

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated June 28, 2019, which denied the appellant's request for a crisis supplement to cover the cost of fire risk reduction work, including removal of trees and debris from her property. The ministry found that all of the requirements of Section 57 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) were not met as the ministry was not satisfied that:

- the cost was an unexpected expense or an item unexpectedly needed;
- there are no resources available to the family unit to meet the expense or obtain the item; and,
- failure to pay the supplement to cover the cost of removal of trees and debris from her property will result in imminent danger to the physical health of anyone in the appellant's family unit or the removal of a child under the Child, Family and Community Service Act.

**PART D – RELEVANT LEGISLATION**

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Section 57

**PART E – SUMMARY OF FACTS**

The evidence before the ministry at the time of the reconsideration decision consisted of:

- 1) Print out of news article dated April 6, 2019 entitled “B.C.’s worst wildfire seasons were in 2017 and 2018. What will happen in 2019?”
- 2) Receipt dated April 9, 2019 for \$90.81, April 26, 2019 for \$103.03 and May 24, 2019 for \$197.80.
- 3) Letter dated April 24 to 29, 2019, in which the appellant wrote:
  - She is not able to perform the duties, so she called the ministry on April 24 about needing help with the cost of labour to do a fire break between the road and her house, giving work to people in her neighbourhood.
  - Cutting down 10 trees at \$100 per tree is cheap.
  - 9 evergreens that need dead limbs removed up to 12 feet high, 80 hours at \$25/hour is \$2,000.
  - Raking the dried needles and small limbs, about 80 hours is \$2,000; truck removal of all wood debris \$1,000.
  - The total cost is \$6,000. She was told the ministry would not pay.
  - She can get a quote from a landscaper but she knows that it will be about \$20,000 to \$45,000.
  - This is an unexpected expense as some months she cannot pay her mortgage and the hydro.
  - There are no alternate resources available. She owes everyone in her family and they will not give her anymore money. She cannot get a loan from the bank because she cannot pay it back.
  - Failure to obtain the item or meet the expense will result in imminent danger to her physical health as fire is a real danger in the hot summers in her community.
  - She does not have insurance and she cannot get it on her house.
- 4) Print out of news article dated May 27, 2019 entitled “Summer weather forecasts vary sharply across Canada,” and including information about B.C. that hotter and drier-than-normal summers are expected, with threat of wildfires.
- 5) FireSmart Property Assessment dated May 30, 2019 providing a summary of required actions to “reduce wildfire risk” and receive recognition through the FireSmart Home Partners Program, including:
  - Install metal drip edge or metal gutters.
  - Fill gaps on siding with metal flashing or 1/8 metal screen to keep out embers from accumulating and entering the structure.
  - Extend gravel 5 feet around structure and add a 6 inch metal flashing so embers will not ignite the siding.
  - Remove the plastic sheet, and replace windows with dual pane to ensure embers cannot accumulate and ignite.
  - Close in the overhang with a thick canvas trap or plywood so embers cannot accumulate and ignite.
  - Continue surrounding remaining half of structure with pea gravel.
  - Remove pine bushes and wood debris, rake and remove all dry vegetation so embers will not accumulate and ignite and spread to structure.
  - Rake and remove all dead dry vegetation so embers cannot accumulate under the

trees and ignite and spread to home.

- Close in all gaps with metal screen and gravel to base of structure, remove all patio furniture and other combustible materials during fire season.
- Remove old wooden debris/shed so embers cannot accumulate and ignite and spread to the structure.

6) The appellant's Request for Reconsideration dated May 31, 2019 with a written submission on her behalf by an advocate.

