

APPEAL NUMBER
2021-00060

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision, dated March 17, 2021 (the “Reconsideration Decision”), which denied the Appellant a crisis supplement for firewood on the basis that the Appellant had not satisfied the criteria provided for in section 57(1) of the *Employment and Assistance for Persons with Disabilities Regulation* (“EAPWDR”) and, in particular, that the Appellant had not demonstrated that the need for firewood was unexpected or the result of an unexpected expense.

PART D – RELEVANT LEGISLATION

Section 57, EAPWDR

PART E – SUMMARY OF FACTS

The Appellant is a recipient of disability assistance with one dependent.

At the time of the Reconsideration Decision, the information before the Ministry included:

- Request for Crisis Supplement – Utilities, dated March 3, 2021 (the “Request”), in which the Appellant:
 - explained that the crisis supplement was for firewood;
 - described having insufficient funds for firewood due to a recent car repair; and
 - stated that the Appellant had wood-only heating at home;
- Invoice from an automotive parts provider for a Y pipe and gasket, totaling \$548.46, for a 2002 model year vehicle;
- the Appellant’s Request for Reconsideration, dated March 4, 2021 (the “RFR”), in which:
 - the Appellant explained that the need for car parts was not anticipated;
 - the Appellant stated that a car was needed to travel to and from appointments following a motor vehicle accident last year; and
 - the Appellant described having Fibromyalgia, which, in addition to other health issues, would be negatively impacted by not having any heat.

In the Reconsideration Decision, the Ministry referred to a number of previous requests for crisis supplements for firewood:

- November 22, 2019,
 - at which time the Ministry confirmed with the Appellant’s landlord that the Appellant’s residence was heated electrically and with a wood burning stove;
- January 13, 2020; and
- September 30, 2020, when the Appellant had car repairs that needed to be done.

All three of the above requests for crisis supplements for firewood were approved.

In the Notice of Appeal, the Appellant:

- stated that the Appellant’s residence does not use electricity for heating;
- advised of the cost of the car parts that the Appellant paid for;
- stated that the Appellant had no funds with which to purchase firewood;
- described needing to stay warm due to Fibromyalgia;
- stated that a car was not a luxury, as it was required to attend appointments to deal with post-traumatic stress disorder and to take the Appellant’s child to school.

The panel accepts the statements of the Appellant in the Notice of Appeal as argument, primarily, but where such statements include new evidence, the panel admits it as evidence that is not part of the record abut is reasonably required for a full and fair disclosure of all matters related to the appeal, as per section 22(4) of the Employment and Assistance Act.

PART F – REASONS FOR PANEL DECISION

Issue

The issue in this appeal is whether the Reconsideration Decision, which denied the Appellant a crisis supplement for firewood on the basis that the Appellant had not satisfied the Ministry the need for firewood was unexpected or the result of an unexpected expense was a reasonable application of section 57(1) of the EAPWDR or was reasonably supported by the evidence.

Legislative Framework

The authority to provide crisis supplements to recipients of disability assistance can be found in section 57 of the EAPWDR:

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.

Panel Decision

In the Reconsideration Decision, the Ministry accepted that the Appellant's family unit was eligible for disability assistance and that there were no alternate resources available to the Appellant. The Ministry was also satisfied that there was imminent danger to the Appellant's physical health from a lack of heat.

The Ministry was not satisfied, however, that the need for firewood arose unexpectedly or due to an unexpected expense.

Unexpected Need or Unexpected Expense

The Appellant's evidence is that the need for a crisis supplement arose because of an unexpected expense associated with the Appellant's 2002 model vehicle, which had previously required repairs just six months earlier, resulting in the Appellant making a previous request for a crisis supplement for firewood on the same grounds as the request that is the subject of this appeal.

The Appellant's vehicle appears to be one that requires a degree of ongoing maintenance and repair, likely due to its age. Given the previous repairs that were required to the Appellant's vehicle, it was not, in the view of the panel, unreasonable for the Ministry to conclude that the Appellant ought to have known that the late model vehicle may require more frequent maintenance. Likewise, the Appellant had, in the previous winter (2019-20), made two requests for crisis supplements for firewood, both of which

were approved by the Ministry. The panel also finds that it was not unreasonable for the Ministry's to conclude that the Appellant ought to have had some knowledge of the cost of heating the Appellant's residence from the fact that the Appellant had lived at the same residence during the previous winter.

In view of the foregoing and the fact that the Appellant had applied for a crisis supplement on three previous occasions, including one after a vehicle repair bill for Appellant's vehicle, the panel finds that the Reconsideration Decision, although not necessarily consistent with the Ministry's past acceptance of the Appellant's requests for crisis supplements for firewood, was not an unreasonable application of section 57(1) of the EAPWDR in the circumstances of the Appellant and the panel confirms the Reconsideration Decision.

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)

2021/April/20

PRINT NAME

Kim Read

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/April/20

PRINT NAME

Kevin Ash

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/April/20