

Part C – Decision Under Appeal

The issue under appeal is the Ministry of Social Development and Poverty Reduction (“the Ministry”) Reconsideration Decision of May 27, 2024. The Ministry held the Appellant was not eligible for a crisis supplement under Section 57 of the Employment and Assistance for Persons with Disabilities Regulation to pay for an overdue phone bill.

Specifically, the Ministry was satisfied:

- the Appellant was eligible for disability assistance;
- she had no resources to meet her need; and,
- the crisis supplement was required to meet an unexpected expense, or an item unexpectedly needed.

The Ministry was not satisfied:

- failure to obtain the item would lead to imminent danger to the Appellant’s physical health.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation, Section 57 (the “Regulation”).

Full text of the legislation is in the Appendix.

Part E – Summary of Facts

The hearing took place by videoconference on June 7, 2024.

Evidence before the Ministry at Reconsideration

The Appellant is a sole recipient of disability assistance. Her net benefit is \$727.14 per month. Her total benefit includes \$983.50 for a support allowance, \$500 for a shelter allowance, and \$52 for supplements, equalling \$1,533.50 per month. From this is deducted \$808.36 which she receives from Canada Pension Plan. Her rent is \$2,200 per month.

On May 6, 2024, the Appellant requested a crisis supplement to pay her overdue TELUS phone bill. She explained that she has been attending the hospital via taxi or Uber and she had to purchase over the counter medications. She stated she needs a phone as it is difficult for her to leave her home to attend medical appointments. Included in the Appellant's request was a screenshot showing the Appellant owes TELUS \$631.16 and that her service will be disconnected on June 15, 2024 if the bill is not paid.

On May 14, 2024, the Ministry denied the request because a phone is not considered an essential utility and there is no imminent threat to her physical health if she does not have access to a phone.

On May 14, 2024, the Appellant submitted a request for reconsideration. She explained that most of her appointments are through Telehealth or Zoom, and that she also orders her medical supplies online.

On June 3, 2024, the Appellant provided the following additional information to the Tribunal:

- She is unable to go to an internet café as she is not on a transit route. Instead, she must walk up one of the steepest hills in the city.
- She has heart issues with exertion intolerance, she can barely make it up a flight of stairs.
- She suffers from debilitating migraines, five to seven days a week. This makes it difficult for her to leave home to attend appointments or to go to internet cafes.
- She notes her appeal date was set after her disconnection date, which would have made it impossible for her to attend the appeal and communicate evidence. (Note that the date was changed to accommodate the Appellant's concern.) She submits this provides a perfect example of why she needs a phone.

- Having no phone will be detrimental to her physical and mental wellbeing.
- The only means of her seeing her counsellor is by phone. If she doesn't have one, she will no longer be able to take care of her mental health.
- She is very sick and very homebound.

Information presented at the Hearing.

At the hearing, the Appellant provided the following evidence:

- Her phone is an essential utility.
- She routinely accesses a variety of medical services via phone, including appointments with her general practitioner, a variety of specialists as well as a psychologist. This is the only way she can see these practitioners.
- Her appointments are several times a week.
- Attending appointments in person is not a practical alternative, as for the most part they are not offered. To attend one of these appointments, she needs to access public transit, which involves walking up a very steep hill and her ability to do this is extremely limited by her cardiac issues.
- She uses the phone to purchase her PDC supplies.

When asked, the Appellant provided the following information.

- Her physical health challenges include Ehlers Danlos Syndrome, gastroparesis, cardiac issues (including having to have her heart restarted five times), ear, nose and throat issues, arthritis and frequently having her joints dislocated (due to loose connective tissue associated with Ehlers Danlos Syndrome). She has had 15 surgeries to correct these dislocations. She is limited in how long she can stand. She is prone to gastrointestinal bleeding. She has issues with her occipital nerve.
- Five to seven days a week she has debilitating migraines which are aggravated by changes in weather.
- The Appellant's mental health issues include recovering from trauma due to a serious motor vehicle accident involving a family member on social media.
- Disability assistance is not enough to live on so she juggles paying her bills. If she pays off the \$631 for her phone bill she will still have a balance of close to \$400.
- She has done everything she can to reduce her costs. She has her monthly phone bill down to \$60 per month.
- She has explored other options for medical transportation, but they are not really appropriate to her situation.

