Monthly Shelter
1	1 person	\$375
2	2 persons	\$570
3	3 persons	\$660
4	4 persons	\$700
5	5 persons	\$750
6	6 persons	\$785
7	7 persons	\$820
8	8 persons	\$855
9	9 persons	\$890
10	10 persons	\$925

(B.C. Reg. 58/2007)

How actual shelter costs are calculated

5 (1) For the purpose of this Section, utility costs for a family unit's place of residence include only the following costs:

- (a) fuel for heating;
- (b) fuel for cooking meals;
- (c) water;
- (d) hydro;
- (e) garbage disposal provided by a company on a regular weekly or biweekly basis;
- (f) rental of one basic residential single-line telephone.

(2) When calculating the actual monthly shelter costs of a family unit, only the following items are included:

- (a) rent for the family unit's place of residence;

- (b) mortgage payments on the family unit's place of residence, if owned by a person in the family unit;
 - (c) a house insurance premium for the family unit's place of residence if owned by a person in the family unit;
 - (d) property taxes for the family unit's place of residence if owned by a person in the family unit;
 - (e) utility costs;
 - (f) the actual cost of maintenance and repairs for the family unit's place of residence if owned by a person in the family unit and if these costs have received the minister's prior approval.
- (3) If utility costs fluctuate, they may be averaged over the periods
- (a) beginning on October 1 and ending on March 31, and
 - (b) beginning on April 1 and ending on September 30.
- (4) If 2 or more family units share the same place of residence, the actual shelter costs of any one of them are the smaller of
- (a) the amount calculated by
 - (i) dividing the actual shelter costs for all the family units by the number of persons occupying that place of residence, and
 - (ii) multiplying the result by the number of persons in that one family unit, and
 - (b) the amount declared by the family unit as the shelter costs for that family unit.

Appellant's Position

The appellant's position is that her house burning to the ground was unexpected. The increase in the cost of obtaining a permit – from \$250 to \$400 – which means she will have to pay an additional \$150 and the increase in the cost of obtaining supplies that will comply with the new laws are all unexpected, as was the annual adjustment to her hydro bill.

The appellant stated that she does not have savings; she has no money to pay for needed electrical upgrades or the annual hydro upgrade.

She further stated that she believes she and her dependent children are at risk of imminent danger because of the non-compliant wiring, and the fact that hydro is threatening to cut off their power.

Ministry's Position

The ministry's position is that the appellant did not meet the three requirements for a crisis supplement pursuant to subsection 57(1) of the EAPWDR.

Unexpected expense or item unexpectedly needed, 57(1)(a):

The ministry accepts that the additional costs of supplies for upgrading the electrical in the appellant's home may be an unexpected expense but the requirement to pay for another permit is not

unexpected as the former permit expired in December, 2013.

Regarding the annual adjustment fee from Hydro, the ministry's position is that this was not an unexpected expense. The appellant was required to pay an equal amount each month; however the actual usage per month was included in her statements and therefore she would be aware that the cost of her actual monthly usage was higher than the amount she was paying.

No resources available, paragraph 57(1)(a):

The minister was not satisfied that the appellant does not have the resources to purchase the required items as she did not provide any evidence to confirm that she does not have savings, or that she has exhausted assistance of all community resources, government grants and friends or family.

Imminent danger to physical health or removal of a child, 57(1)(b)(i)(ii):

The minister was not satisfied that failure to provide the appellant with a supplement will result in imminent danger to the appellant or any person in the family unit, or removal of a child. The appellant did not provide any information to indicate that the home is unsafe.

Monthly shelter allowance, Schedule A, Section 4(2)(a) and 4(2)(b), and 5(2)(f):

The appellant currently receives the monthly maximum shelter allowance available for a family unit of three persons and therefore the costs for maintenance cannot be added to the monthly shelter allowance.

Panel Decision

The panel notes the ministry's information that the appellant is eligible for disability assistance and therefore meets that requirement in Section 57(1) of the EAPWDR.

Unexpected expense or item unexpectedly needed, 57(1)(a):

The panel finds that the ministry reasonably determined that the cost of upgrading the electrical in the appellant's home may be an unexpected expense including the increase in the cost of the permit. However, the requirement to pay for another permit is not unexpected as the former permit expired in December, 2013.

Regarding the annual adjustment fee from Hydro, the panel finds that this was not an unexpected expense. The appellant acknowledged that she was aware that the cost of her actual monthly usage was higher than the amount she was paying. Further, the appellant has been on an equalized monthly payment plan and the usage details are itemized on each statement so she would be aware of when she was using more power than she was billed each month.

Based on the evidence, the panel finds that the ministry was reasonable in determining that the appellant did not meet the unexpected need criterion as required in Section 57(1)(a).

No resources available, paragraph 57(1)(a):

The panel finds that the ministry reasonably determined that the appellant did not meet the lack of resources criterion pursuant to Section 58(1)(a). While the panel acknowledges that the appellant has been faced with numerous expenses as a result of the having to rebuild her home after it was burned to the ground, the panel notes that there are no financial statements to show that she does not have savings nor is there evidence to show that she has exhausted her access to community and other resources.

Imminent danger to physical health or removal of a child, 57(1)(b)(i)(ii):

Finally, on the issue of imminent danger, for a situation to be defined as being one where there is imminent danger to an individual or family unit, there must be a clear risk to health. The panel finds that there is no evidence to show that there would be imminent danger to the appellant and her family living in her house when it is not compliant and there is no permit in place. There is no mention of a health or safety concern in the Safety Authority inspection report.

The panel finds that the ministry reasonably determined that the appellant does not meet the criterion for the crisis supplement under clause 57(1)(b)(i)(ii).

Monthly shelter allowance, Schedule A, Section 4(2)(a) and 4(2)(b), and 5(2)(f):

The panel finds that the ministry reasonably determined that the appellant is not eligible for an increase to her monthly shelter allowance as she is currently receiving the maximum amount as per Schedule A, sections 4 and 5.

Therefore the panel finds the ministry's decision is a reasonable application of the applicable enactment in the circumstances of the appellant and thus confirms the decision.