In the Request for Reconsideration, the advocate wrote:

- The appellant lives in a small, rural community.
- The past two summers have seen unprecedented wildfire activity in B.C and the Weather Network is predicting another dry, hot summer in B.C.
- The appellant's house is approximately 20 feet from the road, the area between her house and the road has a number of evergreens on it. This spring, the appellant noticed dead branches on the evergreens and large amounts of pine needles on the ground. Given the high risk of wildfires, the appellant believed having this much dry material between her home and the road posed a significant risk to her safety.
- The appellant suffers from chronic pain. She is unable to carry out the work required to clear the dry vegetation herself.
- Knowing that a professional landscaper would be extremely expensive, the appellant talked to her neighbours who agreed to help with the labour for \$25 per hour.
- The appellant purchased some of the equipment required to do the work and a mower, although she is not asking for funding for this equipment.
- As the ministry suggested, the appellant contacted a local FireSmart representative and he did a full assessment of her property. In addition to recommending that she remove the pine bushes, wood debris and dry vegetation, he made a number of other recommendations.
- In addition to the original request, the appellant is asking that the ministry provide funding to cover the cost of the additional work and materials identified in the FireSmart Property Assessment, specifically: a truckload of gravel, thick canvas tarp, labour required to lay the gravel, labour, backhoe and dump truck required to remove an old wooden shed. She can provide estimates for these additional items as well.
- The appellant's total income is \$1,285.42 and her expenses for mortgage, water, phone, hydro, transportation and food total \$1,290.

### ***Additional information***

In her Notice of Appeal dated July 10, 2019, the appellant expressed her disagreement with the ministry's reconsideration decision and wrote that she believes that the need for wildfire prevention work is unexpected and that wildfire presents an imminent threat to her safety. She is not able to do the required work.

Prior to the hearing, the appellant provided the following additional documents:

- 1) Radiology Report for an exam conducted January 19, 2018 for an ultrasound of the appellant's right shoulder, with findings that include a "small but full-thickness tear of the proximal to mid supraspinatus tendon at the anterior free edge measuring 6 x 6 mm. The remainder of the tendon showed good thickness and congruency with no additional

partial or full-thickness tear. Slight irregularity of the tendon structure may suggest underlying tendinitis”;

- 2) Radiology Report for an exam conducted June 29, 2018 for an ultrasound of the appellant’s left shoulder with a final conclusion of “unremarkable shoulder ultrasound”;
- 3) A series of four undated photos received by the Tribunal on July 24, 2019 and showing the appellant with her arms crossed over her torso, with her left arm above her right and the right hand grasping her left elbow; and,
- 4) Written submission dated July 29, 2019 in which the appellant wrote:
  - She did a FireSmart Property Assessment on May 30, 2019, which included a reference to the fact that she is a widow and on disability and she will need to look into community grants to do the required work.
  - She is suffering physically as a result of the effects of stress due to the appeal.
  - She does as much of the work herself although it takes her 5 days to cut the grass and she cannot do it all at one time.
  - She has taken down all the trees as recommended except the stump of the tree at the side of her house and part of the dead tree beside her chicken coop. Also, the large branches need to be dragged to the driveway so they can be picked up.
  - She was not expecting that she would have to also get a truckload of gravel and incur the cost of labour to move the gravel from the driveway to the sides and the back of the house.
  - She has called her local fire department to ask if they will help with burning the remains of an old barn in her yard.
  - She has to fight with the ministry to have them pay for labour if the men are from the neighbourhood when she does have an emergency, and she also has to fight to get water as she is still trying to get a deep well pump installed before winter.
  - She needs to replace the roof on the front side of her house where the white plastic is the roof.
  - The ministry discriminates against home owners because the ministry has no allowances for prevention, which is cheaper than “waiting for a disaster to hit.”

At the hearing, the appellant stated that:

- No one expects a wild fire on their property but lightning can strike or someone can flick a cigarette into the dead pine needles, and there will be a fire. She does not know if these things will happen, but she wants to be prepared so it is less likely that there will be a fire. She went to the FireSmart program to protect herself.
- She did not expect that there would be two years of really dry weather that would make the trees on her property so dry.
- She took down most of the tree that was located beside her house and she hurt herself so badly that she is getting very little sleep. There is still 8 feet of tree that needs to be removed by someone else.
- She was designated as a Person with Disabilities (PWD) for chronic pain and an upset stomach. She did not think that she would have to explain that she needs to protect herself against fire, to repair her roof, and to get water.
- This morning she had hot water coming out of a pipe to her dishwasher and it was filling up her crawl space with water. She went to a hardware store to get the hoses to fix this as soon as possible.

