

**Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision, dated November 16, 2023 (the “Reconsideration”), in which the Ministry determined that the Appellant was not eligible for a crisis supplement for winter clothing as the request did not meet the requirements of Section 59 of the Employment and Assistance Regulation (the “Regulation”).

Although the Ministry found that failure to obtain the items would result in imminent danger to the Appellant’s physical health, the Ministry was not satisfied that the Appellant did not have the resources to obtain the winter clothing. The Ministry also determined that the Appellant had not shown that the need for the winter clothing was unexpected or that winter clothing were items unexpectedly needed.

**Part D – Relevant Legislation**

Employment and Assistance Regulation, Section 59

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

- The Appellant is a sole recipient of income assistance, with seven dependent children; she receives \$1850 per month for income assistance. This amount includes \$1040 for a support allowance and \$710 for a shelter allowance;
- On October 6, 2021, the Appellant received \$400 for a crisis supplement for clothing; she explained that the storage box for the family’s winter jackets and boots was infested with mice;
- On October 26, 2022, the Appellant received a \$400 crisis supplement for clothing; she advised the Ministry that although the winter clothing was stored in a location where the mice would not get to it, the family’s winter clothing was exposed to moisture for a few a months and got moldy;
- On November 1, 2023, the Appellant requested a crisis supplement for clothing; she stated the winter clothing was infested by mice. The Appellant said she has no money, and needs winter boots, pants, jackets and clothing for the children and herself due to very cold weather in the north;
- On November 7, 2023, the Ministry denied the Appellant’s request and noted the Appellant had resources including two mid-month cheques;
- On November 7, 2023, the Appellant said her reasons for reconsideration included:
  - She did not have additional funds to purchase the items needed; she had no means of purchasing the items on her own;
  - Her bills utilize all the current funds she receives;
  - She had two NSF charges which resulted in an additional \$200 unexpected expense; she has no means of purchasing the basic necessities she and her children require;
  - It was unexpected to have mice in her winter storage;
  - She uses all community resources on every level;
  - Her bills exceed the amount she is paid so she has no means of attaining unexpected expenses.

### Additional Information submitted after Reconsideration

In the “Reasons for Appeal” section of her Notice of Appeal form, the Appellant indicated her reasons for appeal include:

- She did not receive her mid-month cheques as she generally does;
- She has not received the last mid-month cheque;
- She relies on those funds to make her [bill] payments;
- There was a three-week delay in her cheques being mailed;
- As a result, she has had four NSF charges on her account; and
- She still has outstanding expenses resulting from the dishonoured payments.

With her Notice of Appeal form, the Appellant also included a typewritten statement where she said:

- Her two mid-month cheques were extensively delayed;
- She is still waiting for one of the mid-month cheques;
- She should have received a cheque at the end of October and another by the 10<sup>th</sup> of November;
- She budgets all her expenses and has set up pre-authorized payments based on this pattern of receiving cheques;
- She had four NSF charges of \$45 each and has an overdrawn account;
- She must still pay the outstanding bills;
- She is in an even worse position especially when she has unexpected expenses;
- She does not have additional money and must still provide winter clothing for herself and her children;
- There is no question she requires the winter clothing;
- She is extremely upset—winter clothing is required in her region; and
- She feels denial of the clothing supplement violates her basic human rights.

### **Evidence presented at the hearing**

The hearing was by written submissions and occurred on December 18, 2023. Both the Appellant and Ministry provided additional evidence to the Tribunal.

#### *Appellant*

The Appellant submitted a statement dated December 4, 2023 noting:

- For the last two years, the two mid-month cheques arrived in the last week of the month and the first week of the next month;
- For the month of November, she did not receive them in this time frame—she did not receive them until near to the next reporting period;
- She incurred multiple expenses;
- She and her children don't have winter clothing;
- She lives in a climate where adequate, quality winter clothing is needed;
- She feels very discriminated against for being told she is not entitled to the supplement;
- She can barely make ends meet;
- She is a mother to seven children;
- She requires support from the food bank, which is overwhelmed, and she does not miss a week; she can only go once per week and gets barely enough food for one or two meals, the food only lasts a few days before it's completely rotten and moldy, and the food bank does not have basic necessities;
- She utilizes all community resources there are to help her; and

- She needs to provide winter clothing to her children and does not have the additional funds to do so.