- She often needs to go to the hospital on short notice. On some occasions her mother can help her, but many times she must rely on Uber or taxis, which she can not afford.
- Regarding possible opportunities to reduce her monthly rent expense, the Appellant said she has explored the possibility of moving and this would cost her more than what she currently pays. She also said her adult child and their partner may move in with her which would help a lot. She has her name on a waiting list for subsidized rent.
- The Appellant remains hopeful that her health will improve and that she will be able to return to work.

The Ministry Representative reviewed the Reconsideration Decision.

- The Ministry Representative noted they are bound by the scope of the legislation. She noted that phone service was not amongst the group of utilities set out at section 57(7) of the Regulation.
- The requirement under the Regulation is that a crisis supplement is for an unexpected expense. In this case the phone bill has built up over many months. There is an ongoing inability of the Appellant to meet her needs. There is a mismatch between the Appellant's needs and what is available under the legislation.
- The Representative was sympathetic to the Appellant's situation, noting her many health care challenges, but nonetheless the Ministry can only approve what is permitted under the legislation. The Appellant does not meet the legislated criteria of a need arising suddenly. Although the Appellant would find it difficult, she would not be in imminent physical danger if she does not have a phone.
- The Representative noted that the Appellant has made a number of requests for crisis supplements over the past seven months. There is a mismatch between the Appellant's income and her expenses.

When asked the Ministry Representative provided the following information:

- There is no limit on how many crisis supplements can be requested in a month.
- The Representative noted the Appellant's need to use taxis and Uber's to go the hospital was justified.
- There may be other opportunities under the legislation that the Appellant may be able to access that would help her situation. She would be happy to help the Appellant with this.

Admissibility of New Evidence

The Panel is authorized under Section 22(4) of the *Employment and Assistance Act*, to consider evidence in addition to the information the Ministry had at the time of the Reconsideration Decision if it is reasonably required for a full and fair disclosure of all matters related to the decision under appeal. In this case the Appellant provided a supplementary submission as well as additional evidence at the hearing. No new evidence was submitted by the Ministry before the hearing although clarification on details of the Reconsideration decision and Ministry practice were provided at the hearing. The Panel admits all the above into evidence as it meets the above criteria.

Part F – Reasons for Panel Decision

The issue on appeal is whether the Ministry's Reconsideration Decision, which found the Appellant is not eligible for a crisis supplement under Section 57 of the Regulation, was reasonably supported by the evidence or was a reasonable application of the applicable provision in the circumstances of the Appellant. Under Section 57 of the Regulation, the Minister may provide a crisis supplement to a family unit only when all four of the following criteria are met:

- The family unit is eligible for disability assistance or hardship assistance;
- The crisis supplement is required to meet an unexpected expense, or an item unexpectedly needed;
- There are no resources available; and,
- Failure to obtain the item or meet the expense will lead to imminent danger to the family unit's physical health or a child being removed under the *Child, Family and Community Service Act*.

Appellant's Position

According to the Appellant:

- She is on disability due to severe medical issues, both mental and physical.
- She requires internet/phone as most appointments are through telehealth or zoom.
- 98% of her medical issues require her to attend zoom group sessions, zoom sessions and telehealth.
- She orders her medical supplies through PDC.
- She does not have resources to pay this bill and she has done, and continues to do, everything she can to reduce her expenses.
- She has multiple appointments per week, and frequently requires urgent transport to the hospital.
- Without a phone her health is at risk.

Ministry's Position

In the Reconsideration Decision, the Ministry was satisfied the Appellant did not have resources to meet her outstanding phone bill and that her need arose unexpectedly.

The Reconsideration Decision said the Ministry was not satisfied that failure to pay the Appellant's TELUS bill, meaning her phone service will be disconnected, will result in an imminent danger to her physical health. The Ministry acknowledged that having a phone and internet services makes accessing health services and communicating with service providers easier. The Ministry emphasized "imminent danger" implies a sense of urgency

and the Ministry did not find evidence to confirm that her physical health is in urgent danger without phone services. The Appellant did not provide sufficient evidence that she would be unable to access health care services in person or using community internet services, or that her medical condition would be worsened without cell phone services. As a result, the Ministry was not satisfied that failure to pay the arrears she owes TELUS would result in an imminent danger to her physical health.

