

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated February 23, 2017 which denied the appellant's request for a crisis supplement for utilities; specifically, to pay the appellant's propane bill.

As per Section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation, a crisis supplement may be provided only if all three of the eligibility criteria are met:

1. The need for the item is unexpected or there is an unexpected expense, and
2. There are no alternate resources available, and
3. Failure to obtain the item or meet the expense will result in imminent danger to physical health.

The minister accepts the in the case of the appellant, the first two criteria have been met.

However, the minister is not satisfied the appellant has demonstrated that failure to obtain the crisis supplement will result in imminent danger to his physical health, and therefore criterion #3 has not been met.

## PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA), Section 5

Employment and Assistance for Persons with Disabilities Regulation (EAPDWR), Section 57

## PART E – Summary of Facts

The information before the ministry at the time of reconsideration included the following:

The appellant is currently receiving disability assistance as a single person.

In the Request for Reconsideration dated February 2, 2017, the ministry noted the following:

- The appellant requested a crisis supplement for utilities on January 31, 2017, and submitted a bill from his propane provider dated December 12, 2016 for \$281.73. He indicated that he was “flat broke” and due to the cold weather, he could not catch up with payments and he had no heat and could not cook.
- On February 1, a ministry worker attempted to contact the appellant without success. The worker reviewed the request based on the information provided and made the following notation: “[request] does not meet criteria as per client’s information stated on January 31, 2016 that he is just flat broke and cannot catch up with payments. Propane is an expense that he needed. The purchase of propane occurred in December 2016. Client made the request in January 2017.” The worker listed the following sequence of events:
  - The appellant was issued his December benefit allowance on November 23.
  - He purchased propane on December 12, 2016.
  - On December 21, he received his January benefit allowance.
  - The appellant received \$550+ from each benefit month, after his rent of \$435 is paid.
  - On January 25, the appellant received his February allowance.

The ministry worker concluded that the appellant has available funds to make the payment for his propane, is not at risk of disconnect, has already received propane in the month of December and he is not in imminent risk to health and safety.

- On February 2, 2017, the ministry notified the appellant that his request was denied as the information provided does not meet the regulatory criteria:
  - The request is not to meet an unexpected expense or obtain an item unexpectedly needed.
  - The appellant has resources available to him.
  - Failure to obtain the crisis supplement will not result in imminent danger to his health.

The minister received a signed Request for Reconsideration on February 20, 2017.

In his reconsideration submission, the appellant provided a list of his monthly expenses: \$435 for monthly rent; \$70-\$110 for hydro; \$75 for propane and \$200 for food totaling \$820. The appellant noted that this list does not include any incidentals or periodic costs.

He further submitted that:

- He was unable to budget for his increased propane usage due to colder than normal weather.
- He was forced to ask a friend for a loan of \$1,000 in early November to replace batteries in his bike which, other than public transit, is his only mode of transport.
- He has been sliding deeper into a position of insolvency and is looking into retraining and job placement to supplement his income assistance.

Regarding the statements made by the ministry worker in the Request for Reconsideration, the appellant wrote:

- He did not inform the ministry that he had no heat and could not cook as was noted by a ministry worker in the summary of his request for reconsideration. Rather, he indicated that non-payment of his propane bill could result in suspension of credit privileges in future months.

The amount due is for what would be consumed going forward. In normal circumstances, a full tank of propane would have lasted from December through to March. This is not the case and he is at 10 per cent capacity and still has not been able to pay the outstanding balance. In short, the crisis is occurring now.

- The reason the ministry worker could not contact him on February 1 is that his telephone/internet service was disconnected due to non-payment.
- He refutes the ministry worker's statements about having available funds each benefit month after his rent is paid. The worker did not take into account his other living expenses which are typically well over \$1,000 per month.
- He is at risk of having his propane discontinued as he sees no way in the near future to come current with his bill.
- He believes the ministry worker's comments were without proper consideration.

In the Reconsideration Decision, the ministry wrote:

- The appellant indicated he is "flat broke."
- Due to the unexpected and statistically colder than normal weather, the appellant's position is that he has used more fuel than expected and, as a result, his increased propane consumption is unexpected. The appellant stated he has no money to pay the propane bill and if he does not pay it, his credit will be suspended and he will not be able to refill his tank when it runs out. The tank is currently at 10 percent capacity.
- The issue of the propane bill is separate from the higher than average propane consumption.
- The minister accepts that the appellant has used more propane than he would have used due to the statistically colder weather. Additionally, the minister accepts that the unexpected expense related to the bike, in addition to the colder weather has resulted in the appellant being unable to pay his propane bill. Therefore, criterion #1 that the expense is unexpected has been met.
- The appellant indicated that he borrowed money to cover expenses and finds himself approaching the point of insolvency. He indicated he does not have alternate resources to meet his need. Therefore, criterion #2 has been met; there are no alternate resources available.
- While the minister acknowledges that if the appellant does not pay his bill he will be unable to fill his propane tank, at the time of reconsideration the appellant has propane available to him. He continues to receive monthly assistance from the ministry and can continue to make payments to the propane company. The appellant has not provided any information that would confirm that his credit has been suspended or that suspension is imminent. The minister does not accept that failure to pay his propane bill will result in imminent danger to his physical health and therefore, criterion #3 has not been met.

