

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of July 28th, 2015 wherein the ministry denied the appellant a crisis supplement for home repairs to her kitchen sink and bathroom at a cost of \$528 because the appellant did not meet all the criteria set out in section 57(1) Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

Further, since the ministry deemed the repair(s) an emergency she is entitled to an additional \$6.32 in shelter allowance in accordance with Schedule A, section 5(2)(f) EAPWDR because she had not received the maximum monthly shelter allowance of \$375.00 as set out under Schedule A, section 4(2) EAPWDR;

PART D – Relevant Legislation

EAPWDR – section 57, Schedule A section 4 and 5;

PART E – Summary of Facts

The ministry did not attend although the ministry had received permission from the Tribunal chair to attend by teleconference. As the panel was satisfied that the ministry was notified of the date and time of the hearing, the hearing proceeded under section 86(b) Employment and Assistance Regulation.

The evidence before the ministry at the time of reconsideration:

- A note from appellant to the ministry dated June 10, 2015 with a repair invoice in appellant's name dated June 3, 2015 in the amount of \$528 re: leak under sink attached;
- In the above note the appellant states two major repairs were done to prevent flooding esp. (especially) in bathroom where worn faucet assembly came apart;
- And, that she used best plumber who was a referral & known for work where appellant is volunteer;
- The appellant asserted that she has never received full shelter allowance for many years; that she has kept track of this and the amount of shelter allowance withheld to date is \$2,738.27;
- An invoice from same company as above dated June 22, 2015 with the same details except on this invoice it states, "For emergency call out regarding sever (severe) leak under sink;
- Request for Reconsideration dated July 15, 2015.

The appellant is a single recipient of disability assistance and receives \$1,040.00 total monthly support; shelter, diet and community volunteer supplement. Her shelter costs are listed as \$368.68. In July 2015 the appellant also received a GST federal tax credit of approximately \$120.00. On June 10, 2015 the ministry received a letter from the appellant with a copy of a repair invoice attached requesting a crisis supplement to pay for the plumbing repairs. The repair invoice, which was in the appellant's name and dated June 3, 2015, was for materials and labor for kitchen sink and bathroom repairs. The invoice listed the costs for materials that included toilet ball chalk assembly, tub plug and shower head assembly. On June 19, 2015 the ministry worker (Employment Assistance Worker – [EAW]) contacted the appellant and was told the repairs were an emergency and she was unable to seek prior approval for the expense. The appellant gave the EAW permission to speak with the contractor who did the repair. The EAW called the contractor and left a message but the call was not returned. On June 22, 2015 another copy of the repair invoice was received by the ministry by fax except this copy stated "For emergency call out regarding sever (severe) leak under sink" being added and "leak under sink" being removed.

On the Request for Reconsideration the appellant stated that:

- Kitchen sink has a leak and a smell is emitting from underneath the sink, ants showing up, mould concern, and aggravating medical condition by having to haul bucket to empty leaked water;
- There was a leak in her tub/shower that resulted in the turn on/off knob breaking off and threatening to flood her bathroom;
- She was without bathing facilities and her mobility depends on the shower massage, hygiene is important for other disability;
- These repairs were important in order to maintain health;
- The EAW is aware that local contractors who will work for assistance recipients are scarce, so when she had the name of a local contractor who was recommended by a local agency she was told to "just bring in the bill";
- The ministry has honored recommendations of a community member that used to work where she volunteers;
- The contractor and secretary state they did speak to EAW and subsequently sent in the second invoice clarifying the work that was done;
- For health reasons the appellant expects the ministry to pay the bill.

On the Notice of Appeal the appellant stated the following:

- The ministry failed to consider normal expenses of everyday living = at least \$669.66/month;
- The ministry says \$671.42 is left after shelter costs (\$368.68) are deducted from total income of

- \$1040.10 and the appellant states she is “Just breaking even”;
- The GST rebate this year was \$105.35 & ear marked to replace 18 yr. old winter footwear & eye exam + (and) change corrective lenses not covered by government;
- No info provided showing No other resources: can’t prove negative;
- She had to use Visa for new tires this year, old car old tires.
- The appellant needs at least \$400 to cover eye exam and lenses and possibly more if she needs new frames, that the government pays less than ½ costs eye health;
- The appellant has no funds for payment arrangements with contractor.
- The appellant has no “other resources” or “savings”.
- The appellant has no silver or gold fillings, all amalgams.

