

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction’s (the ministry) reconsideration decision dated November 7, 2022, that denied the appellant’s request for a crisis supplement for accommodation costs.

The ministry found that all of the requirements of section 57 of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR) were not met. The ministry was not satisfied that the accommodation expense was unexpected. Further, the ministry noted that the appellant’s request for \$3000 for accommodation expenses was above the maximum amount permitted by the legislation.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation, B.C. Reg. 265/2002 (EAPWDR), section 57

The full text of this section of the EAPWDR is set out in the schedule of legislation at the end of this decision.

Part E – Summary of Facts

The hearing took place by teleconference. The appellant, the appellant's advocate, and a ministry representative all attended the hearing. The appellant's grandparent also attended the hearing and provided evidence as a witness on behalf of the appellant.

Evidence Before the Ministry at Reconsideration

The evidence before the ministry at the time of the reconsideration decision was:

- The appellant is a sole recipient of disability assistance, receiving \$1410.50 per month for disability assistance and supplements, with this amount made up of \$983.50 for support allowance, \$375 for shelter allowance, and \$52 for a transportation supplement.
- The appellant's shelter costs are \$645 per month, which includes \$550 for rent, \$50 for heat and \$45 for telephone.
- The appellant's current assistance file opened November 2021.
- On May 19, 2022 the appellant requested assistance with accommodation costs for necessary travel to attend court for criminal proceedings in another city. This request was denied on June 13, 2022 and again on July 27, 2022 at reconsideration. The appellant did not appeal the reconsideration decision.
- On October 18, 2022 the appellant contacted the ministry with a new request for a crisis supplement for accommodation needed for necessary travel for a further court appearance in the same proceedings from November 1, 2022 to December 1, 2022. The appellant stated that she had no funds and must make the trip or would lose her freedom.
- On October 18, 2022 the ministry advised that they may be able to help with transportation costs for the trip, but not with accommodation costs. The ministry stated that it was satisfied that the appellant did not have funds available to pay for accommodations while away from her home for necessary travel and that failure to obtain accommodation may result in imminent danger to health. However, the ministry denied the request stating that the appellant had not demonstrated an unexpected need or expense. The ministry stated that the appellant was aware of

an upcoming need to attend court in another city and that this is not unexpected need or expense.

- The appellant filed a Request for Reconsideration dated October 24, 2022 with the Ministry. The Request for Reconsideration enclosed written submissions from her advocate and a letter from her legal counsel. The letter from legal counsel stated that the appellant had to travel away from her home to attend court between November 10, 2022 and December 9, 2022. The written submissions from the appellant's advocate stated that:
 - The appellant currently resides with her grandparents in coastal British Columbia;
 - In late September 2022 the appellant was notified that she needed to be in a city away from her home to attend court;
 - The timeframe the appellant is expected to be away from home is from November 10, 2022 to December 9, 2022;
 - The appellant has no choice and must travel away from home to attend court;
 - While the appellant was aware that she would need to attend court she did not expect to have to travel away from home to do so nor did she expect to have to be away from home for so long;
 - The appellant is unfamiliar with legal processes and it is unreasonable to expect her to know what to expect; and
 - The ministry is also unfamiliar with these sorts of proceedings and made an arbitrary and incorrect presumption that the appellant knew the date and length of the legal matter in advance.

New Evidence Provided on Appeal

At the hearing, new evidence was presented in support of the appellant's appeal. The appellant's grandparent stated that they had paid approximately \$5000.00 for the necessary accommodation as the crisis supplement had been denied. It was implied that this money was paid on behalf of the appellant and was a debt they hoped the appellant would repay at some future time. The appellant's grandparent also stated that she was unfamiliar with legal procedures and had no idea that she'd have to come up with the accommodation expenses for the court proceedings in November 2022, until late September 2022.

The appellant also stated that she has a brain injury resulting in cognitive impairment and that this impairment is why she was designated as a person with disabilities under the *Employment and Assistance for Persons with Disabilities Act*. The appellant stated that due to

her cognitive impairment she has more difficulty than most understanding complex information and processes and certainly was unaware that she would need to travel away from her home for a month to attend court. When questioned, both the appellant and her grandparent indicated that they had asked to have the court proceedings held closer to the appellant's home but had been told that this was impossible.

The ministry did not object to the admissibility of this new evidence.

The panel finds that the new evidence provided by the appellant and her grandparent is reasonably required for a full and fair disclosure of all matters related to the decision under appeal. Accordingly, the panel admits this information as evidence pursuant to section 22(4) of the *Employment and Assistance Act*.

Part F – Reasons for Panel Decision**Issue on Appeal**

The issue is whether the ministry was reasonable when it decided that the appellant was ineligible for a crisis supplement for accommodation costs in the amount of \$3000.00. That is, was the ministry reasonable when it decided that the requirements of section 57(1) of the EAPWDR were not met as the need for accommodation was not an unexpected expense or unexpectedly needed and that the amount sought was more than the legislated maximum amount.

Legislation

Section 57 of the EAPWDR sets out the eligibility requirements for providing a crisis supplement and states that all the following criteria must be met for a crisis to be provided:

- The family unit is eligible for disability assistance or hardship assistance
- The need for the item is not expected or there is an unexpected expense
- There are no resources available
- Failure to obtain the item or meet the expense will lead to imminent danger to the physical health or a child being removed under the *Child, Family and Community Services Act*.

