

### **Part C - Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the Ministry) reconsideration decision of July 25, 2023, which denied the Appellant a crisis supplement for an air conditioner as her request does not meet all the criteria under Section 57 of the Employment and Assistance for Persons with Disabilities Regulation.

Specifically, the Ministry was not satisfied that an air conditioner was due to unexpected circumstances and the Ministry was not satisfied that the appellant had no resources available to meet the need.

### **Part D - Relevant Legislation**

Employment and Assistance for Persons with Disabilities Regulation Section 57 (the Regulation)

The full text of the legislation is provided in Appendix A at the end of the Decision.

**Part E – Summary of Facts**

The Appellant is a recipient of disability assistance. She receives \$1615.50 per month for disability assistance and supplements. This amount includes \$983.50 for a support allowance, \$375.00 for a shelter allowance, \$165.00 for a nutritional supplement, \$40.00 for a vitamin supplement and \$52.00 for transportation. \$320.00 is paid directly to a housing society for rent, where she has lived since 2012.

**Information before the Ministry at the time of reconsideration**

- Request for Reconsideration with May 25, 2023 being the date the Appellant was informed of the decision, and June 22, 2023 as the date the form must be submitted by. No information was submitted by the Appellant in Section 3 to explain her reason for requesting a reconsideration.
- In the reconsideration decision the Ministry notes that on June 22, 2023, the Appellant provided a verbal signature for the request for reconsideration. The Ministry notes that the Appellant requested an extension, which she was given, because she was feeling overwhelmed and needed an advocate. On June 26, 2023, the Appellant requested an additional extension which was approved until July 21, 2023.

**Information provided after reconsideration**

On the Notice of Appeal form dated August 30, 2023, the Appellant wrote that she has a letter from her doctor supporting her need for an air conditioner due to her health condition.

On November 9, 2023 the following documents were received from the Appellant:

- Operator Manual for Uberhaus air conditioner, dated July 31, 2014.
- Notes regarding Uberhaus air conditioner purchase dated July 31, 2014.
- City of Vancouver memo regarding heat preparedness dated March 10, 2022.
- Receipt from Rona regarding purchase of an Arctic King air conditioner, on credit, dated July 25, 2022.
- Receipt from Rona regarding a refund of an Arctic King air conditioner dated May 19, 2023.
- Letter from the Appellant's family physician dated May 23, 2023, indicating that the Appellant has significant issues with heat regulation and that she requires the use of a working air conditioner because fans alone are inadequate for her medical conditions.
- Receipt from Canadian Tire store regarding a Delonghi air conditioner, dated May 31, 2023.

- Line of Credit bank statements for the months of May, June and September 2023 shows the Appellant is in a debit situation.

At the hearing, the Appellant had an advocate with her, and informed the panel that the advocate would be speaking on her behalf. The panel will refer to any statements made by the advocate as if they were made by the appellant.

The Appellant reviewed the documents submitted on November 9, 2023. She notes that the Ministry denied the air conditioner because it was not considered an unexpected expense and that resources were available to her.

Regarding the air conditioner not being an unexpected expense, the Ministry noted that the Appellant had lived in her residence since 2012 so the heat was not unexpected. The Appellant suggested that the Ministry may not have been aware that she had relied on air conditioning at her residence since 2014. The documents submitted confirm this. The Appellant argues that the air conditioner breaking down resulted in an unexpected expense for her.

The first air conditioner was purchased in 2014 by the Appellant's now deceased father. It broke down in 2022. She then purchased the next air conditioner in 2022 by using her credit card because she was not aware she could ask anyone to help her with the cost. That air conditioner broke down and she was able to return it for a full refund in May 2023 because it was under warranty. The refund was applied directly to her credit card.

She then found out it may be possible to receive assistance with paying for an air conditioner so she approached the Ministry on May 25, 2023. She was initially told it may take some time to process her request, but she was informed about two hours later her request had been denied and she had a right to a reconsideration. She didn't know what to do, and because the weather was heating up and she was concerned for her health, she went ahead and purchased an air conditioner on credit on May 31, 2023. This has created a financial hardship for her because her line of credit debt has increased.

The Appellant points out that the document submitted from the Planning Department of her City highlights the importance of preparedness during the extreme heat they have been experiencing. There are recent government publications that indicate they will be expanding free, publicly funded resources to install portable air conditioners for those people who have disabilities and are on low income. This highlights the importance of air conditioners for people such as the Appellant.