- She cannot fix things like she used to. Her body will not work like it used to.
- Her home is old and she knows that anything that breaks from now on is not really unexpected. She can deal with repairs if they are minor but not if it is major and requires physical labour. Her husband taught her how to make repairs since she lives in a rural area and has to deal with things.
- She has lived on the property since 1993. Her husband died in 2012 and she has been maintaining the property. It is not unexpected to have to do regular maintenance on the property, but the last two summers have been especially dry.
- She provided the photographs to show the bruise to her arm. She was mowing her grass with the lawn mower and she was trying to clean out the bag on the back of the machine when she injured herself.
- She provided the medical imaging reports because she had a small tear in her shoulder and, by doing the work to remove the tree at the side of her house, she feels that she has torn it further. She had a blinding headache afterwards, and she could not lift her arm at all.
- She believes that \$375 per month for shelter is not sufficient as she pays \$700 per month for her mortgage and people are paying \$500 per month for a room in the nearest town.
- She tried to use local resources by calling the fire department about having her barn taken down, but she has not heard back from them. She believes there used to be a grant but it no longer exists. She will call to see if any other grants exist.
- She cannot get insurance on her house because it has been made with horse hair and mud in some parts and with partial blocks of wood standing vertically in other parts. She checked with a few insurance brokers and, when they had a look at it, they said they “wouldn’t touch it.”

The ministry relied on its reconsideration decision, as summarized at the hearing. The ministry clarified that the ministry was not satisfied that all three criteria were met, including the requirement that there are no resources available to the family unit as the appellant had not shown that she had exhausted attempts to obtain resources in the community. The ministry also stated that further applications can be made for crisis supplements for shelter-related costs if the circumstances of the request are different with respect to the 3 criteria.

#### ***Admissibility of Additional Information***

The ministry did not object to the admissibility of the additional documents. The panel reviewed the medical reports, the photographs, and the written submission and determined that this information related to the appellant’s need for a crisis supplement to cover the cost of having others remove trees and debris from her property on her behalf and is, therefore, in support of information before the ministry on reconsideration, pursuant to Section 22(4) of the *Employment and Assistance Act*.

The arguments on the appellant’s behalf, in the Request for Reconsideration, will be addressed in Part F- Reasons for Panel Decision, below.

**PART F – REASONS FOR PANEL DECISION**

The issue on the appeal is whether the ministry's decision which denied the appellant's request for a crisis supplement to cover the cost of fire risk reduction work, including removal of trees and debris from her property, on the basis that the requirements of Section 57 of the EAPWDR were not met, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the appellant's circumstances.

Section 57(1) of the EAPWDR sets out the eligibility requirements which are at issue on this appeal for providing the crisis supplement, as follows:

**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 \$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;
  - (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. 2, 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.

**Policy: Emergency Home Repairs Crisis Supplement**

*Effective: December 1, 2018*

A crisis supplement for emergency home repairs may be provided if recipients:

- meet the requirements for a crisis supplement [see Policy – Requirements], and
- require emergency repairs for their place of residence, and
- their place of residence is owned by a person in their family unit, and
- the repairs are the least costly, appropriate option, and
- the cost of the repairs has been pre-approved by ministry.

Emergency home repairs may include essential items for the protection, replacement, and repair that are part of the physical structure of the recipient's home and the repair or replacement of home heating and cooking appliances when no other means are available for home heating and cooking, and all other eligibility requirements are met.

