

APPEAL NUMBER

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction's (the Ministry) reconsideration decision made under section 57(1) of the *Employment and Assistance for Persons with Disabilities Regulation (EAPWDR)* and dated November 18, 2019, that denied the Appellant's request for a crisis supplement for food for November, 2019.

The Appellant did not satisfy the Minister that the Appellant had no resources with which to purchase food, and because the Appellant did have funds to purchase food, the ministry was not satisfied that failure to provide the Appellant with a crisis supplement for food would result in imminent danger to the Appellant's physical health. The ministry cited section 57 (1) of the *EAPWDR* as authority.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Act (EAA), section 5 & 10
Employment and Assistance for Persons with Disabilities Regulation (EAR), sections 15, 28, 57(1) and 59(1)

PART E – SUMMARY OF FACTS**Nature of the Appellant's Application**

The Appellant applied for a crisis supplement for food for a specific month, which was denied. The Appellant requested reconsideration of the denial.

In this appeal, the Appellant indicated the preference to be referred to by the pronoun "they", and therefore the Appellant will be referred to as "the Appellant" or as "they" or "their".

A. Evidence at the Time of Reconsideration - Decision Made November 18, 2019

The consent information before the Ministry at the time of Reconsideration decision included:

(1) The Appellant's Request for Crisis Supplement - Food Dated November 8, 2019

In the Request, the Appellant stated

- that the Appellant has a serious viral infection and the medication to control it requires food to be taken at the same time but their November disability benefits have not been paid and they have no money left in the bank
- that the Appellant was requesting the supplement for the Appellant
- that in answer to the question as to whether or not the Appellant has tried to meet the need on the Appellant's own that *"food banks are closed so [the Appellant] cannot access any food. [The Appellant] have no money left in the bank, and there are no other resources].*
- that the Appellant's answer to the query as to what available resources the Appellant had the answer was *"There is no money left in the bank, food banks are closed in the two weeks following cheque pay, [the Appellant] have not been paid my November disability benefits at all"*
- in answer to the question as to what was the direct threat to the Appellant's health and safety that the Appellant was at *"risk of death, opportunistic infections occur when the medication is ineffective [specific viral infection] may develop immunity to the medication, food is absolutely required for the medication to be effective"*

(2) The Decision to be Reconsidered

The Decision to be Reconsidered was not provided by the ministry except for a reference to the ministry's original decision, which said that at that time the ministry was unable to determine that the Appellant was eligible for disability assistance or hardship assistance because it could not be determined when the Appellant left BC or had returned to the province and therefore the Appellant was not eligible for a crisis supplement at that time in accordance with Section 57 (1)EAPWDR.

(3) The Request for Reconsideration dated November 8, 2019

In the Request for Reconsideration, the Appellant

- Said that in relation to criterion 1 that the ministry was incorrect in stating that November benefits had been paid; the Appellant stated that no benefits for November were received and the Appellant had no money but was eligible for them. The Appellant further said that it makes no sense that the ministry *"make this criterion has not met. Why are you even working for the government? Did you finish high school? Do you know how to read English?"*
- Said that in relation to criterion 2 that the ministry was incorrect when it said that they did not have an unexpected need or obligation, and went on to say *"this is not true, I did state that I have a medical crisis and it is all because of the [redacted] ministry [redacted] with my benefits, and I am going to sue in court and I am going to stop the ministry from doing this to me and others. I am [serious viral infection] and my medication does not work if there is no food taken at the same time, I have no food, no money in the bank, no benefits paid for October and November and I am 100% eligible for my benefits as a BC resident and on disability assistance. [redacted] give me the money now or it will become worse in court when I sue"*.

- Did not disagree concerning criterion 3, when the ministry found that the Appellant had accessed community resources
- Did not disagree concerning criterion 4, when the ministry found that the Appellant did state the Appellant's health was in immediate danger due to needing food to take with medication.

