

**Part C - Decision Under Appeal**

The decision under appeal is the reconsideration decision of the Ministry for Social Development and Poverty Reduction (the Ministry) dated August 22, 2023, in which the Ministry denied additional shelter funds for a shared parenting allowance.

**Part D - Relevant Legislation**

Employment and Assistance Act (Act), sections 1 (definition of “dependent child”), 4 and 22(4)  
Employment and Assistance Regulation (Regulation), Schedule A, sections 1(1), 4, and 5

**Part E – Summary of Facts**Evidence Before the Ministry at Reconsideration:

The Appellant is a sole recipient of income assistance, with a child who lives with her at least 40%, but not more than 50% of the month.

Until June 30, 2023, the Appellant's rent was \$650 per month, and the Appellant received a shelter allowance of \$590. The Ministry described the shelter allowance as the maximum shelter allowance of \$375 for a sole recipient, plus a shared parenting allowance of \$195.

On July 1, 2023, the Appellant moved to a different residence, where the rent is \$328 per month. Including a basic phone amount of \$35, the Ministry determined that the Appellant was eligible for a shelter allowance of \$363, which was her actual shelter cost.

As the Appellant's actual shelter cost was less than the shelter allowance for a sole recipient of income assistance, the Ministry determined that the Appellant was not eligible for a shared parenting allowance for additional shelter costs, as of July 1, 2023.

Additional Evidence:

At the hearing, the Appellant explained that her child lives with her for three or four days each week. She moved from her residence in Municipality #1, to the residence with lower rent in Municipality #2, to be nearer to the residence of her child's other parent in Municipality #3. She needs a vehicle to travel from her residence to her child's school and the home of the other parent and has increased expenses as a result of the shared parenting arrangement.

Admissibility of Additional Evidence:

The Ministry did not object to the additional oral evidence of the Appellant. The Panel finds that the additional evidence is reasonably required for the full and fair disclosure of all matters in the appeal. Therefore, the Panel finds that the additional evidence is admissible under s. 22(4) of the Act.

**Part F – Reasons for Panel Decision**

The issue on appeal is whether the Ministry was reasonable in its determination that the Appellant is no longer eligible for a shared parenting allowance because her monthly rent is less than the monthly shelter allowance for her family unit size.

Appellant's Position:

The Appellant says that she shares custody of her child and therefore she should continue to receive the shared parenting allowance. She needs the additional money to meet higher expenses related to having shared custody of her child.

Ministry's Position:

The Ministry says that the shared custody allowance is only for shelter, and it is calculated according to the recipient's actual shelter costs. Up to July 1, 2023 the Appellant's shelter costs were \$650 per month, which was more than the shelter allowance for a single person. Therefore, the Appellant received a shared parenting allowance of \$195, which, at that time, was the difference between the shelter allowance for a sole recipient with no dependent children and the shelter allowance for a sole recipient with one or more dependent children.

Starting July 1, 2023, the Appellant's actual shelter costs were less than the shelter allowance for a sole recipient. Therefore, the Ministry says that the Appellant was no longer eligible to receive the shared parenting allowance.

Panel Reasons:

Income assistance rates are set out in Schedule A of the Regulation. The amount of monthly income assistance is the sum of the monthly support allowance and the shelter allowance, which are calculated based on the size of the family unit.

The support allowance includes a dependent child in the family unit. "Dependent child" is defined in section 1 of the Act as "a child...who resides in the parent's place of residence for more than 50% of each month and relies on the parent for the necessities of life." The Appellant's child does not live with her for 50% or more of each month, so her support allowance is calculated for a family unit of one.

The shelter allowance is calculated differently. Under Schedule A, section 4, a child who lives with the recipient for not less than 40% of each month is included in the family unit.

The Appellant is eligible for a shelter allowance as a family unit of two people, because her child lives with her for not less than 40% of the month.

In the reconsideration decision, the Ministry refers to a “shared parenting allowance”, which is confusing. Under the legislation, there is no separate shelter allowance for shared parenting arrangements – it is just a matter of determining the monthly shelter allowance for the family unit under Schedule A, section 4(2). The shelter allowance is calculated as the lesser of the maximum amount in the Table in Schedule A, section 4(2), and the recipient’s actual shelter costs, which include rent, fuel for heating and cooking meals, water, hydro, garbage disposal and rental of one basic phone line. The Appellant is eligible for the monthly shelter allowance for a family unit of two people. The maximum in the Table for a family unit of two was \$570 until July 31, 2023, and increased to \$690 by legislative amendment effective August 1, 2023.

Before July 1, 2023, the Appellant’s actual shelter costs were more than \$570, so she was eligible for the maximum shelter allowance of \$570. Starting July 1, 2023, the Appellant’s actual shelter costs went down, so her shelter allowance was reduced to \$363, which was her actual shelter cost (although it appears that the Appellant had not yet submitted proof of all her utilities costs at the time of the reconsideration).