*Panel decision*

In the reconsideration decision, the ministry wrote that the provisions of Section 57 of the EAPWDR allow for the ministry to provide a crisis supplement when all of the legislative criteria are met, specifically that the supplement is required to obtain an item unexpectedly needed or for an unexpected expense, the family unit has no resources available to meet the expense or obtain the item, and failure to obtain the item will result in imminent danger to the physical health of any person in the family unit or the removal of a child under the *Child, Family and Community Service Act (CFCSA)*. The ministry wrote that when the crisis supplement is for shelter, the maximum amount that may be provided in a calendar month is the smaller of the family unit's actual shelter cost and the maximum set out in Section 4 of Schedule A [Section 57(4)(b) of the EAPWDR], unless the shelter allowance is required for essential utilities, including fuel for heating, fuel for cooking meals, water, or hydro [Section 57(7) of the EAPWDR]. The ministry wrote that one of the requirements of the ministry policy allowing emergency home repairs is that the request for a supplement must meet all of the requirements for a crisis supplement as set out in Section 57 of the EAPWDR.

*Unexpected Expense*

In the reconsideration decision, the ministry acknowledged that the appellant has been designated as a PWD and the ministry did not dispute her claim that she suffers from chronic pain and is not capable of completing all of the work, including removing trees and debris from

her property, by herself. However, the ministry wrote in the reconsideration decision that the ministry was not satisfied that the appellant's request for a supplement to cover the cost of removal of trees and debris from her property as fire prevention was required to meet an unexpected expense. The ministry wrote that the appellant has resided at her property since 2012 and, therefore, the need for regular maintenance, repairs and upkeep of the property is not unexpected. At the hearing, the appellant clarified that she has resided at the property since 1993. The ministry acknowledged that the risk of wildfires over the last couple of years has been higher than usual and wrote that the recommendation that she take preventative measures on her property to reduce her risk of a fire is not unexpected.

In the Request for Reconsideration, the advocate argued that the appellant did not expect to have to do the work, i.e. remove trees and debris from her property, as fire prevention. At the hearing, the appellant stated that no one expects a wildfire on their property but lightning can strike or someone can flick a cigarette into the dead pine needles, and there will be a fire. The appellant stated at the hearing that she does not know if these things will happen, but she wants to be prepared so it is less likely that there will be a fire. The appellant stated that she did not expect that there would be two years of really dry weather that would make the trees on her property so dry. The advocate wrote in the Request for Reconsideration that it was only in the Spring that the appellant noticed the dead pine branches and needles and she did not expect the evergreens to die, which created the risk. The advocate wrote that the ministry suggested that the appellant contact the FireSmart program, which led to a number of other recommendations that the appellant had not anticipated.

While the appellant noticed the dead pine branches and needles on her property in the Spring and this alerted her to a possible fire risk, the appellant acknowledged that the risk of fire to property is always present due to a lightning strike or a discarded cigarette, for example. The risk of fire to property is heightened with particularly hot and dry weather, which has likely occurred many times over the duration of the appellant's ownership of the property since 1993. When the appellant consulted the Firesmart program, there was a list of preventative work identified to "reduce wildfire risk," but not to eliminate the wildfire risk, to her property. The panel finds that the ministry reasonably determined that the cost of this risk reduction work, including removal of trees and debris from the appellant's property, was work that is part of the need for regular maintenance, repairs and upkeep of the property and not an unexpected expense.

*No resources available to meet the expense*

In the reconsideration decision, the ministry wrote that the appellant is in receipt of disability assistance and CPP income in the total amount of \$1,335.42 per month and, given this monthly income, it is reasonable that the appellant does not personally have the financial resources to pay the cost of removal of trees and debris from her property, estimated by her at \$6,000. However, the ministry wrote in the reconsideration decision that the ministry was not satisfied



that the appellant had explored community resources, such as local grants, as noted in the FireSmart Property Assessment report and checked all of her options for house insurance.

