

APPEAL NUMBER  
2020-00234

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (Ministry) reconsideration decision dated September 22, 2020 which held that the appellant was not eligible for a crisis supplement for utilities (a phone bill) pursuant to Section 5 of the Employment and Assistance Persons with Disabilities Act (EAPWDA) and Section 57 (1) of the Employment and Assistance Persons with Disabilities Regulation (EAPWDR).

The ministry determined that the appellant meets the criterion of Section 5 of the EAPWDA as the appellant is eligible for disability assistance or a supplement if they meet the criteria of the regulation. The ministry also determined that the appellant established that, pursuant to section 57 (1) (a), there were no other resources to meet the need for a crisis supplement for utilities and section 57 (1) (b) that failure to meet the need would result in imminent danger to the appellant's physical health.

However, the ministry determined that the appellant failed to establish that pursuant to subsection (1) (a), the request for a crisis supplement for utilities is to meet an unexpected expense or an expense unexpectedly needed.

**PART D – RELEVANT LEGISLATION**

Employment and Assistance Persons with Disabilities Regulation – EAPWDR- Section 57 (1)

Employment and Assistance Persons with Disabilities Act – EAPWDA- Section 5

## **PART E – SUMMARY OF FACTS**

The evidence before the ministry at the time of reconsideration consisted of:

1. Letter from Lifeline, a medical alert system, dated August 20, 2020, which stated that the appellant has used the services frequently (in the past 3 months from the letter, the appellant required emergency services 5 times) and a medical alarm was required in the home to remain safe in the home. Lifeline also allowed use of its service in an emergency even though the appellant did not have a telephone.
2. Letter from an occupational therapist, signed and dated August 17, 2020, which outlined that the appellant has a history of falls/syncope episodes, and injuries to the shoulders, knee, low back, and other physical health concerns. Therefore, a Lifeline is necessary due to frequent falls.
3. Phone bill dated July 31, 2020 which shows previous charges as \$293.32, current charges as \$14.11 and a late payment as \$8.80 with a total of \$317.18.
4. Letter from the phone company dated August 1, 2020 which stated that a payment of \$293.32 must be made by August 11, 2020 or services will be suspended and a reconnection charge of \$45.00 will apply.
5. Request for Reconsideration (RFR), signed and dated September 10, 2020, which provided a description of the experience of falling for the appellant and, in part, stated the following:
  - They experience many falls resulting in head injuries and concussions. They forgot about the landline until there was a need to use it.
  - There is a danger to someone of their age.
  - Lifeline stated that a connection to a cell phone is very expensive.
  - The request for a phone line is not a desire but a need for security.
  - This is a need for an 82-year old person.

### **Evidence at Appeal**

Notice of Appeal (NOA), signed and dated October 8, 2020, in which the appellant argued that the ministry is aware of the issues with paying bills.

Prior to the hearing the appellant submitted the following information:

1. A submission from an advocate which provided a background of the appellant and a history of their medical conditions and current medical struggles, and argued the following:
  - The appellant's physical and mental conditions are such that they require home support, household helper and a weekly medications blister pack.
  - The appellant has cognitive impairment which impact numerous daily living activities which is demonstrated by the fact that the appellant refers to self as 82-years old when they are ■-years old.
  - The ministry directly pays the appellant's rent and Hydro bill, which demonstrates that the ministry is aware of the appellant's issues with paying bills on time.
  - The appellant was unaware why the phone, TV and internet were not working until the ministry directed them to contact the phone company.
  - The disconnection of the phone was unexpected for the appellant as their cognitive function has become impaired to the point that they are unaware of pending bills.
  - Other bills/expenses are paid directly by the ministry and therefore it was a surprise that the phone bill was not paid.
  - The ministry is aware that the appellant previously applied for a crisis supplement for a phone bill yet did not initiate direct payments at that time and denied a supplement at this time, which is in contravention of its own mandate.

2. Release of Personal Information dating back to 1995 to present.
3. Pharmacy Pill Pak listing the medications that the appellant is prescribed.
4. Letter from Lifeline dated August 20, 2020 (described previously).
5. Letter from an occupational therapist, dated August 17, 2020 (described previously).
6. Excerpts from the ministry's reconsideration decision dated September 22, 2020.
7. A copy of the appellant's RFR dated September 10, 2020.
8. Phone bill dated July 27, 2020 (described previously).
9. Letter from a local pharmacy, dated October 21, 2020, which lists the appellant's medical diagnosis and prescribed medications.
10. Copy of the ministry's 'Vision, Mission and Values'.

