

APPEAL NUMBER
2021-0198

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction's (the "Ministry") decision of Oct 6, 2021 in which the Ministry denied the Appellant a crisis supplement (3 cords of wood of 6 requested) pursuant to Section 57 of the *Employment and Assistance for Persons with Disabilities Regulation*.

PART D – RELEVANT LEGISLATION

EAPWDR – *Employment Assistance for Persons with Disabilities Regulation*, Section 57

PART E – SUMMARY OF FACTS

The information before the Ministry at the time of reconsideration included the following:

- 1) July 30, 2021 – The Appellant requested assistance with purchasing firewood to heat the home for the upcoming winter.
- 2) August 27, 2021 – The Appellant submitted an invoice from a wood company that was due August 19, 2021 for \$2,109.98.
- 3) August 30, 2021 – The Appellant was informed that they were not eligible for a crisis supplement to purchase firewood.
- 4) September 27, 2021 – The Appellant submitted a Request for Reconsideration noting the following: They cannot get some now and some later. Later in the season firewood will not be available. Last year they tried to contact firewood suppliers. They were too late and only one person called them back who said he was out for the season. They use a wood stove for heat and need 6 to 8 cords of wood to heat their home for the winter season. The cost of 6 cords of wood delivered is \$2109.98. • Several things have happened over the course of the past year impacting their ability to manage their affairs including getting firewood, a spousal separation and the death of a dog. They indicated that their spouse used to help with managing finances. The doctor was missing dates for prescription refills and at one point they were cut off for two months. They had a relapse with illicit drug use. They have attempted suicide twice in the past year, most recently the past weekend resulting in being hospitalized. They have been barely able to cope with day-to-day life. They can't reach out and network to get help with the firewood. All of this has been unexpected. •The only heat source they have is a wood stove. They use small space heaters in the winter near the pipes to prevent them from freezing. Even if they got more space heaters, they could not afford to heat their house using electricity only. Because of the high demand for firewood in the area, they have to get it all at once or risk not getting any.
- 5) October 6, 2021 – the Ministry completed the review of the Request for Reconsideration

Additional Information

The Appellant had an advocate attend the hearing and speak on their behalf. At the hearing, it was noted by the advocate that the Appellant had arranged for the full 6 of 6 cords of firewood requested to be delivered before it could not be delivered. The Appellant had borrowed the additional money from a friend to pay for the remaining 3 of 6 cords of firewood requested. The advocate submits that the arrangement (borrowing money) for the additional 3 cords of firewood should not be held against the Appellant, as the Appellant was forced to make a decision to get the firewood before either the firewood would not be available (due to supply) or the roads being impassable for a mid-winter delivery.

Additionally, the firewood supplier had written a letter on October 19, 2021, indicating that the availability for firewood was limited, and delivery in the middle of winter would not be an option.

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The above additional information, along with a letter written by the Appellant on October 19, 2021 – outlining the issue with the impassable rural roads in winter, and high firewood demand was admitted as new evidence as it was determined to be reasonably required for a full and fair disclosure of all matters related to the decision under appeal, pursuant to section 22(4) of the *Employment and Assistance Act*. The Ministry made no objections to the admissibility of the document at the hearing.

PART F – REASONS FOR PANEL DECISION

The decision under appeal is the reasonableness of the Ministry of Social Development and Poverty Reduction's (the "Ministry") decision of October 6, 2021 in which the Ministry denied the Appellant 3 of 6 requested cords of firewood (as a crisis supplement) pursuant to section 57 of *the Employment and Assistance for Persons with Disabilities Regulation*.

Full text of EAPWDR section 57 is provided in the Schedule at the end of the decision.

Majority Panel Decision

The Ministry's position is that the Appellant did qualify for the crisis supplement, as the need for firewood was unexpectedly needed as a result of the separation with their spouse who had previously provided support with managing finances and the issues with the Appellant's mental health along with drug use. The Ministry is satisfied that the Appellant was incapable of setting aside funds in anticipation of the upcoming need for firewood to heat the home for the winter season.

