

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (“the ministry”) reconsideration decision of August 7, 2019 in which the ministry found that the appellant was not eligible for a crisis supplement for utilities under Section 57 (1) of the Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”), for expenses related to the car in which he lives. The ministry determined that the appellant’s application did not meet the eligibility criteria for a crisis supplement for utilities, specifically that not all of his car-related expenses were allowable shelter-related utilities and the request did not demonstrate that:

- his need was unexpected; and
- failure to obtain the supplement would result in imminent danger to his physical health.

The ministry also determined that under the Employment and Assistance for Persons with Disabilities Act (“EAPWDA”) Section 17 and EAPWDR Section 23 the appellant’s request for a crisis supplement for utilities could be considered only for the calendar month in which the request was made, namely April, 2019.

PART D – RELEVANT LEGISLATION

EAPWDA, Section 17

EAPWDR, Sections 23, 57

PART E – SUMMARY OF FACTS**Information before the Ministry at Reconsideration**

Relevant information before the ministry at reconsideration included:

- appellant's request for a crisis supplement for utilities dated April 21, 2019 in which the appellant noted that:
 - his car is his shelter;
 - his shelter-related monthly expenses are: gas \$400, lease \$400, insurance \$178 and maintenance \$20;
 - he requires a supplement of \$600 per month for the period commencing April 2018 to the date of his application;
 - he faces the following threats to his health and safety: diabetic health threats, poor sleep, mental health threat due to no social life.
- July 15, 2019 letter from the ministry informing the appellant that he was ineligible for a crisis supplement (utilities);
- request for reconsideration submitted to the ministry by the appellant on July 25, 2019 in which the appellant noted that his monthly winter vehicle costs totaled \$1,020;
- May 16, 2019 letter from a motor dealership confirming that the appellant has rented his vehicle from the dealership since June 25, 2018 at a rent of \$500 per month from June 2018 to October 24, 2018 and \$400 per month from October 25, 2018 to May 16, 2019;
- a message dated July 9, 2019 from the appellant to the ministry via the self-serve client portal in which the appellant revised his monthly vehicle-related expenses as follows: gas \$400 between October and May and \$150 per month between June and September, insurance \$203, lease payment \$400 and an additional amount related to the higher lease payment of \$500, paid between June 25, 2018 and October 24, 2018.

Information Received after Reconsideration

On August 20, 2019 the appellant submitted a Notice of Appeal which contained no additional information and in which the appellant asked that the appeal be considered jointly with an appeal for a different type of crisis supplement. The panel determined that pursuant to EAR Section 24 (1) its jurisdiction is limited to determining whether the decision being appealed is reasonably supported by the evidence or is a reasonable application of the applicable enactment in the circumstances of the appellant. Accordingly this panel is unable to consider a separate decision of the ministry.

Accompanying the Notice of Appeal was a two-page written submission with attached copies of letters to the Employment and Assistance Appeal Tribunal ("EAAT") dated March 5, April 17 and April 29 respectively.

The Notice of Appeal and the appellant's submissions constituted argument only and did not provide additional information relevant to this appeal.

PART F – REASONS FOR PANEL DECISION

The decision under appeal is the reasonableness of the ministry's reconsideration decision which determined that the appellant was not eligible for a crisis supplement for utilities under Section 57 of the EAPWDR, for expenses related to the car in which he lives. The ministry determined that the appellant's application did not meet the eligibility criteria for a crisis supplement, specifically that not all of his car-related expenses were allowable shelter-related utilities and that the request did not demonstrate that:

- his need was unexpected; and
- failure to obtain the supplement would result in imminent danger to his physical health.

The ministry also determined that pursuant to EAPWDA Section 17 and EAPWDR Section 23 the appellant's request for a crisis supplement for utilities could be considered only for the calendar month in which the request was made, namely April, 2019.

Relevant legislation:

EAPWDA:**No appeal from decision based on same circumstances**

- 17 If a person reapplies for disability assistance, hardship assistance or a supplement after
- (a) the eligibility of the person's family unit for the disability assistance, hardship assistance or supplement has been determined under this Act,
 - (b) a right of appeal under section 16 (3) has been exercised in respect of the determination referred to in paragraph (a), and
 - (c) the decision of the tribunal in respect of the appeal referred to in paragraph (b) has been implemented
- no right of reconsideration or appeal exists in respect of the second or a subsequent application unless there has been a change in circumstances relevant to the determination referred to in paragraph (a).

EAPWDR:**Effective date of eligibility**

23 (2) Subject to subsections (3.01) and (3.1), a family unit is not eligible for a supplement in respect of a period before the minister determines the family unit is eligible for it.

(5) Subject to subsection (6), a family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested.

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

(2) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.

(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.

The appellant argues that:

1. He requires a crisis supplement for utilities for the period April 2018 to April 2019;
2. Because his car is his shelter all of his car expenses (including gas, leasing costs, insurance and maintenance) should be considered "utilities" for which a crisis supplement can be requested;
3. He meets the eligibility criteria for a crisis supplement because:
 - a) his need for a crisis supplement for shelter (utilities) is unexpected;
 - b) he does not have the resources to pay his shelter expenses; and
 - c) failure to obtain a crisis supplement for shelter (utilities) will result in imminent danger to his physical health.