The Ministry submitted as the Appellant does not meet all the criteria under Section 57 of the Regulation, she is not eligible for a crisis supplement.

Panel Reasons

The Panel must consider whether the Ministry was reasonable in determining that the Appellant did not meet the legislated requirements to receive the crisis supplement. In this case, the Ministry was satisfied the Appellant is eligible for disability assistance, she did not have resources available for this expense and her need arose unexpectedly. The Ministry was not satisfied that Appellant was at risk of imminent danger to her physical health (or at risk of removal of a child under the *Child and Family Services Act*.)

The Panel found the Appellant provided persuasive evidence that her health would be in imminent danger if she were to have the use of her phone discontinued. At the hearing, the Appellant provided greater detail about her rare medical condition, Ehlers Danlos Syndrome. The Appellant routinely accesses her health care appointments through phone calls, including those with her general practitioner, multiple specialists as well her psychologist for her counselling appointments. To do this, she uses her phone several times a week and must have access to her phone to arrange these appointments. It is also a regular occurrence that the Appellant must arrange a ride to the hospital for urgent care, which means she needs the use of a phone. These calls are medically necessary and cannot be planned ahead of time. The Panel finds that having the phone, either for planned appointments or for attending at a hospital for urgent care, is necessary to maintain the Appellant's health. The Panel notes the Appellant's evidence that the provision of her health care has shifted towards use of teleconference and distance access with-in person access becoming very limited. Accessing health care appointments via a public space like a library or internet café would not meet the Appellant's need for privacy in such a situation. Parenthetically, the Panel notes the widespread use of cell phones means pay phones are largely unavailable. The Panel therefore finds the Ministry's determination, that there is insufficient evidence to show the Appellant would be unable to access health care services in person or using community internet services, or that her medical condition would be worsened, unreasonable. Specifically, the Panel found the

Ministry's determination, that the Appellant was not at risk of imminent danger to her health unreasonable.

Finally, at the hearing, the Ministry Representative noted that the Appellant did not meet the requirement that her overdue phone bill arose unexpectedly. She also suggested that a phone service was not amongst the group of utilities set out at Section 57(7) of the Regulation which are exempt from the limitations on what is available for food, shelter and clothing set out at Section 57(4). The Ministry Representative said the Ministry has no flexibility as the Appellant's request for a crisis supplement falls outside the bounds of what is available under the legislation. Regarding whether a phone service is on the list of utilities, which are exempt from the funding limits set out at Section 57(4) of the Regulation, the Panel notes this is not a criterion which must be met for the Appellant to be eligible for a crisis supplement. Instead, she needs to meet the four requirements set out under Section 57(1) of the Regulation as stated above. The Reconsideration Decision accepted that the Appellant's need to pay the phone bill arose unexpectedly. The only requirement the Appellant was found not to meet was whether the lack of a phone could put her in imminent physical danger. As the other criteria were not at issue in the Reconsideration Decision, the panel has limited its analysis to assessing only the requirement in dispute. As set out above, the Panel found the Ministry's determination on this point to be unreasonable.

Concluding Decision

In the Reconsideration Decision, the Ministry found the Appellant met three of the four requirements to be eligible for this supplement:

- she is on disability assistance;
- her need arose unexpectedly; and,
- she had no resources to meet the expense.

The Panel limited its determination to examining whether the Appellant meets the requirement of being in imminent danger to her physical health if she does not receive the requested supplement and her phone is disconnected as this was the only criterion in dispute in the Reconsideration Decision. As the Panel finds the Ministry determination on this requirement unreasonable and not supported by the evidence, the Appellant now meets all four criteria to be eligible for the requested crisis supplement. Accordingly, the Panel rescinds the Reconsideration Decision. The Appellant is successful on appeal.

Appendix

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 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) 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.

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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

Corrie Campbell

Signature of Chair

Date (Year/Month/Day)

2024/06/13

Print Name

Bill Haire

Signature of Member

Date (Year/Month/Day)

2024/06/14

Print Name

Melissa McLean

Signature of Member

Date (Year/Month/Day)

2024/06/13