(4) Letter from an Advocacy Organization dated November 12, 2019 signed by a Social Worker

This letter confirmed that the Appellant was a client, living with a serious viral infection and that the Appellant requires daily medication to support and avoid imminent risk to the Appellant's health. The letter goes on to say that the medication required is of such that the Appellant must have access to nutritious foods in order to promote absorption and prevent stomach upset and other side effects and that vomiting of the medication can reduce or eliminate its effectiveness. The letter also states that lack of nutritional resource can directly impact absorption of the medications even when vomiting is not a factor.

(5) Airline Flight Information

The Appellant provided airline flight information showing that

- the Appellant left British Columbia June 21, 2019 and returned July 4, 2019
- the Appellant left British Columbia September 27, 2019 for [REDACTED] and returned to British Columbia October 24, 2019.

(6) Letter from the Appellant's Landlord Dated January 28, 2019

The Appellant's landlord wrote to confirm that the Appellant had made [REDACTED] 2 most recent rent payments, and while the December 2018 payment was made on time is rent for January 2019 was only paid in part and then about 3 weeks late because what the landlord said had been reported to him was that the Appellant needed to pay for prescription medicine not covered by MSP and asked for a waiver of the remaining rent until the middle of January 2019. That remaining rent was paid in late January 2019, but having paid for the rent for that month left the Appellant with little money for food for February 2019. The landlord supports the Appellant in any request to increase the Appellant's financial assistance.

(7) Letter from an Advocacy Organization dated January 17, 2019 signed by a Social Worker

The social worker wrote on behalf of the Appellant to advise that the Appellant has 2 long-term mental disorders which make it very difficult [REDACTED] to attend legal proceedings in person, which the social worker says has been confirmed "*through psychiatrist documentation which I have witnessed*", but the social worker did not attach that documentation. The social worker supports the Appellant in any request to attend hearings via teleconference in consideration of the Appellant's mental health diagnoses. The social worker also advised that they would be willing to answer questions and gave a telephone number and an email address.

(8) A Letter from a Physician Dated January 3, 2019

A physician treating the Appellant at a health facility wrote to request special accommodation for the Appellant, due to medical reasons, saying the Appellant experiences more difficulty with concentration during hearings or evaluations for there are other people present and would benefit from a separate space or phone hearing without distraction in that space.

(9) A Residential Sublease Agreement Dated November 1, 2018

The Appellant provided a residential sublease agreement between [REDACTED] self as a subtenant renting from a sub-landlord outlining various terms, including that the Appellant's rent is \$600 per month as well as other payments regarding the premises rented.

(10) Black-and- White Identification

The Appellant provided the face and obverse of an identification document in a different name, believed to be the Appellant's birth name.

(11) A Letter to the Appellant from the Ministry Dated November 6, 2019

In this letter, the ministry advises the Appellant that [REDACTED] request for access to personal information under the *Freedom of Information and Protection of Privacy Act* was received October 23, 2019, and that it requested "all income assistance records from files in your name within the date range of January 1, 2019 to October 23, 2019". The ministry advised the Appellant that 30 business days are allowed for a response which should be received by December 5, 2019, as well as advising the Appellant of other administrative matters having to do with Freedom of Information.

B. Evidence at the Appeal

Additional Evidence – Ministry

The ministry presented no additional evidence

Additional Evidence – Appellant

At the Appeal, the Appellant provided the following:

(1) Notice of Appeal dated November 19, 2019

Under Reasons for Appeal, the Appellant states "please see attached letters", but the Panel notes that no letters were attached.

(2) A Letter from another Physician Dated November 20, 2018

The physician confirmed a different infection which the Appellant suffers from, and advised that the Appellant cannot afford the treatment; attached to the letter is a Laboratory requisition which appears to have been redacted in part.

(3) Confirmation of Assistance from the ministry Dated November 20, 2019

This document confirms that the Appellant receives assistance in the amount of \$808.42 for support, \$375.00 for rent, \$40.00 for a dietary allowance which expires October 1, 2020, and \$52.00 for a transportation allowance, totaling \$1275.42, and notes on that document the status as "CASHED".

