

**Part C - Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “ministry”) reconsideration decision (the “decision”) dated 26 May 2023, which determined that the appellant was ineligible for a crisis supplement for utilities.

Specifically, the ministry determined that the appellant was not eligible to receive a crisis supplement because the appellant had not met the criteria. The ministry was not satisfied that the appellant had shown that the expense was unexpected.

**Part D - Relevant Legislation**

*Employment and Assistance for Persons with Disabilities Act (Act) section 5.*

*Employment and Assistance for Persons with Disabilities Regulation (Regulation) section 57.*

## Part E – Summary of Facts

### Evidence at the time of reconsideration

As part of the application for reconsideration, the appellant submitted:

- 1) a bill from FortisBC dated November 14, 2022 for \$1111.00.
- 2) a “Request for Crisis Supplement – Utilities” application, signed March 21, 2023 which stated that the amount currently owed on the account was \$950.10
- 3) a statement from the appellant explaining the situation, and that she has “been waiting for months to be paid”, and there was “a problem with the pay system at my job”, and that this “problem is unexpected”.

The appellant also stated that she “is a person with Autism. I have a cognitive disability. I have always had my bills paid directly because I forget to pay them otherwise.”

She concluded by saying she needs to get her “gas turned on. I have medical needs and I need to be able to have a bath and keep my body clean. I have done everything anybody has asked to do the best of my ability, please help me”.

According to the Ministry’s decision, the following is a chronology of events, which is not disputed by the appellant:

The ministry advised the appellant that she was not eligible for a crisis supplement for utilities on April 11, 2023.

The appellant initiated a Request for Reconsideration on May 4, 2023.

The ministry completed its decision on May 26, 2023.

In the decision, the ministry found that:

- 1) The appellant is in receipt of disability assistance and is eligible for the crisis supplement.
- 2) The appellant has no other resources available to pay for the utilities.
- 3) The appellant faces imminent danger to her physical health, “as the absence of hot water will lead to hygiene issues”.
- 4) The overdue utility bill is not unexpected, noting that the appellant “received regular billing showing the accumulation of the outstanding balance since November 2022. Over the course of five months since your original request, you had time to take steps to address your Fortis account and arrange payments”.

The ministry also stated in the decision that the appellant could request that the ministry contact Fortis on her behalf to arrange direct payments for her monthly utility bill and deduct this from her monthly assistance payments. The ministry could also set up a payment plan for any outstanding amounts or future security deposits if requested.

The appellant submitted a Notice of Appeal to the Tribunal on June 20, 2023.

### **Testimony at the hearing**

The appellant spoke about her current situation. She still does not have gas at her home, which means no hot water or heat.

Her income includes payments from various sources, including her pension, disability assistance, EI and a salary. She worked for the federal government in 2022, but her payments have been impacted by the Phoenix payment system. She is still owed salary from them. She recently won an appeal related to her income assistance, which overturned a previous decision that she was not eligible for assistance for certain months.

She finds FortisBC difficult to talk to, with limited methods to communicate with them about her situation.

In 2020 she was on assistance and her utilities were paid directly. In 2021 and 2022 she paid the utility bill herself.

The ministry explained the criteria needed for receiving a crisis supplement. The ministry confirmed the criteria included that the expense is unexpected, no resources are available, and there must be imminent danger. The ministry stated that, in this case, they accepted that no resources were available and there was imminent danger to the appellant. However, they did not find that the expense was unexpected.

The ministry noted the option of appointing a Third Party Administrator to manage the appellant's utility bills and other personal matters if requested by the appellant.

**Part F – Reasons for Panel Decision**

The issue on appeal is whether the ministry's reconsideration decision that determined the appellant was ineligible for a crisis supplement for utilities was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Specifically, did the ministry reasonably determine that the appellant was ineligible for a crisis supplement because she did not meet the criteria?

**Ministry position**

In the decision, the ministry found that the appellant was not eligible for a crisis supplement for utilities as it was not an unexpected expense.

The ministry stated the appellant has "received regular bills showing the accumulation of the outstanding balance since November 2022", and that "over the course of five months" ... "you had time to take steps to address" the utility charges. The ministry concluded that they were "not satisfied that this overdue account is unexpected".

**Appellant's position**

The appellant states that she has a cognitive disability that makes it difficult for her to remember to pay bills. She disputes the fact that she received any written notice or otherwise from the utility prior to the gas being turned off. She also states that her salary payments have been impacted by the Phoenix payment issue. Her assistance payments, including a recent appeal in her favour, mean that her income sources are not at levels she anticipated, and the impacts on her salary and assistance payments are unexpected.

**Panel's reasons**

Section 5 of the Act states that a crisis supplement may be provided to a family unit that is "eligible for it".

Section 57 of the Regulation provides more detailed requirements for a crisis supplement. These include:

- 1) they must be eligible for disability assistance;
- 2) the expense must be unexpected;
- 3) there are no resources available; and,
- 4) there is imminent danger to the physical health of any person

In the decision dated April 17, 2023, the ministry concluded that the appellant was not eligible for a crisis supplement for utilities because the expense was unexpected. As the ministry has concluded that the other criteria were met, the panel will only address the criteria of “unexpectedness”.

The ministry found that the appellant had known about payments owing to the utility since November 2022, and applied for the crisis supplement on March 21, 2023. The appellant states that she has had difficulty contacting and discussing the payment issue with FortisBC.

The appellant states that her income and assistance levels have fluctuated a great deal, meaning that the amount of money she had for utilities was unknown and that these changes were out of her control and unexpected. The panel is sympathetic to the appellant’s situation, but without any evidence such as bank statements or payment stubs to confirm salary changes or assistance levels, the panel is unable to conclude that impacts on the appellant’s income levels are not expected.

The ministry found that there was no evidence to support the finding that the expense was unexpected. The appellant states she did not receive communications about her outstanding bill from FortisBC, by mail or otherwise. The panel finds that the utility bill from November 2022 provided by the appellant supports the ministry’s finding that the appellant knew about the utility bill at that time. It is difficult to conclude that the appellant was unaware and that such charges were unexpected.

The appellant states that she has difficulty paying her bills on her own. She also states that she has been responsible for paying the bills in 2021 and 2022. The panel finds that the period that the appellant paid the bills supports the ministry’s finding that such payments would not be unexpected.

The panel finds that the appellant has not provided information to show that the need for a crisis supplement is unexpected.

All the criteria must be met in order to obtain a crisis supplement. In this case, the panel finds that the ministry’s reconsideration decision is reasonably supported by the evidence and a reasonable application of the legislation. The panel confirms the ministry’s decision. The appellant is not successful in the appeal.

## **Schedule of Legislation**

### **Employment and Assistance for People with Disabilities Act**

#### **Section 5**

##### **Disability assistance and supplements**

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

### **Employment and Assistance for People with Disabilities Regulation**

#### **Section 57**

##### **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) 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.



APPEAL NUMBER 2023-0177

**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

Robert McDowell

Signature of Chair

Date (Year/Month/Day)

2023/07/04

Print Name

Diane O'Connor

Signature of Member

Date (Year/Month/Day)

2023/07/06

Print Name

Julie Iuvancigh

Signature of Member

Date (Year/Month/Day)

2023/07/05