

PART C – DECISION UNDER APPEAL

The decision under appeal is the reconsideration decision dated December 28, 2018, made by the Ministry of Social Development and Poverty Reduction (the ministry), which determined that the appellant does not qualify for a crisis supplement for shelter because he does not meet all three criteria under section 59 of the *Employment and Assistance Regulation*.

PART D – RELEVANT LEGISLATION

The relevant legislation is section 59 and section 56.1 of the *Employment and Assistance Regulation* (EAR).

[Redacted]

PART E – SUMMARY OF FACTS

On December 5, 2018 the appellant's representative requested a Crisis Supplement for shelter on his behalf. It was stated that he owed ICBC and had paid \$500 of his December income assistance towards that debt leaving him with only \$200 to put towards his rent and \$45.00 toward food and no other resources available to him. It was noted that he is trying to get a job as a taxi driver which requires him to pay his ICBC debt and get his licence back.

The ministry denied the appellant's request for a crisis supplement for shelter.

On December 17, 2018 the appellant submitted a request for reconsideration, in which he wrote:

I am seeking reimbursement for a bogus charge for something I didn't use. I canceled my insurance on a car and ICBC didn't enter it into their system and I shouldn't have to pay for someone not doing their job cause they wanted to be lazy. I have paid \$500. There is still \$155 owing and that to I would like to be reimbursed when I pay it on the 19th. The reason I am paying this bill and want reimbursement, Assistance wants me to get a job. OK fine. I have one lined up and can work any hours so lots of work they are screaming for workers at the cab company here.

The only thing I have to do is upgrade my licence. Cab company pays for class 4 upgrade and provided car for road test.

I'm on assistance to go on disability.

I have to get CT and MRI ... This job and getting the bill cleared will help get me ... those things ...

I got them to lower the overall amount from \$783.00 to \$655.00 and some change.

Deduct \$10 a month if it gets me the reimbursement.

On December 26, 2018, the ministry denied the appellant's request, stating:

...the ministry finds that rent is not an unexpected expense and it is reasonable to expect that you will not have funds for shelter if you spend your income assistance to pay your ICBC debt.

... the ministry finds no evidence that failure to obtain shelter funds will result in imminent danger to your physical health.

The appellant did not attend the hearing. The panel being satisfied that the appellant received sufficient notice of the hearing proceeded with the hearing without the appellant in accordance with section 86(b) of the *Employment and Assistance Regulation*.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is the reasonableness of the ministry's decision finding the appellant is not eligible to receive a crisis supplement for shelter because he did not meet all three criteria under section 59 of the EAR.

The relevant legislation is section 59 of the EAR:

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 \$40 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) and (6) Repealed. [B.C. Reg. 248/2018, App. 1, s. 2.]

(7) Despite subsection (4) (b), 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.

Confirmed job supplement

56.1 The minister may provide a supplement of up to a maximum of \$1 000 to or for a family unit that is eligible for income assistance or hardship assistance if

- (a) a recipient in the family unit obtains confirmed employment that, in the opinion of the minister, will enable the family unit to become independent of income assistance or hardship assistance,
- (b) in the opinion of the minister, the recipient requires transportation, clothing, tools or other employment-related items in order to commence the employment, and
- (c) there are no resources available to the family unit to cover the cost.

In his notice of appeal, the appellant wrote:

You the gov made me get a work like 2 or 3 years ago. I did. The job required a car, my boss paid for the car, gas, insurance. When I was no longer working that job, I canceled the insurance. ICBC did not do their job and cancel it. Instead they let it charge up to \$783 and 3 years later or so again you want me to work. Well, if you want me to work you will pay me back the money ICBC has stolen from me. If you want it back

get it from ICBC.

At the hearing, the ministry representative restated that the ministry's position that the appellant's request does not meet 2 of the 3 criteria found in section 59 of the EAR in that having to pay rent is not unexpected and there is no evidence that failure to obtain shelter funds will result in imminent danger to the appellant's physical health.

The panel finds that the ministry was reasonable in these findings. Shelter costs are an expected expense and there is no evidence that the appellant did not expect to have to pay his. There is nothing in the appellant's submissions to suggest that failure to obtain the crisis supplement for shelter would result in imminent danger to the appellant's physical health.

However, in reviewing the appellant's submissions on reconsideration and at appeal, the panel notes that at no point does the appellant ask for a crisis supplement for shelter or rent. Rather, the appellant asks for reimbursement of a payment (whether for \$500, \$655 or \$155 is unclear) to ICBC that it is necessary for him to make in order to obtain employment.

It appears, then, from the appellant's submission that he has secured work as a cab driver pending payment of an outstanding charge on his ICBC account (which he contests) in the amount of about \$655.00, of which he has paid \$500.00 and is asking the ministry to "reimburse" him for the outstanding \$155.00 (perhaps as well as the \$500.00 he has already paid).

It may be that the appellant's representative's original request to the ministry was for a crisis supplement for shelter, but there is no record of this and that is certainly not the appellant's request on reconsideration or at appeal.

The panel notes that section 56.1 of the EAR provides that the minister may provide a supplement to a recipient who has "confirmed employment", requires "employment-related items in order to commence the employment" and has no other resources.

Confirmed job supplement

56.1 The minister may provide a supplement of up to a maximum of \$1 000 to or for a family unit that is eligible for income assistance or hardship assistance if

- (a) a recipient in the family unit obtains confirmed employment that, in the opinion of the minister, will enable the family unit to become independent of income assistance or hardship assistance,
- (b) in the opinion of the minister, the recipient requires transportation, clothing, tools or other employment-related items in order to commence the employment, and
- (c) there are no resources available to the family unit to cover the cost.

This section would appear to be relevant to the appellant's situation. Although the panel cannot draw any conclusions as to whether the appellant is eligible to receive a supplement under this provision, the panel considers that it is not a reasonable application of the legislation for the ministry to fail to consider his request under this section.

Accordingly, the panel concludes that, while the ministry's decision that the appellant is not eligible to receive a crisis supplement for shelter under section 59 of the EAR was a reasonable interpretation of the applicable legislation, it also concludes that the ministry's failure to consider the appellant's request under section 56.1 of the EAR was not a reasonable application of the applicable enactment in the circumstances of the appellant and rescinds the ministry's decision.

PART G – ORDER

THE PANEL DECISION IS: (Check one) UNANIMOUS BY MAJORITY

THE PANEL CONFIRMS THE MINISTRY DECISION 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? Yes No

LEGISLATIVE AUTHORITY FOR THE DECISION:

Employment and Assistance Act

Section 24(1)(a) or Section 24(1)(b)

and

Section 24(2)(a) or Section 24(2)(b)

PART H – SIGNATURES

PRINT NAME

Marcus Hadley

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/02/05

PRINT NAME

Sean Carberry

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/02/05

PRINT NAME

Don Stedeford

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/02/05