(4) Two Emails to the Tribunal from the Appellant dated November 20, 2019

In the first email at 3:38 PM the Appellant says that [REDACTED] submissions are attached. The Tribunal notes that in fact no submissions were attached.

In the 2nd email sent at 3:49 PM, the Appellant says "hello, The Ministry is lying about my benefits beings paid to by bank account or "cached", attached hereto is proof of their lies as I have not received a single dime today November 20, 2019 by direct deposit and I have not cashed any checks anywhere. I have already sent a letter of intention to sue in court".

PART F – REASONS FOR PANEL DECISION

This Appeal is the second of 2 appeals by the same Appellant heard today. The first appeal is from a denial of a crisis supplement for food for October 2019 and the 2nd appeal is from a denial of a crisis supplement for food for November 2019.

Issue on Appeal

The issue on appeal is whether the reconsideration decision of the Ministry of Social Development and Poverty Reduction (the Ministry) made under section 57(1) of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR) and dated November 18, 2019, that denied the Appellant's request for a crisis supplement for food for November, 2019 was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant.

The Appellant did not satisfy the Minister that the Appellant had no resources with which to purchase food, and because the Appellant did have funds to purchase food, the ministry was not satisfied that failure to provide the Appellant with a crisis supplement for food would result in imminent danger to the Appellant's physical health. The ministry cited section 57 (1) of the *EAPWDR* as authority.

Applicable Legislation**Employment and Assistance for Persons with Disabilities Act (EAPWDA), section 5****Disability assistance and supplements**

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

Employment and Assistance for Persons with Disabilities Act (EAPWDA), section 10**Information and verification**

- 10 (1) For the purposes of
- (a) determining whether a person wanting to apply for disability assistance or hardship assistance is eligible to apply for it,
 - (b) determining or auditing eligibility for disability assistance, hardship assistance or a supplement,
 - (c) assessing employability and skills for the purposes of an employment plan, or
 - (d) assessing compliance with the conditions of an employment plan,
- the minister may do one or more of the following:
- (e) direct a person referred to in paragraph (a), an applicant or a recipient to supply the minister with information within the time and in the manner specified by the minister;
 - (f) seek verification of any information supplied to the minister by a person referred to in paragraph (a), an applicant or a recipient;
 - (g) direct a person referred to in paragraph (a), an applicant or a recipient to supply verification of any information he or she supplied to the minister.
- (2) The minister may direct an applicant or a recipient to supply verification of information received by the minister if that information relates to the eligibility of the family unit for disability assistance, hardship assistance or a supplement.
- (3) Subsection (1) (e) to (g) applies with respect to a dependent youth for a purpose referred to in subsection (1) (c) or (d).
- (4) If an applicant or a recipient fails to comply with a direction under this section, the minister may declare the family unit ineligible for disability assistance, hardship assistance or a supplement for the prescribed period.
- (5) If a dependent youth fails to comply with a direction under this section, the minister may reduce the amount of disability assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 15**Effect of recipient being absent from BC for more than 30 days**

15 The family unit of a recipient who is outside of British Columbia for more than a total of 30 days in a year ceases to be eligible for disability assistance or hardship assistance unless the minister has given prior authorization for the continuance of disability assistance or hardship assistance for the purpose of

- (a) permitting the recipient to participate in a formal education program,
- (b) permitting the recipient to obtain medical therapy prescribed by a medical practitioner, or
- (c) avoiding undue hardship.

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 28**Consequences of failing to provide information or verification when directed**

28 (1) For the purposes of section 10 (4) [information and verification] of the Act, the period for which the minister may declare the family unit ineligible for assistance lasts until the applicant or recipient complies with the direction.

