

Part C – Decision Under Appeal

The decision on appeal is the Ministry's September 18, 2023 reconsideration decision, which determined that the Appellant was not eligible for a crisis supplement for food pursuant to Section 57 of the Employment and Assistance for Persons with Disabilities Regulation (the "Regulation").

The Ministry denied the request given that the need for food was not an unexpected expense or an item unexpectedly needed. In addition, the request for the crisis supplement for food was also denied as there was no imminent danger to the physical health of the children or to the Appellant and his spouse, and no risk of the children being removed under the *Child, Family and Community Service Act*.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act, s. 5
Employment and Assistance for Persons with Disabilities Regulation, s. 57
Employment and Assistance Act, s. 22(4)

Full text of the Legislation is in the Schedule of Legislation at the end of the Reasons.

Part E – Summary of Facts

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

- The family unit includes the Appellant, the Appellant’s spouse, and three children aged between 10 and 18;
- Monthly assistance includes \$2743.61 disability assistance + \$1210 child tax benefits;
- On August 29, 2023 the Appellant requested a crisis supplement for food stating :
 - The need is unexpected because of food being necessary for the kids starting school and to take food during the school day
 - The Appellant is requesting \$250 for food
 - The Appellant has no money available and
 - It will not result in imminent danger to the physical health of any member in the family unit if the Appellant is unable to meet the need.
- The Appellant had not received a crisis supplement for food for the month of August or September;
- On August 30, 2023 the request for a crisis supplement for food was denied by the Ministry for reasons noted as:
 - the Appellant just received his September assistance and child tax benefits the week prior to the request so had available resources;
 - the request is not to meet an unexpected expense or obtain an item unexpectedly needed; and
 - failure to obtain the requested supplement will not result in imminent danger or removal of a child.
- On September 1, 2023 the Appellant submitted the request for reconsideration; there were no reasons provided or any other new information submitted.

Additional Information submitted after Reconsideration

With his September 22, 2023 Notice of Appeal, the Appellant indicated that his reasons for appeal included that he disagreed with the Ministry decision; the Ministry was looking at law, and instead, should look (further) and give some exceptions for some cases.

Evidence presented at the hearing

In response to questions from the Panel, the Appellant confirmed that he had three children attending school—two at public school and one child attending university. The Appellant also said that the children’s education in recent years had been a mix of in-person and online but that the children’s return to school in 2022 and 2023 was in person.

In response to questions from the Appellant, the Ministry representative noted that assistance amounts for families have increased and additional supports have been added; the Appellant and his family had recently received additional assistance from the Ministry

in that they had been provided with the School Start-Up Supplement amounts for the children.

Neither the Appellant nor the Ministry objected to the admissibility of their respective additional oral evidence.

The Panel admitted the Appellant's and the Ministry's information presented at the hearing as new evidence. The Appellant's details about his children and their school attendance provides further background about the family's experience with, and needs related to, the return to school. The Ministry's information regarding the School Supplement amounts provides additional information about assistance provided to the Appellant and his family. Accordingly, the Appellant's and Ministry's information presented at the hearing was determined to be reasonably required for a full and fair disclosure of all matters related to the decision under appeal, pursuant to section 22(4) of the Employment and Assistance Act.

Part F – Reasons for Panel Decision

The issue on appeal is whether the Ministry's September 18, 2023 reconsideration decision, which determined that the Appellant was not eligible for a \$250 crisis supplement for food pursuant to Section 57 of the Regulation, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant.

Position of the Appellant

The Appellant maintains that the Ministry's process of strictly following the written rules and legislation is unfair, and a wider, individualized consideration is needed. The Appellant says that the world has changed in recent years, life is different, and resources for families are even less; and this must be recognized. The Appellant says that with the start of school, he and his family did not have the funds to provide for everything that the children needed for school.

Finally, although he agrees that he understands the legislation, the Appellant insists that the Ministry's refusal to provide him with the \$250 crisis supplement is wrong. In his view, the Ministry's processes and decision making are inconsistent and depend on the individual Ministry worker's knowledge and understanding of the legislation. The Appellant further emphasizes that knowledge and understanding about individual people and families is important to also consider. The Appellant says that for these reasons, he should be provided with the requested \$250 crisis supplement.

Position of the Ministry

At the hearing, the Ministry relied on the reasons stated in its reconsideration decision. The Ministry says that the Appellant is not eligible to receive a \$250 crisis supplement for food for his children because the criteria under the legislation have not been met. In particular:

- The need for food related to the children's return to school is not unexpected nor has the Appellant identified unexpected expenses preventing the purchase of food;
- The Appellant had sufficient resources to purchase food for his children's return to school having recently received his September assistance and benefit amounts, including the additional School Start-Up supplement;
- There is no imminent danger to the children or to the Appellant and his spouse if the crisis supplement is not received; and
- The children will not be removed from the family if the crisis supplement is not received.

In its reconsideration decision, the Ministry also noted that if he had been found eligible for a crisis supplement for food for his children, the eligible amount the Appellant would receive for the children would total \$150, not \$250.

At the hearing, the Ministry's representative repeatedly stressed that the Ministry must follow the legislation; the Ministry is bound by the legislation and with this, there is no latitude. The Ministry says that they are not able to go outside the legislation; it is the law that must be looked at when reviewing assistance requests. However, the Ministry does make every effort to look at all possible ways within the legislation to assist if they can. As an example, the Ministry also considered the eligibility of the Appellant and his spouse to each receive the crisis supplement even though the application specifically stated the supplement was for food for his children.

