

**PART C – DECISION UNDER APPEAL**

In its reconsideration decision dated September 27, 2021, the Ministry of Social Development and Poverty Reduction (the ministry) determined that the appellant was not eligible for a crisis supplement for August 2021 rent because the legislated requirement of being eligible for disability assistance for August was not met.

The ministry notes that the appellant's request for reconsideration of the decision to deny August disability assistance due to receiving Canada Pension Plan (CPP) income in August that exceeded the appellant's disability assistance rate is being dealt with separately.

**PART D – RELEVANT LEGISLATION**

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 57

**PART E – SUMMARY OF FACTS**Information before the ministry at reconsideration

The appellant is a sole recipient of disability assistance.

On August 4, 2021, the appellant applied for a crisis supplement to pay his August rent, having not received disability assistance for August due to receiving a lump sum CPP payment that exceeded his monthly disability assistance amount. The appellant told the ministry that he did not realize that the CPP income would be deducted from his disability assistance and that he spent the CPP income on debts and needed \$329 for his August rent.

On August 16, 2021, the ministry received the appellant's 10 Day Notice to End Tenancy for Unpaid Rent (the Notice to End Tenancy) dated August 9, 2021, which indicated that the appellant had failed to pay \$384 which included August rent of \$328 and \$56 owing for July's rent.

On August 19, 2021, the ministry denied the appellant's request for a crisis supplement to pay rent because the appellant was not eligible for disability assistance for August and was therefore not eligible for a crisis supplement for August rent.

On September 14, 2021, the ministry received the appellant's letter dated September 9, 2021, requesting reconsideration of the decision to deny the crisis supplement. In his letter, the appellant repeated that he did not understand the impact the CPP lump sum payment would have on his benefits and that having used the CPP payment to repay debts, he is unable to pay August rent. The appellant stated that he will speak with BC Housing regarding a repayment plan, as suggested by the ministry, but in the interim he has no money for food, utilities, "phone services to connect with my network", and vitamin supplements which, while not unexpected expenses, are required to keep him healthy, physically and emotionally.

Information provided on appeal

In his Notice of Appeal, the appellant writes "I didn't know it would be deducted." The appellant also provided a 41-page submission which was received by the Ministry on October 1, 2021 and provided to the Tribunal on October 13, 2021. The submission included copies of documentation already in the appeal record but no new information.

At the hearing, the appellant stated that he worked until 2018 when he got sick. In 2018 the ministry made him get Employment Insurance (EI) and later he got CPP. He questioned why he had to get EI in 2018, which he did not need at the time. He stated that the EI benefits made him ineligible for CERB, which he did need. The appellant confirmed that he was unaware of the impact of the CPP payment on his disability assistance eligibility and that he used the CPP payment to repay debts. He stated that sometimes, due to his medical conditions, he has difficulty concentrating and difficulty understanding the many ministry papers. The appellant also described difficulties with in-person ministry staff, to whom the appellant was directed by helpful

ministry staff with whom the appellant spoke on the telephone.

At the hearing, the ministry reviewed the reconsideration decision, stating that the legislation requires a person be eligible for disability assistance in the month a crisis supplement is requested.

In response to the appellant's concerns, the ministry explained that its benefits are based on a person's assets and income and that the ministry is the payer of last resort, meaning that any other benefits, such as EI and CPP, must be obtained first if a person is eligible for them. The ministry encouraged the appellant to contact an advocate with the Coalition of Persons with Disabilities (now known as Disability Alliance BC) who are very familiar with ministry processes and legislation and to also consider creating a MySelfServe online profile with the ministry for better and quicker service given his unhappiness with in-person staff.

Regarding the request for reconsideration of the denial of August disability assistance, the ministry stated that its records indicate that the reconsideration process is ongoing, and that October 27<sup>th</sup> is the date by which the ministry should provide the appellant with its reconsideration decision.

#### Admissibility of information provided on appeal

The panel admitted the additional information provided by the appellant and the ministry which largely related to the circumstances surrounding the appellant's need for the crisis supplement for shelter, under section 22(4) of the Employment and Assistance Act as information reasonably required for full and fair disclosure of the matter on appeal.

**PART F – REASONS FOR PANEL DECISION**Issue under appeal

The issue under appeal is whether the ministry's decision that the appellant was not eligible for a crisis supplement for August rent because he was not eligible for August disability assistance was reasonably supported by the evidence or was a reasonable application of the legislation.

Positions of the Parties

The appellant's position is that he was unaware that the CPP payment would impact his disability assistance and used the CPP payment to pay debts, leaving him without money to pay his August rent.

The ministry's position is that three of the four requirements of section 57(1) have been met:

- The need for August rent is unexpected because the appellant was unaware that the CPP lump sum payment would affect his eligibility for August disability assistance.
- The appellant's statements that the CPP payment was used for outstanding debts and the Notice to End Tenancy establish that the appellant does not have the resources to pay his rent and that BC Housing is not willing to negotiate a payment plan.
- Receipt of the Notice to End Tenancy satisfies the ministry that failure to provide a supplement to pay August rent could result in imminent danger to the appellant's physical health, as it places him at risk of being homeless.

However, the requirement that the appellant be eligible for disability or hardship assistance for August was not met due to receiving the CPP payment which exceeded his disability assistance amount.

Panel's Decision

Section 57(1) of the EAPWDR sets out four requirements to be eligible for a crisis supplement:

- The applicant **must be eligible for disability assistance or hardship assistance**.
- The supplement is required to meet an unexpected expense or obtain an item unexpectedly needed.
- There are no resources available.
- The minister considers that failure to meet the expense or obtain the item will result in either imminent danger to physical health (of any person in the family unit) or removal of a child under the *Child, Family and Community Service Act*.

Section 57(2) states that the supplement may only be provided for the calendar month in which the request for the supplement is made.

The panel finds that the legislation clearly requires a person to be in receipt of disability or hardship assistance in the month the crisis supplement is requested for that person to be eligible for a crisis supplement. At present, the appellant has been found ineligible for August disability assistance. It is unfortunate that the issue of eligibility for August disability assistance was not addressed as part of this crisis supplement reconsideration decision given that August disability assistance eligibility is the sole reason for denying the crisis supplement.

Based on the current information that the appellant is not eligible for disability assistance for August, the panel finds the ministry's decision to deny the crisis supplement for August rent to be a reasonable application of the legislation and confirms the decision.

The panel notes that because the ministry accepted that the other three requirements for a crisis supplement were met, if the appellant is subsequently found to be eligible for disability assistance for August, either at reconsideration or on appeal, the ministry's decision to deny the rent crisis supplement would no longer be reasonable.

## Legislation

### **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.....

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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)

Section 24(2)(a)       or Section 24(2)(b)

**Part H – Signatures**

Print Name

Jane Nielsen

Signature of Chair

Date (Year/Month/Day)

2021/10/26

Print Name

Dawn Wattie

Signature of Member

Date (Year/Month/Day)

2021/10/26

Print Name

Angie Blake

Signature of Member

Date (Year/Month/Day)

2021/10/26