(2) For the purposes of section 10 (5) [information and verification] of the Act,

- (a) the amount by which the minister may reduce the disability assistance or hardship assistance of the dependent youth's family unit is \$100 for each calendar month, and
- (b) the period for which the minister may reduce the disability assistance or hardship assistance of the dependent youth's family unit lasts until the dependent youth complies with the direction.

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 57**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.

General Scheme of the Legislation

The general scheme of the *EAPWDA* section 5: The minister may provide a supplement to a person if that person has been designated as a Person with Disabilities and meets the requirements of the *EAPWDR* section 57. That section provides that an individual designated as a Person with Disabilities may receive a crisis supplement if three more criteria are met:

- The first is that the Minister may provide a supplement if it is required to meet an unexpected expense or to obtain an item unexpectedly needed (section 57(1)(a) *EAPWDR*).
- The second is that the person is unable to meet the expense or obtain the item because there are no resources available to the family (section 57(1)(a) *EAPWDR*).
- The third is that the Minister must consider that failure to meet the expense or obtain the item will result in either imminent danger to the person's physical health or removal of a child under the *Child, Family and Community Service Act* (section 57(1)(b) *EAPWDR*). The child removal provision is not an issue as the Appellant lives alone.

Appellant's Submission at Appeal

Appellant's Request for an Adjournment of the Appeal Hearing

The Appellant advised the Panel that they had sent a 29 page email by fax to the Tribunal and that 3 days before the hearing of the appeal they had received 515 pages of disclosure from the ministry pursuant to a request under the *Freedom of Information and Protection of Privacy Act*, that they still have problems with the ministry, that their viral load had increased, that their health had become worse and that the Appeal should be postponed so that they could provide the 515 pages received from the ministry to the Panel. When asked if there was a facsimile receipt showing that the pages were sent to the Tribunal, the Appellant was not sure.

The Appellant went on to say that the 515 pages received covered the period May 2015 to February 2019, and again stated that they required an adjournment, and that they had determined that the ministry said the appeal could resume on December 23, 2019.

The Appellant wanted the Panel to take into consideration how [REDACTED] had been dealt with by the ministry over the period of time covered by the 515 pages, which was prior to the request for a crisis supplement that is the subject of this Appeal.

Panel's Determination on the Request for an Adjournment

The Panel recessed for a short period of time to discuss the request for the adjournment without the parties being present. The Panel determined that as the 515 pages the Appellant wished to submit concerned the time period of May 2015 to February 2019, and did not concern the period of time when the Appellant was requesting a crisis supplement, specifically for November 2019. The Panel further determined that how the Appellant had been treated in his dealings with the ministry prior to the period of time for which the Appellant was requesting a crisis supplement was not relevant to this Appeal. Those 515 pages could have no possible relevance to this Appeal.

The Panel determined that the request for an adjournment would be denied.

Continuation of the Appeal Hearing - Appellant's Submissions

Upon reconvening with the parties and the interpreter present, the Appellant was informed that the request for an adjournment was denied, and the reasons for the denial were explained.

The Appellant stated that they did not agree with the Panel's determination, because the ministry had delayed providing the documents to the Appellant, and said that the ministry's holding the documents for so long meant that the appeal could not continue.

When the Appellant was again told that the request for an adjournment was denied, and the Appellant stated that they would make a complaint against the Tribunal, and stated that the Appeal was adjourned. The Appellant was again informed that the request for an adjournment was denied and hearing the Appeal would continue.

The Appellant then stated that they had made 2 (two) requests for disclosure from the ministry for their file up to November 2019, but did not say when that request was made, and again requested an adjournment.

The Appellant was told yet again that the request for an adjournment was denied and the Appeal hearing would continue.

The Appellant then said that the \$1,275 support for October and November was provided on November 18 or 20th, that they had received it, but had to go into a ministry office to "see a bunch of incompetent people then to get it". The Appellant further said that doing so put their health in danger and questioned if the ministry personnel could read the letters the Appellant had provided. The Appellant further said that the ministry personnel do not know the law, and do not have the knowledge or competency to perform the work required all of them. The Appellant then said the Panel must have the papers they had acquired, which were the documents the Appellant had received under the Freedom of Information request in order to see the errors and mishandling of the Appellant's file by the ministry.

