

APPEAL NUMBER

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (The Ministry) Reconsideration decision dated September 18, 2019, which determined that the appellant was not eligible for a Crisis Supplement to obtain the Appellant's medical records from another province because all the criteria under Section 59 of the Employment and Assistance Regulation (EAR) were not met.

PART D – RELEVANT LEGISLATION

Employment and Assistance Act Section 4 (EAA)
Employment and Assistance Regulation Section 59 (EAR)

PART E – SUMMARY OF FACTS

The Appellant did not attend the hearing. After confirming that the Appellant had received notification through the delivery of the documents on October 7, 2019 and the panel allowing a 10 minute delay. The hearing proceeded under Section 86(b) of the Employment and Assistance Regulations.

The evidence before the Ministry at reconsideration was:

- The Appellant's completed Crisis Supplement application dated July 23, 2019.
- Letter from the Ministry, dated August 7, 2019, advising the Appellant that the application was denied and indicating the denial was based on not meeting the criteria for the crisis supplement because health care goods and services are not eligible for crisis supplement.
- Request for Reconsideration dated September 4, 2019
- A letter from an out of province hospital stating that some of the medical records were stored on microfilm and that a fee of \$142.00 was required before a copy was made.
- Completed Section 3 of the Request for Reconsideration with comments
- Letter date June 21, 2019 from the Ministry of Children, Community and Social Services from the other province showing 'grand parented eligibility'.
- ER Hospital reports
- Letter requested by the ministry intake worker, which you completed when you were told you would receive disability in BC
- Letter from the Appellant's DR. regarding the Appellant's disability application and the Appellant's disclosure to the DR. of a medical condition that left the Appellant with a severe injury. This letter states that DR would like to have more information before submitting the application.
- Photocopies of documents from a hospital stay.
- Letter from the DR. advising that the Appellant's first attendance at the clinic was June 2019.

At the hearing the evidence submitted by the Appellant, in written documentation:

- Notice of Appeal, dated September 24, 2019. Stating the reason for appeal as "*I disagree with the Ministry decision because file give t... no consideration the second risk to my health and safety by not allowing a crisis supplement to pay for medical records*"
- Fax Transmittal Page dated September 26, 2019, from the DR's clinic authored a Legal Advocate. Written on the document "*To whom it my concern: Please find attached 2 matters for appeal for my client*". No other comments on this document.
- Letter dated July 11, 2019, to the Appellant from the hospital in the other Province, acknowledging her request for medical records, and advising the Appellant, that a fee of \$142.00 was a required pre-payment before the records were produced.

At the hearing the Ministry stated that:

- The Appellant had not made any application to obtain Person with Disability (PWD) status up to the time of this crisis supplement application.
- That PWD status is non-transferable between provinces, so that an individual must make a new application in the province that they reside to be able to receive PWD status. There is no 'Grand fathering' agreement between the provinces, so that no further applications are necessary for individuals to complete to be able to maintain their PWD status upon relocation within Canada.
- The Ministry does not require the medical records that the Appellant is referring to and deem that they are not necessary for the Appellant to be able complete her application for PWD status.
- A Crisis supplement may not be provided for any health care goods or services under Schedule C of the regulations.

- The Ministry acknowledged that the Appellant's income has diminished due to not having PWD designation in the Province of BC
- The Ministry stated that the Appellant did not meet all the criteria that is required under Section 59 of EAR namely:
 - (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. *The Ministry found that this had not been met. The Appellant should have been aware that it was not an unexpected requirement of a medical history for your physician.*
AND
 - (b) The family unit has no resources available to obtain the item. Since your move to the province has changed your assistance rates causing a financial strain in your situation. *The Ministry found that this had been met, and that you have no resources available to you to obtain this item.*
AND
 - (c) Failure to provide the item will result in imminent danger to your physical health. That the documents that you wish to receive from the other province are documents that you feel are necessary to support your application for PWD in the Province of BC but not detrimental to your physical health. *The Ministry found that there was no imminent danger to physical health if the records were not obtained, therefore this criteria had not been met.*
- A crisis supplement may not be proved to obtain any health care goods or services and that includes the cost related to the transfer of medical documents.

