

Part C – Decision Under Appeal

The decision on appeal is r the September 8, 2023 reconsideration decision made by the Ministry of Social Development and Poverty that pursuant to the Employment and Assistance for Persons with Disabilities Regulation (Regulation), the Appellant was not eligible for a crisis supplement for \$15,500 for home repairs to replace siding.

Although the Ministry was satisfied that the Appellant met two of the requirements:

- The Appellant is a recipient of disability assistance, and
- The Appellant does not have the resources to pay for the siding,

the Ministry was not satisfied that the supplement was required for an unexpected expense, or that failure to meet the expense or obtain the item would result in imminent danger to the physical health of the family unit or removal of the Appellant's child from her care.

Part D – Relevant Legislation

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

The full wording of this legislation is set out in the Schedule of Legislation at the end of this decision.

Part E – Summary of Facts

The hearing took place by telephone on October 26, 2023. The Appellant was supported by two Advocates from a local community support organization.

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

- The Appellant is a recipient of disability assistance and has one dependent child;
- The Appellant receives \$2034.38 in monthly disability assistance and supplement amounts, plus monthly child tax benefits;
- The Appellant purchased the home in 2008 and it was 40 years old at that time;
- Within the last three years, the Appellant received assistance from the Ministry for various home renovations:
 - bathroom repair;
 - trailer leveling;
 - re-skirting and insulating the trailer;
 - repairs to her child's room due to mold and lack of insulation;
 - removal of a deck;
 - removal of a back porch;
 - replacement of a few windows;
 - furnace replacement; and
 - purchase of a new stove.
- In 2021, the Ministry paid \$25,892.42 for mold and siding remediation;
- In 2021, a Contractor ("Contractor #1) reported significant issues with the home due to age and neglect of the home over the years, and also confirmed some of the issues and repairs required were caused due to the poor workmanship of some of the work done by previous contractors;
- In 2022, Contractor #1 releveled the Appellant's home, re-skirted and insulated under the whole trailer (enough to prevent pipes and plumbing from freezing), renovated the child's room, and removed additions that were unsalvageable;
- On July 6, 2023 the Appellant submitted her request for the \$15, 500 crisis supplement for new vinyl siding. With her application the Appellant noted:
 - She is applying for the supplement for the repair due to health and safety concerns due to mold in her home;
 - She has been trying to get these repairs completed for a long time;
 - She has no resources available to pay for the cost of the repairs;
 - The mold is not safe for her with her health condition and asthma, nor is the exposed mold safe for her child;
 - The quote from Contractor #2 for new vinyl siding on the modular home:
 - Total estimate: \$15,500

- Includes materials, install, labour, reconfigure of roof ledger and 2 walls for access of new vinyl, and to fix poorly constructed skirting around the trailer, brace
 - Removal of all garbage and site clean-up is included
 - Possible extra costs would be for any rot or structural damage at a rate of \$45/hour for 1 carpenter and \$30/hour for a second carpenter plus materials
- On July 13, 2023, the crisis supplement was denied;
- On August 16, 2023, the Appellant submitted additional information—an undated letter prepared by the Appellant’s Advocate on her behalf—to the Ministry:
- [Addressing her home repair needs] has been an ongoing process for the last few years;
 - The need is unexpected as the previous contractors not only did not complete the work; they were hired to do but the work they did complete needs to be corrected;
 - If it weren’t for this home, her family would be homeless with nowhere to go and rentals in her area are limited and almost always at least \$1000 over what she can afford to pay;
 - The previous contractor purchased 2 new doors and a window but did not install them, the 2 doors are the wrong size and cannot be installed, and also did not install the heat tape on the pipes that would have prevented the pipes from freezing last winter, which was also unexpected;
 - The leveling of her home has caused cracking in several walls, the siding on her home has not been replaced, and mold is growing behind it, and having incomplete skirting is not helping, as it allows rodents to enter the home;
 - The work that still needs to be done includes the trailer skirting which is rotting, the entranceway roof, the trailer siding replaced to alleviate the mold issue, finish the main bathroom as it only has mud and tape on the walls, replace walls and windows in the master bedroom and other walls due to mold, the subfloor to be fixed due to mold, the main door frame (rotten), and the front door as it does not lock or shut properly;
 - Failure to have the work done will result in more mold and will become more of a health hazard from the extra mold, rodents, and could result in more frozen pipes and severe damage making it unlivable and dangerous;
 - She has exhausted all other options for resources and does not qualify for a loan from the bank;
 - She includes multiple new estimates from Contractor #2 for other work required in the home, including to replace the subfloor, repairs to the trailer underbelly, to repair rot damage to repair rot damage to interior walls, and to replace the front door; and
 - Various pictures of her home.

