

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “Ministry”) reconsideration decision, dated December 30, 2016, in which the Ministry found that the Appellant was not eligible for a crisis supplement for food, pursuant to section 59 of the EAR, which had been requested by the Appellant on November 2, 2016, because the Ministry was not satisfied that the evidence established that:

1. The need for the item or expense was unexpected;
2. Failure to obtain the item or expense would result in imminent danger to health; and
3. There were no alternate resources available to obtain the item or meet the expense.

The reconsideration decision also held that, as the Appellant had already received a \$20.00 crisis supplement for food for the month of November on November 2, 2016, she was not eligible for a further crisis supplement for food as section 59(4) of the EAR limits the amount of crisis supplements to purchase food to \$20.00 per person in one calendar month.

PART D – Relevant Legislation

Employment and Assistance Regulation – EAR, section 59

PART E – Summary of Facts

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

1. The Appellant's Request for Reconsideration ("RFR"),
2. One typed and five handwritten pages from the Appellant, which were included with the RFR.

Additional Information Submitted after Reconsideration:

The Appellant provided some handwritten notes on her Notice of Appeal.

The Appellant's typed and handwritten notes, included with the RFR, described her communications with the Ministry in requesting crisis supplements for food in the early part of November, 2016. The Appellant states that she is receiving support-only income assistance. After successfully obtaining a \$20.00 crisis supplement following a request on November 1, 2016, she was told on November 2, 2016 that a request for a crisis supplement for clothing had been denied and that she should apply for another crisis supplement for food, which the Appellant subsequently did. However, when she later applied by telephone for a further crisis supplement for food, she was told by the Ministry representative that she was eligible for only one crisis supplement for food per month.

In notes made by the Appellant on the Notice of Appeal, the Appellant stated that \$20.00 was too little money for a crisis supplement for food in the City of Vancouver and anywhere in the Province of British Columbia or in Canada.

At the hearing, the Appellant reiterated that \$20.00 was too little money for a crisis supplement for food and added that, in her view, the crisis supplement for food and the crisis supplement for clothing should both be at least five times higher.

The Appellant also stated at the hearing that:

- She was initially advised by Ministry staff that she was eligible for four more crisis supplements for food for the remainder of the year;
- She felt "pranked" by the Ministry as a result of the advice she had received;
- Nobody should be expected to get by on crisis supplement for food of just \$20.00 per month;
- The Ministry has or should have the discretion to pay as much in crisis supplements as it felt was reasonable and should be willing to violate the law, where the law imposes an unreasonable monthly limit for crisis supplements for food;
- The Appellant did not wish to have to apply for another specific designation, such as a persons with disabilities designation, in order to have access to more funds for food as she did not think of herself as disabled merely because she was hungry;
- In her current circumstances, the Appellant was not receiving a proper diet or eating food that she wanted to eat and that, in the result, she frequently felt tired or sleepy;
- The types of alternate resources available to the Appellant, such as her monthly support and local food banks, was inadequate to provide her with the kind of diet she needed and was not always provided in quantities that were useful to the Appellant;
- The Appellant's regular income assistance and crisis supplements for food required the Appellant to budget her food purchases in such a way that she was not able to purchase foods that permitted her to have a proper diet;



- Persons unaccustomed to certain types of food would be unable to consume those foods in, for example, the large quantities in which the Appellant might receive them from a local food bank or might be required to purchase them in bulk using her regular support or a crisis supplement for food;
- Many of the foods provided by alternate community resources such as local food banks were of limited use to the Appellant as they required her to have access to cooking facilities which the Appellant didn't have, as she didn't have regular shelter;
- The Appellant was concerned about the quality and security of food that might be provided by alternate resources like foods banks, citing her concern about being provided with expired food by local food banks or other alternate community resources like charitable donations from private citizens; and
- The Appellant needed to be provided with food in a manner whereby she felt comfortable eating it.

PART F – Reasons for Panel Decision

The issues under appeal are whether the Ministry's decision that the Appellant was not eligible for a crisis supplement for food, pursuant to section 59(1) of the EAR, because the Ministry was not satisfied that the evidence established that:

1. The need for the item or expense was unexpected;
2. Failure to obtain the item or expense would result in imminent danger to health; and
3. There were no alternate resources available to obtain the item or meet the expense

and that she was also not eligible for crisis supplement for food, pursuant to section 59(4) of the EAR, because she had already received a \$20.00 crisis supplement for food for the month of November, 2016, is reasonably supported by the evidence or a reasonable application of sections 59(1) and 59(4) of the EAR in the circumstances of the Appellant.

