

PART C – Decision under Appeal

Under appeal is the Ministry of Social Development and Social Innovation (the ministry) decision dated November 8, 2016 in which the ministry denied the appellant a crisis supplement for the payment of the appellant's October 2016 rent. The ministry determined that the appellant was not eligible for disability assistance for October 2016 under section 5 of the Employment and Assistance for Persons with Disabilities Act (EAPWDA), therefore she is not eligible for a crisis supplement for that month. The ministry further determined that the appellant has not met all three of the criteria set out in section 57 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA) section 5
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) section 57

PART E – Summary of Facts

The information before the ministry at reconsideration included the following:

- The appellant is in receipt of disability assistance as part of a two-parent family.
- October 19, 2016 – the appellant submitted an eviction notice and requested a crisis supplement for shelter and advised that she is no longer employed.
- October 20, 2016 – the appellant’s spouse advised the ministry that other household bills were paid instead of rent from the appellant’s employment income.
- October 25, 2016 – the ministry informed the appellant that the Annualized Earnings Exemption (AEE) of \$9,000 for the family unit has been exhausted resulting in the appellant’s file status being changed to Medical Services Only (MSO). The ministry advised the appellant that she is not eligible for disability assistance and therefore not eligible for any supplement. In August 2016 the appellant submitted pay records from earnings received in the month of July totalling \$1,821.70 and at that time the appellant had \$1,206.47 AEE limit left
- October 28, 2016 - the minister received the appellant’s signed Request for Reconsideration which stated that the family unit has had great difficulty with Canada Revenue Agency in receiving their child tax benefits, they are an extremely low income family of 6 that has undergone non-stop auditing and scrutiny, can hardly eat from day to day and to the point that they have no place to live either. “We are severely being picked on”.

Notice of Appeal dated November 16, 2016, the Appellant stated the following:

The appellant states “told by ministry staff that Health Assistance has made a mistake and we should not be cut off. Told lots of misinformation – no income – have kids to support”.

At the hearing:

The appellant stated they are having great difficulties with Canada Post with errors in mail delivery and returned mail. This has created significant financial difficulties for the family unit because they cannot rely on the postal service to be ensured that they are receiving their mail.

There is ongoing dispute with Canada Revenue Agency resulting in the withholding of child benefit payments. Some of these difficulties are further complicated by mail delivery problems with Canada Post. The appellant states that the ministry has instructed the appellant to pay utilities to ensure that the service will not be cut off. The appellant further states that the monthly rent and utilities are deducted from the monthly disability benefit assistance cheque, and they believed this also occurred for the month of October 2016. On October 11, 2016 they received a phone call from the Landlord asking where the rent payment for October was, and that was the first indication to them that the rent had not in fact been deducted from the benefit assistance cheque they received. The appellant stated that a \$1,000 deduction had been made from that cheque. So the eviction notice they received on October 18, 2016 was not expected because the appellant had believed that the rent was deducted from the October 2016 disability benefit cheque and paid to the landlord.

The appellant’s spouse and advocate stated that he had the understanding that the Annualized Earnings Exemption is \$12,000 and not \$9,000 as stated in the reconsideration decision and that they did not receive any notification of this change.

The ministry explained that the appellant's spouse received his Persons With Disabilities (PWD) designation in May 2016 and the result of this is a recalculation of the AEE from \$12,000 to \$9,000 and would have received a letter in June 2016 explaining this change. The appellant's income in July 2016 resulted in the AEE being exceeded with the result that the appellant's family unit ceased to be eligible for disability assistance in October 2016. Further, the ministry advised the appellant in August 2016 that the AEE had been exceeded and that she was ineligible for disability assistance. The ministry further explained that the ministry's reporting cycle (money earned in month one is reported in month two and is deducted from month three's assistance) is not considered unexpected. The appellant became ineligible for disability assistance benefits in August 2016 however is receiving temporary assistance (as a result of the appellants' appeal of the November 8, 2016 reconsideration decision) and used this temporary disability assistance to pay expenses other than rent. The payment of monthly rent is the responsibility of the appellant and the payment of rent is not an unexpected expense.