The panel finds the appellant’s comments on the amount she received as a GST rebate, her monthly household expenses and how she plans to spend the money she receives provides support to her position and add clarity to the reconsideration officer’s reference to the amount of the GST rebate. Therefore, the panel finds that the information is in support of the information and record that was before the ministry at the time of the Reconsideration decision and is admissible under section 22(4) Employment and Assistance Act (EAA).

On August 13, 2015 the appellant provided a one page submission which stated:

- The ministry withholds \$530.00 each month in employment-related pension earnings because she is on disability;
- If she was able to return to work she would have a \$9600 annual earnings exemption;
- If she received the \$530.00 monthly that is withheld this could pay for household maintenance repairs, new winter boots, eye exam and eye lenses and frames, little things that maintain quality of life;
- The appellant receives \$100 a month as a community volunteer supplement of the total disability income assistance of \$1040/month and she relies on her eyesight and, in fact, if she is unable to perform her duties due to eye strain or poor eyesight because she needs to change her eye glass lenses then she will not receive the supplement and her monthly disability assistance will be reduced;

The one page submission letter provides additional information on the appellant’s financial situation regarding the resources available to her to pay for her household repairs and the panel finds this is information that is in support of the information and record that was before the ministry at the time of the reconsideration decision and is admissible under section 22(4) EAA.

At the hearing the appellant stated that she noticed the leak in her kitchen sink last Christmas (December 2014) and so she put a bucket under the drain to catch the drip. When the leak was repaired (May 2015) she was told that the leak must have started about May 2014 and that the leak was from around the seal between the sink and the sink drain. The plumber told the appellant that when the previous work was done the wrong drain seal was installed and when the seal failed it caused the drip (leak). The appellant testified that Christmas was not the time to be calling a plumber or contacting the ministry for assistance. The appellant stated that she first noticed a drip of water from the shower head last summer (2014) and so she would turn the on/off valve off harder but eventually she couldn’t stop the drip of water from the tub faucet. The appellant stated that finally she turned the shut off handle too hard and the handle broken off in her hand so she had no choice but to contact a plumber. When the plumber repaired the shower by installing a new on/off valve she was told that she was fortunate that she didn’t have the water escape from the value and flood her bathroom and home. The appellant testified that the water would have caused considerable damage because she would have to turn the water off at the street because she can’t access the other shut off value in her crawl space. The appellant stated that the unexpected part to this scenario was that she didn’t anticipate the handle coming off in her hand. The appellant stated that she relies on her daily shower massage to provide her relief from dislocated discs, fibromyalgia and arthritis and without the daily massage she would be in pain. She also stated that she does not have any disposable income, does not have any savings and is on gluten free diet so all the money she receives is accounted for up to the penny. She stated that she sent in her monthly expenses

to the ministry and that her monthly expenses and the ministry's monthly support allowance are within a few dollars of one another. She stated that she intended to spend the GST rebate she received on replacing her 18year old winter boots and paying her cost for an eye exam because the ministry only pays \$45 towards the eye exam and \$179 towards replacing frames and lenses, if needed.

The panel finds the appellant's testimony regarding the plumbing repair and therefore her financial situation does provide additional corroborating information and clarity to the matter under appeal and therefore, supports the information and record that was before the ministry at the time of the reconsideration decision. Therefore, the panel finds the appellant's testimony is admissible as evidence under section 22(4) EAA.

The ministry relied on the facts as stated in the reconsideration decision.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry’s reconsideration decision of July 28th, 2015 wherein the ministry denied the appellant a crisis supplement for home repairs to her kitchen sink and bathroom at a cost of \$528.00 because the appellant did not meet all the criteria set out in section 57(1) EAPWDR and, that the appellant is eligible to an additional shelter allowance for the repairs up to the maximum monthly shelter allowance as set out in Schedule A, section 5(2)(f) EAPWDR.

The legislation considered: **EAPWDR**

Crisis supplement

Section 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*.

Monthly shelter allowance – Schedule A

Section 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	Family Unit Composition		maximum monthly shelter
1	1 person		\$375

How actual shelter costs are calculated - Schedule A

Section 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.**

Unexpected Expense:

The ministry's position is that maintenance and repairs are not considered an unexpected expense and plumbing fixtures wear over time and need to be repaired or replaced. In the reconsideration decision the ministry argued the appellant was aware that the bathroom faucet was worn when it broke off and she was aware the kitchen faucet was leaking because she had been hauling a bucket of leaked water from under the kitchen sink. The ministry therefore determined that the appellant did not have an unexpected expense for plumbing repairs and was not eligible for a crisis supplement under section 57 of the EAPWDR.