### **Admissibility of Additional Information**

A panel may consider evidence that is not part of the records as the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

In this case, the appellant submitted the 10 documents prior to the hearing, which the panel admits as records reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

## **PART F – REASONS FOR PANEL DECISION**

The issue at appeal is whether the ministry's decision, which found that the appellant failed to establish that the need for a crisis supplement for utilities was an unexpected expense as required by Section 57 (1) of the EAPWDR was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

Section 57(1) of the EAPWDR sets out the eligibility requirements for providing crisis supplement, as follows:

### **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*.

Section of the EAPWDA sets out the eligibility requirements for provides, as follows:

### **Disability assistance and supplements**

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

### ***The Ministry's Position***

The ministry argued that the appellant failed to establish that the phone bill is an unexpected expense. As such the legislative criteria, pursuant to section 57 of the EAPWDR, have not been met and the appellant is not eligible for a crisis supplement for utilities.

### ***The Appellant's Position***

The appellant argued that the phone bill was unexpected because their cognitive impairment impacts the ability to cope with numerous daily living activities, including paying bills. Therefore, the ministry pays the appellant's rent and BC Hydro bill directly. The appellant also argued that by neglecting to directly pay the phone bill, the ministry is not living up to its own vision, mission and values statement.

### ***The Majority Panel's Decision***

#### **Unexpected Need**

Section 57 (1) (a) of the EAPWDR states that the minister may provide a crisis supplement to or for a family unit that is eligible for disability assistance if the family unit or person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed.

The ministry noted that the phone bill indicated that previous charges were overdue and been carried forward. The ministry also noted that appellant's acknowledgement that the bill was not paid in a couple of months indicates that they were aware that they had a monthly expense for phone services. The ministry concluded that the appellant did not provide information that indicated that the phone bill was an unexpected expense or why they were unable to pay the bill for a couple of months.

The majority panel notes that the appellant argued that the ministry determined that the appellant is not able to pay bills for rent and Hydro which demonstrates that the ministry recognizes that the appellant has challenge with paying bills. The ministry did not dispute this in its reconsideration decision or explain why it pays some bills for the appellant but not others. The majority panel, therefore, finds that the ministry has taken responsibility for paying the appellant's rent and hydro bills. The majority panel notes that the ministry did not argue that the appellant is cognitively capable of managing bill payment and therefore the panel finds that the information provided by the appellant regarding mental impairment and cognitive ability is correct. This is also supported by the fact that the appellant thought that the monthly phone charges (which are \$14.11 per month) were not paid for "a couple of months" but the total of the bill was \$293.00, which indicates that the phone bill has been arrears for many months. It is also supported by the fact that the appellant thinks they are 82-years old when in fact their age is [REDACTED]. The majority panel notes that the appellant argued that they have previously been in arrears with the phone bill which demonstrates there is a challenge in paying bills in a timely manner. The majority panel also notes that the appellant has a history of head injuries and concussions. Yet the ministry did not argue that the appellant is not impacted by cognitive issues and therefore had the ability to expect bills or was reasonably aware that the phone bill would need to be paid monthly. For these reasons, the majority panel finds that, in the case of the appellant and given their cognitive impairment, the phone bill was an unexpected expense.

#### **Dissenting Panel Member's Decision**

The dissenting panel member notes that the Appeal Record did not contain any information on the Appellant's earlier request for assistance with regard to rent and hydro payments, nor any information on how the ministry determined that the legislative requirements under Section 57 (1) of the EAPWDR were met for those two items. The dissenting panel member felt that it was incorrect to assume that the ministry's reasoning for making the rent and hydro payments could or should be applied to the Appellant's current request for payment of the phone bill. The dissenting panel member was not satisfied that a precedent had been set by the ministry's payment of the rent and hydro bills.

The dissenting panel member also found that the Appellant's request for a crisis supplement to pay a phone bill did not meet the criteria set out in Section 57 of the EAPWD Regulation. The Appellant was sufficiently cognitive to say to the ministry that they thought that the landline had stopped working because the bill had not been paid for a couple of months. The Appellant had been aware that previous charges were overdue and had been carried forward, further indicating that the bill was not unexpected. Finally, the Appellant, had on a previous occasion applied to the ministry for the same item and reasons, indicating that the item being requested was not unexpected.

**Conclusion**

The majority panel finds that the ministry did not reasonably conclude that the evidence establishes that the criteria set out in Section 57 (1) of the EAPWDR was not met. The majority panel, therefore, finds that the ministry's decision to deny the appellant's request for a crisis supplement for utilities was not a reasonable application of the legislation and was not supported by the evidence. The majority panel rescinds the ministry's reconsideration decision. The appellant is successful on the appeal.

APPEAL NUMBER  
2020-00234

**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

Neena Keram

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2020/11/13

PRINT NAME

Vivienne Chin – Dissenting Member

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/11/13

PRINT NAME

David Handelman

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/11/13