

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction’s (“ministry”) reconsideration decision dated November 17, 2022, in which the ministry found the appellant was not eligible for a crisis supplement for shelter (storage costs) under section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”) because not all the criteria were met. The ministry was not satisfied that the expense was unexpected and that failure to meet the expense will result in imminent danger to the appellant’s physical health.

Part D – Relevant Legislation

The ministry based the reconsideration decision on the following legislation:

Employment and Assistance for Persons with Disabilities Act - EAPWDA - section 5
Employment and Assistance for Persons with Disabilities Regulation - EAPWDR - section 57

The full text is available in the Schedule after the decision.

Part E – Summary of Facts

The evidence and documentation before the minister at the reconsideration consisted of:

1. Information from the ministry record of the decision indicating that the appellant requested a crisis supplement for storage fees on October 27, 2022. The ministry denied the request on October 31, 2022, and received the appellant's *Request for Reconsideration* ("RFR") on November 1, 2022. The ministry completed the review of the RFR on November 17, 2022.

The appellant is a sole recipient of disability assistance which includes a support allowance of \$983.50 per month and a shelter allowance of \$75. The ministry recoups \$45 per month for a debt repayment/sanction. The appellant receives a monthly nutritional supplement of \$205 per month. A review of the file indicates the appellant is currently unhoused and receives \$75 per month for shelter.

On October 27, 2022, the appellant reported that he has an outstanding balance on a storage locker that had to be paid by October 22, 2022. The appellant said he has been paying whenever he is able, but he is struggling as he no longer receives the maximum shelter allowance. The appellant indicated that all his personal belongings are in the storage unit and will be auctioned if he does not pay the balance.

The appellant said he has no money or resources available to pay the bill and is in danger of losing everything he owns. The appellant submitted a storage receipt for July and August 2022 as well as an additional storage receipt from 2021.

2. An RFR signed by the appellant on November 1, 2022, with a typed statement in which the appellant explains that he is currently living in a temporary shelter due to the "unforeseen recent bailiff of my last residence." The appellant said he has a one-night supply of his current medication, and his health condition can worsen right away and endanger his life as well as the health of community members if he does not get into the storage locker to take his medication. The shelter portion of his disability assistance is lower than it was before, so he is unable to pay the fee for the locker. The ministry worker told him to submit receipts for the storage cost.

3. A receipt from the storage company dated October 3, 2022, showing charges of \$174.95 per month for September and October 2022. The charge total bill including taxes is \$367.40. The appellant made a payment of \$250, and the account balance is \$117.40.

4. A bank statement (*Demand Deposit Transaction History*) that shows deposits and withdrawals from October 24-November 4, 2022. The appellant has circled a withdrawal on October 26 (\$60), a deposit on October 26 (\$1,168.50), a returned cheque noted on November 2 (\$1,168.50 + \$7.00 charge) and a withdrawal on November 4 (\$1,175.50).
5. A receipt from the storage company dated October 12, 2021, showing monthly payments from July-December 2021: payment total \$929.70, account balance \$0.00.
6. A receipt from the storage company dated July 23, 2022, showing monthly payments for July and August 2022: payment total \$367.40, account balance \$0.00.
7. A *Request for Crisis Supplement - Shelter* application form signed by the appellant on October 27, 2022. The appellant stated that his storage locker is full of his furniture and other "life materials"; the fee is \$174.95 per month. The appellant stated that he is 3 months behind, with \$524.85 due on October 22, 2022. The appellant indicates the items will be auctioned if he doesn't pay the outstanding balance.

The appellant explained that he is unable to pay the storage costs because he is not receiving the shelter allowance from the ministry, and he has many expenses including phone, food, and items for his temporary shelter. The appellant said he is a victim of fraud and lost most of the money in his bank account.

The appellant said he has been dealing with the fraud department at his bank but "it's taking months and a lot of money to be refunded." The appellant explained that his health and safety is at risk because he will lose everything he owns, including furniture, clothing, and housewares which he will need when he finds a place to live.

Additional evidence

The appellant requested an in-person hearing but as oral hearings are not being held at this time due to health risks from Covid-19, the hearing was conducted as a written hearing. Subsequent to the reconsideration decision, the appellant filed a *Notice of Appeal* with statements that the panel accepts as argument. In an email to the Tribunal, the ministry states that the reconsideration summary is the ministry's submission on appeal.

The Tribunal received a late submission from the appellant on December 16, 2022, and which was accepted by the panel chair. The ministry did not indicate any objection to the late submission and continues to rely on the reconsideration summary for the hearing.