The Appellant then said that they wanted to take the appeal to a "different Tribunal", by which the Panel understands the Appellant to mean that the Appellant wanted a different Panel and did not want to continue with the Appeal before the present Panel.

The Appellant went on to say that without the ministry file, their case could not be proven, again requested an adjournment and stated that was all they were going to say on the Appeal.

As the submissions made by the Appellant in their Appeal concerning denial of a crisis supplement for food for October 2019, heard immediately before this Appeal (concerning denial of a crisis supplement for food for November 2019) are relevant to this Appeal, those submissions are repeated here.

Appellant's Submission at Their First Appeal Concerning Denial of a Crisis Supplement for Food for October 2019

The Appellant submitted that they had informed the ministry of their health problems and disabilities, but the ministry had ignored all their pleas. The Appellant also complained that anything they said to the ministry appears to the Appellant that the ministry personnel don't speak English or [REDACTED]. The appellant submitted that the letters submitted to the Tribunal concerning their health and safety are never taken into consideration and that it's clear from the responses from the ministry, because the ministry has rejected the Appellant's application for a food supplement.

The Appellant also wanted to inform the Panel that they want to file a Human Rights complaint against the ministry. The Panel informed the Appellant that the Employment and Assistance Tribunal can not deal with

Human Rights, and has no legislative authority to do so, and that if the Appellant wished to make such a complaint they must do so themselves and not through the Employment and Assistance Tribunal.

The Appellant asked the Panel to refer to the contents of their letters, outlining the Appellant's medical issues, the fact that their medication does not work if not taken with food, and that if taken without food their viral load increases and puts their life at risk. The Appellant stated that the ministry ignores this information, putting their health at risk and an increased risk of acquiring opportunistic infections. The Appellant complained that the ministry continues to defend its illogical position that the Appellant has no risk. They went on to complain that the ministry does not know what their disabilities are and that they are certain information is there for the ministry; the Appellant said that after 11 months of attempting to obtain information the ministry holds regarding their disabilities, they have finally obtained their file.

The Appellant said that the ministry was under the impression that it paid out the Appellant's benefits but that it is not so: that they did not pay. Later in the Appellant's submissions the Appellant admitted that they had received \$2,554.84 on November 14, 2019, which was their regular assistance of \$1,275.42 per month for each of October and November 2019. The Appellant complained that the disability payments should have been made at the end of September.

The Appellant went on to complain that the ministry took the position that it should not have to pay anything as they were visiting their family in [REDACTED] that given their disabilities they have the right to visit family in [REDACTED] because the family cannot get visas to visit Canada and none of the Appellant's trips to [REDACTED] exceed 30 days.

The Appellant further complained the ministry delayed their October benefits by 7 weeks, putting the Appellant's health in danger because their viral load had increased.

The Appellant further complained that the language used in the legislation is ambiguous, with specific reference to the prohibition against receiving benefits for someone who travels more than 30 days in the year because the legislation does not specify how that 30 day period should be calculated and that legislation contravenes the Appellant's human rights.

The Appellant further submitted that the fact that they travelled outside of Canada for a number of days does not mean that the Appellant does not have a serious viral infection and that the ministry should not assume that because the travel is outside Canada and because the Appellant is continuing to pay rent that the Appellant is not eligible for assistance; the Appellant submitted that this amounts to ministry committing a capital crime by not providing assistance to them and that the Appellant's opinion with respect to the food supplement "*is enough to make the situation right as the food supplement was supposed to be delivered back then*".

The Appellant submitted that the only conclusion that can be drawn is that the Appellant's case should be referred to a Civil Court, a Criminal court, and a Human Rights Tribunal.

