

APPEAL NUMBER
2020-00256

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision dated November 9, 2020 which held that the appellant was not eligible for a crisis supplement to purchase winter tires by reason that, pursuant to s. 59 Employment and Assistance Regulation (“EAR”) winter tires are not an item eligible for the crisis supplement and a failure to obtain winter tires would not result in imminent danger to the physical health of the appellant or the removal of one of the appellant’s children under the Child, Family and Community Service Act.

PART D – RELEVANT LEGISLATION

s. 22(3)(b) of the Employment and Assistance Act (“EAA”)
s. 59 Employment and Assistance Regulation (“EAR”)

PART E – SUMMARY OF FACTS

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the EAA.

The evidence before the Ministry at reconsideration was:

Background

- The appellant receives income assistance ("IA") as a single parent with 6 dependent children;
- They have received IA since April 2019;
- They receive monthly child tax benefits;
- They receive \$1316.07 in IA each monthly for support and shelter;
- Since May, 2020 the appellant also receives \$300 additional per month for the monthly emergency disaster supplement; and
- The appellant has monthly shelter costs of \$1510 per month (\$450 mortgage, \$400 hydro, \$350 other utilities, \$35 phone, and \$275 in property taxes).

On October 26, 2020 the appellant submitted a request for a crisis supplement for shelter. The appellant reported:

- They need winter tires for their vehicle so they can safely drive with their 6 children in the extreme winter conditions;
- They don't have additional funds to afford an expense like this;
- They cannot do a payment plan with winter tires; and
- They report that it is dangerously unsafe and an extreme hazard not to have winter tires in their harsh winter weather that has come on so abruptly.

The appellant provided a weeklong weather report dated November 13, 2020 for the area of BC where they reside.

The appellant's request for reconsideration indicated that the winter tires they planned to use were stolen.

The appellant's notice of appeal states: "I do not have public transit in my area and cannot be relying on going to the store that costs me more to shop at. I also use the food bank and need to transport my children to and from school."

PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether the Ministry's decision to deny the appellant a crisis supplement to purchase winter tires by reason that, pursuant to s. 59 Employment and Assistance Regulation ("EAR"), winter tires are not an item eligible for the crisis supplement and a failure to obtain winter tires would not result in imminent danger to the physical health of the appellant or the removal of one of the appellant's children under the Child, Family and Community Service Act was reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the appellant..

The legislation provides:

59 (1) *The minister may provide a crisis supplement to or for a family unit that is eligible for income 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, and

(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. 1, 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. 12/2003; 248/2018, App. 1; 270/2019, App. 1, s. 15.]

The panel finds:

S. 59 EAR provides that a crisis supplement may be provided to an individual so long as they meet the requirements set out in s.59(1) of the EAR. There are no words in s.59 EAR that indicate that a crisis supplement cannot be used for winter tires for a vehicle. The Ministry determined that, according to the legislation, a crisis supplement could not be granted for the purchase of winter tires. The panel finds that given that s. 59 doesn't specifically exclude winter tires, the Ministry determination that a crisis supplement cannot be granted for winter tires is not a reasonable interpretation of the legislation in the circumstances of this appellant.

Although winter tires may be an eligible expense covered by s.59 of the EAR, the appellant still must meet all the additional requirements set out in s.59(1)(a) and s.59(1)(b) EAR. S.59(1)(a) specifies that the supplement must be to meet an unexpected expense or obtain an item unexpectedly needed. S.59(1)(a) also specifies that the appellant must also show that they are unable to meet the expense or obtain the item because there are no resources available to the family unit.

In this case, the Ministry found that the appellant met both criteria of s.59(1)(a) by reason that the winter tires the appellant planned to use had been stolen and by reason that the appellant's IA is equivalent to their expenses and they don't have additional funds for an item such as winter tires. The panel finds that, even though there was limited information from the appellant about the resources available to them, these determinations by the Ministry were reasonable findings given the evidence from the appellant that their winter tires were stolen and also given the evidence about the appellant's monthly income and expenses.

The last criteria to meet the test for a crisis supplement is set out in s.59(1)(b) EAR. The appellant must show that a failure to 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.

The appellant's position is that they require the winter tires to go to the grocery store, food bank, and to take their six children to school. The appellant says it is dangerous for them to do this in the snowy winter conditions of the city they reside in and that public transit is not available. The Ministry acknowledged the snow and winter conditions in the appellant's city but did not find that the appellant could not find another way to travel through the city like walking or a bus to meet their needs for essential services. The panel finds that this was a reasonable determination of the Ministry based on the information provided to them by the appellant. The appellant failed to provide information about how they are managing to travel through the city now and if options like walking or a school bus are available to the appellant and their children.

For these reasons, the panel finds that the Ministry's decision was a reasonable interpretation of the legislation in the circumstances of the appellant and was reasonably supported by the evidence. The panel therefore confirms the decision of the Ministry.

PART G – ORDER	
THE PANEL DECISION IS: (Check one) <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> BY MAJORITY	
THE PANEL <input checked="" type="checkbox"/> CONFIRMS THE MINISTRY DECISION <input type="checkbox"/> 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? <input type="checkbox"/> Yes <input type="checkbox"/> No	
LEGISLATIVE AUTHORITY FOR THE DECISION:	
<i>Employment and Assistance Act</i>	
Section 24(1)(a) <input checked="" type="checkbox"/> or Section 24(1)(b) <input checked="" type="checkbox"/>	
and	
Section 24(2)(a) <input checked="" type="checkbox"/> or Section 24(2)(b) <input type="checkbox"/>	

PART H – SIGNATURES	
PRINT NAME MEGHAN WALLACE	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) Dec 17, 2020

PRINT NAME Rick Bizarro	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) Dec 17, 2020
PRINT NAME Linda Pierre	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) Dec 17, 2020