In her letter dated April 24 to 29, 2019, the appellant wrote that she does not have insurance and she cannot get it on her house. At the hearing, the appellant stated that she cannot get insurance on her house because it has been made with horse hair and mud in some parts and with partial blocks of wood standing vertically in other parts and, when she checked with a few insurance brokers, the brokers said they “wouldn’t touch it.”

In the Request for Reconsideration, the advocate wrote that the appellant has monthly expenses totalling \$1,290, with some expenses being higher during the winter months, and the appellant does not have the funds to pay for the required labour costs and materials. The advocate wrote that the appellant will do the work that she can herself and has purchased some equipment for this purpose, but she is unable to cover the remainder of the costs or carry out the labour herself. In her letter dated April 24 to 29, 2019, the appellant wrote that the total cost for the work as detailed by her was \$6,000 and there are no alternate resources available since she owes everyone in her family and they will not give her anymore money, and she cannot get a loan from the bank because she cannot pay it back.

The advocate also wrote that there will be additional costs for the work and materials identified in the FireSmart Property Assessment, specifically for a truckload of gravel, thick canvas tarp, labour required to lay the gravel, labour, backhoe and dump truck required to remove an old wooden shed. The advocate noted that the appellant was exploring the possibility of having the fire department burn the shed and, in that case, she will not need funding to remove it. At the hearing, the appellant stated that she tried to use local resources by calling the fire department about having her barn taken down, but she has not heard back from them and she will call to see if any other community grants exist. In her written submission dated July 29, 2019, the appellant wrote that the FireSmart Property Assessment included a reference to her needing to look into community grants to do the required work, and she stated at the hearing that she thought this meant obtaining funding from the ministry. The appellant acknowledged that she had not yet fully explored the possibility of other funds available through community grants and that she would be following up to find out more about his option. Therefore, the panel finds that the ministry reasonably concluded that there was insufficient evidence to demonstrate that the family unit has no resources available to meet the expense.

*Imminent danger to physical health*

The ministry wrote in the reconsideration decision that the ministry was not satisfied that the failure to complete the work or to receive the supplement will result in imminent danger to her physical health. The ministry wrote that the information provided by the appellant does not support the claim that the property on which she resides is currently at imminent risk of a wildfire. The ministry interpreted “imminent danger” to mean a direct and immediate threat or

danger to life and the ministry found that the appellant is not in imminent danger.

In the Request for Reconsideration, the advocate argued that a wildfire on the appellant's property would put the appellant's life in danger. The advocate wrote that, given the unprecedented wildfire activity in the past two years and the forecast from the Weather Network for a dry, hot summer, the risk of a wildfire in a rural area is very real. While the two news articles provided by the appellant, dated April 6 and May 27, 2019, include information about hotter and drier-than-normal summers expected for the province in 2019, with threat of wildfires, the panel finds that the ministry reasonably interpreted "imminent" to mean "direct and immediate" and there is no specific, direct and immediate danger identified in these articles for the appellant or her property. The FireSmart Property Assessment dated May 30, 2019 provided a summary of required actions to "reduce wildfire risk" and receive recognition through the FireSmart Home Partners Program by making a risk reduction plan and also did not identify a direct and immediate danger for the appellant or her property. Therefore, the panel finds that the ministry reasonably concluded that there was insufficient evidence to show that failure to pay the supplement to cover the cost of fire risk reduction work, including removal of trees and debris from the appellant's property, will result in imminent danger to the appellant's physical health.

### *Conclusion*

The panel finds that the ministry's reconsideration decision, which denied the appellant's request for a crisis supplement for the cost of fire risk reduction work, including removal of trees and debris from the appellant's property, because the requirements of Section 57 of the EAPWDR were not met, was reasonably supported by the evidence and the panel confirms the ministry's decision. The appellant's appeal, therefore, is not successful.

APPEAL NUMBER

**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

S. Walters

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019-07-31

PRINT NAME

Bill Haire

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019-07-31

PRINT NAME

Wendy Marten

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019-07-31