### *Ministry*

The Ministry provided a letter dated December 6, 2023 and noted:

- The Ministry confirms the Appellant has two \$200 mid-month cheques each month;
- The first mid-month cheque was cashed on November 8, 2023;
- The second mid-month cheque was cancelled and re-issued on November 20, 2023;
- The re-issued mid-month cheque was cashed on November 21, 2023; and
- The Appellant also receives \$3164.15 in child tax benefits, which is exempt income and does not impact her assistance.

The Panel admitted both the Appellant's and the Ministry's information as new evidence. The Appellant's statement provides further information about her needs and financial limitations including requiring weekly assistance from the food bank. Information from the Ministry gives additional explanation about income and benefit assistance provided to the Appellant. As such, pursuant to section 22(4) of the Employment and Assistance Act, the Appellant's evidence and the Ministry's evidence were determined to be 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 at appeal is whether the Ministry's reconsideration decision, which determined that the Appellant was not eligible for a crisis supplement for winter clothing pursuant to Section 59 of the Regulation, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant.

Relevant sections of the legislation are set out after the reasons of the panel.

**Position of the Appellant**

The Appellant says that she should be granted the crisis supplement for winter clothing because she and her children do not have winter clothing and it is required given the Region she lives in. The Appellant indicates that it is extremely upsetting to her to be denied the crisis supplement and that she is feeling discriminated against because of the denial.

The Appellant also says that she does not have the resources to pay for winter clothing; she is barely able to make ends meet, she requires assistance from the food bank on a weekly basis, and she uses all the community resources available to help her. As a result of her mid-month assistance payments not being provided as they normally would to cover her budgeted expenses, the Appellant did not have sufficient funds for her bills and had several NSF charges. The Appellant says her account is overdrawn, she still has outstanding bill payments, all of which were unexpected and put her in a worse position. The Appellant says she does not have additional funds but still must have winter clothing for her family and herself, and she should be granted the crisis supplement for clothing.

**Position of the Ministry**

The Ministry says that although it acknowledges that not having suitable clothing for the winter months would result in an imminent threat to the Appellant's physical health, because the Appellant has not met all of the requirements of Section 59 of the Regulation, she is not eligible for a crisis supplement for winter clothing. The Ministry says that the Appellant's need is not unexpected nor is winter clothing an unexpected expense.

According to the Ministry, the Appellant could reasonably predict that her winter clothing would be infested by mice in storage. For the past three years, the Appellant has requested a crisis supplement for clothing due to mice and storage issues. In 2021, the Appellant requested a supplement because of mice in her storage area. In 2022, the Appellant requested a supplement because the storage area used to avoid mice exposed the clothing to moisture and it got moldy. In 2023, the Appellant requested the supplement due to the clothing being infested by mice. The Ministry says this pattern

indicates that a mice infestation has been an ongoing situation for a few years. The Appellant has not advised what she has done to address the mice infestation or why she chooses to continue to use the storage area for clothing given she is aware that mice have been a problem.

Finally, the Ministry says it is not satisfied that the Appellant does not have the resources for winter clothing. The Ministry says that the Appellant has not provided evidence to show that her family's winter clothing was destroyed or gotten rid of, or that it could not be laundered as it is possible that once the clothing has been laundered, it could be utilized to meet the family's needs for winter clothing. The Ministry also notes that since her original request for the crisis supplement, the Appellant has received the two \$200 mid-month cheques. As well, in addition to the Ministry assistance she receives, the Appellant is also paid \$3164.15 in child tax benefits.

### **Analysis**

Section 59 of the Regulation requires that all of the following criteria be met for the Ministry to be able to issue a crisis supplement:

- the family unit must require the supplement to meet an unexpected expense or to obtain an item unexpectedly needed;
- the family unit must be unable to meet the expense or obtain the item because there are no resources available to the family unit; and
- the family unit must satisfy the Ministry that failure 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
  - removal of a child under the Child, Family and Community Service Act.

Although the Ministry found that failure to obtain the items would result in imminent danger to the Appellant's physical health, the Ministry denied the request for the crisis supplement because it was not satisfied that the Appellant's need for the winter clothing was unexpected or that winter clothing were items unexpectedly needed. Also, the Ministry was not satisfied that the Appellant did not have the resources to obtain the winter clothing.