The appellant's position is these repairs were necessary so could maintain her basic health and it was difficult to find a contractor who would work for someone on assistance. The appellant stated her kitchen sink had a leak and so she put a bucket under the sink to catch the water and when necessary she would have to empty the bucket herself. She stated that with the hot weather ants started to appear under her sink, the moisture created a smell and she was concerned the moisture would create mould which would have a negative impact on her health. She stated that when the tub/shower faucet assembly control for the tub/shower broke off she had no choice but to call a plumber and have the repairs done. The appellant maintained when she informed her worker (EAW) she was told "just bring in the invoice".

Panel Decision:

The panel noted that the appellant admitted that she knew she had a leak at her kitchen sink and that the bathroom faucet assembly was worn. The appellant stated that she didn't have any funds to do the repairs and didn't expect the faucet assembly to break off and come apart when it did. The panel finds that the appellant was aware for several months that her plumbing needed repairs and therefore having the kitchen sink leak repaired and the bathroom shower faucet and shower head replaced could not be construed an unexpected expense.

The panel finds that the ministry's decision that the appellant's plumbing repair was not an unexpected expense was reasonable.

Alternate Resources:

In the reconsideration decision the ministry's position is that the appellant's file shows she receives \$1040.10 monthly for shelter, support and supplements of which \$368.68 is for shelter expenses. The ministry's position is that, in addition to her monthly support, the appellant received a GST rebate of approximately \$120. The ministry stated the appellant did not provide any information to indicate that she did not have any resources available, i.e. savings, to cover this expense nor did she advise that she tried to negotiate a payment plan with the contractor who provided the repairs.

The appellant's position is that she does not have any disposable income, no extra savings and no extra money to pay for the plumbing repairs so she did not make any payment arrangements with the

contractor. The appellant argued that she is just breaking even with her expenses with what she receives in assistance and that her family and friends have their own financial struggles and are not able to assist her. The appellant's position is that if the ministry gave her the \$530 a month that they take from the pension she earned, in addition to her monthly assistance, then she could afford to pay for her own house repairs, eye exams and a number of other things. The appellant stated that if the ministry does not pay this bill she does not know who will pay it as she does not have any money.

Panel Decision:

The evidence is that in July 2015 the appellant received her monthly disability support, shelter assistance and community supplement and she also received a GST rebate. The evidence is that the appellant does utilize a separate bank account where she puts money to pay her utility bills, i.e. water and hydro, purchased tires for her vehicle on Visa and was planning to spend the GST rebate on winter boots and an eye examination. The appellant testified that she did not inquire with the plumbing contractor if she could make payments on the repair because she knew that she did not have any money to make monthly payments but her monthly budget lists a \$50 payment to Visa. There is no evidence before the panel that the appellant planned for this expense or tried to set aside any money for plumbing repairs although she has known for several months the repairs were necessary. However, while it is up to the appellant on how to spend her support allowance, the onus is on the appellant to plan, prioritize and balance her income with her monthly expenses.

The panel finds the evidence supports that the ministry reasonably determined that the appellant did not provide sufficient information to establish that she did not have resources available to pay for the plumbing repairs.

Shelter Allowance:

The ministry's position is that Schedule A, section 5(2)(f) EAPWDR sets out that the actual cost of maintenance and repairs of a home may be included in the calculation of the actual shelter costs if you own your home and the costs have received prior approval. The ministry determined the plumbing repair was an "emergency callout" and therefore the expense could be included in the calculation of the shelter costs for that month without prior approval. The ministry stated that the maximum amount of shelter allowance is \$375.00 a month. The ministry stated the appellant received \$368.68 and therefore is entitled to an additional amount of \$6.32 for shelter costs.

The appellant's position is that she does not have any extra money to pay for maintenance and repairs and unless the ministry returns the \$530.00 in pension related income she receives each month.

Decision:

The panel finds the ministry has no discretion on the amount of shelter allowance a recipient is entitled to receive and is be guided by the legislation within Schedule A section 5 EAPWDR which states the maximum monthly shelter allowance for a family unit of one person is \$375.00.

The panel finds the ministry's decision that the plumbing expense could be added to her monthly shelter costs to the maximum rate for an additional \$6.38 was reasonable.

Panel Decision:

In summary, having reviewed and considered all of the evidence, the panel finds that the ministry's

decision that the appellant was not eligible for a crisis supplement because she did not meet all the legislated criteria set out in section 57 EAPWDR and that coverage as shelter allowance is limited to the maximum monthly rate is a reasonable application of the evidence and is reasonably supported by the evidence.

The panel confirms the ministry's decision.