Regarding the Ministry's determination that the Appellant had failed to explore other resources, the Appellant states she is on a fixed income with no financial surplus. She used her credit card to make the purchase and in May 2023 her debt was about \$4200. The Appellant notes that the Ministry's policy manual indicates that resources are listed as cash assets that may be available, and that debt or credit card is not listed as a resource that has to be accessed. The Appellant also pointed out that the policy specifies that community resources or a third party are also not considered as a resource available.

The Appellant referenced her family doctor's letter that advised that the Appellant requires an air conditioner because fans are not appropriate due to her health conditions.

When asked how the hot weather affects her the Appellant responded that due to her many health conditions that she overheats and has an extreme response to heat.

When asked whether she consulted with the Ministry prior to purchasing the air conditioner, she responded that yes, she did. She informed the Ministry that her previous air conditioner had broken down and they informed her that they have assisted others with fans, but never an air conditioner. At this point she thought she had no other option than to go ahead and buy one and use her credit card because she couldn't do without air conditioning in her southwest facing apartment that gets extremely hot, even with black out curtains.

At the hearing, the Ministry relied on the reconsideration decision, noting that the Appellant had resided in her residence since 2012 so it was not unexpected for it to get hot in the summer. The Ministry stated that at the time of reconsideration they were not aware that the air conditioner had broken down, however, this new evidence adds to the statement that she was aware of the heat all along, so it is therefore not an unexpected item of need.

The Ministry reiterated that they are the payor of last resort and there was no evidence that the Appellant had approached any community resource or family or friends.

The Ministry was asked what their position is regarding appliances that break down and need replaced. The Ministry responded that yes, appliances that break down would be considered an unexpected item of need or expense, however, all other criteria must also be met.

The Ministry was asked to clarify the policy manual statement regarding what resources should be considered. The Ministry states that they ask someone if they have explored the

community agencies and family or friends. In the Appellant's circumstance, no information was given to explain whether she had sought out other resources.

**Admissibility of Additional Information**

The panel admits the appellant's evidence submitted November 9, 2023, along with their oral evidence given at the hearing under section 22(4) of the Employment and Assistance Act, which allows for the admission of evidence 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 under appeal is whether the ministry's determination that the Appellant is not eligible for a crisis supplement for an air conditioner was reasonably supported by the evidence or was a reasonable application of the legislation.

**The Appellant's Position**

The Appellant's position is her air conditioner broke down unexpectedly and she had no resources to pay for one, without going into debt. She emphasized that she requires an air conditioner because her apartment gets too hot, and she overheats due to her health conditions.

**The Ministry's Position**

The Ministry's position is an air conditioner is not considered an unexpected expense because the Appellant has been living at her residence since 2012 so she was aware it gets hot during the summer months. The Ministry is not satisfied that the Appellant does not have resources available because she had only provided a verbal quote for an air conditioner and had not explored community resources for more cost-effective options.

**Panel Decision**

The Ministry determined that the Appellant was not eligible for a crisis supplement for an air conditioner because not all the requirements of section 57 were met. The decision spoke specifically to section 57(1) requirements and did not address the other subsections. The panel is required to review the relevant section of legislation in its entirety. The panel finds that the Ministry was not reasonable to determine that the requirements of section 57(1) have not been met, however finds that an air conditioner may not be provided pursuant to section 57(3) which refers to health care goods. An air conditioner is also not listed as an eligible item pursuant to sections 57(4) and (7). Below is a breakdown of each of the sections and the panel's reasons.

**Section 57(1)** states, in addition to the requirement that the person must be in receipt of assistance, that there are specific conditions that must all be met to qualify for a crisis supplement. These conditions are: the item must be for an unexpected expense or an item unexpectedly needed; there are no resources available to the family; and there must be imminent danger to health if the item were not provided.

The Ministry has determined the appellant meets the requirements of being a recipient of disability assistance and that there is danger to the appellant's imminent health if the air conditioner is not provided. However, they have determined that an air conditioner is not an unexpected item of need, and they are not satisfied that there are no resources available to the family.

**The requirement that the Appellant had an unexpected expense or an item unexpectedly needed**

The Ministry has found the need for an air conditioner is not an unexpected expense or an item unexpectedly needed because the Appellant has lived at her residence since 2012 and she is aware that it gets hot, nor can future heat waves be considered unexpected. The reconsideration decision did not include any reference to the fact that the Appellant had previously had an air conditioner or that it had broken down. At the hearing, the Ministry stated they were not aware the Appellant had previously had an air conditioner that had broken down, so this was new information they were not aware of. However, the panel notes that a Ministry worker, in the Request for Reconsideration form, wrote in the background information that the Appellant informed the Ministry on May 25, 2023 that her air conditioner had broken down. The Appellant submitted receipts, upon appeal, that show she has used air conditioning since 2014, and that she was given a refund on May 19, 2023 for the latest one purchased in 2022 that had recently broken down. These receipts support the information provided by the Appellant to the Ministry that her air conditioner had broken down. The Appellant also stated that her apartment was already very hot at the end of May as it was already 30 degrees outside.