#### *Unexpected Need or Items Unexpectedly Needed*

The Ministry noted that the Appellant has requested a crisis supplement for winter clothing for the past three years. The Ministry also commented that the previous requests for, and granting of, crisis supplements for winter clothing arose because of a mice infestation and the Appellant had not indicated what, if anything, she had done to address the mice problem or to change the winter clothing storage location to avoid damage. The

Appellant argued that the supplement was required for winter clothing as mid-month cheque delays resulted in an unexpected need. As well, the crisis supplement was required because the Appellant and her family live in a climate where adequate, quality winter clothing is required.

According to the Regulation, a crisis supplement may be provided in unforeseen or unplanned circumstances. Although delays in cheque payments may have been unforeseen and unplanned events for the Appellant, winter clothing needs were not. The Appellant says that an important reason for her request is that she lives in a climate that requires sufficient winter clothing. The Appellant reasonably could have planned for the winter clothing need. Over the past three years, the Appellant has a pattern of similar requests for the crisis supplement. For these reasons, the Panel finds that the Ministry was reasonable when it denied the Appellant the crisis supplement for winter clothing. The Appellant's prior requests and her acknowledgement of the region's climate show that in the Appellant's case, winter clothing is not an unexpected expense, and are not items unexpectedly needed.

#### *No Available Resources*

The Ministry said that because the Appellant had received the two \$200 mid-month cheques—one cashed on November 8, 2023 and the second cashed on November 21, 2023—and also receives \$3164.15 in child tax benefits as exempt income, the Ministry was not satisfied that the Appellant did not have available resources to obtain the winter clothing for herself or for her children.

The Appellant advises that she is a mother of seven children who utilizes all of the community resources available to her including the support of the food bank twice a week, and she can barely make ends meet. The Appellant also said that based on the assistance she receives, she budgets all her expenses and has set up pre-authorized payments based on the pattern of receiving cheques. The Appellant did not dispute that she received both \$200 mid-month cheques but said they were delayed. When cheques were not received as usual, this resulted in unpaid bills and an overdrawn account with NSF charges; the Appellant must still pay those bills and she is in an even worse financial position with no additional funds to pay for the winter clothing.

The Panel finds it is unable to determine whether the Appellant has available resources or not to meet the expense or to obtain the winter clothing; the Panel does not have clear information such as bank statements or invoices, about the Appellant's expenses and any shortfalls that came up or that may continue due to insufficient or delayed income assistance. The Ministry advises that the Appellant did receive the two \$200 mid-month

cheques. Further, including income assistance, the two mid-month cheques, and child tax benefits, the Appellant receives a total of \$5414.15 in monthly payments. In the absence of other information from the Appellant, it is not clear that this amount is insufficient to meet the family's needs, including funds for winter clothing for the Appellant and her children. Given this, the Panel finds that the Ministry was reasonable when, based on the available information, it decided that the requirement of not having available financial resources was not met.

*Panel has No Jurisdiction to Decide Human Rights Issues*

Regarding the Appellant's statements that denial of the crisis supplement is a violation of her basic human rights, the Panel notes that it does not have the authority to consider human rights issues. For clarity, section 19.1(f) of the Employment and Assistance Act says that section 46.3 of the Administrative Tribunals Act applies to the Employment and Assistance Appeal Tribunal. As a result, this Tribunal is "without jurisdiction to apply the Human Rights Code." As such, the Panel can neither comment on nor rule on the Appellant's allegations of human rights violations arising from the Ministry's failure to provide the crisis supplement.

**Conclusion**

The Panel finds that the Ministry was not reasonable in deciding that the Appellant had available resources to meet the expense or to obtain the winter clothing. However, the Panels finds that the Appellant did not establish that winter clothing is an unexpected expense, or are items unexpectedly needed. As such, the Panel finds that all of the criteria of Section 59 of the Regulation required to grant a crisis supplement were not met. The Panel confirms the Ministry's decision. This means the Appellant is not successful with her appeal.



## The Relevant Legislation

### Employment and Assistance Regulation Section 59

#### Crisis supplement

**59** (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 \$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 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

(b) if for clothing, the maximum amount that may be provided in the 12 calendar month period preceding the date of application for the crisis supplement is \$110 for each person in the family unit.

(5) Repealed. [B.C. Reg. 248/2018, App. 1]

(6) Repealed. [B.C. Reg. 248/2018, App. 1]

(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.

2023-0359

**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)

2023/12/22

Print Name

Robert Kelly

Signature of Member

Date (Year/Month/Day)

2023/12/19

Print Name

Jan Broocke

Signature of Member

Date (Year/Month/Day)

2023/12/19