The appellant filed a Notice of Appeal of the Reconsideration Decision that was received by the Employment and Assistance Appeal Tribunal on March 9, 2017 and an appeal was scheduled. At the request of the appellant the appeal was adjourned and rescheduled to allow time for the submission of additional documentation.

On April 5, 2017 the appellant submitted a statement of account dated April 5, 2017 from his propane provider. As the statement contains information that was not before the ministry at the time of reconsideration, the panel has determined that the statement is not admissible as evidence under Section 22(4) of the Employment and Assistance Act.

In the Notice of Appeal, the appellant stated that he disagrees with the ministry's reconsideration decision "for much the same reasons as previously presented. I am presently facing eviction and homelessness."

In his oral testimony at the appeal hearing, the appellant stated that since his request for reconsideration, there have been new developments with the propane company which is the basis of his appeal. He stated that his account has been frozen and the service provider has taken away his leased propane tank that he had been using for heat and cooking. The fact that he no longer has the large propane tank should confirm that he now meets criterion #3 and is therefore eligible for the crisis supplement.

The ministry referred the appellant to the reconsideration decision and explained that the issue for the ministry is the time frame of events. At the time of the decision the appellant had propane and was not at risk of disconnection. In addition, the appellant had resources at the time but elected to use them on other things.

The appellant explained that he has been doing his best to live on the resources provided by the government and but has to also rely on community resources for food and clothing. He also said he is looking into retraining because he can no longer afford to live on government resources. He has expenses that are not covered by government resources including medical dressings that he has to travel a long distance by taxi to purchase. He also has other debts that are in for collection.

The appellant explained that he ran out of propane and was out for 5 days after which he asked for a crisis supplement to fill a small propane tank. He stated that the supplement was granted and questioned how that supplement for propane was approved while his first request was not.

The ministry explained that the two requests were not considered in the same way because the second request was made in the same month that the crisis occurred. In the issue under appeal, the request was made in the month after the crisis occurred. The tank was filled in December and he submitted the request in January.

The appellant submitted that when he filled the large tank he expected it to last up to 4 months which would give him time to pay it down. The ministry responded that he had \$75 per month that he could have applied to his propane account but chose to apply it in other areas.

## PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision dated February 23, 2017 which denied the appellant's request for a crisis supplement for the appellant's propane bill was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

The relevant legislation is as follows;

### **Part 5 Supplements**

#### **Division 3 – Supplements – Family Unit Eligible for Disability Assistance or Hardship Assistance**

##### **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;
- (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.

[am. B.C. Reg. 13/2003.]

### ***Positions of the parties***

#### ***Ministry's Position***

The ministry referred to the reconsideration decision and the three criteria for eligibility under Section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation. The ministry accepts that the appellant meets the first two criteria but at the time of reconsideration was not at risk of imminent danger to his health as his propane tank was still 10 per cent full.

The ministry also referred to section 57(2) of the EAPWDR which 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 made his request for a crisis supplement the month after receiving his propane and the propane bill.

### ***Appellant's Position***

The appellant's position is that while he may not have been eligible for the crisis supplement for propane at the time he made the request because as the ministry stated, he still had propane; he is now in a crisis situation. He is without propane, his leased propane tank has been taken away, and he owes money to the propane provider. Therefore, he is now in a crisis situation and meets criterion #3 for eligibility.

### ***Panel Decision***

Section 57(1) stipulates that for a crisis supplement to be provided, 3 criteria must be met. The minister determined that the appellant met the first 2 criteria but the minister did not accept that failure to pay the appellant's propane bill would result in imminent danger to his physical health; therefore criterion #3 was not met.

At the hearing, the appellant provided information regarding a current health issue, his financial circumstance and details of his propane situation that occurred after the time of the reconsideration decision, but he did not provide any information to demonstrate that at the time of reconsideration, he was at risk of imminent danger to his health.

Section 57(2) stipulates that a crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made. In the appellant's situation, he received his propane in December and requested a crisis supplement in January when his tank was 10 per cent full.

The panel finds that the ministry reasonably determined the evidence establishes that the request does not meet the criteria for eligibility set out in Section 57(1)(b) of the EAPWDR as there was no risk of imminent danger to his health when he still had propane.

The panel therefore finds that the ministry's decision to deny the appellant a crisis supplement because he is not at risk of imminent danger was a reasonable application of the legislation in the circumstance of the appellant.

The panel confirms the ministry's decision.