

APPEAL NUMBER

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision of November 14, 2019 (the “Reconsideration Decision”), which determined that the Appellant was not eligible for a crisis supplement in respect of a utility debt as all of the criteria set out in section 57(1) *Employment and Assistance for Persons with Disabilities Regulation* (“EAPWDR”) had not been met and, in particular, that the Appellant had not satisfied the Ministry that the unpaid utility paid was an unexpected expense or that the Appellant needed to pay the utility bill unexpectedly.

PART D – RELEVANT LEGISLATION

Section 57, EAPWDR

PART E – SUMMARY OF FACTS

The Appellant is a sole recipient of disability assistance who suffers from post traumatic stress disorder and depression. The Appellant has 2 cats who are described as necessary for the Appellant's well-being.

The information before the Ministry at the time of the Reconsideration Decision included the following:

- The Appellant had been living in a trailer up until the middle of 2018 when the Appellant ran up a debt with a utility provider;
- The Appellant had been on an equal payment plan with the utility provider which the Ministry had been deducting from the Appellant's disability assistance each month and paying directly to the utility provider;
- When the payments to the utility provider became too expensive, the Appellant asked the Ministry to cease making payments to the utility provider in or about the summer of 2018;
- After discontinuing the payments to the utility provider, the Appellant moved into the residence of a sibling whereupon the shelter allowance portion of the Appellant's disability assistance was what was paid to the sibling, meaning the Appellant's cost of shelter was equal to the Appellant's actual shelter allowance;
- The Appellant requested a crisis supplement in December, 2018 in respect of the debt to the utility provider, which then stood at \$1,736.72, but was denied;
- The Appellant did not seek a reconsideration of the decision;
- The Appellant had been expecting to pay the outstanding balance of the utility provider's account on receipt of an inheritance which has not yet been received;
- Several months after moving in with the sibling, the Appellant's sibling sold the home, resulting in the Appellant being homeless for a period after being unable to secure housing that would accept pets;
- When the Appellant was able to secure housing that was affordable and permitted pets, the Appellant was advised that utilities would have to be put in the Appellant's name;
- The Appellant has been unable to reach any kind of agreement on a payment plan in respect of the outstanding account, which has a current balance of \$1,814.87, with the utility provider, despite the intervention of advocates on the Appellant's behalf, and the utility provider is insisting on payment of the full balance owing before reconnecting utilities for the Appellant.

The Ministry had the following documents at the time of the Reconsideration:

- The Appellant's Request for Reconsideration, dated September 17, 2019, requesting more time;
- A typed statement from the Appellant, dated November 7, 2019;
- The Shelter Information Form for the Appellant's current residence, which confirmed that utilities were not included in the Appellant's rent of \$500.00 per month.

Prior to the hearing of the Appeal, the Appellant's advocate provided a supplement submission (the "Submission") to which were attached the following documents as exhibits:

- A statement (the "Statement") from the Appellant repeating much of what the Appellant had related in the typed statement submitted to the Ministry prior to the Reconsideration Decision, but which also fleshed out further details, such as:
 - The Appellant lived in a poorly insulated trailer from March, 2016 to the fall of 2018;
 - In August, 2017, the Appellant's utility costs increased from \$150.00 to \$232.00 per month;
 - The Appellant fell into arrears with the utilities provider and agreed to a monthly payment plan of \$350.00 per month to avoid being cut off;

- The Appellant had received crisis supplements in respect of utilities while living in the trailer, although it is not clear when (the Reconsideration Decision references crisis supplements, totaling \$390.00 paid to the Appellant in the last 12 months for firewood, food, and clothing);
- In May 2018, the Appellant instructed the Ministry to stop making monthly payments to the utility provider;
- The Appellant made two payments to the utility provider in the amounts of \$250.00 and \$300.00 in June, 2019 and August, 2018, respectively;
- After the Appellant moved in with a sibling, the Appellant cancelled the utility account, but the utility provider threatened to disconnect the sibling's utility unless the Appellant's outstanding account was paid;
- After intervention by the province's utility commission, the utility provider relented and did not disconnect the utilities of the Appellant's sister or take any further action to collect the Appellant's outstanding account;
- After the Appellant's sibling unexpectedly sold the house in June, 2019, the Appellant was homeless for a couple of months until locating a suitable accommodation;
- When the Appellant attempted to re-open an account with the utility provider, the Appellant was advised that the entire outstanding account would need to be paid and the utility provider would not agree to a payment plan, despite the involvement of an advocate on the Appellant's behalf;
- The Appellant believes that future utility bills can be reduced significantly by using firewood for heating and based on a monthly disability amount of \$1,270.42, the Appellant should be able to afford \$150.00 per month for utilities if the outstanding utility account can be paid;
- A screen shot from the Provincial Government's Website, titled "B.C. Poverty Reduction", which describes the government's poverty reduction strategy for the province;
- An extract from an article about poverty in British Columbia which sets out that the lack of affordable housing is the most constant and pressing poverty issue in the province;
- A graph showing the average rents for types of accommodations, ranging from one room to 4 bedroom residences, in the Appellant's community and in nearby communities.