The criteria for receiving crisis supplements is set out in section 59 of the EAR as follows:

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.

[am. B.C. Reg. 12/2003.]

Positions of the Parties

Appellant's Position

The Appellant submitted that there should be no specific requirement that the need for an item be unexpected in order for a recipient to receive a crisis supplement and that the Appellant should be able to have adequate and proper food and that it shouldn't be unexpected when she doesn't have it, in view of the amount that she receives in support each month. The Appellant further submitted that not having food in and of itself poses an imminent danger to her health. The Appellant also argued that there were no alternate community resources available to her that provided food in a manner in which she felt comfortable or secure eating it and that, oftentimes, the food that was available at food banks was not useful to her because, for example, it would require access to cooking facilities which she did not have.

Finally, the Appellant submitted that the \$20.00 monthly limit on crisis supplements for food is too low and that being denied a proper diet amounted to torment and a violation of the Charter and international law prohibitions against cruel and unusual punishment. The Appellant argued that the monthly limit on crisis supplements for food should be increased to \$100.00 and that the Ministry also has or should have the discretion not to follow the statutory limit set out in section 59(4) of the EAR.

Ministry's Position

The Ministry position, as set out in the Reconsideration Decision, dated December 30, 2016 is that the Appellant had not provided adequate evidence that the need for a second crisis supplement for food in November, 2016 was unexpected because food was not an unexpected expense and the Appellant had already received one crisis supplement for food in November, 2016 for reasons that were the as were provided for her second request. The Ministry also took the position that the Appellant had not provided adequate evidence that failure to receive a second crisis supplement for food in November, 2016 would place the Appellant's health in imminent danger and that there was no evidence provided by the Appellant of a lack of alternate resources available, either in the Appellant's support allowances or in the community.

Finally, the Ministry noted that section 59(4) of the EAR imposes a monthly limit of \$20.00 for crisis supplements for food and that, in the result, the Appellant was ineligible for any further crisis supplements for food in the month of November, 2016, having received a \$20.00 crisis supplement for food on November 2, 2016, pursuant to a November 1, 2016 request.

Panel's Decision

Section 59(4) provides that the maximum amount that may be provided as a crisis supplement for food in a calendar month is \$20.00 for each person in the family unit. The Appellant is a single recipient of income assistance who had received a crisis supplement for food on November 2, 2016, following a request made on November 1, 2016. Although the Appellant argued that the Ministry has or should have the discretion to provide an additional crisis supplement, section 59(4) affords the Ministry no such discretion. Consequently, the panel finds that the Ministry reasonably determined that the Appellant was not eligible for any further crisis supplements for food in the calendar month of November, 2016, having already received a crisis supplement for food in the amount of \$20.00 on November 2, 2016.

Section 59 of the EAR sets out the criteria under which the Ministry may provide a crisis supplement to a family unit.

Section 59(1)(a) provides that a crisis supplement may be provided where a "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."

The Appellant received a crisis supplement for food on November 2, 2016 following a request by the Appellant on November 1, 2016. The Appellant provided the same reason to the Ministry for both requests. At the hearing, the Appellant stated that there were no alternate resources available

because her support payments were insufficient to provide her with an adequate diet and alternate community resources were either difficult to access or didn't provide her with food in a manner that made her feel secure. Given the lack of evidence presented as to the unexpected nature of the expense and the lack of specific evidence about the availability of alternate resources, the panel also finds that the Ministry reasonably determined that the Appellant had not satisfied the criteria under section 59(1)(a) of the EAR.

Section 59(1)(b) provides further that a crisis supplement may be provided where the Ministry considers that "failure to meet the expense or obtain the item will result in imminent danger to the physical health of any person in the family unit."

Although the Appellant argued that not having sufficient funds to eat a proper diet posed an imminent danger to her health, no specific information was provided as to how failure to receive the crisis supplement on November 2, 2016 posed a danger to the Appellant's health and, as a result, the panel also finds that the Ministry reasonably determined that there was insufficient evidence to establish that the failure to provide a further crisis supplement for food posed an imminent danger to the Appellant's health, as required by section 59(1)(b) of the EAR.

In view of all of the foregoing, the panel finds that the Ministry's decision was both a reasonable application of section 59 of the EAR in the Appellant's circumstances and was reasonably supported by the evidence and the panel confirms the Ministry's decision.