

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 December 16, 2015 that denied the appellant's request for a crisis supplement to cover his rent for October 2015. The Ministry determined that since the appellant was not eligible for income assistance for October 2015, under section 26(5) of the Employment and Assistance Regulation (EAR) he is not eligible for a crisis supplement for that month, and the ministry determined that the appellant has not met all three of the criteria set out in section 59(1) of the EAR.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) Section 26(5)
Employment and Assistance Regulation (EAR) Section 59(1)

PART E – Summary of Facts

The evidence before the ministry at reconsideration was as follows:

1. The appellant applied for income assistance on November 18, 2015.
2. The appellant signed the application for income assistance on November 19, 2015 and received assistance for the month of November 2015.
3. The appellant is a single person in receipt of Employment and Assistance benefits.
4. On December 2, 2015 – the appellant submitted a Notice to End Tenancy effective December 10, 2015 due to non-payment of October rent.
5. On December 3, 2015 – the Ministry denied the appellant's request to pay the October rent.
6. On December 3, 2015 – the appellant stated that his initial application was submitted on October 21, 2015 utilizing the online Self-Serve Assessment and Application tool and requested the Minister to reconsider the decision.
7. On December 11, 2015 – the appellant stated that he had used some of his support funds to make a partial payment on outstanding October 2015 rent in order to avoid eviction.
8. On December 11, 2015 – the appellant returned the completed Request for Reconsideration forms stating that he initially applied for assistance on October 21, 2015 and that the original application was lost and he was required to initiate application again in November.
9. The appellant has not provided any reasons why the October rent had not been paid.

At the hearing:

The appellant stated that he had used all of his available financial resources before applying for income assistance. He directed the panel to his online assessment information for assistance that he made on October 21, 2015. After submitting the online assessment information, he waited for three weeks but did not receive any communication from the Ministry. He then attended the Ministry office on November 18, 2015 and was directed to re-apply. He stated that his October 21, 2015 submission must have been lost and his application has fallen through the cracks and he should have been eligible for assistance in October. The appellant further stated that he was directed to provide an eviction notice to prove that he would be evicted from his home if he did not pay the October rent. His landlord, who is also his brother, provided him with a "10 Day Notice to End Tenancy" dated December 1, 2015 which he delivered to the Ministry on December 2, 2015.

At the hearing, the ministry stood by its position at reconsideration and directed the panel to the October 21, 2015 online assessment information referred to by the appellant, noting the following:

1. The online Self-Serve Assessment and Application tool assists the Ministry in determining eligibility for assistance, and
2. After the appellant submitted the online Self-Serve Assessment and Application, he was required to attend an eligibility interview and provide the following documents:



- Confirmation of the rent paid
 - If you are not looking for work, verification of the reason why,
 - Verification of your past financial independence, and
 - Bank statements for the last 60 days.
3. The online Self-Serve Assessment and Application document states that the assessment will be available to resume until the end of day, Monday, October 26, 2015.

The panel made the following findings of fact:

1. The appellant partially completed and submitted the online assessment information for assistance on October 21, 2015 and
2. The appellant had until the end of the day, Monday, October 26, 2015 to provide the remaining information, at which time the application would no longer be held by the online system.
3. The appellant signed the application for income assistance on November 19, 2015 and received assistance for the month of November 2015 as a single person in receipt of Employment and Assistance benefits.

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 cover his rent for October 2015, because the appellant was not eligible for income assistance for October 2015 and under sections 26 and 59 of the EAR he is not eligible for a crisis supplement for that month, is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant.

The legislation applicable in this appeal is as follows:

EAR

Effective date of eligibility

26 (1) Except as provided in subsection (2), (2.01), (2.1), (3.01) or (3.1) a family unit is not eligible for income assistance or supplements in respect of a period that occurred before the date the minister determines the family unit is eligible for the income assistance or supplements, as applicable. (B.C. Reg. 340/2008) (B.C. Reg. 264/2013)

(2) A family unit becomes eligible

(a) for a support allowance under sections 2 and 3 of Schedule A on the date of the applicant's submission of the application for income assistance (part 2) form, (B.C. Reg. 304/2005)

(b) for a shelter allowance under sections 4 and 5 of Schedule A on the first day of the calendar month that includes the date of the applicant's submission of the application for income assistance (part 2) form, but only for that portion of that month's shelter costs that remains unpaid on the date of that submission, and (B.C. Reg. 304/2005)

(c) for income assistance under sections 6 to 10 of Schedule A on the date of the applicant's submission of the application for income assistance (part 2) form, (B.C. Reg. 400/2007)

(d) Repealed (B.C. Reg. 48/2010)

(2.01) If the minister decides, on a request made under section 17 (1) [*reconsideration and appeal rights*] of the Act, to provide a supplement, the family unit is eligible for the supplement from the earlier of

(a) the date the minister makes the decision on the request made under section 17 (1) of the Act, and

(b) the applicable of the dates referred to in section 80 of this regulation.

