

APPEAL NUMBER
2020-00245

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision of October 19, 2020 (the “Reconsideration Decision”), in which the Ministry determined that the Appellant was ineligible for a crisis supplement for clothing because the Appellant had already received a crisis supplement in the amount of \$100.00 within the previous 12 calendar month period, which is the maximum crisis supplement that the Ministry is authorized to issue within a 12 month calendar period, as set out in section 57 of the *Employment and Assistance for Persons with Disabilities Regulation* (“EAPWDR”).

PART D – RELEVANT LEGISLATION

Section 57, EAPWDR

PART E – SUMMARY OF FACTS

The Appellant is a sole recipient of disability assistance.

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

- the Appellant's Request for Crisis Supplement – Clothing, dated October 4, 2020 (the "Request"), in which the Appellant indicated that:
 - the Appellant needed winter boots, socks, and a balaclava;
 - the Appellant indicated that there was no longer a local Salvation Army store in the Appellant's community and that the local shelter did not have any clothing in the Appellant's size;
 - the Appellant had no other resources to obtain clothing;
 - the Appellant had recently moved to a smaller community in the northern part of British Columbia from a milder, more southern community and no longer had the same options for transportation;
- the Appellant's Request for Reconsideration, dated October 5, 2020, (the "RFR"), in which:
 - the Appellant acknowledged that a "clothing grant (which the Panel assumed to mean a crisis supplement for clothing) had been issued in the summer of 2020 but that same was for laundering bear spray out of the Appellant's clothes and a new blanket and bed sheet after a police incident in the Appellant's building;
 - the Appellant set out that the clothing stores in the Appellant's new community had a limited supply of clothes in the Appellant's size; and
 - the Appellant was concerned about developing sickness due to inadequate outerwear.

The Appellant's Notice of Appeal was filed October 23, 2020.

At the hearing, the Appellant described an incident in June 2020 where the Appellant's neighbour was the victim of a burglary in which bear spray was used. The bear spray odor came through to the Appellant's suite and got into the Appellant's clothes and linens. The Appellant subsequently applied for a crisis supplement for clothing primarily to get the affected clothing laundered and confirmed that the application for same was made on the "Request for Crisis Supplement – Clothing" form. The Appellant also purchased new bed sheets to replace ones that developed a bear spray odor.

The Appellant acknowledged an understanding that disability recipients were limited to \$100.00 in any 12 calendar month period for crisis supplements related to clothing but stated that the cold weather in the Appellant's new community was something that the Appellant was not prepared for, having not researched the weather carefully before moving. The Appellant also indicated that finding warmer clothes was difficult due to the Appellant wearing larger sizes. The Appellant indicated that no moving supplement had been sought when the Appellant moved to the colder community between July and October. The Appellant advised that the move was precipitated by a need to get away from sources of electricity and technology, which caused the Appellant to have health problems.

The Ministry representative relied on section 57(4)(c)(i) of the EAPWDR and noted that the 12 calendar month limit of \$100.00 for crisis supplements for clothing had been used up in the Appellant's July 2020 request. The Ministry representative advised that the limit set out in section 57(4)(c)(i) of the EAPWDR was the only reason for the denial of the Appellant's request. The Ministry representative also confirmed that the Ministry's ability to provide crisis supplements is governed entirely by section 57 of the EAPWDR and that it has no authority to issue crisis supplements in respect of categories of items not specifically set out in the EAPWDR. The Ministry, likewise, has no discretion to issue crisis supplements in excess of

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the limits set out for each category of crisis supplement set out in section 57 of the EAPWDR which, in the case of clothing, is \$100.00 for each person in a family unit for a given 12 calendar month period. As such, the Ministry's position is that it has no statutory authority to issue any further crisis supplement for clothing to the Appellant by virtue of having issued a \$100.00 crisis supplement to the Appellant within the prior 12 calendar months.

PART F – REASONS FOR PANEL DECISION

The issue in this appeal is whether the Ministry reasonably determined that the Appellant was ineligible for a crisis supplement for clothing in October 2020 by virtue of having already received a \$100.00 crisis supplement in the amount of \$100.00 within the previous twelve calendar months, in July 2020.

Legislation

Section 57 of the EAPWDR sets out the eligibility criteria for crisis supplements:

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 sum of

(A) the maximum set out in section 2 of Schedule A and the maximum set out in section 4 of Schedule A, or

(B) the maximum set out in Table 1 of Schedule D and the maximum set out in 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.

[am. B.C. Regs. 13/2003; 248/2018, App. 2; 270/2019, App. 2, s. 14.]

Panel Decision

Under section 57 of the EAPWDR, a recipient of disability assistance may be eligible for a crisis supplement if they can meet the following criteria:

- the supplement is required “to meet an unexpected expense or obtain an item unexpectedly needed”;
- “there are no resources available to the family unit” to meet the expense or obtain the unexpectedly needed item; and
- the applicant satisfies the Ministry “that failure 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
 - removal of a child under the *Child, Family and Community Service Act*’

In this case, the Ministry found, on its initial assessment, that the Appellant had met all of the above criteria. In the Reconsideration Decision, the Ministry appears to indicate that the Appellant should have expected to need winter clothing after moving to a more northern location.

Section 57 also imposes restrictions on the categories of items for which crisis supplements may be provided and limits the amounts of crisis supplements for each category.

Subsection (4) of section 57 of the EAPWDR, for example, sets out that crisis supplements may be provided for food, shelter, or clothing. Subsection (7) of section 57 of the EAPWDR sets out that crisis supplements may also be provided for fuel for heating, fuel for cooking meals, water, and hydro.

As the Appellant’s request for a crisis supplement was for cold weather clothing, needed because the Appellant had moved to a more northern community in the province, it is governed by section 57(4)(c) of the EAPWDR, which limits the amount that a family unit may receive in crisis supplements as follows:

- \$100 for each person in the family unit in the 12 calendar month period preceding the date of application for the crisis supplement, and
- \$400 for the family unit in the 12 calendar month period preceding the date of application for the crisis supplement.

As a sole recipient of disability assistance, the Appellant is the only person in the Appellant's family unit and had received a \$100.00 crisis supplement for clothing in July 2020. In the result, the Appellant is not eligible to receive another crisis supplement for clothing until at least one year from when the July 2020 crisis supplement was paid to the Appellant. While the Appellant gave evidence that the July 2020 crisis supplement was primarily for laundering clothes that had been damaged by bear spray, the Appellant also confirmed that the request was made on a "Request for Crisis Supplement – Clothing" form. Additionally, there are no other categories of crisis supplements into which the July 2020 supplement could fit and the panel finds that the Appellant did, in fact, receive \$100.00 in crisis supplements for clothing within the previous 12 calendar months.

In the result, the panel finds that the Ministry was reasonable in its determination that the Appellant was ineligible for a crisis supplement for clothing in October 2020 by virtue of having already received a \$100.00 crisis supplement for clothing in July 2020, which was within the 12 month period prior to October 2020. The Appellant is not successful in this appeal.

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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 CHAIR

DATE (YEAR/MONTH/DAY)

PRINT NAME

Anil Aggarwal

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

PRINT NAME

Barbara Insley

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)