The panel finds that the Appellant, having used an air conditioner for many years and then to have it break down while still under warranty during a hot spell, did have an unexpected expense that she did not plan for. Therefore, the panel finds the Ministry was not reasonable to determine that the Appellant did not have a need for an unexpected expense or item unexpectedly needed.

**The requirement that the appellant is unable to meet the expense or obtain the item because there are no resources available to the family unit.**

The Ministry is not satisfied the Appellant did not have resources available because she had only provided a verbal quote for an air conditioner costing between \$400 and \$600 and had not explored community resources for more cost-effective options.

The panel questions whether the Ministry notified the Appellant that written estimates were required, or whether they informed her as to what community resources could offer her a more cost-effective option. The Appellant provided receipts and information regarding her air conditioner for this hearing. Although the City and Province where the Appellant resides are attempting to address the risks people who have low income or disabilities face during heat waves, the information provided does not indicate that there is currently any community support available to the Appellant to help pay for an air conditioner.

The Appellant has indicated that she does not have cash assets available to her, and that she purchased the last air conditioner in 2022 using credit, which she could not afford. It is not the Ministry's policy to require a person to use credit or to access community resources or contact third parties to meet this eligibility requirement. The Appellant does not have any family or friends who could purchase one for her. The panel finds the Appellant has demonstrated she does not have resources available to her to pay for an air conditioner. Therefore, the Ministry was not reasonable to determine the Appellant had resources available to her.

**Section 57(2)** indicates that a crisis supplement may only be provided for the calendar month in which the request is made. This subsection is not relevant in this circumstance.

**Section 57(3)** indicates that a crisis supplement may not be provided for the purpose of obtaining either a supplement described in Schedule C or any other health care goods or services. The Appellant stated that the reason she requires an air conditioner is because of her health conditions. She supplied a letter from her doctor to confirm that she has significant issues with heat regulation and as such, she requires the use of a working air conditioning unit. The panel finds that the main reason the Appellant requires an air conditioner is due to her health conditions, and therefore considers it to be a health care good. Because a crisis supplement may not be provided for the purpose of obtaining a health care good the panel finds the Appellant's request for an air conditioner does not meet the requirements of section 57(3).

**Section 57(4)** indicates that if a crisis supplement is for food, shelter, or clothing, that limits are set as to the amount that may be issued. Section 57(4)(b) indicates the maximum amount that may be provided for "shelter" is set at the maximum set out in Schedule A of the Regulation. Schedule A refers to a family's actual monthly shelter costs. The panel considers actual monthly shelter costs to mean the amount of rent, heat, or electricity a person pays each month. An air conditioner is not a monthly shelter cost; therefore, the panel finds this section of the Regulation is not relevant in the Appellant's circumstance.



**Sections 57(5) and (6)** are repealed

**Section 57(7)** indicates that despite subsection (4)(b) a crisis supplement be provided to a family for fuel for heating; fuel for cooking meals; water; and hydro. An air conditioner is used for cooling rather than heating. Because cooling is not listed as an exception in the Regulation, the panel finds this section of the Regulation is not relevant in the Appellant's circumstance.

### **Conclusion**

Considering all the evidence, the panel finds that the Ministry's decision that the appellant was not eligible for a crisis supplement for an air conditioner was a reasonable application of the legislation in the circumstances of the appellant. The appellant is not successful on appeal.

## Appendix A

### 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 \$20 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 maximum set out in section 4 of Schedule A or 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) The cumulative amount of crisis supplements that may be provided to or for a family unit in a year must not exceed the amount calculated under subsection (6).
- (6) In the calendar month in which the application or request for the supplement is made, the amount under subsection (5) is calculated by multiplying by 2 the maximum amount of disability assistance or hardship assistance that may be provided for the month under Schedule A or Schedule D to a family unit that matches the family unit.
- (7) Despite subsection (4) (b) or (5) or both, 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

Janet Ward

Signature of Chair

Date (Year/Month/Day)

2023/11/11

Print Name

Linda Pierre

Signature of Member

Date (Year/Month/Day)

2023/11/13

Print Name

Joe Rodgers

Signature of Member

Date (Year/Month/Day)

2023/11/13