The ministry argues that:

- A crisis supplement can be provided only for the calendar month in which the request for a supplement is made;
- A crisis supplement for utilities is limited to those costs set out in EAPWDR Section 57 (7), namely fuel for heating and cooking, water and hydro ;
- The appellant's need for a crisis supplement is not unexpected and failure to receive a crisis supplement will not result in imminent danger to the appellant's physical health

Panel Decision

1. Effective Date of Eligibility for a Crisis Supplement

The appellant has been living in his car since on or about May 1, 2018. Previously he appealed a ministry decision related to his request for a crisis supplement for utilities for the period December 2018 – March 2019. The evidence does not indicate that his circumstances have changed. EAPWDA Section 17 states that no right of reconsideration or appeal exists unless there has been a change in circumstances relevant to the person's eligibility for a supplement under the Act. The panel therefore finds that the ministry reasonably determined that the legislation prohibits the appellant from seeking reconsideration or appeal of the adjudication of his request for a crisis supplement for utilities for the period December 2018- March 2019.

The appellant submitted his request for a crisis supplement on April 21, 2019. Subsection (2) of EAPWDR Section 23 states that a family unit is not eligible for a supplement in respect of a period before the ministry determines eligibility. Subsection (5) of the same section specifies that a family unit is not eligible for any assistance in respect of a cost incurred before the calendar month in which the assistance is requested. In accordance with the rules set out in subsections (2) and (5) of Section 23 the panel finds that the ministry reasonably limited its determination to costs incurred in April 2019.

2. Allowable Utility Costs

EAPWDR Section 57 (7) limits the allowable utility costs for a family unit. It states: " 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; and (d) hydro." It does not include car insurance, lease/rental, or maintenance costs. The panel therefore finds that the ministry reasonably determined that the appellant's request for a crisis supplement for utilities is limited to the cost of fuel for heating.

3. Eligibility for a Crisis Supplement under EAPWDR Section 57 (1)

EAPWDR Section 57 (1) states that the minister may provide a crisis supplement for clothing to a family unit that is eligible for income assistance or hardship assistance, if all of the following criteria are met:

- a) the supplement is required to meet an unexpected need;
- b) there are no resources available to purchase the items; and
- c) failure to obtain the items will result in imminent danger to the applicant's physical health.

(a) Unexpected Need

The appellant has been living in his car since on or about May 1, 2018. At that time he advised the ministry that he could no longer afford the rental cost of his apartment and would live in his car until he was approved for subsidized accommodation through BC Housing. Since May of 2018 he has been aware of the ongoing cost of fuel to heat the vehicle. Accordingly his April 21, 2019 request for a crisis supplement for fuel for heating cannot be considered an unexpected expense.

The appellant also contends that his need for a crisis supplement for utilities is unexpected because the ministry cancelled his application for assistance in 2016, which in turn delayed his application for PWD designation. He argues that this delay resulted in higher than necessary car lease/rental costs because his qualification for financing was based on his "no-income" 2016 income tax return and cost him an additional \$200-300 per month, which unnecessarily increased his car-related costs. The May 16, 2019 letter from a motor dealership confirms that the appellant rented his vehicle for \$500 per month from June 2018 to October 24, 2018 and \$400 per month from October 25, 2018 to May 16, 2019.

Regardless of the circumstances that led to setting the cost of renting/leasing the vehicle the appellant has been aware of the need to meet this expense since June of 2018. It cannot be considered an unexpected need faced by the appellant when he requested a crisis supplement in April of 2019.

The panel therefore finds that the ministry reasonably determined that the information provided by the appellant does not establish that he required a crisis supplement to meet an unexpected need.

(b) No Available Resources

The evidence submitted by the appellant demonstrates that the appellant's expenses exceed his income and he has a substantial credit card debt. The panel therefore finds that the ministry reasonably determined that the appellant has no available resources to meet his need.

(c) Imminent Danger to Physical Health

The appellant suffers from spinal pain, diabetes and other health conditions that may be exacerbated by living in his car. However no medical evidence was tendered to establish that failure to heat the vehicle during the month of April 2019 would result in imminent danger to the appellant's health. The panel therefore finds that the ministry reasonably determined that there is insufficient information to establish that failure to provide the crisis supplement would result in imminent danger to the physical health of the appellant.

In summary, the panel finds that the ministry reasonably determined that the appellant is ineligible for a crisis supplement because he failed to meet all of the eligibility criteria set out in EAPWDR Section 57 (1).

CONCLUSION

The panel finds that the ministry's determination that the appellant was ineligible for a crisis supplement for utilities is a reasonable application of the applicable legislation in the circumstances of the appellant, and confirms the decision. The appellant is not successful in his 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

Joan Bubbs

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/Sep/25

PRINT NAME

Jean Lorenz

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/Sep/25

PRINT NAME

Bill Reid

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/Sep/25