

Part C – Decision Under Appeal

The decision under appeal is the Reconsideration Decision of the Ministry of Social Development and Poverty Reduction (the "**Ministry**"), dated May 3, 2024 (the "**Reconsideration Decision**"), in which the Ministry determined that the Appellant was denied a crisis supplement for reimbursement for repairs to her brakes, (the "**Crisis Supplement**").

- The Ministry determined the Appellant did not meet all the legislated criteria set out in Section 57 of the Employment and Assistance for Persons with Disabilities Regulation ("the Regulation"). Specifically, as the appellant's brakes were fixed without pre-approval and are now in working order, the Ministry could not be satisfied that reimbursement for the cost of repair would eliminate an imminent danger to the Appellant's physical health.
- The Ministry also determined the Appellant was not eligible for reimbursement for her brake repairs as brake repairs are not a utility under section 5(1) and are not something that can be funded as a crisis supplement for shelter. Also, although maintenance and repairs are included in actual monthly shelter costs under section 5(2) and can therefore be provided as a crisis supplement for "shelter", there must be prior approval of the costs.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (the "Act"), Section 5.

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

Note: The full text of the applicable legislation is available at the end of this decision.

Part E – Summary of Facts

The Appellant's hearing was held via telephone on June 20, 2024 with the Appellant, her advocate and the Ministry in attendance.

The Reconsideration Decision

The evidence before the Ministry at the Reconsideration Decision consisted of:

- The Appellant is the sole recipient of disability assistance.
- On February 27, 2024, the Appellant requested a crisis supplement for reimbursement of repairs to her brakes. The Appellant explained without the repair she would be unable to attend the Ministry's office or drive her car. An estimate of \$428.75 was presented.

Case notes indicate the Appellant was advised that brake repair may not qualify as a home repair. The Appellant stated it was a home repair as they live in their vehicle, and it may roll away.

- On March 26, 2024, the Appellant provided an invoice dated February 7, 2024, totaling \$368.15 for repairs to her brakes and requested the Ministry assume the cost as she did not want the call to roll away. This item was not pre-approved.

During a phone call and texts with a Ministry worker, the Appellant reiterated their request that the invoice for brakes is to be considered for Crisis Home Repair, stating she lives in her vehicle as she cannot find a rental and considers the car her home. The brakes had failed, and she had them repaired.

- On April 5, 2024, the Ministry denied the Appellant's request for reimbursement as she had not sought prior approval from the Ministry and brake repairs do not fall under the definition of an eligible shelter cost.
- On April 22, 2024, the Appellant submitted a Request for Reconsideration. The Following documents were submitted:
 - A letter dated April 19, 2024, where the Appellant explained:
 - Repairs were \$368.15.
 - She was not concerned that her car would roll away. The Appellant wrote: "I did say I needed decent brakes to do things like get gas and that I could easily rear-end another vehicle while I was driving my car. My brakes were metal on metal which could possibly be sparking and could be hazardous. And the fuel tank is right there."
 - Repairs to the brakes were completed on February 7, 2024. She was advised by a Ministry Representative that she could still submit the bill to see if it could be covered on February 27, 2024.

- She had to borrow money to have the repairs completed.
- She cannot find affordable housing, so she must live in her car.
- A letter from the Appellant's Advocate who stated:
 - The Appellant is living in her vehicle.
 - The Ministry recognizes a "Place of residence" refers to the place where the family unit currently lives and is not limited to living arrangements in places such as houses or apartments.
 - A quote from the Ministry's web site that the Ministry also provides for home maintenance and repairs under certain circumstances.
 - A growing phenomenon in our province is that people must live in their cars and that the Ministry recognizes that a car can be a home and that fuel used for staying warm in a vehicle can be covered.
 - The Appellant is asking for the Ministry to cover the expense of her home/car so she can safely get the gas required to keep her warm.
 - Extended exposure to below-freezing temperatures would present an imminent danger to someone's health.
 - Section 57 of the PWD regulations does not require prior approval by the Ministry.
- A tire auto center estimate dated February 20, 2024, with a quote for \$429.75.
- A tire auto center invoice dated February 7, 2024, with a totaling \$368.15.
- Temperature graph illustrating low temperatures during February in the area where the Appellant resides.
- On May 3, 2024, the Ministry completed its review of the Appellant's Request for Reconsideration and determined the Appellant did not meet all the criteria under Section 57 of the Regulation and that she was not eligible for a crisis supplement for reimbursement of brake repairs. The Ministry found:
 - They were satisfied the Appellant did not have any available resources to pay for repairs to her brakes.
 - They were satisfied that the Appellant's circumstances were unexpected to her as she could not have reasonably anticipated that her car would need repairs.
 - The invoice provided by the Appellant confirmed her brakes were repaired on February 7, 2024. As the car is currently in working order, the Ministry was unable to determine that the Appellant's physical health would be in imminent danger if she were not reimbursed for the cost of the repairs.