The late submission consists of the following documents:

- 1.** The appellant's bank statements showing account activity from August 19-November 16, 2022 (33 pages).
- 2.** The appellant's phone bill: anniversary date March 16, 2022.
- 3.** A letter from the Canada Revenue Agency dated December 6, 2021, indicating that upon review, the appellant is not eligible for the Canada Recovery Benefit because he did not have enough income from employment.
- 4.** A *Residential Tenancy Branch* decision dated April 13, 2021, finding that the landlord is entitled to possession of the property because the appellant had unpaid rent owing for February and March 2021.
- 5.** A *Rent Breakdown* from the storage company indicating that the appellant had a past due amount of \$183.70 since May 22, 2022, and upcoming rent of \$367.40 due on June 22, 2022.
- 6.** A receipt from the storage company dated July 30, 2021, showing monthly payments from June-August 2021: total charges \$514.85, payment total \$234.95, account balance \$279.90.
- 7.** A *Confirmation of Assistance* from the ministry dated December 15, 2022, indicating a cheque issue date of December 21, 2022, and estimated assistance of \$1,488.50 for January 2023. The statement indicates that previous assistance cheques were cashed.
- 8.** A ministry decision dated November 9, 2022, denying the appellant's request for a replacement cheque for November assistance. The decision states that "the cheque was endorsed with your signature, therefore does not meet the criteria of being an unendorsed cheque that was lost or stolen."
- 9.** A message from the appellant to the ministry in his self serve account, dated December 15, 2022, indicating that he is providing his bank statements for 90 days and had previously submitted a residential tenancy agreement for his new address as of December 1, 2022. The message details the appellant's expenses for phone and other costs at his

new residence. The appellant stated that the ministry denied his request for storage costs when he was without a home, and everything was in storage. The appellant said that he has switched banks and has a new account since November 2022.

Admissibility

The panel finds that the late submission provides background information on the appellant's previous and current living arrangement and financial situation with additional documents regarding the storage cost. The panel admits all of the documents under section 24(2) of the EAA as evidence that is 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 on appeal is whether the ministry's decision that found the appellant was not eligible for a crisis supplement for shelter (storage costs) under section 57 of the EAPWDR because not all of the criteria were met, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant. The panel's role is to determine whether the ministry was reasonable in finding that the following eligibility criteria in section 57 of the EAPWDR were **not** met:

- the storage cost was an unexpected expense;
- failure to meet the expense will result in imminent danger to the appellant's physical health.

The ministry was satisfied that other criteria for a crisis supplement were met including the appellant not having resources to pay the outstanding storage bill.

Analysis***Arguments - Appellant***

The appellant's position is that the storage costs would have been paid if the benefit he deposited through mobile banking had not been returned. In his appeal submission the appellant says that he now has a "deficit minus benefit" and he has not yet received his assistance cheque for November 2022. The appellant indicates that all his important possessions are in the storage unit including identity and personal documents, home essentials, housewares, clothing, bed, and furniture.

The appellant argues that he experienced bank fraud on the dates that were circled on the bank statement included in the Reconsideration record (*Demand Deposit Transaction history*). The appellant wants to clarify that on October 26, 2022, \$1,168.50 was withdrawn from his account, and on November 2, 2022, \$1,175.50 was taken.

Arguments – Ministry

The ministry's position is that the appellant's request for a crisis supplement for storage fees does not meet all the requirements under the legislation. The ministry argues that storage fees are not an unexpected expense because the information provided shows that the appellant's belongings were in storage since 2021. The ministry states that the appellant has not provided information "that clearly establishes how having your belongings in storage or the amount of arrears is unexpected to you."

The ministry acknowledges the appellant's explanation that his life will be in danger if he is unable to get into the storage locker to take his medication. However, the ministry argues that the *imminent danger to physical health* requirement was not met because no information was provided to explain why the appellant could only take his medication at the storage locker.

The ministry further notes that shelter costs do not include storage fees. The ministry says it is not permitted to issue a shelter allowance for storage. The ministry explains that storage fees can be considered a moving cost and paid for by the ministry when a client is moving and requires temporary storage for their belongings.

Legislative requirements

Section 5 of the EAPWDA authorizes the minister to issue supplements provided that the specific criteria for the supplement are met. To be eligible for a crisis supplement, the legislation (EAPWDR section 57) requires several criteria to be met including the minister being satisfied that the funds are required to meet an unexpected expense or an unexpected need for an item.

The legislation requires the client to have no available resources to meet the expense or obtain the item. In addition, the minister must be satisfied that the failure to meet the expense or obtain the item will result in imminent danger to the physical health of the client or any person in the family unit.

These requirements are set out in subsections 57(1)(a) and 57(1)(b) of the EAPDWR and the ministry has the discretion to determine whether they are met based on information supplied by the client. The appellant provided many details about his financial resources including bank statements, copies of bills, and receipts showing that while he made some payments to the storage company, he still had an outstanding balance.

