

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision dated July 10, 2018 which held that the appellant was not entitled to a crisis supplement for food pursuant to s.57 Employment and Assistance for Persons with Disabilities Regulation (“EAPDWR”) on the basis that it was not an unexpected expense or an item unexpectedly needed, and the appellant did not demonstrate that he did not have other resources available to him to purchase the item on his own.

PART D – RELEVANT LEGISLATION

s.22(4) Employment and Assistance Act (“EAA”)

s.57 Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”)

PART E – SUMMARY OF FACTS

The information before the Ministry at the time of reconsideration:

- The appellant is a sole recipient with persons with disabilities (“PWD”) designation.
- Monthly, he receives \$758.42 in support, \$375 in shelter, \$30 diet supplement, \$52 transportation supplement.
- On June 27, 2018 the appellant requested a crisis supplement for test strips. The Ministry denied that request advising that they were not permitted to provide a crisis supplement for health care goods. The appellant then requested a crisis supplement for food because the appellant had to spend his funds on test strips. The Ministry denied the appellant’s request.
- On June 29, 2018 the appellant submitted a request for reconsideration (“RFR”) which notes that the appellant had to buy new shoes because his shoes were 12 years old, are broken, and have lots of holes; had to buy new pants because his old pants ripped and they don’t fit; and spent money on a larger pillow and blanket because of sleep apnea

The appellant’s notice of appeal dated July 17, 2018, does not provide new evidence but instead re-states the information he provided at reconsideration. His rent is \$750 and it takes up a large portion of the assistance he receives, he recently spent his money on clothes and shoes as those items had to be replaced. His shoes have holes in them.

At the hearing the appellant states:

- The reason that he asked for a food crisis is that he is diabetic and he was not given enough money to support the kind of diet he needs to eat. He has to eat protein and he has high blood pressure and high cholesterol.
- He recently had to buy new pants and new shoes because his pants and shoes no longer fit. Further, he states that his shoes had holes in them.
- He pays rent (\$750 per month). He pays hydro (\$45 or \$50 per month). The rental assistance that he is given does not come close to paying his actual rental cost.
- He cannot afford to purchase the diabetes test strips that he is supposed to be using three times per day each day.
- He almost collapses when he talks to Ministry workers. Every time he talks to them he gets stressed. He would rather be dead than be living like this.
- He gets \$30 a month for diet supplement.
- He stated that there is a food kitchen but that he needs protein and the food at the food kitchen has too much sugar. He has disowned everyone that he knows and he has no one that helps him out.

At the hearing the appellant brought a note from his Physician dated May 9, 2018 to the hearing. The note did not make up part of the appeal record, but was instead part of the appeal record for another appeal of the appellant. The appellant read the note to the panel which he says states: to whom it may concern “type II diabetes needs to be tested weekly three times per day. 21 times per week.”

At the hearing the Ministry and the appellant disagreed about some prior funding that the appellant received in the amount of \$100. The Ministry states that it was granted for a crisis supplement for clothing. The appellant states that he was told by a supervisor that he received the \$100 error and that it was not a crisis supplement for clothing. Either way, the panel determines that they do not need to decide which evidence to accept on this point as it is not relevant to the decision before the panel.

New evidence that was not before the Ministry at the time of reconsideration must be assessed pursuant to s.22(4) EAA. The evidence must be documentary or oral evidence in support of information already before the Ministry at the time of reconsideration.

The physician note

The panel finds the information in the note from the physician to be in support of information already before the Ministry at reconsideration. The Ministry was aware that the appellant was required to use diabetes test strips three times per day. The panel accepts the information in the note from the physician.

The information about other resources to obtain food

At the hearing the appellant provided oral evidence that he cannot access the food banks because they only have sugary foods available for him to eat. He also provided evidence that he has no assistance from family and friends as he has disowned them all. At the time of reconsideration, the appellant didn't give any information about alternate resources he attempted to access to meet his dietary needs for a crisis supplement for food. The appellant only provided information about his financial inability to purchase food for himself. As such, the new information surrounding his attempts at accessing food banks and family support is not accepted by the panel as it is not evidence that is in support of information that was before the Ministry for consideration at the time of reconsideration.

PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether the Ministry's decision to deny the appellant a crisis supplement for food by reason that he did not meet all of the criteria set out in s.57 EAPWDR is reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

The legislation provides:

s. 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;

(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.]

s. 22(4) EAA - Panels of the tribunal to conduct appeals

22 (1) If a person commences an appeal in accordance with section 21 (1), the chair must appoint a panel consisting of up to 3 members of the tribunal to hear and determine the appeal.