- Schedule A Section 5(1) of the Regulation lists the eligible sources for utility costs, including fuel for heating. As the Appellant claimed she required working brakes to obtain fuel to heat her car, the Ministry was unable to determine that brakes are an eligible utility as transportation costs are not included in the list of eligible utilities.
- Schedule A Section 5(2) of the Regulation sets out that actual cost of maintenance and repairs to a family home are an allowable shelter cost if the client receives prior approval from the Ministry. The repairs to the Appellant's car were completed on February 7, 2024, and the request for reimbursement was made on February 27, 2024. Without prior approval, the Appellant did not meet the criteria of Schedule A Section 5(2) of the Regulation.
- As the Appellant's request did not meet all the criteria under Section 57 of the Regulation, she is not eligible for a crisis supplement for reimbursement of her brake repairs.

The Appeal

On June 3, 2024, the Appellant filed a Notice of Appeal in which the Appellant stated:

- She does not agree with the Ministry's decision.
- Her car is her home.
- The Ministry recognizes people live in their cars.
- She could not get fuel to keep her car warm until her brakes were worked on.
- She is now in debt.
- A Ministry worker encouraged her to apply for the brake costs.

Additional Evidence

Appellant

The Appellant submitted a submission prepared by her advocate. In the submission the following key points of information were given for consideration by the Panel:

- Prior approval is not required for a crisis supplement.
- A previous tribunal decision stated, "The panel finds that section 59 does not limit a request for a crisis supplement to a type of expense, as long as the criteria in the section are met, and that it does not preclude a request for the cost of car repairs." (Section 59 of the Employment and Assistance Regulation is akin in all significant ways to Section 57 of the PWD Regulation).
- The Appellant's need was for a car repair. By removing the "crisis home repair" component of her request also removes the argument that she needed prior approval from the Ministry.
- The Ministry is unreasonable when it states they were unable to determine that "your physical health would be in imminent danger if you were not reimbursed for the cost of repairs."
- If a crisis supplement request does not hinge on prior approval, then the threat to safety must be assessed at the time the need occurred, not later when the Appellant, who has no resources, went into debt to address the crisis.

Ministry

There was no further evidence submitted by the Ministry.

The Hearing

At the hearing, the Appellant stated:

- She lives in her car and requires a heater and fuel to keep warm.
- She called the Ministry about covering brake repair costs and she was denied.
- Her heater stopped working, and she was reimbursed by the Ministry for the heater repair.
- When communicating with the Ministry representative about reimbursement of the car heater repair, she was encouraged to pursue reimbursement for the brake repair costs.
- She maintains her car well and had new brakes installed last November.
- When at the garage she was told her brakes required replacement. She was concerned for her safety as the brakes were "metal on metal" and that the sparks may ignite her fuel tank as it is close to her brakes. She was also concerned she would not be able to stop on slippery roads with the faulty brakes

At the hearing, the Ministry representative stated:

- Crisis supplements for home repairs must be preapproved and will be the least costly.
- Request for a crisis supplement was made after the repairs were completed.
- The Ministry accepts a car can be considered a home. Emergency repairs include essential items like the heater, approved for the Appellant.
- Some crisis supplements have been granted in the past without prior approval but in these cases the client would have been in a situation of imminent danger to their physical well-being, for example, an abusive situation where one might flee and require overnight lodging.

At the hearing, the Appellant's advocate stated:

- They hoped the panel would read and consider the comments made in her submission.
- Crisis supplements are not just for food, shelter and clothing but could be considered for other items such as car repairs.
- She was unaware of the tribunal appeal case number she had quoted from but did have a footnote.

Admissibility of new information

Section 22(4) of the *Employment and Assistance Act* says that a panel may consider evidence that is not part of the record that the panel considers to be reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

In this case the Ministry representative summarized the Reconsideration Decision and did offer new evidence that the Ministry accepts a car as a possible residence and that in cases, a crisis supplement may be considered prior to approval by the Ministry if the client is in imminent danger. The Appellant did not object to the Ministry's evidence.

The Appellant's evidence summarized her Request for Reconsideration and included new evidence that she had received a crisis supplement for shelter maintenance to address her need to have the car heater repaired. The Ministry did not object to the Appellant's evidence.

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The panel admits the new information shared by the Ministry and Appellant under section 22(4) of the Employment and Assistance Act as evidence that is 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 under appeal is the reasonableness of the Reconsideration Decision in which the Ministry determined that the Appellant was not eligible for a crisis supplement to pay the cost of repairing her brakes under the Regulation.

Appellant's Position

The central argument made by the advocate on appeal is that the brake repair need not be considered a crisis supplement for shelter, because crisis supplements may be provided for a variety of items. Therefore, the advocate argued, the prior approval requirement of section 5(2) of Schedule A specific to maintenance and repairs of a residence (in this case, a car) does not apply. The Appellant argued she should be reimbursed for the brake repair as she met all the criteria of Section 57(1), specifically that failure to have her brakes repaired would lead to imminent danger to her physical health and as well, without the ability to drive and obtain fuel for her car it would also lead to an imminent danger to her physical health.

