

Part C – Decision Under Appeal

The decision under appeal is the the Reconsideration Decision of the Ministry of Social Development and Poverty Reduction (the “ministry”) dated April 23, 2024. The ministry found that the appellant was not eligible for a crisis supplement for replacement of a hot water tank.

The ministry denied the appellant’s request for reimbursement of the hot water tank because they said not all the requirements of the Employment and Assistance for Persons with Disabilities Regulation (the “Regulation”) were met. In its Reconsideration Decision, the ministry was not satisfied that the hot water tank replacement was an unexpected expense or item unexpectedly needed.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act, Section 5

Employment and Assistance Act, Section 22 (4)

Employment and Assistance for Persons with Disabilities Regulation, Section 57

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 was held on June 13, 2024 by videoconference.

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

The appellant is a family unit of two in receipt of disability assistance.

- The appellant receives \$2106.09/month in disability assistance and supplements, and includes:
 - \$1378.50 support allowance;
 - \$610.59 shelter allowance;
 - \$117 supplements;
- The appellant receives \$1021.04/month in Canada Pension Plan-Disability payments, which is deducted from his assistance;
- The appellant's monthly expenses include:
 - \$35 phone;
 - \$340 property taxes;
 - \$71 heat;
 - \$87 hydro;
 - \$77.59 property insurance;
- February 23, 2024 \$946.40 hardware store receipt for "gas WH";
- February 27, 2024 the appellant requested a crisis supplement to replace his hot water tank and said the tank blew a gasket, was leaking and required replacement; with his request, the appellant included:
 - the February 23, 2024 receipt;
 - a February 26, 2024 handwritten note indicating:
 - He survives on a disability pension;
 - He hopes and would be grateful if he will be reimbursed per "crisis supplement home repair";
 - The hot water tank is a huge expense;
 - The appellant and his father installed the tank themselves to save \$1000;
- March 6, 2024 ministry notes and decision denying the appellant's request. The ministry's review indicated:
 - The appellant was eligible to receive assistance in the month of the request;
 - It is considered unexpected that a gasket would blow on the appellant's hot water tank;
 - The appellant's request was denied based on two criteria:

- The ministry was not satisfied that the appellant did not have resources to pay for the item;
- The ministry did not find any indication of imminent danger to the appellant's health and safety;
- March 7, 2024 the appellant's request for an extension with his initial Request for Reconsideration with handwritten note:
 - The cash to pay for the tank came from his credit card;
 - The [credit card] debt he owes is causing mental health stress, lack of sleep, sweat filled days, and untold anxiety; and
- April 15, 2024 the appellant's completed Request for Reconsideration with handwritten reasons:
 - Money is extremely tight;
 - The cash to pay for the hot water tank came from his credit card;
 - Mental stress and anxiety are huge;
 - The expense is causing unneeded stress.

Additional Information submitted after Reconsideration

In his Notice of Appeal—Reasons for Appeal, the appellant stated, "I don't agree with the decision. I live on PWD and I had to go into debt to get a new water tank. This would really help me out".

New evidence presented at the hearing and Admissibility

Appellant

In response to questions from the ministry and from the panel, the appellant advised:

- His existing hot water tank was not under warranty when it failed; and
- His existing hot water tank had been replaced about six or seven years ago.

Ministry

No new information was provided by the ministry.

Admissibility of New Evidence

The ministry did not object to the new information provided by the appellant at the hearing. The appellant's oral testimony about the age and history of his existing hot water

tank responds to the ministry's stated concerns regarding the appellant's eligibility to receive the crisis supplement. The panel finds that the additional evidence provided by the appellant is reasonably required for the full and fair disclosure of all matters in the appeal. Therefore, the panel finds that the additional evidence is admissible under section 22(4) of the *Employment and Assistance Act*.

Part F – Reasons for Panel Decision

The issue on appeal is whether per the Regulation, the ministry's Reconsideration Decision was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant. Specifically, was the ministry reasonable in denying the appellant a \$946.40 crisis supplement to replace his hot water tank?

SUBMISSIONS**Position of the Appellant**

At the hearing, the appellant argued that his reliance on disability assistance income means that he does not have enough funds to meet even his basic needs for such things as food. The appellant said that his monthly living expenses take the entirety of his cheque. When his hot water tank suddenly broke and required replacement, he did not have available funds to cover the expense. The appellant said he had to replace the hot water tank, there was no choice and it had to be done; the appellant and his family require hot water. The appellant said that he had to take money from his credit card to pay for the new hot water tank and that expense put him into debt. The debt causes him significant and unacceptable stress.