However, the Ministry determined that the Appellant was not eligible for all six of the cords of wood requested (valued at \$2110), and that only three cords were necessary to alleviate the imminent threat of danger (no heat during the winter and frozen pipes). The Ministry asserts that the purpose of a crisis supplement is to address unexpected emergencies and needs to prevent imminent danger to health and is not intended to augment monthly assistance. The Ministry was not satisfied that the Appellant would be unable to purchase firewood later in the season, or at the very least, arrange with a firewood supplier now their need for more wood further into the season.

The Appellant's position, as was outlined at the hearing, is that they would not be able to get some firewood now and some firewood later. Later in the season firewood will not be available. Last year, without any success, they tried to contact firewood suppliers. They use a wood stove for heat and need 6 to 8 cords of wood to heat their home for the winter season. The delivery of firewood halfway through the season would be impossible due to the road leading to the rural residence being snowed in (impassable).

As outlined in Section 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 and (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.

The majority panel finds that the evidence establishes the Ministry approved the Appellant's eligibility for a crisis supplement on the basis that the Appellant met the legislative criteria. The majority panel

considered that in sub-section (7) of section 57 of the *Employment and Assistance for Persons with Disabilities Regulation*, there is no limit to the cost of that crisis supplement as it relates to (a) fuel for heating.

The majority panel finds that the evidence establishes that the Ministry granted partial (3 of 6 cords of wood) coverage of the crisis supplement request (\$2101.98). The majority panel considered how the Ministry arrived at their (3 of 6 cords of wood) determination.

The majority panel finds that the evidence establishes the Appellant provided at the hearing the fact that delivery halfway through the winter season would be impossible due to the impassible road conditions leading to their rural residence. The majority panel finds that the evidence establishes the firewood supplier confirmed this claim, as fact, on October 19, 2021 in the form of a letter. Moreover, the majority panel considered that the Appellant did arrange for the 6 of 6 cords to be delivered in advance of the majority panel decision, by borrowing money from a friend. The majority panel considered the argument that given the possibility of not having sufficient heat for the winter (due to impassable roads, the lack of supply, and supported by the suppliers letter), the Appellant was forced to make the decision to arrange for the fuel (firewood).

The majority panel finds that the evidence establishes the Appellant was granted a crisis supplement, under section 57 (7)(a) of the *EAPWDR* and considered that given there were no limits to the value of that crisis supplement in particular (7)(a) fuel for heating, the decision to provide half of the request (3 of 6 cords) was not reasonably supported by the evidence.

Considering the evidence in this appeal that was reasonably required for a full and fair disclosure of all matters related to the decision under appeal, the majority panel finds that the Ministry was unreasonable in its determination to deny the Appellant the full amount as requested under *Section 57 of the Employment and Assistance for Persons with Disabilities Regulation*.

Accordingly, the majority panel rescinds the Ministry's decision, and the Appellant is successful in this appeal, pursuant to *Section 24(1)(a) and (2)(b) of the Employment and Assistance Act*.

Dissenting Member's Reasons

I agree with the Majority's statements of the facts and the law. However, I would confirm the Ministry's decision. I would find the decision to be reasonably supported by the evidence and a reasonable application in the circumstances of the appellant.

I believe the Ministry applied the legislation and facts reasonably in providing the Appellant with half the funds requested to provide necessary wood for heating his home this winter. The balance of the funds needed to purchase all of the winter wood were left to the Appellant to organize. The Appellant confirmed during the hearing that he had coordinated funding and loans to purchase all of the wood needed during the winter which had already been delivered. In effect the Appellant was seeking all of the funds from the Ministry needed as a means of reimbursing himself to pay off the funding and loans. Under the legislation, a crisis supplement does not define conditions, or amounts to fund an Appellant's request. The Ministry stated it was not satisfied that the appellant would not be able to purchase

firewood later in the season and left responsibility for the cost to the appellant to be set aside from the disability assistance the appellant would receive. I believe that it was a reasonable decision based on the legislation and facts.

Schedule

EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES REGULATION

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) Repealed. [B.C. Reg. 248/2018] (6) Repealed. [B.C. Reg. 248/2018] (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.**

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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

Jennifer Armstrong

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2021/11/09

PRINT NAME

Robert Kelly – Dissenting

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/11/12

PRINT NAME

Jan Lingford

DATE (YEAR/MONTH/DAY)

2021/11/13