

Part C - Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “ministry”) reconsideration decision (the “decision”) dated November 7, 2023, which determined that the appellant was ineligible for a crisis supplement for a BCAA membership.

Specifically, the ministry determined that the appellant was not eligible to receive a crisis supplement because the appellant had not met the criteria. The ministry was not satisfied that the appellant had no additional resources available, and that there was an imminent danger to his physical health.

Part D - Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (Act) section 5.

Employment and Assistance for Persons with Disabilities Regulation (Regulation) section 57.

Part E – Summary of Facts

Evidence at the time of reconsideration

As part of his request, the appellant submitted:

- 1) a “Request for Crisis Supplement – Utilities” application, signed October 12, 2023 for \$168.00 for an annual BCAA membership renewal
- 2) a request for reconsideration statement from the appellant explaining that he is autistic and is “totally dependent on emergency support for my safety”. He lives in an isolated rural area and “BCAA coverage is essential as I could never afford emergency roadside assistance”. He states that the current situation is unexpected owing to the “exhaustion of my savings due to emergency car maintenance”.

According to the Ministry’s decision, the following is a chronology of events, which is not disputed by the appellant:

The ministry advised the appellant that he was not eligible for a crisis supplement on October 17, 2023.

The appellant initiated a Request for Reconsideration on October 20, 2023.

The ministry completed its decision on November 7, 2023.

In the decision, the ministry found that:

- 1) The appellant is in receipt of disability assistance and is eligible for the crisis supplement.
- 2) The need to pay the BCAA membership is due to unexpected circumstances.
- 3) The appellant did not satisfy the ministry that he has no other resources available. The ministry states “Without more information or evidence, such as a bank statement”, they could not establish that the appellant had no resources available.
- 4) The appellant does not face imminent danger to his physical health, stating the “word ‘imminent’ denotes a sense of urgency, and you have not provided any evidence to indicate your physical health would be in urgent danger without the BCAA membership”.

The appellant submitted a Notice of Appeal to the Tribunal on November 17, 2023, stating that “my disability benefit is insufficient to cover this expense ... and ... as an autistic person with no social support living in a rural area which therefore necessitates personal transportation, this is essential for my safety”.

Testimony at the hearing

The appellant spoke about his current situation. He lives alone and is estranged from his family. The need for affordable housing has been a constant struggle. He was evicted from his home in a larger city and could only find affordable housing in a smaller rural setting. Owing to the isolated location, he had to purchase a car to get around.

He had a heart attack in 2018 and has had health concerns related to his heart condition over the past few years. He has had to call emergency services and visit the hospital when he had concerns, most recently in August 2023.

He could call 911 when an emergency occurs, but states that, as an autistic person, this removes certainty, which can create a precarious and dangerous situation for him. The appellant has a need for the BCAA membership to provide safety, to be prepared, proactive and minimize potential harm.

The ministry explained the criteria needed for receiving a crisis supplement. The ministry confirmed the criteria included that the expense is unexpected, no resources are available, and there must be imminent danger. The ministry stated that, in this case, without any evidence, they were not able to conclude that no resources were available and that there was imminent physical danger to the appellant.

Admissibility of Additional Information

The panel accepted the appellant's statement provided with the Notice of Appeal and his oral testimony as evidence 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. The ministry had no objection to the admissibility of this evidence.

Part F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision that determined the appellant was ineligible for a crisis supplement for a BCAA membership was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Specifically, did the ministry reasonably determine that the appellant was ineligible for a crisis supplement because he did not meet the criteria?

Ministry position

In the decision, the ministry found that the appellant was not eligible for a crisis supplement because they were not satisfied that no other resources were available and that there was an imminent danger to the appellant's physical health.

The ministry stated the appellant had not provided evidence "such as a bank statement" to support the appellant's lack of resources and they could not establish whether resources were available or not.

The ministry stated that, in regard to danger to the appellant's physical health, the word imminent "denotes a sense of urgency", and no evidence was provided which would indicate the appellant's "physical health would be in urgent danger without the BCAA membership. When driving, you can phone 911 in an emergency".

Appellant's position

The appellant states that he has no resources available, with increases to his rent, rising cost of living expenses, and no support from his family. He confirmed that he had not provided financial information and stated that the ministry could have accessed his financial information if they needed to confirm his lack of resources.

The appellant states that his autism creates the need to be pro-active in order to avoid potential "meltdowns" which would be dangerous. He needs to remove uncertainty and provide routine in his life. This includes ensuring that he has access to BCAA in the event that he has unforeseen issues with his car. He states that without such support, a situation involving his car breaking down would be "precarious" and would create a danger to himself.

Panel's reasons

Section 5 of the Act states that a crisis supplement may be provided to a family unit that is “eligible for it”.

Section 57 of the Regulation provides more detailed requirements for a crisis supplement. These include:

- 1) they must be eligible for disability assistance;
- 2) the expense must be unexpected;
- 3) there are no resources available; and,
- 4) there is imminent danger to the physical health of any person

The ministry concluded that the appellant was not eligible for a crisis supplement for a BCAA membership because they could not determine whether other resources were available, or that an imminent danger was posed to the appellant. As the ministry has concluded that the other criteria were met, the panel will only address these criteria.

The ministry states that there was no information provided that would support a finding that no other resources were available. The appellant agreed that he did not provide such information and states that the ministry could use the information they have already to confirm that no resources are available to him. The appeal record does not include bank statements or other information that would support the lack of resources available to the appellant. In this case, the panel finds that the ministry was reasonable in concluding that they were unable to determine whether resources were available to the appellant.

The ministry stated it could not determine that an imminent danger existed to the appellant should he not receive the crisis supplement, stating “you have not provided any evidence to indicate your physical health would be in urgent danger without the BCAA membership”. The appellant states that his autism requires him to proactively minimize situations that he can’t control or that are unexpected, such as a vehicle breakdown. Knowing that he can rely on BCAA in potential situations reduces uncertainty which could otherwise pose a danger to himself. The panel is sympathetic to the appellant’s situation, but in this case, does not find that an imminent threat is established. The panel acknowledges the need for the appellant to be proactive to remove uncertainty to reduce potential danger to his physical health. However, section 57 of the Regulation requires an “imminent” threat, meaning that there must be an impending need for the supplement in order to avoid danger. In this case, the panel cannot find that there is an imminent danger to the appellant which would require that he obtain a BCAA membership.

The panel finds that the appellant has not provided information to show that other resources are not available and that an imminent danger exists related to the need for a crisis supplement.

All the criteria must be met in order to obtain a crisis supplement. In this case, the panel finds that the ministry's reconsideration decision is reasonably supported by the evidence and a reasonable application of the legislation. The panel confirms the ministry's decision. The appellant is not successful in the appeal.

Schedule of Legislation

Employment and Assistance for People with Disabilities Act

Section 5

Disability assistance and supplements

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 for People with Disabilities Regulation

Section 57

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 and the maximum set out in section 4 of Schedule A, or

(B) the maximum set out in Table 1 of Schedule D and the maximum set out in 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) Repealed. [B.C. Reg. 248/2018]

(6) Repealed. [B.C. Reg. 248/2018]

(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

Robert McDowell

Signature of Chair

Date (Year/Month/Day)

2023/12/13

Print Name

Sarah Bijl

Signature of Member

Date (Year/Month/Day)

2023/12/13

Print Name

Linda Pierre

Signature of Member

Date (Year/Month/Day)

2023/12/13