No additional documents where presented at the hearing.

PART F – REASONS FOR PANEL DECISION

The issue is whether the Ministry's decision dated September 18, 2019, that determined that the appellant was not eligible for a Crisis Supplement under Section 59 (3) EAAR to obtain medical records from another province was reasonable specifically, that the legislation states that a Crisis supplement may not be provided for the purpose of obtaining, a supplement described in Schedule C, or any other health care goods or services.

The Legislation:**Employment and Assistance Act, Section 4.****Income assistance and supplements**

4 Subject to the regulations, the minister may provide income assistance or a supplement to or for a family unit that is eligible for it

Employment and Assistance Regulation, Section 59**Crisis supplement**

59 (1)The minister may provide a crisis supplement (1)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.

Panel Reasons

The Panel reviewed all written documents and the verbal testimony evidence that was presented at the hearing.

Documents reviewed by the Panel:

1. Notice of Appeal completed by the Appellant on September 24, 2019.
2. Reconsideration Decision dated September 18, 2019
3. Request for Reconsideration not dated and not completed by the Appellant
4. Letter dated July 11, 2019 from the hospital in the other Province concerning the medical record request.
5. No additional documents were presented to the Panel by the Ministry or the Appellant at the time of the hearing.
6. Applicable legislation of EAA, Section 4 and EAR, Section 59 (1) and (3).

Verbal Evidence by the Appellant:

1. No verbal evidence was heard from the Appellant due to the Appellant not being present at the hearing.

Verbal Evidence by the Ministry:

1. That PWD status is non-transferable between provinces. That individuals must make a new application in their residential province to obtain PWD status. There is no 'Grandfathering' agreement between the provinces. Individuals must complete a new application in their chosen province for designation of PWD or other benefits.
2. That the Ministry does not require medical records that the Appellant is referring to and deem that they are not necessary for the completion of the Appellant's application.
3. That the Appellant had made no application for PWD status at the time of the Appellants application for this Crisis Supplement.
4. A Crisis supplement may not be provided for any health care goods or services as it does not fall under Schedule C of Section 59 (3) EAR.
5. The Ministry states that medical records are considered a health care service, which is not provided for under Section 59 (3)(b) and therefore not funded.

6. The Ministry states that the Appellant did not meet 2 of the 3 criteria required under the legislation Section 59 EAR. That criteria (a) and (b) have not been met under Section 59 (1) EAR.
7. The Ministry acknowledges that the Appellant's income has diminished due to not having PWD designation in the Province of BC.

The Panel finds that:

1. The Crisis Supplement applied for by the Appellant is a health care service
2. That Section 59 (3) EAR states that '*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*' therefore obtaining the Medical Records is not provided for under the legislation.
3. The Panel finds that the Appellant, has not met all the criteria required to be eligible for a crisis supplement.
Criteria #1 – To meet an unexpected or obtain an item unexpectedly needed. Obtaining prior medical records for health care purposes is not unexpected. Criteria # 1, has not been met.
Criteria #2 – No resources available to obtain this item. Due to the Appellant's move from another Province to the Province of BC and without acquiring PWD status in the Province of BC, the Appellant's finances have been decreased substantially. Criteria #2, has been met.
Criteria # 3 – Failure to provide the items will result in imminent danger to your physical health. There is no evidence of your physical health being in danger. As well there is not a report or letter from your physician indicating that should the Appellant not obtain the medical records that the Appellant's physical health would be in imminent danger. Criteria # 3, has not been met.

The Panel finds the ministry's reconsideration decision of September 18, 2019 which denied the Appellants application for Crisis Supplement for obtaining Medical Records was reasonable because under Section 59 (3) EAR the Medical Records would be considered as a Health Care service and would not be funded.

The Panel confirms the Ministry's decision. The Appellant is unsuccessful in this appeal.

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

Linda Smerychynski

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019.10.22

PRINT NAME

John Pickford

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019.10.22

PRINT NAME

Wayne Reeves

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019.10.22