

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the ministry) dated 04 June 2015 that denied the appellant's request for a crisis supplement to purchase food. The ministry determined that the appellant's request did not meet all the required criteria set out in section 59(1) of the Employment and Assistance Regulation. Specifically, the ministry determined that the need to purchase food is not an unexpected expense, and that the information provided did not establish that there are no resources available to meet the expense and that failure to meet the expense will result in imminent danger to the physical health of anyone in the appellant's family unit.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), section 59.

PART E – Summary of Facts

The evidence before the ministry at reconsideration consisted of the following:

1. From the ministry's files, as set out in the ministry section of the appellant's Request for Reconsideration and in the reconsideration decision:
 - The appellant is a recipient of income assistance as a single employable person with one dependent child. Her monthly assistance is \$1025.58 (\$570.00 shelter, \$375.58 support, \$80.00 diet supplement, less \$20.00 repayment)
 - The appellant's monthly shelter costs are \$935.00. She was required to move from her previous residence as the building was being demolished and she moved to her current residence in the same city in May 2015.
 - The ministry issued a crisis supplement to the appellant to purchase food in February, March, April and May 2015. The May crisis supplement was to purchase food, with the appellant stating that she had to have repairs done to her vehicle. At that time, the ministry cautioned her about establishing a pattern of reliance on crisis supplements.
 - On 02 June 2015 the appellant contacted the ministry to request a crisis supplement for food. She stated that she had moved for May 2015 and had run short of funds for food due to her high rent as well as needing to pay her telecommunications bill. She reported that she had accessed the food bank, but that she has limited options due to the special diet that she requires. She indicated that she has no family or friends who can provide assistance.
2. The appellant's Request for Reconsideration dated 3 June 2015. Under reasons, the appellant cites need for three trips and travel expenses from her city to another regarding a rental tenancy issue and the need to file forms and pick up forms and to address an error in one of the forms. She indicates that these were an unexpected expense, as the trips were mandatory and have a bearing on her quality of life. She notes that her rent is \$900 and they receive assistance of only \$1025.58, with the \$20 repayment. The cost of gas was approximately \$40.

The appellant attached to her Request for Reconsideration a Notice of Dispute Resolution Hearing from the BC Residential Tenancy Branch (RTB) dated 29 May 2015 for a teleconference hearing set for 16 July 2015, concerning the premises on the upper level of her address, with the "upper" circled and "basement" inserted by hand. Also attached are a copy of a Service BC transaction slip issued in another city dated 26 May 2015 showing a RTB fee waiver and a copy of a money order dated 01 June 2015 payable to the appellant's landlord for \$900 for June 2015 rent.

The appellant's Notice of Appeal is dated 08 June 2015. Under Reasons for Appeal, the appellant writes:

"(59) IA Unexpected expense – hardship We need \$ money for food as requested – exhausted all other resources. Our unexpected expense was the Residential Tenancy Branch – in our first month in our new home three trips to [another city] – see attached [referring to the attachments to her Request for Reconsideration.]"

At the hearing, the appellant, in her presentation and in answer to questions, provided the following information:

- The father of her child pays her monthly child support of \$875. This amount is currently clawed back by the ministry from her monthly assistance.
- She was in the process of moving to a new residence. She has not asked the ministry for moving expenses, as her church group is helping her with the move.
- She described her medical condition and that of her child, noting that this information was in a medical report she had earlier provided the ministry. As a result of these medical conditions, both she and her child require a high protein diet and her child also requires a sugar and gluten-free diet.
- She has tried to access community resources for food, though that available from the food bank is not always suitable for her and her child, as the food bank does not carry much in the way of high protein and sugar and gluten-free foods. She was also told that she would not be able to obtain another hamper from the food bank until near the end the current month.
- She stated that almost as soon as she moved into her (now previous) residence in May 2015, she began having difficulties with her landlord and as a result initiated RTB action and began to look for a new place to live. Her RTB action required her to drive to another city 3 times to pick up and file forms and correct an error in one of forms. The round-trip distance is approximately 70 km. She did not keep receipts for the fuel needed for these trips, but the fuel costs were a significant amount to her.
- She explained that the nature of her dispute with the landlord arose because of his harassing and stalking behavior, including stalking her child at school. As a result, she has filed police reports and the police are investigating the landlord for sexual assault. She acknowledged that she did not advise the ministry of the nature of her dispute with the landlord.

The balance of the appellant's presentation at the hearing went to argument (see Part F, Reasons for Panel Decision, below).

The ministry stood by its position at reconsideration. (See also Part F, Reasons for Panel Decision, below.)

Admissibility of new information

The ministry did not object to the admissibility of the appellant's testimony regarding the nature of her dispute with the landlord. The panel finds that this new information, as it does not corroborate or substantiate anything before the ministry at reconsideration, is not in support of information before the ministry when it made its decision and is therefore not admissible.

The panel finds that the balance of the information provided by the appellant in her Notice of Appeal and in her testimony at the hearing are in support of the information as it tends to corroborate information available to the ministry at reconsideration, including that set out in the appellant's Request for Reconsideration. The panel therefore admits this information as evidence in accordance with Section 22(4) of the *Employment and Assistance Act*.

Findings of fact

Taking into account the Service BC transaction slip issued in the other city and the copy of the RTB form containing an error, the panel finds as fact that the appellant drove 3 times to the other city, a round trip of 70 km., thereby incurring significant fuel costs.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's decision to deny the appellant's request for a crisis supplement to purchase food was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant. More specifically the issue is whether the ministry was reasonable in determining that the appellant's request did not meet all the required criteria set out in section 59(1) of the EAR, and in particular that the need to purchase food is not an unexpected expense, and that the information provided did not establish that there are no resources available to meet the expense and that failure to meet the expense will result in imminent danger to the physical health of anyone in the appellant's family unit.