- On September 8, 2023, Contractor #1 advised the Ministry:
 - The modular home is old and beyond repair;
 - The home likely requires about another \$100,000 in repairs/renovations;
 - The siding needs to be replaced and will likely have structural damage and moisture issues under the siding due to the home's age and the lack of upkeep over the years; and
 - The structural damage and moisture issues would not have been caused from the work done by the contractors these past few years and also would not have been caused by any issues with the A-frame installed over the home.

Additional Information submitted after Reconsideration

With her Appeal request, the Appellant states her reasons are that she, "[Doesn't] find the decision fair and just and I do not agree with it".

On September 26, 2023, the Appellant submitted a 13-page document containing:

- June 28, 2023 estimate from Contractor #2 for Vinyl siding;
- August 7, 2023 estimate from Contractor #2 for Subfloor repair;
- August 7, 2023 estimate from Contractor #2 for underbelly and insulation repair;
- August 7, 2023 estimate from Contractor #2 for rot damaged walls repair;
- August 7, 2023 estimate from Contractor #2 for front door replacement;
- Picture #1: Underneath piping, insulation and rot;
- Picture #2: Window covered with tape and foil, and uneven wall below the window on the left side;
- Picture #3: Short wood braces with black discolouration;
- Picture #4: Underbelly with broken wood;
- Picture #5: Underside insulation and rot;
- Picture #6: Unfinished flooring;
- Picture #7: Wall separation at a seam and unfinished flooring; and
- Picture #8: Towel covered window with uneven wall beside the window on the left side.

New evidence presented at the hearing

Appellant

At the hearing, in response to a question from the Panel, one of the Appellant's advocates ("Advocate #2") stated that they visited the Appellant's home at least weekly, and they have directly seen the damage and disrepair related to the mold and rotting wood. Advocate #2 said renovations to the Appellant's home have been ongoing for about three years; Advocate #2 has assisted with renovations of the Appellant's home when the work has not been completed by the hired workers and the workers have abandoned the job.

The Appellant also described that she had made multiple attempts to contact Contractor #1 to have incomplete and poor work corrected but Contractor #1 never responded to her calls and texts. The Appellant said that she had called and texted local Ministry workers to report her complaints about the bad repairs and the unfinished repairs including fixing the siding and leaving her home with gaps and holes and no insulation. She was very unhappy with Contractor #1's work and she let the Ministry know. The Appellant's Advocates stated that in their community, it was common to communicate with Ministry representatives by text.

Ministry

In response to questions from the Panel, the Ministry said that the records it had access to from January 2023 did not indicate that there had been any complaints submitted through My Self Serve or that there were any notations in the Appellant's records of the Appellant having spoken to anyone from the Ministry to complain about Contractor #1's work. The Ministry said the usual process for communicating was through My Self Serve and the Ministry could not see any texts in the record that they had access to. The Ministry said that it did not have access to information about whether anyone from the Ministry had directly looked at the Appellant's home or reviewed the work of Contractor #1 after Contractor #1 submitted their invoice confirming the work had been completed.

Neither party objected to the admissibility of the other's additional evidence presented at the hearing.

The Panel admitted the Appellant's and Ministry's information as new evidence. The information provided by the Appellant and Advocate #2 added further details about the state of the Appellant's home and the needed repairs. The Appellant and her Advocates described the experience of the Appellant in working to have her concerns addressed about the incomplete work and the challenge of maintaining a safe and suitable home for her and her child. The Ministry's evidence added further details about the processes it follows when providing assistance for home repairs. Both parties' evidence 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 reconsideration decision, which determined that pursuant to the Regulation, the Appellant was not eligible for a \$15, 500 crisis supplement for vinyl siding was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant.

Position of the Appellant

At the hearing, the Appellant and her Advocates argued that the Ministry's decision was unfair; replacement of the siding was an unexpected situation and failing to replace it will result in imminent danger to the Appellant and her child. The Appellant and her Advocates stressed that the poor condition of the siding and the related mold makes the Appellant's and her child's health conditions much worse. They argue that the dismal state of the siding is an even bigger issue with winter coming and temperatures falling below zero. Without siding on some walls, there are holes and gaps that allow the cold and air in, which results in higher heating costs. Rot and mold have damaged the wood underneath the siding to such an extent that even the screws meant to secure the metal siding will not even attach and they are falling out.

The Appellant and her Advocates argued that if the siding is not fixed, the ongoing exposure to the mold will lead to more serious and long-term health conditions for the Appellant and her child; the Appellant is already demonstrating symptoms of toxic mold exposure. Although they agreed some work was done within the last two years including that some of the siding was done, the mold was not completely gotten rid of. The Appellant reasonably expected that Contractor #1 had a job to do, and it would be done properly and when it was not, the need for siding was now unexpected. The Appellant and her Advocates say that the submitted pictures show evidence of the poor and incomplete work done by Contractor #1. They argue that the pictures show multiple interior and exterior areas where the mold has not been fixed by Contractor #1 or where it has resulted from the gaps and cracks created by Contractor #1's insufficient work.