The appellant said that he is making a plea for compassion and his request should be treated as such by the ministry. The appellant argued that what he was asking for was reasonable, common sense, and a "no brainer". Finally, the appellant said that because the legislation was not written to be supportive of disability assistance recipients, it should not be used to make the decision about reimbursing him for the new hot water tank.

Position of the Ministry

The ministry representative said that according to the legislation, the cost of the new hot water tank could not be covered. At the hearing, the ministry representative made various arguments about the reasons for denying the appellant's request, which were not consistent with the Reconsideration Decision. For example, at the hearing the ministry argued that the appellant had not demonstrated that he did not have available resources to pay for the hot water tank. In the Reconsideration Decision however, the ministry said the appellant's request could not be met because, "Without more information or evidence, such as how old the old water tank was, the ministry is unable to establish that your need for a replacement hot water tank is due to unexpected circumstances". In response to questions from the panel, the ministry confirmed that the written Reconsideration Decision is on the decision being looked at on Appeal.

Analysis

Although the appellant argued that the legislation should not be used to determine his eligibility for a crisis supplement, the ministry and the panel are bound by it. The ministry may provide a crisis supplement if the request meets the requirements set out in section 57(1) of the Regulation. To be eligible for a crisis supplement, an applicant must demonstrate that they meet all the criteria:

- The family unit is eligible for income assistance; **and**
- 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**
- The family unit or a person in the family unit is unable to meet the expense or obtain the item because there are no resources available to the family unit; **and**
- 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*.

In its Reconsideration Decision, the ministry found that the appellant met the following requirements:

- The family unit is eligible for income assistance:
 - The appellant was eligible to receive disability assistance for the month of February 2024 and therefore is “eligible to receive supplements...”
- The family unit or a person in the family unit is unable to meet the expense or obtain the item because there are no resources available to the family unit:
 - The appellant got cash from his credit card, the debt is not considered a resource and “the ministry is satisfied that you do not have the resources to obtain a new hot water tank”;
- 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:
 - “The ministry is satisfied that your physical health would have been in imminent danger...as you would have been without hot water to bathe and wash dishes.”

However, in its Reconsideration Decision, the ministry said that the appellant had not demonstrated that the need was unexpected or for an unexpected expense. As such, because the appellant did not meet all the legislated requirements, the ministry said that a crisis supplement for the hot water tank replacement could not be provided.

Panel Decision

Given that the only outstanding requirement in the Reconsideration Decision was on the unexpected nature/expense of the hot water tank, the panel shall focus on this issue alone.

Whether Need was Unexpected or An Unexpected Expense

At the hearing, the appellant said he had no warning that his hot water tank was broken. The appellant woke up in the morning to discover a puddle in his basement with water on the floor around the tank and having no hot water in his home. The appellant conceded that the existing hot water tank was past the warranty period but said that it had been replaced just six or seven years ago.

With his March 6, 2024 application for the crisis supplement, the appellant advised the ministry that a gasket had blown on his hot water tank and the ministry acknowledged this would be unexpected. In their March 6, 2024 reply to the appellant's request, the ministry said, "it is considered unexpected that a gasket would blow on your hot water tank". However, in their Reconsideration Decision, the ministry said that it was unable to determine if the need was unexpected without more information from the appellant.

The panel finds that the ministry was unreasonable when it decided that it was unable to determine if the appellant's need was unexpected and that it could not establish that the need was due to unexpected circumstances. The appellant advised that his hot water tank failed without any warning; he was only made aware when he came upon water in his basement. As well, although the existing tank was outside the warranty period, it was just six or seven years old. Finally, the panel also finds that the ministry was unreasonable in deciding that the expense was not unexpected or that the new hot water tank was not an item unexpectedly needed because on March 6, 2024, the ministry said, "it is considered unexpected that a gasket would blow on your hot water tank".

Conclusion

The panel finds that the ministry was not reasonable when it denied the appellant's request for a crisis supplement to replace his hot water tank. Based on the available evidence, the panel finds that the appellant met all the legislated criteria; the ministry's Reconsideration Decision was not reasonably supported by the evidence and the panel rescinds the ministry's decision. The appellant is successful with his appeal.

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.

APPEAL NUMBER 2024-0163

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)

2024/06/18

Print Name

Robert Kelly

Signature of Member

Date (Year/Month/Day)

2024/06/14

Print Name

John Pickford

Signature of Member

Date (Year/Month/Day)

2024.06.18