The panel made the following findings of fact:

- The appellant receives disability assistance as part of a two-parent family.
- On November 8, 2016 the appellant was denied a crisis supplement for shelter.
- The appellant's AEE was adjusted from \$12,000 to \$9,000 in May 2016 as a result of her spouse received his PWD designation.
- The appellant's AEE limit balance in July 2016 was \$1,206.47 and was exceeded when she submitted pay records from earnings received in the month of July totalling \$1,821.70.
- The appellant assumed the rent for October 2016 was deducted from her October disability assistance consistent with the procedures followed by the ministry in prior months. The appellant has difficulties with Canada Post and did not receive mail that would have alerted her that the October 2016 rent was not paid. As a result the appellant states that the receipt of the eviction notice on October 18, 2016 was unexpected.
- The appellant received temporary disability assistance for October 2016 and used these funds to pay expenses other than rent.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the ministry's decision to deny the appellant a crisis supplement for the appellant's October 2016 rent because the ministry determined that the appellant was not eligible for disability assistance for October 2016 under section 5 EAPWDA and the request did not meet all the necessary criteria as specified under Section 57 of the EAPWDR. Specifically the ministry determined the payment of October 2016 rent was not unexpected.

Relevant Legislation:

Section 5 EAPWDA

Disability assistance and 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.

Section 57 EAPWDR

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)

The appellant argues that she was unaware of the AEE limit being changed from \$12,000 to \$9,000 in May 2016 that her July 2016 earnings of \$1,821.70 resulted in her exceeding the AEE limit. She further argues that the ministry was paying the rent and a portion of her utilities and deducting the amount from her monthly disability assistance benefits and she believed this to be the case for October 2016. In her Request for Reconsideration the appellant states that Canada Revenue Agency are withholding child tax benefit payments and the family can barely eat from day to day to the point now that they will have no place to live either.

The Ministry argues the criteria under the legislation had not been met. Firstly, the appellant is not eligible for disability assistance for October 2016 because her AEE of \$9,000 was exhausted in August 2016 when the appellant submitted pay records from earnings received in the month of July 2016 totalling \$1,821.70 when she had only \$1,206.47 left in her AEE limit for 2016. Therefore the appellant is not eligible to receive disability or hardship assistance in the month in which the supplement is requested. Secondly, the need for the item was not unexpected because the payment of monthly rent costs is not an unexpected expense. The appellant used her temporary disability assistance to pay expenses other than her October 2016 rent.

Panel Decision:

Section 57(1)(a) EAPWDR states in part - “the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed” is one of the criterion that must be met in order to be eligible for a crisis supplement. In this case, the appellant has made monthly rental payments, or ensured that the ministry had made monthly rental payments on her behalf in prior months, however used funds to pay other family expenses instead of paying the October 2016 rent. The appellant states that she assumed that the ministry had paid the October 2016 rental payment, however she should have understood that this was not the case after she received notification from the ministry in August 2016 that she was ineligible for disability assistance for October 2016. The Panel finds the ministry reasonably determined that the Appellant’s need for the October 2016 rent was not unexpected and that the appellant did not meet the eligibility requirement as per the EAPWDR, Section 57(1)(a).

The panel finds that the appellant became ineligible for disability or hardship assistance when the AEE limit of \$9,000 was exhausted in August 2016 when the appellant submitted July 2016 earnings of \$1,821.70 when she had only \$1,206.45 left in her AEE limit for 2016. Given her income exceeded her assistance, the appellant was ineligible for assistance for the month of October 2016.

Section 57(1) EAPWDR states that the minister may provide a crisis supplement to or for a family unity that is eligible for disability or hardship assistance. Section 57(2) EAPWDR states that a crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made. The appellant requested a crisis supplement for shelter on October 19, 2016 for the month of October. However, as she was not eligible for disability or hardship assistance for



October, the minister's decision to deny the crisis supplement for October is a reasonable application of the legislation in the circumstances of the appellant.

The panel therefore finds the ministry's determination that the appellant was not eligible for a crisis supplement was a reasonable application of the legislation in the circumstances of the appellant and confirms the ministry's reconsideration decision. The appellant is not successful in her appeal.