(B.C. Reg. 264/2013)

(2.1) If the tribunal rescinds a decision of the minister refusing a supplement, the family unit is eligible for the supplement on the earlier of the dates referred to in subsection (2.01). (B.C. Reg. 340/2008) (B.C. Reg. 264/2013)

(3) If a family unit includes a person who qualifies as a person who has persistent multiple barriers to employment, the family unit becomes eligible to receive income assistance at the rate specified under Schedule A for a family unit that matches that family unit on the first day of the month after the month in which the minister determines that the person qualifies as a person who has persistent multiple barriers to employment.

(3.01) If the minister decides, on a request made under section 17 (1) of the Act, that a person qualifies as a person who has persistent multiple barriers to employment, the person's family unit becomes eligible to receive income assistance at the rate specified under Schedule A for a family unit that matches that family unit on the first day of the month after the month containing the earlier of

(a) the date the minister makes the decision on the request made under section 17 (1) of the Act, and

(b) the applicable of the dates referred to in section 80 of this regulation.

(B.C. Reg. 264/2013)

(3.1) If the tribunal rescinds a decision of the minister determining that a person does not qualify as a person who has persistent multiple barriers to employment, the person's family unit is eligible to receive income assistance at the rate specified under Schedule A for a family unit that matches that family unit on the first day of the month after the month containing the earlier of the dates referred to in subsection (3.01). (B.C. Reg. 340/2008) (B.C. Reg. 264/2013)

- (4) If a family unit that includes a person who qualifies as a person who has persistent multiple barriers to employment does not receive income assistance at the applicable rate under Schedule A from the date the family unit became eligible for it, the minister may backdate payment but only to whichever of the following results in the shorter payment period:
- (a) the date the family unit became eligible under subsection (3) or (3.1), as applicable, for the applicable rate; (B.C. Reg. 340/2008)
 - (b) 12 calendar months before the date of payment.
- (5) A family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested.

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.
- (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 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.
- (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.

Effective date of eligibility

The appellant's position is that he

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1. completed and submitted the online assessment information for assistance on October 21, 2015 and should have been eligible for assistance in October 2015
 2. was denied a crisis supplement as he had no active claim in October 2015 as his application was lost.

The Ministry's position is that –

1. section 26(1) of the EAR states “a family unit is not eligible for income assistance or supplements in respect of a period that occurred before the date the minister determines the family unit is eligible for the income assistance or supplements, as applicable”
2. and section 26(2)(b) of the EAR states “for a shelter allowance under sections 4 and 5 of Schedule A on the first day of the calendar month that includes the date of the applicant's submission of the application for income assistance (part 2) form, but only for that portion of that month's shelter costs that remains unpaid on the date of that submission,”
3. and section 26(5) states “a family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested.”

The panel finds that the appellant became eligible for assistance on November 18, 2015 and the requirement to pay the October 2015 rent had occurred prior to the month in which the appellant became eligible for assistance.

Crisis supplement

The appellant's position is that he was denied a crisis supplement as he had no active claim in October 2015 as his application was lost.

The Ministry's position is that the appellant was not eligible for a crisis supplement under section 59(1) of the EAR because he does not meet all three of the criteria, specifically

Unexpected Need:

The Ministry argues that the appellant has not provided any reasons why the October rent had not been paid and therefore the eligibility requirement has not been met.

Imminent Danger:

The Ministry argues that there is insufficient evidence to support a probability of immediacy that failure to pay October rent will place your health in imminent danger, and a payment plan with the landlord was negotiated to avoid eviction.

Alternative Resources:

The Ministry argues that the appellant has negotiated a payment plan with his landlord to avoid eviction.

The Panel finds the Ministries decision that the requirement to pay the October 2015 rent does not meet the conditions set out in s.59(1) of the EAR as there is no evidence that the non-payment of the October 2015 rent is an unexpected need, that nonpayment will result in imminent danger and that there were no alternative resources available to the appellant is reasonable.

Panel decision

The panel's decision is strictly limited to the outcome of the appellant's Request for Reconsideration regarding the denial of his request for a crisis supplement for October 2015 rent. The evidence is that the appellant was not eligible for income assistance for October 2015.

As required in section 26(5) of the EAR, “a family unit is not eligible for any assistance in respect of a service

provided or a cost incurred before the calendar month in which the assistance is requested.” Since the appellant was not eligible for assistance until November 2015, the panel finds that the ministry was reasonable in determining that under the legislation the appellant was not eligible for the requested crisis supplement.

The panel also finds that, based on the evidence presented, the ministry was reasonable in determining the appellant has not met all three of the criteria set out in section 59(1) of the EAR, specifically, the payment of the October 2015 rent was not an unexpected need, that the non-payment of rent would place the appellant in imminent danger and that there were not alternative resources available to the appellant.

Accordingly, the panel finds that the Ministry's decision to deny the appellant's request for a crisis supplement for October 2015 rent was a reasonable application of the legislation in the circumstances of the appellant. The panel therefore confirms the ministry's decision.