The applicable legislation is from the EAR:

Crisis supplement

- 59 (1) The minister may provide a crisis supplement to or for a family unit that is eligible for income 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.
- (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,
- (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 income 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.

The position of the ministry, as set out in the reconsideration decision, is that, as a review of the information provided has determined that the appellant's request does not meet all of the three of the required eligibility criteria, approval of a crisis supplement cannot be granted. Specifically:

- In terms of whether the need for the item or expense is unexpected, the ministry position is that the need to purchase food is not unexpected. Section 59(1) of the EAR describes "unexpected" in the context of an "unexpected expense or an item unexpectedly needed." It does not describe an unexpected event in an individual's personal life such as an increase in rent or travel expenses that in and of itself resulted in an expected expense. Whether the appellant was moving or not, she was aware of the need to purchase food.
- Regarding "imminent danger to physical health," the ministry determined that there is

insufficient evidence to support the probability of immediacy that failure to obtain food at this time will place the appellant's health in imminent danger.

- As to alternate resources available to obtain the item or meet the expense, the ministry held that the appellant's support allowances are intended to be used for day to day items such as food and that there is no evidence there is a lack of resources available in her support allowances to budget for food. The ministry notes that the appellant has chosen to rent accommodation where the amount of the rent far exceeds her shelter allowance.

At the hearing, the ministry gave the following examples of when the need to purchase food met the "unexpected" criterion: cases as theft of food or spoilage due to power failure. However the ministry stated that sometimes a crisis supplement would be provided to purchase food under other circumstances, such as when a client had an unexpected need to buy non-prescription medications not covered by the Medical Services Plan.

The position of the appellant is that the amount she is requesting – \$40 – is trivial compared to the thousands of dollars of child support that that is rightfully hers and her child's and that the ministry has deducted from her monthly assistance. She has received only \$160 in crisis supplement so far this year, and her request is well within her annual entitlement for crisis supplements under the legislation. She argued that the travel to the other city to attend the RTB office was necessary for her and her child's well-being and by its very nature was unexpected. The cost for fuel for these trips represented a significant portion of what she has available to purchase food. Because of her medical conditions, known to the ministry, both she and her child require a high protein diet and the child also needs sugar and gluten-free foods. She has tried to access community resources, but her next hamper from the food bank was not available until near the end of the month, and in any event food bank products are not entirely suitable for their diets. Without funds to purchase food suitable to their diets, her family's health was at risk. For these reasons, she submits that her request met the criteria for a crisis supplement and that the ministry was unreasonable in denying the request.

Panel decision

Section 59(1) of the EAR reads: "The minister may provide a crisis supplement to or for a family unit that is eligible for income assistance ... if (a) 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.." The panel interprets this section to mean that the unexpected expense/item unexpectedly needed must be for the same expense/item for which the supplement is requested and against which the "no resources available" and "imminent danger to physical health" criteria are applied. In this appeal, the unexpected expense is the cost of fuel for the trips to the other city to attend the RTB office, while the purpose of the requested supplement, against which the other criteria are applied, is for the purchase of food.

It appears to the panel that sometimes the ministry will provide a crisis supplement under this legislation in circumstances where the unexpected expense/item unexpectedly needed differs from the purpose of the supplement provided. For example, the appellant was issued a crisis supplement to purchase food in May 2015 as a result of requiring repairs to her vehicle and at the hearing the ministry cited an example of a crisis supplement being provided to purchase food because the client had an unexpected expense of non-prescription medications. While these examples demonstrate some flexibility by the ministry in the interpretation and application of the legislation, the panel must rely on the legislation as it is written.

While the panel found that the appellant incurred an unexpected expense attending the RTB office in the other city 3 times, her crisis supplement request was for the purpose of purchasing food. As there is no argument or evidence that the need to purchase food is unexpected (i.e. there is no evidence of any theft or spoilage or new dietary requirements), the panel finds that the ministry was reasonable in determining that, in the context of the legislation, the “unexpected expense/item unexpectedly needed” criterion has not been met.

Regarding the “no resources available” criterion, the purpose of the requested supplement is to purchase food. While the appellant’s budget was strained by rent far in excess of her monthly shelter allowance and she incurred unexpected expenses by attending the RTB office 3 times, according to the legislation this criterion must be applied against the purpose for which the supplement is requested, the purchase of food. The appellant is provided a monthly support allowance and a dietary supplement for this purpose, with no argument or evidence that this amount is inadequate. Accordingly, the panel finds that the ministry was reasonable in determining that this criterion has not been met.

As to the “imminent danger to physical health” criterion, while it may appear as “a given” that the shortage of food would pose a risk to the physical health of the appellant and her child, no information has been provided on the stock of food or financial resources on hand at the time of application for the supplement and how soon and to what extent without additional supplies physical health would be adversely affected – information that would establish how imminent was the risk. Without such information, the panel therefore finds that the ministry was reasonable in determining that it had not been established that this criterion has been met.

Conclusion

Based on the foregoing, the panel finds that the ministry’s decision to deny the appellant's request for a crisis supplement for food is reasonably supported by the evidence and is a reasonable application of the legislation in the circumstances of the appellant. The panel therefore confirms the ministry's decision.