Finally, the Appellant agrees that the home is more than 50 years old, but she does not agree that it is beyond repair. She and her Advocates say that renovations have been ongoing over at least the past three years; the siding replacement is needed immediately for safety reasons while other repairs can happen over time. The Appellant and her Advocates argue that affordable, available housing options are so limited in her community that if she is unable to remain in this home, she and her child will not have a home at all to live in. The Appellant confirms that she knows the legislation and maintains that consistent with the legislation, her need is unexpected and if the supplement is not provided, imminent danger to her and her child will result. For these reasons, the Appellant says the Ministry should grant her request for a \$15,500 crisis supplement for vinyl siding.

Position of the Ministry

At the hearing, the Ministry relied on the reasons provided in its written reconsideration decision. The Ministry says that the Appellant must meet all the eligibility criteria under the legislation in order to receive the crisis supplement. The Ministry finds that the Appellant meets some of the criteria: the Appellant is eligible for disability assistance, and she does not have resources available to pay \$15,500 to replace the siding. However, the Ministry found that the Appellant is not eligible for the supplement because the need for the supplement and repairs is not unexpected and failure to obtain the supplement to replace the siding will not result in imminent danger to the physical health of the family unit or removal of the dependent child from the Appellant's care.

Unexpected Need/Expense

The Ministry says that given the Appellant has owned the home from 2008 and it is now more than 50 years old, the need to repair and replace the siding is not unexpected nor is it an unexpected expense. Further, the Ministry relied on the information from Contractor #1. Contractor #1 completed significant work on the home and advised that the need to replace the siding would not have been unexpected and would not have been caused by the shoddy work by the previous contractors when replacing the skirting and the leveling of the trailer. Further, the Ministry is also not satisfied that the need to replace the siding would have been required due to the releveling of the trailer as the siding was already old and in need of repair and/or replacement at that time.

Imminent Danger/Removal of Child

The Ministry acknowledges that the siding is very old and needs to be replaced. The Ministry also relied on the information from Contractor #1 who said that given its condition, the home will likely have moisture and/or some damage under the siding that will need to be fixed when the siding is replaced. However, the information provided does not establish that failure to replace the siding immediately will result in *imminent danger* to the physical health of the family unit. According to the Ministry, imminent danger was also not established as Contractor #2 did not indicate in their vinyl siding replacement estimate that any structural or mold concerns existed leading to health and safety concerns if the siding is not immediately replaced.

Finally, regarding the new estimates from Contractor #2 submitted by the Appellant at reconsideration, the Ministry notes that the additional work was not part of the original request and decision under review so are not included in the review and decision. The Ministry says that the Appellant needs to submit a new service request to receive assistance for the repairs and estimates submitted by Contractor #2.

Analysis

In her original request, the Appellant sought a crisis supplement for \$15,500 for vinyl siding. At reconsideration and at the hearing, to confirm the extent of the need for mold and structure repairs including needing the vinyl siding to prevent further mold, the Appellant submitted additional estimates for varied other home repairs totalling \$13,270. The Panel finds that the additional estimates are not the subject of the original request or the reconsideration decision and so the Appellant's entitlement to the \$13,270 additional assistance is not a matter to be decided in this appeal.

The issue at appeal was whether the Ministry was reasonable in finding that the Appellant was not entitled to a crisis supplement. Based on the available information, the Panel finds that the Ministry was reasonable in determining that the Appellant's request for a crisis supplement for \$15,500 to replace the vinyl siding on her home did not meet all the criteria required by the legislation.

The Ministry may provide a crisis supplement if the request meets all the criteria under section 57 of the Regulation. In the Appellant's circumstances, those criteria are:

- The family unit is eligible for disability assistance,
- They are unable to meet the expense because there are no resources available to the family unit,
- They require the supplement to meet an unexpected expense, or an item unexpectedly needed, and
- Failure to meet the expense will result in imminent danger to the physical health of any person in the family unit, or removal of her child from the family home.

The Ministry was satisfied that the Appellant met the first two criteria. However, the Ministry was not satisfied that replacement of the vinyl siding was an unexpected expense or an item unexpectedly needed. Further, the Ministry did not agree that either the Appellant, or any person in the family unit, faced imminent danger to their physical health, or that her child would be removed from the family home if the \$15,500 crisis supplement for vinyl siding was not provided.