On questioning by the ministry, that Appellant said that they are initially not aware of the 30 day limit allowed to a disability recipient to travel outside of British Columbia, but learned of it when they were told at the time they spoke to the ministry while they were in [REDACTED]. The Appellant said that they contacted the ministry during their 2nd trip out of country when they called about their disability benefits on September 27, 2019, at which time they complained that their viral load had increased. The ministry further asked the Appellant to confirm that their deposits were made by direct deposit, and the Appellant said that arrangements had been made 10 times but the ministry was deleting the information. The Appellant further said that they had to go to a ministry office 3 times to reactivate the direct deposit, and they do not like the office they have to attend.

On questioning by the Panel as to for how long the Appellant left British Columbia on [REDACTED] trips, in total, and being asked to confirm it was 42 days, the Appellant said that was very possible but did not have the information in front of them and in any event they had a human right to visit their family without benefits being terminated.

Ministry Submission at Appeal

The ministry relied on the Reconsideration decision, and pointed out that the reconsideration decision was dated November 18, 2019, and that the Appellant had received \$2,550.84 on November 14, 2019, and that therefore they were not unable to meet the expense for food.

The ministry reiterated that on September 27, 2019 it received a call from the Appellant saying that they were in [REDACTED] and on October 3, 2019 the ministry decided that more information was required in order to establish the Appellant's eligibility for assistance and sent them a message asking for information as to when the Appellant left British Columbia. On November 8, the Appellant applied for a crisis supplement and on November 14, the Appellant attended a ministry office at which time they provided assistance to the Appellant and the total amount of \$2,550.84.

The ministry stated that the Appellant had not requested and had not received prior consent of the Minister to be absent from British Columbia for more than 30 days in a year, as is required by section 15 *EAPWDR* in order to retain eligibility for disability assistance.

The ministry repeated its reliance upon the Reconsideration decision and pointed out that because the Appellant had received the \$2550.84 on November 14, 2019, several days before the Reconsideration decision, the Appellant had the funds to purchase the food needed, and therefore did not satisfy one of the criteria of section 57 *EAPWDR* and because the Appellant had the funds necessary to purchase food the ministry was not satisfied that there would be a failure to provide something needed which would result in imminent danger to the Appellant's physical health and thus the Appellant failed to satisfy a 2nd condition required by section 57 *EAPWDR*. The result was the ministry stated that, as all of the conditions required by section 57 *EAPWDR* were not satisfied, the Reconsideration officer had determined that the request for the crisis supplement at Reconsideration was denied.

On questioning as to how the ministry had concluded that the Appellant had resources, the ministry repeated that the Appellant had been paid the \$2,550.84 on November 14, 2019, and that therefore sufficient resources were in the possession of the Appellant.

In reply to this the Appellant stated that they were late for their rent for 2 months now and that's why they requested the extra \$40 crisis supplement for food and they do not know if the ministry is going to put them [REDACTED]

The Appellant went on to question if the ministry was aware of their situation regarding employment and did the ministry understand the Appellant's handicap, to which the ministry replied that the ministry was aware of the Appellant's challenges, but the 4 criteria of section 57 *EAPWDR* must still be met. The Appellant stated this was an illogical decision and had no further questions for the ministry.

The Panel asked the ministry if in its view the date the supplement was applied for, November 8, 2019, or the date of the Reconsideration decision was the relevant date to determine whether the Appellant was eligible for the supplement or not. The ministry responded that the Reconsideration decision neither confirms nor rescinds the original decision but is a brand-new decision.

The Appellant made final comments that they used the money provided to pay for expenses and for future rent as they were not sure whether the ministry would provide more assistance or not.

Analysis

At Reconsideration, the ministry stated that the Appellant was a sole recipient designated as a person with disabilities and has been so since October 9, 2015. The ministry stated that the Appellant received \$1275.42 per month disability assistance, made up of \$808.42 for support allowance, \$375.00 shelter allowance, \$40.00 for a diet supplement and \$52.00 for a transportation supplement. There was thus no issue that the Appellant was designated as a Person with Disabilities.