At the hearing of the appeal, the Appellant's advocate went through the Appellant's statement and argued that the Ministry decision was unreasonable because it was based on incorrect assumptions. Namely, that the Appellant had sufficient disposable income to pay the utility bills and that there is no shortage of affordable housing in British Columbia. The advocate also argued, on the Appellant's behalf, that the Reconsideration Decision was based on the irrelevant consideration that the Appellant would not have been able to afford the residence into which the Appellant had sought to move because utility provider had estimated that the monthly cost of providing utilities was expected to be \$425.00.

The advocate argued that the timing of the Appellant's need to reconnect utilities was unexpected because the Appellant's sibling had abruptly sold the house in which the Appellant was living. The advocate argues that the Appellant reasonably concluded that the outstanding utility account was not a concern of the Appellant's during the time that the Appellant was living with the sibling. The Appellant also points out that the failure of an expected inheritance to materialize was unexpected.

The panel admits the submission, which is mostly the argument on the Appellant's behalf, and the exhibits as written testimony in support of the information that was before the Ministry at the time of the Reconsideration Decision, pursuant to section 22(4) of the *Employment and Assistance Act*. The panel likewise admits the oral testimony of the Appellant at the hearing under the same provision.

PART F – REASONS FOR PANEL DECISION

The issue in this appeal is whether the Ministry reasonably determined that the Appellant was not eligible for a crisis supplement in respect of a utility debt because all of the criteria set out in section 57(1) EAPWDR had not been met and, in particular, that the Appellant had not satisfied the Ministry that the unpaid utility paid was an unexpected expense or that the Appellant needed to pay the utility bill unexpectedly.

Relevant Legislation

Section 57 of the EAPWDR authorizes the Ministry to provide crises supplements if specified criteria are met:

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.

Panel Decision

In order to be eligible for a crisis supplement under section 57 of the EAPWDR, a family unit must satisfy the Ministry that:

- the supplement is required to “meet an unexpected expense or obtain an item unexpectedly”;
- the family unit “is unable to meet the expense or obtain the item because there are no resources available to the family unit”; and
- failing to meet the expense or 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*.”

In this case, the Ministry concedes that the Appellant does not have adequate resources to pay the debt to the utility provider. Likewise, the Ministry accepted that failure to pay the debt and get utilities connected in the Appellant’s name may result in imminent danger to the Appellant’s physical health.

The Reconsideration Decision, however, held that the utility debt is not an unexpected expense and that the need to obtain utilities, the prerequisite for which is payment of the debt, was not unexpected.

It is common ground that the Appellant knew of the existence of the utility debt as far back as the summer of 2018. While the amount of the debt has grown since then, presumably as a result of interest applied to the account since the Appellant cancelled the utility service at the time of moving in to the residence of the Appellant’s sibling, the expense itself was clearly not unexpected when the Appellant applied for a crisis supplement. Indeed, the Appellant had previously applied for a crisis supplement in respect of the same debt a year earlier. In regards to whether the expense was unexpected, the panel finds that the Ministry reasonably determined that it was not.

Eligibility for a crisis supplement can also be established by showing that there was a need to obtain an item unexpectedly. In this case, the Appellant’s advocate argued that the Appellant was not expecting to need to get a utility account because the Appellant had been residing at the home of a sibling for several months when that sibling sold the home somewhat abruptly in June, 2019. The Appellant’s advocate also argued that it was unexpected that the utility provider would insist on full payment of the utility debt before entering into a new service contract with the Appellant. The evidence, however, suggests that there was a likelihood that the utility provider would require the Appellant to pay the utility bill in full. Indeed, the utility provider had taken the unusually aggressive step of threatening to disconnect the utilities of the Appellant’s sibling merely because the Appellant was receiving the benefit of those utilities

by virtue of residing in the same residence. The Appellant states that the sale of the Appellant's sibling's residence was unexpected. Although the Appellant's evidence was that, while living with the sibling, the Appellant had more income to provide for a proper diet and to get a vehicle insured, the Appellant's evidence did not indicate that there was an expectation that the Appellant would be able to continue residing with the sibling indefinitely.

The Appellant's advocate argued that the Ministry decision incorrectly assumed that the Appellant had sufficient disposable income to make payments on the utility debt and that there was no shortage of affordable housing in British Columbia. However, the Reconsideration Decision doesn't suggest that it was based on these assumptions. These are issues faced by all recipients of income and disability assistance in the province and are not circumstances unique to the Appellant. What the Ministry did conclude is that the purpose of crisis supplements is not to assist recipients in managing ongoing expenses. [The requirement in the EAPWDR that an expense or the need for an item to be unexpected in order to establish crisis supplement eligibility supports the Ministry's position.]

In view of all of the foregoing, the panel finds that the Ministry reasonably determined that the Appellant was not eligible for a crisis supplement in respect of the outstanding utility debt. The Appellant is not successful 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

Adam Shee

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/12/20

PRINT NAME

Barbara Insley

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/12/30

PRINT NAME

Susan Mackley

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/12/30