Unexpected Expense or Item Unexpectedly Needed

The Appellant owns a 50+ year old home that has had a number of repairs completed dating back to at least 2021. The Appellant agrees that some of that past work included fixing some of the siding and remediating mold. Also, in her letter submitted at reconsideration, the Appellant notes that, "This has been an ongoing process for the last few years now". The Appellant's Advocate #2 also confirms that they have directly observed the poor condition of the home including the siding falling off, and they have done what they can to assist with repairs over the last three years. Finally, the Contractor (#1) hired to complete required repairs in 2021 to 2022 stated that the siding needed to be replaced and will likely have structural damage and moisture

issues under the siding due to the home's age and lack of upkeep over the years. Given the age of the home, the prior siding repairs completed, and the clear history that multiple parties including the Appellant have been aware of the condition of the home including the siding and its need for repair or replacement, the Panel finds the Ministry was reasonable in finding that the Appellant did not meet the criteria established by the legislation. The Panel finds that the Appellant's request for a \$15,500 crisis supplement for vinyl siding was not an unexpected expense or an item unexpectedly needed.

Imminent Danger or Removal of Child

The Appellant did not make any submissions to suggest that failure to obtain the crisis supplement would result in the removal of her child from the home. As such, the Panel finds that it is reasonable to conclude that failure to obtain the crisis supplement would not result in removal of the Appellant's child from the home.

The Appellant says that the mold, rot, cracking, gaps and holes in the wall that have not been repaired have resulted in part due to the failing siding, present an imminent danger to the physical health of both her and her child. The Appellant reports that she and her child have serious health conditions and those conditions have newly developed or have gotten worse due to the mold and from the worsening and unrepaired condition of the home. The Appellant says that repeated exposure to toxic mold in the home presents an imminent danger to her and her child. The Appellant says that she is already demonstrating symptoms that reflect her health is impacted by the long-term effects of exposure to mold. Finally, in her letter provided at reconsideration, the Appellant indicates that without necessary [vinyl siding] repair/replacement, "mold growth...will become more of a health hazard..." for her and her child.

"Imminent" is not defined in the legislation. The Merriam-Webster dictionary (<https://www.merriam-webster.com>) describes imminent as, "ready to take place: happening soon". The Appellant has provided pictures of her home with areas that appear to contain mold and has noted that the mold and rot have been seen and requiring repair for at least three years. From this history, it is difficult to determine that the risk from the lack of siding and mold is imminent. The mold has been present for at least the previous three years and it is hard to say that now is the time that it presents an imminent danger to the Appellant and her child.

Further, the Appellant has described the condition of her home as having some effect on the Appellant's and her child's pre-existing conditions and that that negative effect may be increasing. It may be reasonable to think that the unaddressed siding and the resulting mold *may* present a risk that is growing over time and could reach the level of imminent danger to the physical health of the Appellant and her child. However, without additional confirmation—whether medical or otherwise, it is difficult to conclude that the mold and lack of siding *do* present an imminent danger to the Appellant's or her child's physical health.

The Appellant indicated that she is already suffering long term effects from the mold in her home and if unaddressed, it will become more of a health hazard. However, worsening symptoms *over time* and mold *becoming* more of a health hazard do not demonstrate danger that is imminent; the danger is not ready to take place or happening soon. Further, although the Appellant says the mold is toxic mold and is therefore of an imminent danger to her and her child, aside from pictures of the mold and her and her Advocate's statements about the nature of the mold, there was no other proof that the mold was toxic and represented an imminent or immediate danger to them.

Given the above, the Panel finds that the Ministry was reasonable when it decided that failure to provide the \$15,500 crisis supplement for vinyl siding would not result in imminent danger to the physical health of the Appellant or her child.

Conclusion

The Panel finds that the Ministry's reconsideration decision, which determined that pursuant to the Regulation, the Appellant was not eligible for a \$15, 500 crisis supplement for vinyl siding, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant.

The Panel confirms the Ministry's decision. This means the Appellant is not successful with her appeal.

The Panel is sympathetic to the Appellant's situation and with her struggles to retain an affordable, safe, and comfortable home for her and her child. The Panel recognizes the frustrations she has experienced with previous repair work and with her attempts to have those addressed. In this regard, the Panel notes the information provided by the Ministry advising that shelter allowance amounts have increased and may be available to the Appellant. As well, for ongoing or new repair needs, the Ministry advised that the Appellant may submit new service request(s) for a full review.

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***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.

**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 income 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 56.2 [*pre-natal shelter supplement*] or Division 8 [*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 56.2 or Division 8 of Part 5 of this regulation,

as applicable, for a family unit that matches the family unit, and

(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.

2023-0276

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)
2023/11/01

Print Name

Katherine Wellburn

Signature of Member

Date (Year/Month/Day)
2023/11/01

Print Name

John Pickford

Signature of Member

Date (Year
2023/11/01