

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision, dated October 14, 2022 (the “Reconsideration Decision”), in which the Ministry determined that the Appellant was not eligible for a crisis supplement for utility costs, specifically cell phone charges, because the Appellant had not satisfied all of the requirements of section 59 of the *Employment and Assistance Regulation* (“EAR”) and, in particular, the Ministry was not satisfied that failure to obtain a supplement for cell phone charges would result in imminent danger to the Appellant’s physical health.

Part D – Relevant Legislation

EAR- section 59

Part E – Summary of Facts

The Appellant is a sole recipient of income assistance.

The information before the Ministry at the time of the Reconsideration Decision included the following:

- a copy of a receipt for payment, dated August 25, 2022 (the “August Receipt”), indicating that the Appellant had made a payment of \$150.00 to the cell phone provider and had an outstanding balance of \$362.25;
- the Appellant’s Request for Reconsideration, dated September 23, 2022, which included:
 - a handwritten note from the Appellant, explaining that:
 - he is 100% self-employed, that 90% of the call on his cell phone are for business and that he uses internet and e-mail on his cell phone;
 - the request for the supplement was a one-time request to get caught up on the outstanding cell phone account;
 - a copy of a receipt for payment, dated September 23, 2022, indicating that the Appellant had made a payment of \$220.00 to the cell phone provider and had an outstanding balance of \$256.27;

The Appellant filed a Notice of Appeal on October 25, 2022, which was filed by telephone. On the same day as the Notice of Appeal was filed, the Appellant submitted an e-mail from the Appellant’s cell phone provider (the “Cell Phone E-mail”), indicating that, as of the Appellant’s October 10, 2022 bill, there was a balance owing of \$366.90 and that the Appellant had last made a payment of \$220.00 on September 23, 2022;

At the hearing of the appeal, the Appellant described having been in business for 30 years and having faced some struggles in recent years as a result of an accident that turned the Appellant’s life upside down but that he was trying to turn his life around and was working out every day and trying to rebuild his business. The Appellant described the last few months, especially, as having been a struggle and humbling while he tries to rebuild his life and business. The Appellant described that he is, at this point in time, just trying to catch up on bills and promised to repay any monies advanced by the Ministry in respect of both basic assistance and a crisis supplement for the outstanding cell phone account. The Appellant spelled out, in considerable detail, the extent to which a cell phone is critical to his business and indicated that a significant percentage of his internet use is on his cell phone, often connected to wi-fi networks.

The Appellant stated that he understood that not all four criteria under section 59 of the EAR had been met but that he has been through a lot in life and is owning up to mistakes which have put him in his current predicament.

The Ministry noted that the Appellant had not shown that the failure to obtain a supplement to pay the outstanding cell phone bill would result in an imminent danger to the Appellant’s health. The Ministry did note that a cell phone bill is considered a utility for the purpose of calculating a recipient’s shelter costs, pursuant to section 5(1) of Schedule A to the EAR and that the amount

being sought as a crisis supplement was less than the maximum that may be paid for a shelter allowance, being the lesser of the Recipient's actual shelter costs and the sum of the maximum set out in section 2 of Schedule A and the maximum set out in section 4 of Schedule A to the EAR. As such, the *only* criteria that the Appellant failed to meet in the case of the request for a crisis supplement for the outstanding cell phone account was that the Appellant had not demonstrated that failure to obtain the supplement would result in imminent danger to the Appellant's physical health.

The panel admits the Cell Phone E-mail, the admissibility of which was not opposed by the Ministry, and the oral evidence given at the hearing of the Appeal as evidence not part of the record that the panel considers to be 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 in this appeal is whether the Ministry was reasonable in its determination that the Appellant was not eligible for a crisis supplement for utility costs, specifically cell phone bill arrears, because the Appellant had not satisfied all of the requirements of section 59 of EAR and, in particular, that failure to obtain a supplement for unexpected cell phone charges would result in imminent danger to the Appellant's physical health.

Panel Decision

To be eligible for a crisis supplement, all the criteria in section 59 must be met. In the case of the Appellant, the only criteria that the Ministry found had not been met was the requirement that failure to obtain a supplement in respect of the Appellant's outstanding cell phone account would result in imminent danger to the physical health of the Appellant. The Appellant gave a fair bit of evidence about the essential nature of the cell phone to the Appellant's business. However, the evidence given by the Appellant in the RFR and at the hearing did not address the issue of how failure to obtain a supplement for the outstanding cell phone account would result in imminent danger to the Appellant's physical health. Other than the Appellant's evidence about working out every day and being fit, there was little evidence given about the Appellant's state of health and no explanation as to how failure to obtain a supplement for the outstanding cell phone account would put his physical health at risk. To that end, the panel finds that the Ministry was reasonable in its determination that the Appellant was not eligible for a crisis supplement for the Appellant's outstanding cell phone accounts because it was not satisfied that the Appellant had demonstrated that failure to obtain the supplement would result in imminent danger to the Appellant's physical health.

In view of all the foregoing, the Appellant is not successful in this appeal.

Relevant Legislation

Section 59 of the EAR authorizes the Ministry to pay crisis supplements and describes the eligibility criteria for crisis supplements:

Crisis supplement

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.

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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
Adam Shee

Signature of Chair

Date (Year/Month/Day)
2022/November/14

Print Name
Cherri Fitzsimmons

Signature of Member

Date (Year/Month/Day)
2022/November/14

Print Name
John Pickford

Signature of Member

Date (Year/Month/Day)
2022/November/14