At Reconsideration, the ministry said that the Appellant called on September 27, 2019 to inquire about assistance for October 2019 and advised that the Appellant was then in [REDACTED]

On October 3, 2019, the ministry determined that the Appellant was not eligible for assistance until it could be established that the Appellant was resident in BC and cancelled October assistance and "turned off" cheque production. The ministry advised the Appellant through the online portal system requesting that the Appellant provide confirmation of when the Appellant left BC and returned in order to re-establish eligibility.

On November 8, 2019 the Appellant requested a crisis supplement for food, and explained the reasons why, stating that food was required in order to take medication, that the Appellant had not received November assistance, had no money and the food banks were closed.

The ministry denied the request for a crisis supplement for food because the Appellant had not established eligibility for disability assistance and failed to demonstrate an unexpected need. On that same date the Appellant requested Reconsideration, explaining why the ministry's decision was, in the view of the Appellant, incorrect, and provided a number of documents, specifically the documents referred to in Part E "Summary of Facts", section A and enumerated as numbers 4, 5, 6, 7, 9 and 10.

On November 14, 2019 the reconsideration officer noted that the Appellant attended the office and upon review of the information provided determined that the Appellant was eligible for October and November disability assistance and issued \$1275.42 both months, which total of \$2550.84.

At Reconsideration and dealing with of the criteria to be met pursuant to section 57 *EAPWDR*, the ministry found:

- Criterion 1: Eligibility for disability or hardship assistance. At reconsideration the ministry did determine that the Appellant was eligible for disability assistance, and provided the Appellant with \$2,550.84 on November 14, 2019
- Criterion 2: This criterion is whether or not the Appellant was faced with the need for something unexpected or faced with an unexpected expense. The Ministry did not address this criterion.
- Criterion 3: This criterion is whether or not there are resources available to the Appellant with which to meet an unexpected need or unexpected expense. The Ministry was not satisfied that the Appellant was unable to meet the expense because the Appellant had no resources available, because the Appellant had been provided with \$2,550.84 on November 14, 2019.
- Criterion 4: This criterion requires there to be imminent danger to physical health of the Appellant if the Appellant is not able to meet the needs without a crisis supplement, and in this case the need was for food. The ministry was not satisfied that failure to meet the expense, specifically the inability to obtain food, may result in imminent danger to the Appellant's physical health, because the Appellant had been provided with money - specifically the \$2,550.84 provided to the Appellant November 14, 2019.

The Panel notes that section 15 *EAPWDR* makes a recipient who is outside of British Columbia for more than a total of 30 days in a year ineligible for continued disability or hardship assistance unless the Minister has provided that person with prior authorization, for various purposes prescribed under that section, and finds that such authorization had not been provided.

The Panel also notes that section 10 *EAPWDA* provides that in order to determine eligibility, the minister can direct an applicant to supply the minister with information within the time and in a manner specified by the minister and that if an applicant or recipient fails to comply with the direction under section 10 the minister may declare the family unit ineligible for disability assistance, hardship assistance or a supplement. The Panel also notes that section 28 *EAPWDR* specifies that the period of ineligibility lasts until the applicant or recipient complies with the minister the direction, and that the Appellant did not attend at the ministry until November 14, 2019, following which they were provided with disability benefits for October and November, 2019.

The Panel notes that on the documents provided by the Appellant, specifically the Airline Flight Information referred to in Part E "Summary of Facts" numbered A (5),

- the 1st period of absence from British Columbia was 14 days, from June 21, 2019 until July 4, 2019, and
- the 2nd period of absence was 28 days, from September 27, 2019 until October 24, 2019

which is a total period of absence from British Columbia of 42 days, which is in excess of the 30 days absence that is permissible under section 15 *EAPWDR*.

The panel notes that section 15 *EAPWDR* makes a recipient who is outside of British Columbia for more than a total of 30 days in a year ineligible for continued disability or hardship assistance unless the Minister has provided that person with prior authorization, for various purposes prescribed under that section.