(2) If a panel consists of more than one member, the chair must designate a chair of the panel from among the members of the panel, and if a panel consists of one member, that member is the chair of the panel.

(3) A panel must conduct a hearing into the decision being appealed within the prescribed period either

(a) orally, or

(b) with the consent of the parties, in writing.

(4) In a hearing referred to in subsection (3), a panel may admit as evidence only

(a) the information and records that were before the minister when the decision being appealed was made, and

(b) oral or written testimony in support of the information and records referred to in paragraph (a).

(5) Evidence referred to in subsection (4) may be admitted whether or not it would be admissible as evidence in a court of law.

(6) The panel chair is responsible for deciding any question of practice or procedure that arises during a hearing and is not provided for in the regulations or in the practices and procedures of the chair under section 20 (2)

(a) [*powers and duties of the chair*].

The panel notes:

The Ministry is satisfied that the appellant meets the third criteria pursuant to s.57 EAPWDR being that if he does not obtain the supplement it could result in imminent danger to the appellant's physical health. Pursuant to s.57 EAPWDR, all three criteria set out in the legislation must be met in order for the Ministry to grant the crisis supplement to be granted.

Was it reasonable for the Ministry to determine that the expense was not unexpected?

The Ministry argues that the need for the crisis supplement for food is not unexpected to the appellant. The Ministry argues that regular wear and tear to clothing is not unexpected and doesn't happen unexpectedly. The panel finds that it was reasonable for the Ministry to determine that regular wear and tear to pants and shoes is not unexpected, particularly since the appellant states that his shoes were 12 years old and already had holes in them. Given the age and the state of his shoes it was reasonable for the Ministry to determine that the appellant should have expected or anticipated that his shoes would need to be replaced. The Ministry states that the appellant did not provide information about why acquiring a new pillow and blanket were unexpected expenses. The panel finds that the appellant did state that the reason he required a larger pillow was for his sleep apnea. However, there is no additional information about the appellant's sleep apnea disorder and whether this is a new disorder or a pre-existing or an ongoing disorder. There was no medical information about why he may need to purchase a new pillow or information about why the need to purchase the new pillow was unexpected. The appellant also argued that he is not receiving funding to purchase his much needed test strips for his diabetes. The panel finds that based on the evidence before the Ministry at the time of reconsideration it was reasonable for the Ministry to determine that the need to pay for food is not unexpected as the appellant's expenses for clothing, a pillow and a blanket were not unexpected.

Was it reasonable for the Ministry to determine that the appellant did not demonstrate that there were no other resources available to him?

Pursuant to s.57 EAPWDR the appellant must also show that he has no other resources available to him to purchase the items on his own. The Ministry argues that the appellant has not provided evidence to the Ministry that he has exhausted community resources or the assistance of family and friends that could help him with food. The panel accepts that the appellant doesn't have additional funds for food based on the information available at reconsideration and supported by the appellant's statements at the hearing about his high expenses for rent and his low income. The panel finds that the appellant did not provide sufficient evidence to the ministry about other resources that he attempted to access to assist him with his food expenses. The panel therefore finds that it was reasonable for the Ministry to determine, that the appellant did not demonstrate that there were no other resources available to him to obtain food.

For these reasons, the panel finds the Ministry's decision was reasonably supported by the evidence and confirms the decision. The appellant is not successful on his appeal.

PART G – ORDER	
THE PANEL DECISION IS: (Check one) <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> BY MAJORITY	
THE PANEL <input checked="" type="checkbox"/> CONFIRMS THE MINISTRY DECISION <input type="checkbox"/> RESCINDS THE MINISTRY DECISION	
If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount? <input type="checkbox"/> Yes <input type="checkbox"/> No	
LEGISLATIVE AUTHORITY FOR THE DECISION:	
<i>Employment and Assistance Act</i>	
Section 24(1)(a) <input checked="" type="checkbox"/> or Section 24(1)(b) <input type="checkbox"/>	
and	
Section 24(2)(a) <input checked="" type="checkbox"/> or Section 24(2)(b) <input type="checkbox"/>	

PART H – SIGNATURES	
PRINT NAME MEGHAN WALLACE	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2018/Aug/09

PRINT NAME JANE NIELSEN	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/Aug/09

PRINT NAME LINDA SMERYCHYNSKI	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/Aug/09