

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (the ministry) dated November 29, 2017 which held that the appellant was not eligible for a crisis supplement for a tent, sleeping bag and rain gear, because all the criteria set out in Section 59(1) of the Employment and Assistance Regulation were not met.

Specifically, the minister was not satisfied that the crisis supplement was required to obtain items that were unexpectedly needed, as required under paragraph (a)(i), as they had been confiscated by public officials while left unattended; and the minister was also not satisfied that the appellant has explored the resources available as required under paragraph (a)(ii), as there is no indication that the appellant tried to retrieve them from the public facility.

The minister was satisfied that failure to receive adequate shelter and protection from the west coast weather will present imminent danger to the appellant's health especially since he is ill, as required under paragraph (b).

**PART D – RELEVANT LEGISLATION**

Employment and Assistance Regulation (EAR), Section 59

## **PART E – SUMMARY OF FACTS**

The appellant was not in attendance at the hearing. After confirming that the appellant was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

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

An undated Crisis Request from the appellant for a tent, sleeping bags and raincoat with the following details:

Under UNEXPECTED: *What was the unexpected event or expense that prevented the appellant from meeting this need?* it was written that all his camp gear was confiscated by the police or city workers from a park. The appellant indicates he has moved and is trying to stay dry under a tarp which is not working and he is now sick.

Under RESOURCES: *What resources has the appellant accessed to try to meet this need?* Noted were, friends and family, food banks and local resources.

Under IMMINENT RISK: *What is the direct threat to the appellant's health and safety?* It was written that the appellant has a kidney infection, lower back pain, and a bad cold. Added was that the appellant feels like he is dying, and a decent tent is at least \$120, plus rain gear and sleeping bag \$100. The appellant indicates that he has checked at Wal Mart, Canadian Tire and the Salvation Army.

A Request for Reconsideration dated November 20, 2017, in which the appellant explains that wind and rain and confiscation of all his belongings has left him destitute and vulnerable to sickness and he has become very ill- cold and that a doctor's note will be forwarded.

A Notice of Appeal dated December 20, 2017, in which the appellant writes that the weather is killing and that this is shelter that he needs.

At the hearing, the ministry representative stood by the reconsideration decision.

## **PART F – REASONS FOR PANEL DECISION**

The issue in this appeal is the reasonableness of the reconsideration decision of the of the Ministry of Social Development and Poverty Reduction which held that the appellant was not eligible for a crisis supplement for a tent, sleeping bag and rain gear because all the criteria set in Section 59(1) of the Employment and Assistance Regulation were not met, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Specifically, the minister was not satisfied that the crisis supplement was required to obtain items that were unexpectedly needed, as required under paragraph (a)(i), as they had been confiscated by public officials while left unattended; and the minister was also not satisfied that the appellant has explored the resources available as required under paragraph (a)(ii), as there is no indication that the appellant tried to retrieve them from the public facility.

The minister was satisfied that failure to receive adequate shelter and protection from the west coast weather will present imminent danger to the appellant's health especially since he is ill, as required under paragraph (b).

### **Relevant Legislation**

#### **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.]**

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### **Ministry Position**

While the ministry was satisfied that failure to receive adequate shelter and protection from the west coast weather will present imminent danger to the appellant's physical health, especially since the appellant is ill; the ministry is not satisfied that the appellant has explored the resources available as bylaws indicate that he can receive items back after impound.

In addition, the appellant's request for a tent, sleeping bag and rain gear is not unexpected as he was sleeping in a public park and bylaws indicate that stays must be temporary and that any property left during the day will be confiscated. Valuable items may be impounded for collection by owner and garbage may be disposed of. Failure to follow these bylaws will result in one's belongings being impounded and is not unexpected.

The minister concluded that the appellant has not met the legislated criteria for a crisis supplement.

### **Appellant Position**

The appellant argues that wind and rain and confiscation of all his belongings has left him destitute and vulnerable to sickness and he has become very ill. The appellant has contacted a variety of resources; friends and family, food banks and local resources without success. He indicates the weather is killing and that this is shelter that he needs.

### **Panel Decision**

Section 59(1)(a) specifies that the crisis supplement must be for an "unexpected expense" or to obtain an item "unexpectedly needed". The panel finds that it is not in dispute that the appellant left his personal belongings unattended in a public park and that they were confiscated by public officials for noncompliance of the bylaws. Based on this information, the panel finds that the ministry reasonably concluded that the need for replacement cannot be considered unexpected. Therefore the panel finds that the ministry reasonably determined that the criterion set out in paragraph (a)(i), was not established.

The panel also finds that there is no evidence to indicate that the appellant has attempted to collect his belongings from the impound which should be considered under exploring the resources available to the appellant. Therefore the panel finds that the ministry reasonably determined that the criterion set out in paragraph (a)(ii), was not established.

### **Conclusion**

The panel finds that the ministry's reconsideration decision, which determined that the appellant was not eligible for a crisis supplement for a tent, sleeping bag and rain gear, was reasonably supported by the evidence and a reasonable application of the legislation. The panel confirms the reconsideration decision. The appellant is not successful on appeal.