Analysis

To be eligible for a crisis supplement, the Appellant must meet all of the requirements set out in the Regulation. In the Appellant's case, to receive a crisis supplement:

- He must be eligible for disability assistance or hardship assistance **and**
- The crisis supplement must be needed to meet an unexpected expense or obtain an unexpectedly needed item **and**
- He is unable to meet the expense or obtain the item because there are no resources available **and**
- Failing to meet the expense or obtain the item will result in imminent danger to the physical health of any person in the family unit or will result in removal of a child.

Eligible for disability assistance or hardship assistance

There is no dispute that as a recipient of disability assistance, the Appellant meets the first requirement for a crisis supplement.

Unexpected expense or Unexpectedly needed item

At reconsideration, the Ministry determined that the crisis supplement for food for the children's return to school was not an unexpected expense or an unexpectedly needed item. At the hearing, the Appellant confirmed that his children who are 10 years of age or older had been born in Canada and had been attending school for their whole lives. After a mix of on-line and in-person education in recent years, they returned to in-person attendance at public school in September 2022. Given this history of his children's ages and multiple years of school attendance where it is understood the school year starts in September, the Panel finds that the Ministry was reasonable in deciding that food for the children starting school and to take to school, was not an unexpected expense or an unexpectedly needed item.

No resources available

The Ministry found that the Appellant had resources available because he had just received his September assistance and child tax benefits the week before his August 29, 2023 request for the crisis supplement. At the hearing, the Ministry advised that the Appellant had also received the School Start-Up Supplement (\$120/calendar year/5-11 yr. old child; \$210/calendar year/12-18 yr. old child). The Appellant said that he did not have enough funds for everything the children required for school, and with his original request he noted he did not have the money available for food for the children starting school and to take to school.

The Appellant receives \$3953.61 in monthly assistance and benefits. At the time of his request for a crisis supplement and prior to the children starting school, he received an additional School Start-Up Supplement (\$540). Other than his verbal statements that he had no money available, there was no other information provided to confirm the Appellant's lack of resources.

Accordingly, given that approximately the week prior to both the start of school and the Appellant's request for the crisis supplement, he received financial assistance totaling almost \$4500, the Panel finds that it was reasonable for the Ministry to determine that the Appellant had sufficient resources available to buy food for the children for school.

Imminent danger or Removal of a child

In his August 29, 2023 application for the \$250 crisis supplement for food, the Appellant responded "No" to the question: "If you are unable to meet your need, will this result in imminent danger to your physical health or the physical health of any other person in your family unit". In addition, at the hearing the Appellant confirmed that his three children lived with him and there was no evidence provided that the children were at risk of being removed from the home if the Appellant did not obtain the crisis supplement.

Given the Appellant's August 29, 2023 written response denying any imminent danger to the children or any family member's health, and no indication of any risk of removal of the children from the family home, the Panel determines that the Ministry's findings were reasonable. Specifically, it was reasonable for the Ministry to find that the Appellant was not eligible for a crisis supplement for food given that failure to obtain the requested supplement will not result in imminent danger to family members or removal of a child.

Conclusion

Although the Appellant acknowledged he understood the legislation, he disagreed with the decision of the Ministry which denied him a \$250 crisis supplement for food. However, eligibility for a crisis supplement is governed by the legislation; the Ministry and the Panel are required to make determinations based on the available evidence and assess that evidence against the criteria set out in the legislation. The Panel—and the Ministry—has no discretion in that regard—the legislation is the law.

The Panel concludes that the Ministry was reasonable in denying the Appellant's request for a crisis supplement for food as he did not meet eligibility requirements established by the legislation. Specifically:

- the Appellant had available resources;
- the Appellant's request is not to meet an unexpected expense or obtain an item unexpectedly needed; and
- failure to obtain the requested supplement will not result in imminent danger or removal of a child.

The Panel confirms the Ministry's decision which determined that the Appellant was not eligible for a crisis supplement for food pursuant to Section 57 of the Regulation. In the circumstances of the Appellant, the Ministry's decision was a reasonable application of the legislation. This means the Appellant is not successful with his appeal.

Finally, the Panel sympathizes with the Appellant's situation and appreciates the challenging experiences he has had in advocating for additional support on his, and his family's, behalf. The Panel clearly heard his frustrations about seeking help from the Ministry and not having his questions answered satisfactorily. With particular regard to the Appellant's request for additional assistance to obtain food, the Panel notes the community resources and supports mentioned at hearing: BC 211 (call or text 211; <https://bc.211.ca>); Religious and Community Groups, Food Banks, BC Housing programs.

Relevant Legislation

EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES ACT

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.

EMPLOYMENT AND ASSISTANCE ACT

Panels of the tribunal to conduct appeals

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(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.

EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES REGULATION

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 \$50 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.

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

Carmen Pickering

Signature of Chair

Date (Year/Month/Day)
2023/10/19

Print Name

David Handelman

Signature of Member

Date (Year/Month/Day)
2023/10/16

Print Name

Effie Simpson

Signature of Member

Date (Year/Month/Day)
2023/10/15