There is no discretion in the legislation for the ministry to provide a crisis supplement in cases where not all of the criteria are met.

Section 57(4) of the EAPWDR adds that if a crisis supplement is for shelter that the amount provided in a calendar month is limited to the lesser of the support and shelter rate for a family unit or the amount of actual shelter costs.

The position of the parties

The appellant's position is that the ministry's decision denying the requested crisis supplement for accommodation costs is unreasonable. Assisted by her advocate, the appellant argued that the need to travel away from home to attend court was indeed unexpected as was the duration of time she would have to be away from home. The appellant submitted that she was unfamiliar with legal processes and had no way of being able to anticipate what would be required of her. The appellant states that she did not learn of the date or length of time she would need to be away from home until late

September. Further, the appellant provided evidence that she has a brain injury and resulting cognitive impairment that makes it difficult for her to understand many things and that the ministry ought to have considered this when they determined whether the expense was unexpected, as it is the reason she has persons with disability designation in the first place.

The appellant's advocate conceded that the amount of \$3000.00 sought for a crisis supplement was more than the maximum amount permitted to be paid for a crisis supplement for shelter by the legislation. However, the appellant's advocate argued that the maximum amount permitted ought to be paid to the appellant even if the full amount sought was more than the amount authorized by the legislation as any amount would offset the expenses incurred.

The ministry's position is that section 57 of the EAPWDR only allows for the ministry to provide a crisis supplement when all the legislative criteria are met. The ministry found that the appellant met the criteria of being eligible for disability assistance, having no resources available, and that failure to obtain accommodation could lead to imminent danger to physical health. However, the ministry determined that the need for accommodation was not unexpected. The ministry stated that the appellant had known of the need for alternate accommodation for several months and it was therefore not an unexpected need or expense. Further, the ministry stated that the requested amount of \$3000.00 was more than the maximum amount allowed to be paid as a crisis supplement for shelter by section 57(4) of the EAPWDR.

Panel Decision

The ministry determined that most of the criteria set out in section 57(1) of the EAPWDR were met. The ministry found that the appellant received disability assistance, did not have the resources to pay for the accommodation and that failure to pay for the accommodation would result in imminent danger to the appellant's physical health. However, the ministry decided the need for accommodation away from home to attend court was not an unexpected expense. The ministry also determined that the requested amount of \$3000.00 was more than the maximum permitted to be paid for a crisis supplement for shelter by the legislation.

The panel must decide if the ministry was reasonable in deciding:

1. that the need for accommodation away from home was not an unexpected expense or an item unexpectedly needed; and

2. that the amount sought was more than the maximum amount authorized to be paid for shelter costs.

The panel finds after reviewing all the evidence before the ministry at the time of reconsideration and the new evidence submitted at the hearing of this matter that:

- the appellant learned in May of 2022 that the legal proceeding underlying the need for accommodation would take place;
- the appellant had previously had to travel away from home to attend court on at least one other occasion and as recently as July 2022;
- the appellant and her grandparent had requested whether the legal proceedings could be relocated previously and were advised that the proceeding could not be moved; and
- in May 2022, the appellant applied for, and was subsequently denied, a crisis supplement for the July accommodation costs.

Considering these findings, the panel finds that the appellant was aware that she would need to be away from home for the legal proceeding and would need accommodation.

While the appellant submitted that she was unfamiliar with legal procedures and had a cognitive impairment that makes it harder for her to understand even simple processes, the evidence shows that the appellant was able to navigate the ministry process to apply for a crisis supplement multiple times and could reasonably be expected to know that she would have to secure accommodation to attend court as she had had to do so as recently as July 2022 in the same legal matter. Accordingly, the panel finds that the ministry was reasonable in deciding that the need for accommodation while away from home to attend court was not an unexpected expense or an item unexpectedly needed.

The panel also finds that the ministry was reasonable in determining that it was not authorized to provide a crisis supplement in the amount of \$3000.00. Section 57(4) of the EAPWDR states that if a crisis supplement is for shelter that the amount provided in a calendar month is limited to the lesser of the support and shelter rate for a family unit or the amount of actual shelter costs. The maximum support and shelter rate for the appellant's family unit is \$1358.50 (made up of \$983.50 for support allowance and \$375 for shelter allowance). The \$3000.00 sought is more than this amount and accordingly, the maximum authorized under the legislation is \$1358.50. The legislation does not give the ministry discretion to pay a higher amount as a crisis amount for shelter.

As the panel has found that the ministry was reasonable in determining that not all of the criteria required for issuance of a crisis supplement were met, the panel will not address the issue of whether the lesser sum of \$1358.50 ought to be paid to the appellant despite the fact that the total amount requested was more than the maximum permitted by the legislation.

Conclusion

The panel finds that the ministry's reconsideration decision, which denied the appellant's request for a crisis supplement for the cost of additional accommodation because all of the requirements of section 57 of the EAPWDR were not met, was reasonably supported by the evidence and a reasonable application of the applicable enactment in the appellant's circumstances. The panel confirms the ministry's decision. The appellant's appeal is not successful.

Schedule of 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.
- (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.

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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

Emily Drown

Signature of Chair

Date (Year/Month/Day)

2022/12/19

Print Name

Jane Nielsen

Signature of Member

Date (Year/Month/Day)

2022/12/19

Print Name

Susan Ferguson

Signature of Member

Date (Year/Month/Day)

2022/12/19