Ministry's Position

The Ministry maintains that the Appellant is not eligible for the crisis supplement as the Appellant applied for a crisis supplement for shelter. Therefore, because utilities are not an actual shelter cost under Section 5 of Schedule A of the Regulation and because section 5 of Schedule A requires prior approval for maintenance and repair shelter costs, the brake repairs are not eligible for a crisis supplement for shelter. Additionally, under Section 57 of the Regulation, the Ministry could not determine if the brakes presented an imminent danger to the Appellant's health because the brakes were repaired before the request for a crisis supplement was made and are now in working order.

Panel Decision

For this Appeal, the panel considered three sections of legislation that pertain to the Appellant's request for reimbursement.

Section 57(1) of the Regulation, states a crisis supplement may only be provided if all the following eligibility criteria are met:

1. The family unit is eligible for income assistance or hardship assistance and;
2. Is required to meet an unexpected expense, or an item unexpectedly needed and;
3. There are no resources available and;
4. Failure to obtain the item or meet the expense will lead to imminent danger to the

appellant's physical health.

Section 5(1) of Schedule A of the Regulation lists the only costs that are considered utility costs when determining actual shelter costs: fuel for heating and cooking, water, hydro, garbage disposal, and rental of one single-line telephone.

Schedule A 5(2) of the Regulation states the actual cost of maintenance and repairs for the family unit's place of residence if owned by a person in the family unit and if these costs have received the minister's prior approval are included in actual monthly shelter costs.

Schedule A Section 5(1)

As brake repair and transportation are not listed as eligible sources for utility costs, the Panel finds the Ministry was reasonable when it determined the Appellant was ineligible for a crisis supplement for shelter for reimbursement of the brake repairs.

Schedule A Section 5(2)

As the Ministry stated a car could be considered a residence, the panel finds that maintenance and repairs should be considered. As the Appellant did not seek prior approval for the repair of her brakes, as is required in Schedule A Section 5(2)(f) of the Regulation, the panel finds the Ministry was reasonable when it determined the Appellant was ineligible for a crisis supplement for shelter for reimbursement of the brake repairs.

Section 57 (1)

Although the Panel found the Ministry was reasonable to decide that the brake repairs do not meet the requirements for a crisis supplement for "shelter." The Panel also found that brake repairs can be considered for a crisis supplement as auto repairs as opposed to shelter and therefore the limitations of what is an actual shelter cost and the pre-approval for repairs do not apply.

Considering the Appellant's request under section 57(1) of the Regulation, the Ministry was satisfied that the Appellant meets three of the four criteria listed in section 57(1) of the Regulation. As the Appellant had repaired her car brakes before she requested funding, the Ministry was not satisfied that the Appellant was in imminent danger if she was not reimbursed for the cost of the repairs. The Panel finds the Ministry decision about imminent danger was not reasonable. The Panel finds that the Appellant reacted to a situation which

addressed a threat to her safety, faulty brakes, and therefore met the fourth criteria "Failure to obtain the item or meet the expense will lead to imminent danger to the appellant's physical health."

The Panel finds the Appellant met all four required criteria of section 57(1) of the Regulation and that it was not reasonable for the Ministry to conclude that the Appellant was not eligible for a crisis supplement for reimbursement of her brake repairs.

Conclusion

The Panel finds that the Ministry's Reconsideration Decision determining that the Appellant was ineligible for a crisis supplement for reimbursement of her brake repairs was not a reasonable application of the applicable legislation in the Appellant's circumstances.

The Appellant is successful on appeal, and the Ministry's decision is rescinded.

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 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 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.

[am. B.C. Regs. 13/2003; 248/2018, App. 2; 270/2019, App. 2, s. 14; 21/2023, App. 2, s. 5; 161/2023, App. 3, s. 3.]

owed under the mortgage is not increased.

(6) Repealed. [B.C. Reg. 270/2019, App. 2, s. 23 (b).]

Schedule A

How actual shelter costs are calculated

5 (1) For the purpose of this section, utility costs for a family unit's place of residence include only the following costs:

(a) fuel for heating;

(b)fuel for cooking meals;

(c)water;

(d)hydro;

(e)garbage disposal provided by a company on a regular weekly or biweekly basis;

(f)rental of one basic residential single-line telephone.

(2)When calculating the actual monthly shelter costs of a family unit, only the following items are included:

(a)rent for the family unit's place of residence;

(b)mortgage payments on the family unit's place of residence, if owned by a person in the family unit;

(c)a house insurance premium for the family unit's place of residence if owned by a person in the family unit;

(d)property taxes for the family unit's place of residence if owned by a person in the family unit;

(e)utility costs;

(f)the actual cost of maintenance and repairs for the family unit's place of residence if owned by a person in the family unit and if these costs have received the minister's prior approval.

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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

Charles Schellinck

Signature of Chair

Date (Year/Month/Day)

2024/06/24

Print Name

Robert Kelly

Signature of Member

Date (Year/Month/Day)

2024/06/24

Print Name

Melissa McLean

Signature of Member

Date (Year/Month/Day)

2024/06/24