

Part C – Decision Under Appeal

The decision under appeal is the reconsideration decision, dated February 22, 2023 (the “Reconsideration”), of the Ministry of Social Development and Poverty Reduction (the “Ministry”).

In the Reconsideration, the Ministry had determined that the Appellant was not eligible for a crisis supplement for replacement car tires, pursuant to section 57 of the *Employment and Assistance for Persons with Disabilities Regulation* (“EAPWDR”) because the Ministry was not satisfied that failure to replace the tires would result in an imminent danger to the Appellant’s physical health.

Part D – Relevant Legislation

EAPWDR- section 57

Part E – Summary of Facts

The Appellant is a sole recipient of disability assistance and has been designated as a person with disabilities (“PWD”).

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

- the Ministry’s letter to the Appellant, dated February 23, 2023, denying the request for a crisis supplement;
- a quotation from a Tire store, quoting the cost of four tires plus installation and alignment at \$1,310.67;
- the Ministry’s letter to the Appellant, dated February 7, 2023, denying the request for a crisis supplement;
- the Appellant’s Request for Reconsideration, dated February 8, 2023 which included a handwritten note from the Appellant which set out that:
 - the Appellant’s tires had recently been installed but that one had developed a slow leak causing excess wear and tear to the remaining tires;
 - the cost of replacing the tires is beyond the budget.

The Appellant’s Notice of Appeal was filed April 6, 2023. In the Notice of Appeal, the Appellant pointed out that her tires were very bad and worn out with 3 out of 4 having slow leaks.

The Appellant also filed a supplemental submission which included:

- copies of both the medical report and assessor report portions of the Appellant’s PWD application from 2019, both of which set out the Appellant’s disabilities and restrictions on her functioning but do not directly address the matter of whether failure to obtain new tires poses an imminent danger to the Appellant’s physical health; and
- a map and a series of photos showing the main route between the Appellant’s home and more urban streets in the Appellant’s home town, which appear to show that the road is not particularly pedestrian-friendly.

The Ministry objected to the admissibility of the information contained in the submission, noting that it was not provided at the time of Reconsideration and could have changed the Ministry’ decision at Reconsideration.

At the hearing of the appeal, the Appellant described having a slow leak that was unexpected. The Appellant stated that she lives on \$1,200.00 per month from a CPP disability pension, which reduces her disability assistance.

The Appellant described working at a care home but only a limited number of hours, due to low energy. The Appellant drives to this employment and the bus is not really an option as walking to the bus along the road depicted in the photos that were included with the Appellant's submission is unsafe due to a number of issues, such as the nature of the terrain, the lack of street lights, and there being no sidewalk. The Appellant stated that people were often robbed while walking along the road. The Appellant also noted that the bus doesn't start to run at an early enough hour for her to use it to get to her employment. Finally, the Appellant confirmed that the tires in question are winter tires and that the Appellant has a set of summer tires which will soon be re-installed. The Appellant submitted that it would be dangerous to continue to drive on the current tires but also confirmed that she had been driving on the tires for several months and would re-inflate the tires as soon as a warning light came on indicating that she had low tire pressure.

The Appellant has a power of attorney for her mother and drives her mother to appointments and does shopping for her. She states that car tires are not something that she can live without.

At the hearing of the appeal, the Ministry noted that the Appellant had several other options for getting to and from appointments and for carrying out chores, such as getting groceries. These included taking public transportation and having groceries delivered to her home.

Although the Ministry objected to the admissibility of the information in the Appellant's submission, the panel does find that it is admissible under section 22(4) of the Employment and Assistance Act as evidence that is not part of the record but which is reasonably required for a full and fair disclosure of all matters related to the decision under appeal. For example, the photographs depict the roadway that the Appellant would be required to walk to take a bus and the PWD application contains information about the restrictions the Appellant faces in carrying out a number of activities, including walking. Both are relevant to the matter of whether or not there is an imminent danger to the Appellant's physical health in not being able to obtain replacement tires.

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

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 replacement car tires, pursuant to section 57 of the EAPWDR because the Ministry was not satisfied that failure to replace the tires would result in an imminent danger to the Appellant's physical health.

Panel Decision

In the Reconsideration, the Ministry determined that there was only one criterion that the Appellant had not met to be eligible for a crisis supplement for tires. The Ministry had determined that the Appellant had not satisfied the Ministry that failure to obtain the tires would result in imminent danger to the physical health of any person on the Appellant's family unit.

In this case, the Appellant is a sole recipient of disability assistance and is the only member of her family unit. While the Appellant gave evidence that her mother was largely if not wholly dependant on her, the Appellant's mother is not a member of the Appellant's family unit, as contemplated by the EAPWDR.

The Appellant gave some evidence about how it could potentially be dangerous to walk to the bus if the Appellant couldn't drive because her tires were unsafe. However, the Appellant noted that she has been driving on the tires for several months. Assuming that the tires are unsafe to drive on, however, some of the consequences of that include:

- the Appellant's ability to care for her mother being compromised;
- the Appellant's ability to attend her part-time employment being restricted by the lack of available buses at the time the Appellant would be required to attend work;
- the Appellant potentially having to walk along a road that may, at certain times, not be especially safe.

While these are not insignificant restrictions on the Appellant's activities, the panel finds that the Ministry was reasonable in its determination that failure to obtain the tires would not result in imminent danger to the Appellant's physical health, particularly given that the Appellant had other options available to her and in view of the fact that the Appellant had been driving on the tires for several months.

The Appellant is not successful in this appeal.

Relevant 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, the maximum set out in section 4 of Schedule A and any supplements provided under section 54.3 [*pre-natal shelter supplement*] or Division 7 [*Housing Stability Supplement*] of Part 5 of this regulation, or

(B) the maximum set out in Table 1 of Schedule D, the maximum set out in Table 2 of Schedule D and any supplements provided under section 54.3 or Division 7 of Part 5 of this regulation,

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

Adam Shee

Signature of Chair

Date (Year/Month/Day)

2023/05/05

Print Name

Robert Kelly

Signature of Member

Date (Year/Month/Day)

2023/05/05

Print Name

Mimi Chang

Signature of Member

Date (Year/Month/Day)

2023/05/05