There was no evidence that the Minister had provided the Appellant with prior authorization to be absent from British Columbia for more than 30 days.

The Panel also must take cognizance of the facts that

- the Appellant's first appeal was dated November 8, 2019, and was from the reconsideration decision dated November 7, 2019 concerning assistance for October 2019, and
- the Appellant's 2nd appeal was dated November 19, 2019, and was from the reconsideration decision dated November 18, 2019 concerning assistance for November 2019, and
- that the ministry paid the Appellant \$2,550.84 on November 14, 2019, which the Panel finds was the full amount of assistance to which the Appellant was entitled for October and November 2019, assuming the Appellant was otherwise eligible.

Panel Finding - Appellant's Failure to Satisfy the Requirements of Section 57 *EAPWDR*

The Panel finds that at the time of the Reconsideration decision on November 18, 2019, the Appellant had been in receipt of sufficient funds, namely \$2,550.84 paid to the Appellant 5 days earlier when the Appellant first attended at a ministry office on November 14, 2019 in order to re-establish eligibility.

The Panel finds that therefore the Appellant was not unable to meet an expense and finds further that the Appellant was not then in imminent danger to the Appellant's physical health due to the lack of resources.

The Panel finds that the Appellant does not qualify for a crisis supplement because the Appellant does not meet all of the required criteria under section 57 *EAPWDR*, and that the Reconsideration decision of

November 18, 2019 was reasonably supported by the evidence and was a reasonable application of the legislation in the circumstances of the Appellant.

Panel Finding - Appellant's Ineligibility for Assistance - Section 15 EAPWDR

Even if the Appellant would have been eligible for a crisis supplement under section 57 EAPWDR, the Panel finds that they are not eligible for a crisis supplement because at the time of application for that crisis supplement, the Appellant was not eligible for disability assistance under section 15 EAPWDR.

This is because the Appellant applied for a crisis supplement on November 8, 2019, only went to a ministry office to re-establish eligibility on November 14, 2019, and therefore the application for a crisis supplement was made at a time when the Appellant was not eligible for disability assistance because the Appellant had been absent from British Columbia for more than 30 days without the prior consent of the Minister, contrary to section 15 EAPWDR.

The Panel finds that when the Appellant made the request for a crisis supplement on November 8, 2019 and on the date the Appellant requested reconsideration, November 9, 2019, the Appellant was ineligible for disability assistance because they had been absent from British Columbia for more than 30 days in a year without the prior authorization of the Minister, and therefore was not eligible for a crisis supplement pursuant to section 57(1) EAPWDR.

Concurring Opinion By One Panel Member

One Panel member concurred with the majority in the result, but for different reasons, as follow:

I agree with the facts as summarized. The reconsideration decision states that a crisis supplement request must meet four criteria. As the time the decision was made, the appellant had been deemed to not be eligible for disability assistance for the month of November. However, that determination of eligibility was subsequently overturned. As a result, at the time of the appeal, we know that the appellant was deemed to be eligible for November assistance and did receive their disability assistance payment of \$1275.42 during that month. I am of the opinion that the delay in such payment was, in part, due to the appellant's absence from the country from June 21 to July 4 and again from September 27 to October 24 (being a total of more than 30 days in the calendar year) and that the appellant bears responsibility for the late payment. I find that the appellant has failed to satisfy the criterion that the need for the crisis supplement was unexpected. I consequently consider the reconsideration decision to be reasonable and agree that the appellant is not successful in this appeal.

Conclusion

The Panel finds that the Reconsideration decision made November 18, 2019 was reasonably supported by the evidence and was a reasonable application of the legislation in the circumstances of the Appellant, and the Appellant's appeal is denied.

The Appellant is not successful in their appeal.

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

Donald (Dan) McLeod

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/NOV/29

PRINT NAME

Bill Haire

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/NOV/29

PRINT NAME

Marlene Russo

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/NOV/29