The ministry was satisfied that the appellant met the requirement for no available resources under subsection 57(1)(a) of the EAPWDR. Therefore, even though the appellant submitted additional bank statements and evidence regarding his financial circumstances, the requirement to not have resources is already met and not at issue in the appeal.

Regarding a crisis supplement for shelter, the legislation generally limits a crisis supplement to the person's actual shelter costs as set out in subsection 57(4)(b)(i) of the EAPWDR. Although the ministry says that shelter costs do not include storage fees, they

considered the appellant's request for storage costs under the crisis supplement legislation. The panel's decision is therefore focused on the crisis supplement criteria that the ministry found were not met.

Panel's decision – unexpected expense

The panel finds that the ministry's decision is reasonable because the customer receipts and documentation from the storage company show that the appellant had monthly storage costs since 2021; and therefore, the monthly rental fee was not unexpected. While the appellant indicates that he is the victim of an unexpected bank fraud that left him unable to pay the storage costs, the appellant's evidence shows that he had an outstanding balance with the storage company prior to the alleged bank fraud.

The appellant says that the bank fraud occurred on October 26 and November 2, 2022, as shown by the amounts circled on the bank statement he originally submitted to the ministry. However, the storage receipts and *Rent breakdown* from the storage company show that the appellant had an outstanding balance of \$117.40 on October 3, 2022; a past due amount of \$183.70 since May 22, 2022; and upcoming rent for the storage unit due on June 22, 2022. These dates are all prior to the alleged bank fraud.

Furthermore, as noted by the ministry, the appellant had the storage locker as an ongoing monthly expense since 2021. The additional receipt he submitted for the appeal was dated July 30, 2021. It shows monthly payments for the storage unit from June-August 2021. A receipt in the ministry record, dated October 12, 2021, shows monthly payments from July-December 2021. Other receipts cover the period May-October 2022.

These documents indicate the appellant has had the storage bill since at least June 2021. The panel finds the ministry was reasonable in concluding that the storage cost is an ongoing obligation and not an unexpected expense.

The appellant indicates that he had to move all of his belongings into storage when the bailiff evicted him from his former residence. As a result, he no longer received the maximum shelter allowance to pay the storage costs. The ministry notes that the appellant receives \$75 per month for shelter as an unhoused person.

The panel finds that losing the shelter allowance was not unforeseen because the *Residential Tenancy Branch* decision, submitted on appeal, shows that the appellant had not paid rent for his residence for 2 months in 2021. According to the decision the appellant clearly had the obligation to pay rent monthly. The panel has considered the

evidence in its entirety and finds that the ministry reasonably determined that the requirement for an unexpected expense under subsection 57(1)(a) of the EAPWDR was not met.

Panel's decision – imminent danger to physical health

The panel finds that the ministry was reasonable to conclude that the appellant has not demonstrated that his health will be in imminent danger if he doesn't receive a crisis supplement for storage fees. The appellant said that all of the belongings he needs for daily life, will be auctioned if he doesn't pay the balance owing for the storage unit. In the RFR submission, the appellant said he has only a one-night supply of his medication and needs to access the storage unit to take his medication. The ministry noted there was no additional detail for why he had to take his medication at the storage unit.

While the appellant provided details about his medical condition and explained the risk of missing even one day of his medication, he did not provide any additional evidence about why he needed to access the storage unit to take his medication. For example, it is unclear why the appellant could not obtain an emergency dose of his medication through a medical clinic or pharmacy.

The appellant has not mentioned his medical condition in the appeal submissions and the panel finds that the ministry reasonably determined that there is insufficient evidence regarding danger to health if the appellant is not issued a crisis supplement to pay the storage costs. The panel finds that the ministry was reasonable to conclude that the requirement for imminent danger to physical health under subsection 57(1)(a)(i) of the EAPWDR was not met.

Conclusion

The panel finds that the ministry decision is reasonably supported by the evidence. The panel has considered the ministry record as well as the appellant's additional submissions. The panel acknowledges that the appellant met some of the requirements for a crisis supplement including not having available resources to pay for the storage cost. However, the EAPWDR requires **all** the criteria to be met. The ministry does not have the authority to issue a crisis supplement where an unexpected expense and imminent danger to physical health have not been shown on the evidence. The panel confirms the reconsideration decision. The appellant is not successful in his appeal.

Schedule – Relevant Legislation

EAPWDA

Disability assistance and supplements

5 Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

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.

[am. B.C. Regs. 13/2003; 248/2018, App. 2; 270/2019, App. 2, s. 14.]

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

Margaret Koren

Date (Year/Month/Day)

2023/01/11

Print Name

Carmen Pickering

Signature of Member

Date (Year/Month/Day)

2023/01/11

Print Name

Erin Rennison

Signature of Member

Date (Year/Month/Day)

2023/01/11