The Ministry has referred to a “shared parenting allowance”, as the difference between a shelter allowance for a sole recipient, and a shelter allowance for a family unit of two that consists of a parent and a child who lives with them for more than 40% of the month but is not a “dependent child” (that is, does not live with them for more than 50% of the month). The Panel is unclear about the need for a separate term to describe the calculation of the shelter allowance under the legislation, especially as it seems to have confused the Appellant and given her the idea that she was receiving a separate, additional benefit because of her shared parenting arrangement. The shelter allowance for a sole recipient is irrelevant, because under the legislation the Appellant is eligible for a shelter allowance for a family unit of two.

There is no separate “shared parenting allowance”. While the Appellant has additional expenses because her child lives with her part of the time, the Ministry does not pay an additional benefit for expenses in a shared parenting situation. Ministry policy states that “parents are expected to make their own arrangements for sharing any portion of the Canada Child Benefit” to pay expenses other than shelter.

Therefore, while the Panel finds that the reference to a “shared parenting allowance” is not based on the legislation, the Panel finds that the Ministry’s reconsideration decision

was reasonable in the conclusion that, when the Appellant's actual shelter costs decreased on July 1, 2023, to an amount that was less than the maximum for a family unit of two people, her shelter allowance also decreased to the amount of her actual shelter costs.

Conclusion:

The Panel finds that the conclusion of the Ministry's reconsideration decision, that the Appellant was eligible to receive a shelter allowance in the amount of her actual shelter costs of \$363, was reasonable. The Panel confirms the Ministry's decision. The Appellant is not successful in the appeal.

Schedule of Legislation

Employment and Assistance Act

**Interpretation**

s. 1(1) In this Act:

"dependent child", with respect to a parent, means a child, other than a child who is 18 years of age and is a person with disabilities, who resides in the parent's place of residence for more than 50% of each month and relies on that parent for the necessities of life, and includes a child in circumstances prescribed under subsection (2) but excludes a child in circumstances prescribed under subsection (2.1);

**Income assistance and supplements**

s. 4 Subject to the regulations, the minister may provide income assistance or a supplement to or for a family unit that is eligible for it.

s. 22 (4) A panel may consider evidence that is not part of the record as the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

Schedule A

**Income Assistance Rates**

**Maximum amount of income assistance before deduction of net income**

s. 1 (1) Subject to this section and sections 3 and 6 to 10 of this Schedule, the amount of income assistance referred to in section 28 (a) [*amount of income assistance*] of this regulation is the sum of

(a) the monthly support allowance under section 2 of this Schedule for a family unit matching the family unit of the applicant or recipient, plus

(b) the shelter allowance calculated under sections 4 and 5 of this Schedule.

**Monthly shelter allowance**

s. 4 (1) For the purposes of this section:

"family unit" includes a child who is not a dependent child and who relies on the parent for the necessities of life and resides in the parent's place of residence for not less than 40% of each month;

"warrant" has the meaning of a warrant in section 15.2 [*consequences in relation to outstanding arrest warrants*] of the Act.

(2) The monthly shelter allowance for a family unit other than a family unit described in section 15.2 (1) of the Act is the greater of

(a) the minimum set out in the following table for the family unit, and

(b) the lesser of

(i) the family unit's actual shelter costs, and

(ii) the maximum set out in the following table for the family unit.

(to July 31, 2023)

Item	Column 1 Family Unit Size	Column 2 Minimum	Column 3 Maximum
1	1 person	\$75	\$375
2	2 persons	\$150	\$570

(effective August 1, 2023)

Item	Column 1 Family Unit Size	Column 2 Minimum	Column 3 Maximum
1	1 person	\$75	\$500
2	2 persons	\$150	\$695

**How actual shelter costs are calculated**

s. 5 (1) For the purpose of this section, utility costs for a family unit's place of residence include only the following costs:

(a) fuel for heating;

(b) fuel for cooking meals;

(c) water;

- (d) hydro;
- (e) garbage disposal provided by a company on a regular weekly or biweekly basis;
- (f) rental of one basic residential single-line telephone.

(2) When calculating the actual monthly shelter costs of a family unit, only the following items are included:

- (a) rent for the family unit's place of residence;
- (b) mortgage payments on the family unit's place of residence, if owned by a person in the family unit;
- (c) a house insurance premium for the family unit's place of residence if owned by a person in the family unit;
- (d) property taxes for the family unit's place of residence if owned by a person in the family unit;
- (e) utility costs;
- (f) the actual cost of maintenance and repairs for the family unit's place of residence if owned by a person in the family unit and if these costs have received the minister's prior approval.

(3) If utility costs fluctuate, they may be averaged over the periods

- (a) beginning on October 1 and ending on March 31, and
- (b) beginning on April 1 and ending on September 30.

(4) If 2 or more family units share the same place of residence, the actual shelter costs of any one of them are the smaller of

- (a) the amount calculated by
  - (i) dividing the actual shelter costs for all the family units by the number of persons occupying that place of residence, and
  - (ii) multiplying the result by the number of persons in that one family unit, and
- (b) the amount declared by the family unit as the shelter costs for that family unit.



APPEAL NUMBER 2023-0301

**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

Susan Ferguson

Signature of Chair

Date (Year/Month/Day)

2023/10/17

Print Name

Emily Drown

Signature of Member

Date (Year/Month/Day)

2023/10/17

Print Name

Mimi Chang

Signature of Member

Date (Year/Month/Day)

2023/10/17